

**As Pending in the House Finance and Appropriations Committee
(L# 0009-3)**

**130th General Assembly
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Sub. H. B. No. 59

Representative Amstutz

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6101.451, and 6111.029 of the Revised Code; to 510
amend Section 205.10 of Am. Sub. H.B. 51 of the 511
130th General Assembly; to amend Sections 201.80 512
and 509.40 of Sub. H.B. 482 of the 129th General 513
Assembly; to amend Section 4 of Sub. S.B. 171 of 514
the 129th General Assembly, as subsequently 515
amended; to amend Section 105.05 of Am. Sub. H.B. 516
2 of the 128th General Assembly; to repeal Section 517
267.60.31 of Am. Sub. H.B. 153 of the 129th 518

General Assembly; to repeal Section 125.10 of Am. 519
Sub. H.B. 1 of the 128th General Assembly as 520
subsequently amended; to repeal Section 153 of Am. 521
Sub. H.B. 117 of the 121st General Assembly as 522
subsequently amended; to amend Sections 203.90.10 523
and 203.90.20 of Sub. S.B. 312 of the 129th 524
General Assembly; to amend the versions of 525
sections 109.57, 2151.011, 2923.126, 5104.012, 526
5104.013, 5104.03, 5104.08, and 5104.32 of the 527
Revised Code that are scheduled to take effect 528
January 1, 2014, to continue the provisions of 529
this act on and after that effective date; to 530
amend the version of section 4507.06 of the 531
Revised Code that is scheduled to take effect 532
January 1, 2017, to continue the provisions of 533
this act on and after that effective date; to 534
amend section 3313.88 of the Revised Code as it 535
results from Section 101.01 of this act for the 536
purpose of adopting new section number 3313.482 on 537
July 1, 2014; to make operating appropriations for 538
the biennium beginning July 1, 2013, and ending 539
June 30, 2015; to provide authorization and 540
conditions for the operation of state programs; to 541
repeal sections 5168.20, 5168.21, 5168.22, 542
5168.23, 5168.24, 5168.25, 5168.26, 5168.27, and 543
5168.28 of the Revised Code on October 1, 2015, to 544
terminate the operation of those sections on that 545
date; and to repeal sections 5168.01, 5168.02, 546
5168.03, 5168.04, 5168.05, 5168.06, 5168.07, 547
5168.08, 5168.09, 5168.10, 5168.11, 5168.12, 548
5168.13, 5168.99, and 5168.991 of the Revised Code 549
on October 16, 2015, to terminate the operation of 550
those sections on that date. 551

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

Section 101.01. That sections 9.03, 9.15, 9.231, 9.239, 9.24, 552
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(5119.24), 5119.622 (5119.25), 5119.63 (5119.42), 5119.631 875
(5119.421), 5119.69 (5119.41), and 5119.691 (5119.411) be amended 876
for the purpose of adopting new section numbers as indicated in 877
parentheses; new sections 3313.481, 3317.014, 3317.02, 3317.022, 878
3317.0217, 3317.051, 3317.16, 3327.02, 3333.90, 3345.81, and 879
3737.883 and sections 1.611, 101.392, 121.483, 122.681, 123.19, 880
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5165.44, 5165.45, 5165.46, 5165.49, 5165.771, 5166.01, 5166.16, 914
5167.01, 5167.02, 5167.032, 5167.121, 5168.41, 5703.75, 5703.76, 915
5703.90, 5735.013, 5739.081, 5910.08, and 5919.342 of the Revised 916
Code be enacted to read as follows: 917

Sec. 1.611. As used in the Revised Code, "OSU extension" 918
means the cooperative extension service that was established by 919
the "Smith-Lever Act," 38 Stat. 372 (1914), 7 U.S.C. 341 et seq., 920
and is administered in this state by the Ohio state university. 921

Sec. 9.03. (A) As used in this section: 922

(1) "Political subdivision" means any body corporate and 923
politic, except a municipal corporation that has adopted a charter 924
under Section 7 of Article XVIII, Ohio Constitution, and except a 925
county that has adopted a charter under Sections 3 and 4 of 926
Article X, Ohio Constitution, to which both of the following 927
apply: 928

(a) It is responsible for governmental activities only in a 929
geographic area smaller than the state. 930

(b) It is subject to the sovereign immunity of the state. 931

(2) "Cigarettes" and "tobacco product" have the same meanings 932
as in section 5743.01 of the Revised Code. 933

(3) "Transaction" has the same meaning as in section 1315.51 934
of the Revised Code. 935

(4) "Campaign committee," "campaign fund," "candidate," 936
"legislative campaign fund," "political action committee," 937
"political committee," "political party," and "separate segregated 938
fund" have the same meanings as in section 3517.01 of the Revised 939
Code. 940

(B) Except as otherwise provided in division (C) of this 941
section, the governing body of a political subdivision may use 942
public funds to publish and distribute newsletters, or to use any 943
other means, to communicate information about the plans, policies, 944
and operations of the political subdivision to members of the 945
public within the political subdivision and to other persons who 946
may be affected by the political subdivision. 947

(C) Except as otherwise provided in division (A)(7) of 948
section 340.03 ~~or division (A)(12) of section 340.033~~ of the 949
Revised Code, no governing body of a political subdivision shall 950
use public funds to do any of the following: 951

(1) Publish, distribute, or otherwise communicate information 952
that does any of the following: 953

(a) Contains defamatory, libelous, or obscene matter; 954

(b) Promotes alcoholic beverages, cigarettes or other tobacco 955
products, or any illegal product, service, or activity; 956

(c) Promotes illegal discrimination on the basis of race, 957
color, religion, national origin, handicap, age, or ancestry; 958

(d) Supports or opposes any labor organization or any action 959
by, on behalf of, or against any labor organization; 960

(e) Supports or opposes the nomination or election of a 961

candidate for public office, the investigation, prosecution, or 962
recall of a public official, or the passage of a levy or bond 963
issue. 964

(2) Compensate any employee of the political subdivision for 965
time spent on any activity to influence the outcome of an election 966
for any of the purposes described in division (C)(1)(e) of this 967
section. Division (C)(2) of this section does not prohibit the use 968
of public funds to compensate an employee of a political 969
subdivision for attending a public meeting to present information 970
about the political subdivision's finances, activities, and 971
governmental actions in a manner that is not designed to influence 972
the outcome of an election or the passage of a levy or bond issue, 973
even though the election, levy, or bond issue is discussed or 974
debated at the meeting. 975

(D) Except as otherwise provided in division (A)(7) of 976
section 340.03 ~~or division (A)(12) of section 340.033~~ of the 977
Revised Code or in division (E) of this section, no person shall 978
knowingly conduct a direct or indirect transaction of public funds 979
to the benefit of any of the following: 980

- (1) A campaign committee; 981
- (2) A political action committee; 982
- (3) A legislative campaign fund; 983
- (4) A political party; 984
- (5) A campaign fund; 985
- (6) A political committee; 986
- (7) A separate segregated fund; 987
- (8) A candidate. 988

(E) Division (D) of this section does not prohibit the 989
utilization of any person's own time to speak in support of or in 990
opposition to any candidate, recall, referendum, levy, or bond 991

issue unless prohibited by any other section of the Revised Code.	992
(F) Nothing in this section prohibits or restricts any	993
political subdivision from sponsoring, participating in, or doing	994
any of the following:	995
(1) Charitable or public service advertising that is not	996
commercial in nature;	997
(2) Advertising of exhibitions, performances, programs,	998
products, or services that are provided by employees of a	999
political subdivision or are provided at or through premises owned	1000
or operated by a political subdivision;	1001
(3) Licensing an interest in a name or mark that is owned or	1002
controlled by the political subdivision.	1003
(G) Whoever violates division (D) of this section shall be	1004
punished as provided in section 3599.40 of the Revised Code.	1005
Sec. 9.15. When the body of a dead person is found in a	1006
township or municipal corporation, and such person was not an	1007
inmate of a correctional, benevolent, or charitable institution of	1008
this state, and the body is not claimed by any person for private	1009
interment or cremation at the person's own expense, or delivered	1010
for the purpose of medical or surgical study or dissection in	1011
accordance with section 1713.34 of the Revised Code, it shall be	1012
disposed of as follows:	1013
(A) If the person was a legal resident of the county, the	1014
proper officers of the township or municipal corporation in which	1015
the person's body was found shall cause it to be buried or	1016
cremated at the expense of the township or municipal corporation	1017
in which the person had a legal residence at the time of death.	1018
(B) If the person had a legal residence in any other county	1019
of the state at the time of death, the superintendent of the	1020
county home of the county in which such body was found shall cause	1021

it to be buried or cremated at the expense of the township or 1022
municipal corporation in which the person had a legal residence at 1023
the time of death. 1024

(C) If the person was an inmate of a correctional institution 1025
of the county or a patient or resident of a benevolent institution 1026
of the county, the person had no legal residence in the state, or 1027
the person's legal residence is unknown, the superintendent shall 1028
cause the person to be buried or cremated at the expense of the 1029
county. 1030

Such officials shall provide, at the grave of the person or, 1031
if the person's cremated remains are buried, at the grave of the 1032
person's cremated remains, a metal, stone, or concrete marker on 1033
which the person's name and age, if known, and date of death shall 1034
be inscribed. 1035

A political subdivision is not relieved of its duty to bury 1036
or cremate a person at its expense under this section when the 1037
body is claimed by an indigent person. As used in this section, 1038
"indigent person" means a person whose income does not exceed one 1039
hundred fifty per cent of the federal poverty line, as revised 1040
annually by the United States department of health and human 1041
services in accordance with section 673(2) of the "Omnibus Budget 1042
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as 1043
amended, for a family size equal to the size of the person's 1044
family. 1045

Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of 1046
this section, a governmental entity shall not disburse money 1047
totaling twenty-five thousand dollars or more to any person for 1048
the provision of services for the primary benefit of individuals 1049
or the public and not for the primary benefit of a governmental 1050
entity or the employees of a governmental entity, unless the 1051
contracting authority of the governmental entity first enters into 1052

a written contract with the person that is signed by the person or 1053
by an officer or agent of the person authorized to legally bind 1054
the person and that embodies all of the requirements and 1055
conditions set forth in sections 9.23 to 9.236 of the Revised 1056
Code. If the disbursement of money occurs over the course of a 1057
governmental entity's fiscal year, rather than in a lump sum, the 1058
contracting authority of the governmental entity shall enter into 1059
the written contract with the person at the point during the 1060
governmental entity's fiscal year that at least seventy-five 1061
thousand dollars has been disbursed by the governmental entity to 1062
the person. Thereafter, the contracting authority of the 1063
governmental entity shall enter into the written contract with the 1064
person at the beginning of the governmental entity's fiscal year, 1065
if, during the immediately preceding fiscal year, the governmental 1066
entity disbursed to that person an aggregate amount totaling at 1067
least seventy-five thousand dollars. 1068

(2) If the money referred to in division (A)(1) of this 1069
section is disbursed by or through more than one state agency to 1070
the person for the provision of services to the same population, 1071
the contracting authorities of those agencies shall determine 1072
which one of them will enter into the written contract with the 1073
person. 1074

(3) The requirements and conditions set forth in divisions 1075
(A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2) 1076
and (B) of section 9.234, divisions (A)(2) and (B) of section 1077
9.235, and sections 9.233 and 9.236 of the Revised Code do not 1078
apply with respect to the following: 1079

(a) Contracts to which all of the following apply: 1080

(i) The amount received for the services is a set fee for 1081
each time the services are provided, is determined in accordance 1082
with a fixed rate per unit of time or per service, or is a 1083
capitated rate, and the fee or rate is established by competitive 1084

bidding or by a market rate survey of similar services provided in 1085
a defined market area. The market rate survey may be one conducted 1086
by or on behalf of the governmental entity or an independent 1087
survey accepted by the governmental entity as statistically valid 1088
and reliable. 1089

(ii) The services are provided in accordance with standards 1090
established by state or federal law, or by rules or regulations 1091
adopted thereunder, for their delivery, which standards are 1092
enforced by the federal government, a governmental entity, or an 1093
accrediting organization recognized by the federal government or a 1094
governmental entity. 1095

(iii) Payment for the services is made after the services are 1096
delivered and upon submission to the governmental entity of an 1097
invoice or other claim for payment as required by any applicable 1098
local, state, or federal law or, if no such law applies, by the 1099
terms of the contract. 1100

(b) Contracts under which the services are reimbursed through 1101
or in a manner consistent with a federal program that meets all of 1102
the following requirements: 1103

(i) The program calculates the reimbursement rate on the 1104
basis of the previous year's experience or in accordance with an 1105
alternative method set forth in rules adopted by the Ohio 1106
department of job and family services. 1107

(ii) The reimbursement rate is derived from a breakdown of 1108
direct and indirect costs. 1109

(iii) The program's guidelines describe types of expenditures 1110
that are allowable and not allowable under the program and 1111
delineate which costs are acceptable as direct costs for purposes 1112
of calculating the reimbursement rate. 1113

(iv) The program includes a uniform cost reporting system 1114
with specific audit requirements. 1115

(c) Contracts under which the services are reimbursed through 1116
or in a manner consistent with a federal program that calculates 1117
the reimbursement rate on a fee for service basis in compliance 1118
with United States office of management and budget Circular A-87, 1119
as revised May 10, 2004. 1120

(d) Contracts for services that are paid pursuant to the 1121
earmarking of an appropriation made by the general assembly for 1122
that purpose. 1123

(B) Division (A) of this section does not apply if the money 1124
is disbursed to a person pursuant to a contract with the United 1125
States or a governmental entity under any of the following 1126
circumstances: 1127

(1) The person receives the money directly or indirectly from 1128
the United States, and no governmental entity exercises any 1129
oversight or control over the use of the money. 1130

(2) The person receives the money solely in return for the 1131
performance of one or more of the following types of services: 1132

(a) Medical, therapeutic, or other health-related services 1133
provided by a person if the amount received is a set fee for each 1134
time the person provides the services, is determined in accordance 1135
with a fixed rate per unit of time, or is a capitated rate, and 1136
the fee or rate is reasonable and customary in the person's trade 1137
or profession; 1138

(b) Medicaid-funded services, including administrative and 1139
management services, provided pursuant to a contract or medicaid 1140
provider agreement that meets the requirements of the medicaid 1141
program ~~established under Chapter 5111. of the Revised Code.~~ 1142

(c) Services, other than administrative or management 1143
services or any of the services described in division (B)(2)(a) or 1144
(b) of this section, that are commonly purchased by the public at 1145
an hourly rate or at a set fee for each time the services are 1146

provided, unless the services are performed for the benefit of 1147
children, persons who are eligible for the services by reason of 1148
advanced age, medical condition, or financial need, or persons who 1149
are confined in a detention facility as defined in section 2921.01 1150
of the Revised Code, and the services are intended to help promote 1151
the health, safety, or welfare of those children or persons; 1152

(d) Educational services provided by a school to children 1153
eligible to attend that school. For purposes of division (B)(2)(d) 1154
of this section, "school" means any school operated by a school 1155
district board of education, any community school established 1156
under Chapter 3314. of the Revised Code, or any nonpublic school 1157
for which the state board of education prescribes minimum 1158
education standards under section 3301.07 of the Revised Code. 1159

(e) Services provided by a foster home as defined in section 1160
5103.02 of the Revised Code; 1161

(f) "Routine business services other than administrative or 1162
management services," as that term is defined by the attorney 1163
general by rule adopted in accordance with Chapter 119. of the 1164
Revised Code; 1165

(g) Services to protect the environment or promote 1166
environmental education that are provided by a nonprofit entity or 1167
services to protect the environment that are funded with federal 1168
grants or revolving loan funds and administered in accordance with 1169
federal law. 1170

(3) The person receives the money solely in return for the 1171
performance of services intended to help preserve public health or 1172
safety under circumstances requiring immediate action as a result 1173
of a natural or man-made emergency. 1174

(C) With respect to an unincorporated nonprofit association, 1175
corporation, or organization established for the purpose of 1176
providing educational, technical, consulting, training, financial, 1177

or other services to its members in exchange for membership dues 1178
and other fees, any of the services provided to a member that is a 1179
governmental entity shall, for purposes of this section, be 1180
considered services "for the primary benefit of a governmental 1181
entity or the employees of a governmental entity." 1182

Sec. 9.239. (A) There is hereby created the government 1183
contracting advisory council. The attorney general and auditor of 1184
state shall consult with the council on the performance of their 1185
rule-making functions under sections 9.237 and 9.238 of the 1186
Revised Code and shall consider any recommendations of the 1187
council. The medicaid director ~~of job and family services~~ shall 1188
annually report to the council the cost methodology of the 1189
medicaid-funded services described in division (A)(3)(d) of 1190
section 9.231 of the Revised Code. The council shall consist of 1191
the following members or their designees: 1192

- (1) The attorney general; 1193
- (2) The auditor of state; 1194
- (3) The director of administrative services; 1195
- (4) The director of aging; 1196
- (5) ~~The director of alcohol and drug addiction services~~ The 1197
medicaid director; 1198
- (6) The director of budget and management; 1199
- (7) The director of development services; 1200
- (8) The director of job and family services; 1201
- (9) The director of ~~mental health~~ mental health and addiction 1202
services; 1203
- (10) The director of developmental disabilities; 1204
- (11) The director of rehabilitation and correction; 1205

(12) The administrator of workers' compensation;	1206
(13) The executive director of the county commissioners' association of Ohio;	1207 1208
(14) The president of the Ohio grantmakers forum;	1209
(15) The president of the Ohio chamber of commerce;	1210
(16) The president of the Ohio state bar association;	1211
(17) The president of the Ohio society of certified public accountants;	1212 1213
(18) The executive director of the Ohio association of nonprofit organizations;	1214 1215
(19) The president of the Ohio united way;	1216
(20) One additional member appointed by the attorney general;	1217
(21) One additional member appointed by the auditor of state.	1218
(B) If an agency or organization represented on the council ceases to exist in the form it has on September 29, 2005, the successor agency or organization shall be represented in its place. If there is no successor agency or organization, or if it is not clear what agency or organization is the successor, the attorney general shall designate an agency or organization to be represented in place of the agency or organization originally represented on the council.	1219 1220 1221 1222 1223 1224 1225 1226
(C) The two members appointed to the council shall serve three-year terms. Original appointments shall be made not later than sixty days after September 29, 2005. Vacancies on the council shall be filled in the same manner as the original appointment.	1227 1228 1229 1230
(D) The attorney general or the attorney general's designee shall be the chairperson of the council. The council shall meet at least once every two years to review the rules adopted under sections 9.237 and 9.238 of the Revised Code and to make	1231 1232 1233 1234

recommendations to the attorney general and auditor of state 1235
regarding the adoption, amendment, or repeal of those rules. The 1236
council shall also meet at other times as requested by the 1237
attorney general or auditor of state. 1238

(E) Members of the council shall serve without compensation 1239
or reimbursement. 1240

(F) The office of the attorney general shall provide 1241
necessary staff, facilities, supplies, and services to the 1242
council. 1243

(G) Sections 101.82 to 101.87 of the Revised Code do not 1244
apply to the council. 1245

Sec. 9.24. (A) Except as may be allowed under division (F) of 1246
this section, no state agency and no political subdivision shall 1247
award a contract as described in division (G)(1) of this section 1248
for goods, services, or construction, paid for in whole or in part 1249
with state funds, to a person against whom a finding for recovery 1250
has been issued by the auditor of state on and after January 1, 1251
2001, if the finding for recovery is unresolved. 1252

A contract is considered to be awarded when it is entered 1253
into or executed, irrespective of whether the parties to the 1254
contract have exchanged any money. 1255

(B) For purposes of this section, a finding for recovery is 1256
unresolved unless one of the following criteria applies: 1257

(1) The money identified in the finding for recovery is paid 1258
in full to the state agency or political subdivision to whom the 1259
money was owed; 1260

(2) The debtor has entered into a repayment plan that is 1261
approved by the attorney general and the state agency or political 1262
subdivision to whom the money identified in the finding for 1263
recovery is owed. A repayment plan may include a provision 1264

permitting a state agency or political subdivision to withhold 1265
payment to a debtor for goods, services, or construction provided 1266
to or for the state agency or political subdivision pursuant to a 1267
contract that is entered into with the debtor after the date the 1268
finding for recovery was issued. 1269

(3) The attorney general waives a repayment plan described in 1270
division (B)(2) of this section for good cause; 1271

(4) The debtor and state agency or political subdivision to 1272
whom the money identified in the finding for recovery is owed have 1273
agreed to a payment plan established through an enforceable 1274
settlement agreement. 1275

(5) The state agency or political subdivision desiring to 1276
enter into a contract with a debtor certifies, and the attorney 1277
general concurs, that all of the following are true: 1278

(a) Essential services the state agency or political 1279
subdivision is seeking to obtain from the debtor cannot be 1280
provided by any other person besides the debtor; 1281

(b) Awarding a contract to the debtor for the essential 1282
services described in division (B)(5)(a) of this section is in the 1283
best interest of the state; 1284

(c) Good faith efforts have been made to collect the money 1285
identified in the finding of recovery. 1286

(6) The debtor has commenced an action to contest the finding 1287
for recovery and a final determination on the action has not yet 1288
been reached. 1289

(C) The attorney general shall submit an initial report to 1290
the auditor of state, not later than December 1, 2003, indicating 1291
the status of collection for all findings for recovery issued by 1292
the auditor of state for calendar years 2001, 2002, and 2003. 1293
Beginning on January 1, 2004, the attorney general shall submit to 1294

the auditor of state, on the first day of every January, April, 1295
July, and October, a list of all findings for recovery that have 1296
been resolved in accordance with division (B) of this section 1297
during the calendar quarter preceding the submission of the list 1298
and a description of the means of resolution. The attorney general 1299
shall notify the auditor of state when a judgment is issued 1300
against an entity described in division (F)(1) of this section. 1301

(D) The auditor of state shall maintain a database, 1302
accessible to the public, listing persons against whom an 1303
unresolved finding for recovery has been issued, and the amount of 1304
the money identified in the unresolved finding for recovery. The 1305
auditor of state shall have this database operational on or before 1306
January 1, 2004. The initial database shall contain the 1307
information required under this division for calendar years 2001, 1308
2002, and 2003. 1309

Beginning January 15, 2004, the auditor of state shall update 1310
the database by the fifteenth day of every January, April, July, 1311
and October to reflect resolved findings for recovery that are 1312
reported to the auditor of state by the attorney general on the 1313
first day of the same month pursuant to division (C) of this 1314
section. 1315

(E) Before awarding a contract as described in division 1316
(G)(1) of this section for goods, services, or construction, paid 1317
for in whole or in part with state funds, a state agency or 1318
political subdivision shall verify that the person to whom the 1319
state agency or political subdivision plans to award the contract 1320
has no unresolved finding for recovery issued against the person. 1321
A state agency or political subdivision shall verify that the 1322
person does not appear in the database described in division (D) 1323
of this section or shall obtain other proof that the person has no 1324
unresolved finding for recovery issued against the person. 1325

(F) The prohibition of division (A) of this section and the 1326

requirement of division (E) of this section do not apply with 1327
respect to the companies, payments, or agreements described in 1328
divisions (F)(1) and (2) of this section, or in the circumstance 1329
described in division (F)(3) of this section. 1330

(1) A bonding company or a company authorized to transact the 1331
business of insurance in this state, a self-insurance pool, joint 1332
self-insurance pool, risk management program, or joint risk 1333
management program, unless a court has entered a final judgment 1334
against the company and the company has not yet satisfied the 1335
final judgment. 1336

(2) To medicaid provider agreements under ~~Chapter 5111. of~~ 1337
the ~~Revised Code~~ medicaid program. 1338

(3) When federal law dictates that a specified entity provide 1339
the goods, services, or construction for which a contract is being 1340
awarded, regardless of whether that entity would otherwise be 1341
prohibited from entering into the contract pursuant to this 1342
section. 1343

(G)(1) This section applies only to contracts for goods, 1344
services, or construction that satisfy the criteria in either 1345
division (G)(1)(a) or (b) of this section. This section may apply 1346
to contracts for goods, services, or construction that satisfy the 1347
criteria in division (G)(1)(c) of this section, provided that the 1348
contracts also satisfy the criteria in either division (G)(1)(a) 1349
or (b) of this section. 1350

(a) The cost for the goods, services, or construction 1351
provided under the contract is estimated to exceed twenty-five 1352
thousand dollars. 1353

(b) The aggregate cost for the goods, services, or 1354
construction provided under multiple contracts entered into by the 1355
particular state agency and a single person or the particular 1356
political subdivision and a single person within the fiscal year 1357

preceding the fiscal year within which a contract is being entered 1358
into by that same state agency and the same single person or the 1359
same political subdivision and the same single person, exceeded 1360
fifty thousand dollars. 1361

(c) The contract is a renewal of a contract previously 1362
entered into and renewed pursuant to that preceding contract. 1363

(2) This section does not apply to employment contracts. 1364

(H) As used in this section: 1365

(1) "State agency" has the same meaning as in section 9.66 of 1366
the Revised Code. 1367

(2) "Political subdivision" means a political subdivision as 1368
defined in section 9.82 of the Revised Code that has received more 1369
than fifty thousand dollars of state money in the current fiscal 1370
year or the preceding fiscal year. 1371

(3) "Finding for recovery" means a determination issued by 1372
the auditor of state, contained in a report the auditor of state 1373
gives to the attorney general pursuant to section 117.28 of the 1374
Revised Code, that public money has been illegally expended, 1375
public money has been collected but not been accounted for, public 1376
money is due but has not been collected, or public property has 1377
been converted or misappropriated. 1378

(4) "Debtor" means a person against whom a finding for 1379
recovery has been issued. 1380

(5) "Person" means the person named in the finding for 1381
recovery. 1382

(6) "State money" does not include funds the state receives 1383
from another source and passes through to a political subdivision. 1384

Sec. 9.833. (A) As used in this section, "political 1385
subdivision" has the meaning defined in sections 2744.01 and 1386

3905.36 of the Revised Code. For purposes of this section, 1387
"political subdivision" includes municipal corporations as defined 1388
in section 5705.01 of the Revised Code. 1389

(B) Political subdivisions that provide health care benefits 1390
for their officers or employees may do any of the following: 1391

(1) Establish and maintain an individual self-insurance 1392
program with public moneys to provide authorized health care 1393
benefits, including but not limited to, health care, prescription 1394
drugs, dental care, and vision care, in accordance with division 1395
(C) of this section; 1396

(2) Establish and maintain a health savings account program 1397
whereby employees or officers may establish and maintain health 1398
savings accounts in accordance with section 223 of the Internal 1399
Revenue Code. Public moneys may be used to pay for or fund 1400
federally qualified high deductible health plans that are linked 1401
to health savings accounts or to make contributions to health 1402
savings accounts. A health savings account program may be a part 1403
of a self-insurance program. 1404

(3) After establishing an individual self-insurance program, 1405
agree with other political subdivisions that have established 1406
individual self-insurance programs for health care benefits, that 1407
their programs will be jointly administered in a manner specified 1408
in the agreement; 1409

(4) Pursuant to a written agreement and in accordance with 1410
division (C) of this section, join in any combination with other 1411
political subdivisions to establish and maintain a joint 1412
self-insurance program to provide health care benefits; 1413

(5) Pursuant to a written agreement, join in any combination 1414
with other political subdivisions to procure or contract for 1415
policies, contracts, or plans of insurance to provide health care 1416
benefits, which may include a health savings account program for 1417

their officers and employees subject to the agreement; 1418

(6) Use in any combination any of the policies, contracts, 1419
plans, or programs authorized under this division. 1420

(7) Any agreement made under division (B)(3), (4), (5), or 1421
(6) of this section shall be in writing, comply with division (C) 1422
of this section, and contain best practices established in 1423
consultation with and approved by the department of administrative 1424
services. The best practices may be reviewed and amended at the 1425
discretion of the political subdivisions in consultation with the 1426
department. Detailed information regarding the best practices 1427
shall be made available to any employee upon that employee's 1428
request. 1429

(8) Purchase plans ~~approved~~ containing best practices 1430
established by the department of administrative services under 1431
section 9.901 of the Revised Code. 1432

(C) Except as otherwise provided in division (E) of this 1433
section, the following apply to individual or joint self-insurance 1434
programs established pursuant to this section: 1435

(1) Such funds shall be reserved as are necessary, in the 1436
exercise of sound and prudent actuarial judgment, to cover 1437
potential cost of health care benefits for the officers and 1438
employees of the political subdivision. A certified audited 1439
financial statement and a report of aggregate amounts so reserved 1440
and aggregate disbursements made from such funds, together with a 1441
written report of a member of the American academy of actuaries 1442
certifying whether the amounts reserved conform to the 1443
requirements of this division, are computed in accordance with 1444
accepted loss reserving standards, and are fairly stated in 1445
accordance with sound loss reserving principles, shall be prepared 1446
and maintained, within ninety days after the last day of the 1447
fiscal year of the entity for which the report is provided for 1448

that fiscal year, in the office of the program administrator 1449
described in division (C)(3) of this section. 1450

The report required by division (C)(1) of this section shall 1451
include, but not be limited to, the aggregate of disbursements 1452
made for the administration of the program, including claims paid, 1453
costs of the legal representation of political subdivisions and 1454
employees, and fees paid to consultants. 1455

The program administrator described in division (C)(3) of 1456
this section shall make the report required by this division 1457
available for inspection by any person at all reasonable times 1458
during regular business hours, and, upon the request of such 1459
person, shall make copies of the report available at cost within a 1460
reasonable period of time. The program administrator shall further 1461
provide the report to the auditor of state under Chapter 117. of 1462
the Revised Code. The report required by this division is in lieu 1463
of the records required by division (A) of section 149.431 of the 1464
Revised Code. 1465

(2) Each political subdivision shall reserve funds necessary 1466
for an individual or joint self-insurance program in a special 1467
fund that may be established for political subdivisions other than 1468
an agency or instrumentality pursuant to an ordinance or 1469
resolution of the political subdivision and not subject to section 1470
5705.12 of the Revised Code. An agency or instrumentality shall 1471
reserve the funds necessary for an individual or joint 1472
self-insurance program in a special fund established pursuant to a 1473
resolution duly adopted by the agency's or instrumentality's 1474
governing board. The political subdivision may allocate the costs 1475
of insurance or any self-insurance program, or both, among the 1476
funds or accounts established under this division on the basis of 1477
relative exposure and loss experience. 1478

(3) A contract may be awarded, without the necessity of 1479
competitive bidding, to any person, political subdivision, 1480

nonprofit corporation organized under Chapter 1702. of the Revised 1481
Code, or regional council of governments created under Chapter 1482
167. of the Revised Code for purposes of administration of an 1483
individual or joint self-insurance program. No such contract shall 1484
be entered into without full, prior, public disclosure of all 1485
terms and conditions. The disclosure shall include, at a minimum, 1486
a statement listing all representations made in connection with 1487
any possible savings and losses resulting from the contract, and 1488
potential liability of any political subdivision or employee. The 1489
proposed contract and statement shall be disclosed and presented 1490
at a meeting of the political subdivision not less than one week 1491
prior to the meeting at which the political subdivision authorizes 1492
the contract. 1493

A contract awarded to a nonprofit corporation or a regional 1494
council of governments under this division may provide that all 1495
employees of the nonprofit corporation or regional council of 1496
governments, the employees of all entities related to the 1497
nonprofit corporation or regional council of governments, and the 1498
employees of other nonprofit corporations that have fifty or fewer 1499
employees and have been organized for the primary purpose of 1500
representing the interests of political subdivisions, may be 1501
covered by the individual or joint self-insurance program under 1502
the terms and conditions set forth in the contract. 1503

(4) The individual or joint self-insurance program shall 1504
include a contract with a certified public accountant and a member 1505
of the American academy of actuaries for the preparation of the 1506
written evaluations required under division (C)(1) of this 1507
section. 1508

(5) A joint self-insurance program may allocate the costs of 1509
funding the program among the funds or accounts established under 1510
this division to the participating political subdivisions on the 1511
basis of their relative exposure and loss experience. 1512

(6) An individual self-insurance program may allocate the 1513
costs of funding the program among the funds or accounts 1514
established under this division to the political subdivision that 1515
established the program. 1516

(7) Two or more political subdivisions may also authorize the 1517
establishment and maintenance of a joint health care cost 1518
containment program, including, but not limited to, the employment 1519
of risk managers, health care cost containment specialists, and 1520
consultants, for the purpose of preventing and reducing health 1521
care costs covered by insurance, individual self-insurance, or 1522
joint self-insurance programs. 1523

(8) A political subdivision is not liable under a joint 1524
self-insurance program for any amount in excess of amounts payable 1525
pursuant to the written agreement for the participation of the 1526
political subdivision in the joint self-insurance program. Under a 1527
joint self-insurance program agreement, a political subdivision 1528
may, to the extent permitted under the written agreement, assume 1529
the risks of any other political subdivision. A joint 1530
self-insurance program established under this section is deemed a 1531
separate legal entity for the public purpose of enabling the 1532
members of the joint self-insurance program to obtain insurance or 1533
to provide for a formalized, jointly administered self-insurance 1534
fund for its members. An entity created pursuant to this section 1535
is exempt from all state and local taxes. 1536

(9) Any political subdivision, other than an agency or 1537
instrumentality, may issue general obligation bonds, or special 1538
obligation bonds that are not payable from real or personal 1539
property taxes, and may also issue notes in anticipation of such 1540
bonds, pursuant to an ordinance or resolution of its legislative 1541
authority or other governing body for the purpose of providing 1542
funds to pay expenses associated with the settlement of claims, 1543
whether by way of a reserve or otherwise, and to pay the political 1544

subdivision's portion of the cost of establishing and maintaining 1545
an individual or joint self-insurance program or to provide for 1546
the reserve in the special fund authorized by division (C)(2) of 1547
this section. 1548

In its ordinance or resolution authorizing bonds or notes 1549
under this section, a political subdivision may elect to issue 1550
such bonds or notes under the procedures set forth in Chapter 133. 1551
of the Revised Code. In the event of such an election, 1552
notwithstanding Chapter 133. of the Revised Code, the maturity of 1553
the bonds may be for any period authorized in the ordinance or 1554
resolution not exceeding twenty years, which period shall be the 1555
maximum maturity of the bonds for purposes of section 133.22 of 1556
the Revised Code. 1557

Bonds and notes issued under this section shall not be 1558
considered in calculating the net indebtedness of the political 1559
subdivision under sections 133.04, 133.05, 133.06, and 133.07 of 1560
the Revised Code. Sections 9.98 to 9.983 of the Revised Code are 1561
hereby made applicable to bonds or notes authorized under this 1562
section. 1563

(10) A joint self-insurance program is not an insurance 1564
company. Its operation does not constitute doing an insurance 1565
business and is not subject to the insurance laws of this state. 1566

(D) A political subdivision may procure group life insurance 1567
for its employees in conjunction with an individual or joint 1568
self-insurance program authorized by this section, provided that 1569
the policy of group life insurance is not self-insured. 1570

(E) This section does not apply to individual self-insurance 1571
programs created solely by municipal corporations as defined in 1572
section 5705.01 of the Revised Code. 1573

(F) A public official or employee of a political subdivision 1574
who is or becomes a member of the governing body of the program 1575

administrator of a joint self-insurance program in which the 1576
political subdivision participates is not in violation of division 1577
(D) or (E) of section 102.03, division (C) of section 102.04, or 1578
section 2921.42 of the Revised Code as a result of either of the 1579
following: 1580

(1) The political subdivision's entering under this section 1581
into the written agreement to participate in the joint 1582
self-insurance program; 1583

(2) The political subdivision's entering under this section 1584
into any other contract with the joint self-insurance program. 1585

Sec. 9.90. ~~(A) The following applies until the department of 1586
administrative services implements healthcare plans designed under 1587
section 9.901 of the Revised Code. If those plans do not include 1588
or address any benefits listed in this section, or if the board of 1589
trustees or other governing body of a state institution of higher 1590
education, as defined in section 3345.011 of the Revised Code, 1591
board of education of a school district, or governing board of an 1592
educational service center do not elect to be covered under a plan 1593
offered by the department of administrative services under section 1594
9.901 of the Revised Code, the following provisions continue in 1595
effect for those benefits. The board of trustees or other 1596
governing body of a state institution of higher education, as 1597
defined in section 3345.011 of the Revised Code, board of 1598
education of a school district, or governing board of an 1599
educational service center may, in addition to all other powers 1600
provided in the Revised Code: 1601~~

(1) Contract for, purchase, or otherwise procure from an 1602
insurer or insurers licensed to do business by the state of Ohio 1603
for or on behalf of such of its employees as it may determine, 1604
life insurance, or sickness, accident, annuity, endowment, health, 1605
medical, hospital, dental, or surgical coverage and benefits, or 1606

any combination thereof, by means of insurance plans or other 1607
types of coverage, family, group or otherwise, and may pay from 1608
funds under its control and available for such purpose all or any 1609
portion of the cost, premium, or charge for such insurance, 1610
coverage, or benefits. However, the governing board, in addition 1611
to or as an alternative to the authority otherwise granted by 1612
division (A)(1) of this section, may elect to procure coverage for 1613
health care services, for or on behalf of such of its employees as 1614
it may determine, by means of policies, contracts, certificates, 1615
or agreements issued by at least two health insuring corporations 1616
holding a certificate of authority under Chapter 1751. of the 1617
Revised Code and may pay from funds under the governing board's 1618
control and available for such purpose all or any portion of the 1619
cost of such coverage. 1620

(2) Make payments to a custodial account for investment in 1621
regulated investment company stock for the purpose of providing 1622
retirement benefits as described in section 403(b)(7) of the 1623
Internal Revenue Code of 1954, as amended. Such stock shall be 1624
purchased only from persons authorized to sell such stock in this 1625
state. 1626

Any income of an employee deferred under divisions (A)(1) and 1627
(2) of this section in a deferred compensation program eligible 1628
for favorable tax treatment under the Internal Revenue Code of 1629
1954, as amended, shall continue to be included as regular 1630
compensation for the purpose of computing the contributions to and 1631
benefits from the retirement system of such employee. Any sum so 1632
deferred shall not be included in the computation of any federal 1633
and state income taxes withheld on behalf of any such employee. 1634

(B) All or any portion of the cost, premium, or charge 1635
therefor may be paid in such other manner or combination of 1636
manner as the board or governing body may determine, including 1637
direct payment by the employee in cases under division (A)(1) of 1638

this section, and, if authorized in writing by the employee in 1639
cases under division (A)(1) or (2) of this section, by the board 1640
or governing body with moneys made available by deduction from or 1641
reduction in salary or wages or by the foregoing of a salary or 1642
wage increase. Nothing in section 3917.01 or section 3917.06 of 1643
the Revised Code shall prohibit the issuance or purchase of group 1644
life insurance authorized by this section by reason of payment of 1645
premiums therefor by the board or governing body from its funds, 1646
and such group life insurance may be so issued and purchased if 1647
otherwise consistent with the provisions of sections 3917.01 to 1648
3917.07 of the Revised Code. 1649

(C) The board of education of any school district may 1650
exercise any of the powers granted to the governing boards of 1651
public institutions of higher education under divisions (A) and 1652
(B) of this section. All health care benefits provided to persons 1653
employed by the public schools of this state shall be through 1654
health care plans that contain best practices established by the 1655
department of administrative services pursuant to section 9.901 of 1656
the Revised Code. 1657

~~(D) Once the department of administrative services releases 1658
in final form health care plans designed under section 9.901 of 1659
the Revised Code, all health care benefits provided to persons 1660
employed by state institutions of higher education, school 1661
districts, or educational service centers may be through those 1662
plans. 1663~~

Sec. 9.901. (A)(1) All health care benefits provided to 1664
persons employed by ~~the political subdivisions and public school~~ 1665
~~districts of~~ employers as defined by this state section shall be 1666
provided by health care plans that contain best practices 1667
established ~~pursuant to this section~~ by the former school 1668
employees health care board or the department of administrative 1669

~~services. Twelve months after the release of best practices by the~~ 1670
~~board all All policies or contracts for health care benefits~~ 1671
~~provided to public school district employees that are issued or~~ 1672
~~renewed after the expiration of any applicable collective~~ 1673
~~bargaining agreement must contain all best practices established~~ 1674
~~pursuant to this section by the board at the time of renewal. Any~~ 1675
~~or all of the health Health care plans that contain the best~~ 1676
~~practices specified by the board may be self-insured.~~ 1677

~~(2) Upon completion of the consultant's report under division~~ 1678
~~(E) of this section and once the plans are released in final form~~ 1679
~~by the department, all health care benefits provided to persons~~ 1680
~~employed by political subdivisions, public school districts, and~~ 1681
~~state institutions of higher education may be provided by health~~ 1682
~~care plans designed under this section by the department. The~~ 1683
~~department, in consultation with the superintendent of insurance,~~ 1684
~~may negotiate with and, in accordance with the competitive~~ 1685
~~selection procedures of Chapter 125. of the Revised Code, contract~~ 1686
~~with one or more insurance companies authorized to do business in~~ 1687
~~this state for the issuance of the plans. Any or all of the health~~ 1688
~~care plans designed by the department may be self insured. All~~ 1689
~~self-insured plans adopted shall be administered by the department~~ 1690
~~in accordance with this section. The plans shall incorporate the~~ 1691
~~best practices adopted by the department under division (C)(3) of~~ 1692
~~this section consulting with the department of administrative~~ 1693
~~services, a political subdivision may adopt a delivery system of~~ 1694
~~benefits that is not in accordance with the department's adopted~~ 1695
~~best practices if it is considered by the department to be most~~ 1696
~~financially advantageous to the political subdivision.~~ 1697

~~(3) Before soliciting proposals from insurance companies for~~ 1698
~~the issuance of health care plans, the department, in consultation~~ 1699
~~with the superintendent of insurance, shall determine what~~ 1700
~~geographic regions exist in the state based on the availability of~~ 1701

~~providers, networks, costs, and other factors relating to 1702
providing health care benefits. The department shall then 1703
determine what health care plans offered by political 1704
subdivisions, public school districts, state institutions, and 1705
existing consortiums in the region offer the most cost effective 1706
plan. 1707~~

~~(4) The department, in consultation with the superintendent 1708
of insurance, shall develop a request for proposals and solicit 1709
bids for health care plans for political subdivisions, public 1710
school districts, and state institutions in a region similar to 1711
the existing plans. The department shall also determine the 1712
benefits offered by existing health care plans, the employees' 1713
costs, and the cost sharing arrangements used by political 1714
subdivisions, schools, and institutions participating in a 1715
consortium. The department shall determine what strategies are 1716
used by the existing plans to manage health care costs and shall 1717
study the potential benefits of state or regional consortiums 1718
offering multiple health care plans. When options exist in a 1719
defined regional service area that meet the benchmarks or best 1720
practices prescribed by the department, public employees shall be 1721
given the option of selecting from two or more health plans. 1722~~

~~(5) No political subdivision, public school district, or 1723
state institution may be required to offer the health care plans 1724
designed under this section until action is taken under division 1725
(E) of this section. 1726~~

~~In addition, political subdivisions, public school districts, 1727
or state institutions offering employee health care benefits 1728
through a plan offered by a consortium of two or more political 1729
subdivisions, districts, or state institutions, or a consortium of 1730
one or more political subdivisions, districts, or state 1731
institutions and one or more other political subdivisions may 1732
continue offering consortium plans to the political subdivisions', 1733~~

~~districts', or institutions' employees if plans contain best practices required under this section.~~ 1734
1735

~~(6)~~ As used in this section: 1736

(a) "Public employer" means political subdivisions, public school districts, or state institutions of higher education. 1737
1738

(b) "Public school district" means a city, local, exempted village, or joint vocational school district; a STEM school established under Chapter 3326. of the Revised Code; or an educational service center. "Public school district" does not mean a community school established under Chapter 3314. of the Revised Code. 1739
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~~(b)~~(c) "State institution of higher education" or "state institution" means a state institution of higher education as defined in section 3345.011 of the Revised Code. 1745
1746
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~~(e)~~(d) "Political subdivision" has the same meaning as defined in section 9.833 of the Revised Code. 1748
1749

~~(d)~~(e) A "health care plan" includes group policies, contracts, and agreements that provide hospital, surgical, or medical expense coverage, including self-insured plans. A "health care plan" does not include an individual plan offered to the employees of a political subdivision, public school district, or state institution, or a plan that provides coverage only for specific disease or accidents, or a hospital indemnity, medicare supplement, or other plan that provides only supplemental benefits, paid for by the employees of a political subdivision, public school district, or state institution. 1750
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~~(e)~~(f) A "health plan sponsor" means a political subdivision, public school district, a state institution of higher education, a consortium of political subdivisions, public school districts, or state institutions, or a council of governments. 1760
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~~(B)(4)~~ The ~~political subdivisions~~ and public employees health care fund is hereby created in the state treasury. The department shall use all funds in the ~~political subdivisions~~ and public employees health care fund solely to carry out the provisions of this section and related administrative costs.

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

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

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

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

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

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

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

~~(7) Promote cost containment measures aligned with patient,~~

~~plan, and provider management strategies in developing and 1794
managing health care plans; 1795~~

~~(8) Prepare and disseminate to the public an annual report on 1796
the status of health plan sponsors' effectiveness in making 1797
progress to reduce the rate of increase in insurance premiums and 1798
employee out-of-pocket expenses, as well as progress in improving 1799
the health status of political subdivision, public school 1800
district, and state institution employees and their families. 1801~~

~~(D) The sections in Chapter 3923. of the Revised Code 1802
regulating public employee benefit plans are not applicable to the 1803
health care plans designed pursuant to this section. 1804~~

~~(E) Before the department's release of the initial health 1805
care plans, the department shall contract with an independent 1806
consultant to analyze costs related to employee health care 1807
benefits provided by existing political subdivision, public school 1808
district, and state institution plans. All political subdivisions 1809
shall provide information requested by the department that the 1810
department determines is needed to complete this study. The 1811
information requested shall be held confidentially by the 1812
department and shall not be considered a public record under 1813
Chapter 149. of the Revised Code. The department may release the 1814
information after redacting all personally identifiable 1815
information. The consultant shall determine the benefits offered 1816
by existing plans, the employees' costs, and the cost sharing 1817
arrangements used by political subdivisions, schools, and 1818
institutions participating in a consortium. The consultant shall 1819
determine what strategies are used by the existing plans to manage 1820
health care costs and shall study the potential benefits of state 1821
or regional consortiums of political subdivisions, public schools, 1822
and institutions offering multiple health care plans. Based on the 1823
findings of the analysis, the consultant shall submit written 1824
recommendations to the department for the development and 1825~~

~~implementation of a successful program for pooling purchasing 1826
power for the acquisition of employee health care plans. The 1827
consultant's recommendations shall address, at a minimum, all of 1828
the following issues: 1829~~

~~(1) The development of a plan for regional coordination of 1830
the health care plans; 1831~~

~~(2) The establishment of regions for the provision of health 1832
care plans, based on the availability of providers and plans in 1833
the state at the time; 1834~~

~~(3) The viability of voluntary and mandatory participation by 1835
political subdivisions, public schools, and institutions of higher 1836
education; 1837~~

~~(4) The use of regional preferred provider and closed panel 1838
plans, health savings accounts, and alternative health care plans, 1839
to stabilize both costs and the premiums charged to political 1840
subdivisions, public school districts, and state institutions and 1841
their employees; 1842~~

~~(5) The use of the competitive bidding process for regional 1843
health care plans; 1844~~

~~(6) The use of information on claims and costs and of 1845
information reported by political subdivisions, public school 1846
districts, and state institutions pursuant to the Consolidated 1847
Omnibus Budget Reconciliation Act (COBRA) 100 Stat. 227, 29 U.S.C. 1848
1161, as amended in analyzing administrative and premium costs; 1849~~

~~(7) The experience of states that have statewide health care 1850
plans for political subdivision, public school district, and state 1851
institution employees, including the implementation strategies 1852
used by those states; 1853~~

~~(8) Recommended strategies for the use of first year roll in 1854
premiums in the transition from political subdivision, district, 1855~~

and state institution health care plans to department plans;	1856
(9) The option of allowing political subdivisions, public school districts, and state institutions to join an existing regional consortium as an alternative to department plans;	1857
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	1859
(10) Mandatory and optional coverages to be offered by the department's plans;	1860
	1861
(11) Potential risks to the state from the use of plans developed under this section;	1862
	1863
(12) Any legislation needed to ensure the long term financial solvency and stability of a health care purchasing system;	1864
	1865
(13) The potential impacts of any changes to the existing purchasing structure on all of the following:	1866
	1867
(a) Existing health care pooling and consortiums;	1868
(b) Political subdivision, school district, and state institution employees;	1869
	1870
(c) Individual political subdivisions, school districts, and state institutions.	1871
	1872
(14) Issues that could arise when political subdivisions, school districts, and state institutions transition from the existing purchasing structure to a new purchasing structure;	1873
	1874
	1875
(15) Strategies available to the department in the creation of fund reserves and the need for stop loss insurance coverage for catastrophic losses;	1876
	1877
	1878
(16) Impact on eliminating the premium tax or excise currently received on behalf of a public employer under division (A) of section 5725.18 and division (A) of 5729.03 of the Revised Code;	1879
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	1882
(17) How development of the federal health exchange in Ohio may impact public employees;	1883
	1884

(18) Impact of joint health insurance regional program on	1885
insurance carriers and agents;	1886
(19) The benefits, including any cost savings to the state of	1887
establishing a benchmark for public employers to meet in lieu of	1888
establishing new plans administered by the department.	1889
(F) The <u>Identify strategies to manage health care costs;</u>	1890
<u>(2) Study the potential benefits of state or regional</u>	1891
<u>consortiums of public employers' health care plans;</u>	1892
<u>(3) Publish information regarding the health care plans</u>	1893
<u>offered by political subdivisions, public school districts, state</u>	1894
<u>institutions, and existing consortiums;</u>	1895
<u>(4) Assist in the design of health care plans for political</u>	1896
<u>subdivisions, public school districts, and state institutions of</u>	1897
<u>higher education in accordance with division (A) of this section</u>	1898
<u>separate from the plans for state agencies;</u>	1899
<u>(5) Adopt and release a set of standards that shall be</u>	1900
<u>considered the best practices for health care plans offered to</u>	1901
<u>employees of political subdivisions, public school districts, and</u>	1902
<u>state institutions;</u>	1903
<u>(6) Require that plans the health plan sponsors administer</u>	1904
<u>make readily available to the public all cost and design elements</u>	1905
<u>of the plan;</u>	1906
<u>(7) Promote cooperation among all organizations affected by</u>	1907
<u>this section in identifying the elements for successful</u>	1908
<u>implementation of this section;</u>	1909
<u>(8) Promote cost containment measures aligned with patient,</u>	1910
<u>plan, and provider management strategies in developing and</u>	1911
<u>managing health care plans; and</u>	1912
<u>(9) Prepare and disseminate to the public an annual report on</u>	1913
<u>the status of health plan sponsors' effectiveness in complying</u>	1914

with best practices and making progress to reduce the rate of 1915
increase in insurance premiums and employee out-of-pocket 1916
expenses, as well as progress in improving the health status of 1917
employees and their families. 1918

(C) The director of administrative services may convene a 1919
public health care advisory committee is hereby created under the 1920
department of administrative services. The committee shall make 1921
recommendations to the director of administrative services or the 1922
director's designee on the development and adoption of best 1923
practices under this section. The committee shall consist of 1924
fifteen members: five members appointed by the speaker of the 1925
house of representatives; five members appointed by the president 1926
of the senate; and five members appointed by the governor and 1927
shall include representatives from state and local government 1928
employers, state and local government employees, insurance agents, 1929
health insurance companies, and joint purchasing arrangements 1930
currently in existence. Nothing in this section prohibits a 1931
political subdivision from adopting a delivery system of benefits 1932
that is not in accordance with the department's adopted best 1933
practices if it is considered to be most financially advantageous 1934
to the political subdivision. Members shall serve without 1935
compensation. 1936

~~(G)~~(D) The department may adopt rules for the enforcement of 1937
health plan sponsors' compliance with the best practices standards 1938
adopted by the department pursuant to this section. 1939

~~(H)~~(E) Any health care plan providing coverage for the 1940
employees of political subdivisions, public school districts, or 1941
state institutions of higher education, or that have provided 1942
coverage within two years before the effective date of this 1943
amendment, shall provide nonidentifiable aggregate claims and 1944
administrative data for the coverage provided as required by the 1945
department, without charge, within thirty days after receiving a 1946

written request from the department. The claims data shall include 1947
data relating to employee group benefit sets, demographics, and 1948
claims experience. 1949

~~(I)~~(1)(F) The department may ~~contract~~ work with other state 1950
agencies ~~for~~ to obtain services as the department deems necessary 1951
for the implementation and operation of this section, based on 1952
demonstrated experience and expertise in administration, 1953
management, data handling, actuarial studies, quality assurance, 1954
or for other needed services. 1955

~~(2)~~(G) The department shall hire staff as necessary to 1956
provide administrative support to the department and the public 1957
employee health care plan program established by this section. 1958

~~(J)~~ ~~Not more than ninety days before coverage begins for~~ 1959
~~political subdivision, public school district, and state~~ 1960
~~institution employees under health care plans designed by the~~ 1961
~~department, a political subdivision's governing body, public~~ 1962
~~school district's board of education, and a state institution's~~ 1963
~~board of trustees or managing authority shall provide detailed~~ 1964
~~information about the health care plans to the employees.~~ 1965

~~(K)~~(H) Nothing in this section shall be construed as 1966
prohibiting political subdivisions, public school districts, or 1967
state institutions from consulting with and compensating insurance 1968
agents and brokers for professional services or from establishing 1969
a self-insurance program. 1970

~~(L)~~(I) Pursuant to Chapter 117. of the Revised Code, the 1971
auditor of state shall conduct all necessary and required audits 1972
of the department. The auditor of state, upon request, also shall 1973
furnish to the department copies of audits of political 1974
subdivisions, public school districts, or consortia performed by 1975
the auditor of state. 1976

Sec. 101.39. (A) There is hereby created the joint 1977
legislative committee on health care oversight. The committee may 1978
review or study any matter related to the provision of health care 1979
services that it considers of significance to the citizens of this 1980
state, including the availability of health care, the quality of 1981
health care, the effectiveness and efficiency of managed care 1982
systems, and the operation of the ~~medical assistance~~ medicaid 1983
~~program established under Chapter 5111. of the Revised Code or~~ 1984
other government health programs. 1985

The department of ~~job and family services~~ medicaid, 1986
department of health, department of aging, department of ~~mental~~ 1987
~~health~~ mental health and addiction services, department of 1988
developmental disabilities, ~~department of alcohol and drug~~ 1989
~~addiction services~~, and other state agencies shall cooperate with 1990
the committee in its study and review of health care issues. On 1991
request, the departments shall provide the committee with reports 1992
and other information sufficient for the committee to fulfill its 1993
duties. 1994

The committee may issue recommendations as it determines 1995
appropriate. The recommendations may be made to the general 1996
assembly, state agencies, private industry, or any other entity. 1997

(B) The committee shall consist of the following members of 1998
the general assembly: the chairperson of the senate's standing 1999
committee with primary responsibility for health legislation, the 2000
chairperson of the house of representatives' standing committee 2001
with primary responsibility for health legislation, four members 2002
of the house of representatives appointed by the speaker of the 2003
house of representatives, and four members of the senate appointed 2004
by the president of the senate. Not more than two members 2005
appointed by the speaker of the house of representatives and not 2006
more than two members appointed by the president of the senate may 2007

be of the same political party. Except in 1995, appointments shall 2008
be made not later than fifteen days after the commencement of the 2009
first regular session of each general assembly. The chairpersons 2010
of the standing committees with primary responsibility for health 2011
legislation shall serve as co-chairpersons of the committee. 2012

Each member of the committee shall hold office during the 2013
general assembly in which the member is appointed and until a 2014
successor has been appointed, notwithstanding the adjournment sine 2015
die of the general assembly in which the member was appointed or 2016
the expiration of the member's term as a member of the general 2017
assembly. Any vacancies occurring among the members of the 2018
committee shall be filled in the manner of the original 2019
appointment. 2020

The committee shall meet at least quarterly and at the call 2021
of the co-chairpersons. The co-chairpersons shall determine the 2022
time, place, and agenda for each meeting of the committee. 2023

The committee has the same powers as other standing or select 2024
committees of the general assembly. The committee may request 2025
assistance from the legislative service commission. 2026

Sec. 101.391. (A) There is hereby created the joint 2027
legislative committee on medicaid technology and reform. The 2028
committee may review or study any matter that it considers 2029
relevant to the operation of the medicaid program ~~established~~ 2030
~~under Chapter 5111. of the Revised Code,~~ with priority given to 2031
the study or review of mechanisms to enhance the program's 2032
effectiveness through improved technology systems and program 2033
reform. 2034

(B) The committee shall consist of five members of the house 2035
of representatives appointed by the speaker of the house of 2036
representatives and five members of the senate appointed by the 2037
president of the senate. Not more than three members appointed by 2038

the speaker of the house of representatives and not more than 2039
three members appointed by the president of the senate may be of 2040
the same political party. 2041

Each member of the committee shall hold office during the 2042
general assembly in which the member is appointed and until a 2043
successor has been appointed, notwithstanding the adjournment sine 2044
die of the general assembly in which the member was appointed or 2045
the expiration of the member's term as a member of the general 2046
assembly. Any vacancies occurring among the members of the 2047
committee shall be filled in the manner of the original 2048
appointment. 2049

(C) The committee has the same powers as other standing or 2050
select committees of the general assembly. The committee may 2051
employ an executive director. 2052

Sec. 101.392. (A) As used in this section, "Affordable Care 2053
Act" means the federal "Patient Protection and Affordable Care Act 2054
of 2010," Pub. L. 111-148, 124 Stat. 119, as amended by the 2055
federal "Health Care and Education Reconciliation Act of 2010," 2056
Pub. L. 111-152, 124 Stat. 1029, and any amendments to those acts, 2057
or any regulations or guidance issued under those acts. 2058

(B) There is hereby created the joint legislative committee 2059
on the Affordable Care Act. The committee may review or study any 2060
matter that it considers relevant to the operation and impact of 2061
the Affordable Care Act in this state. 2062

(C) The committee shall consist of three members of the house 2063
of representatives appointed by the speaker of the house of 2064
representatives, and three members of the senate appointed by the 2065
president of the senate. Two members appointed by the speaker of 2066
the house of representatives shall be from the majority party and 2067
one member shall be from the minority party, and two members 2068
appointed by the president of the senate shall be from the 2069

majority party and one member shall be from the minority party. 2070

Each member of the committee shall hold office during the 2071
general assembly in which the member is appointed and until a 2072
successor has been appointed, notwithstanding the adjournment sine 2073
die of the general assembly in which the member was appointed or 2074
the expiration of the member's term as a member of the general 2075
assembly. Any vacancies occurring among the members of the 2076
committee shall be filled in the manner of the original 2077
appointment. 2078

(D) The committee has the same powers as other standing or 2079
select committees of the general assembly. The committee may 2080
request assistance from the legislative service commission. 2081

Sec. 103.144. As used in sections 103.144 to 103.146 of the 2082
Revised Code: 2083

(A) "Mandated benefit" means the following, when considered 2084
in the context of a sickness and accident insurance policy or a 2085
health insuring corporation policy, contract, or agreement: 2086

(1) Any required coverage for a specific medical or 2087
health-related service, treatment, medication, or practice; 2088

(2) Any required coverage for the services of specific health 2089
care providers; 2090

(3) Any requirement that an insurer or health insuring 2091
corporation offer coverage to specific individuals or groups; 2092

(4) Any requirement that an insurer or health insuring 2093
corporation offer specific medical or health-related services, 2094
treatments, medications, or practices to existing insureds or 2095
enrollees; 2096

(5) Any required expansion of, or addition to, existing 2097
coverage; 2098

(6) Any mandated reimbursement amount to specific health care providers. 2099
2100

(B) "Mandated benefit" does not include any required coverage or offer of coverage, any required expansion of, or addition to, existing coverage, or any mandated reimbursement amount to specific providers, as described in division (A) of this section, within the context of any public health benefits arrangement, including but not limited to, the coverage of beneficiaries enrolled in ~~Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ medicare pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in ~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ known as the medical assistance program or medicaid, ~~provided by the Ohio department of job and family services under Chapter 5111. of the Revised Code.~~ 2101
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Sec. 105.41. (A) There is hereby created in the legislative branch of government the capitol square review and advisory board, consisting of twelve members as follows: 2115
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(1) Two members of the senate, appointed by the president of the senate, both of whom shall not be members of the same political party; 2118
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(2) Two members of the house of representatives, appointed by the speaker of the house of representatives, both of whom shall not be members of the same political party; 2121
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(3) Four members appointed by the governor, with the advice and consent of the senate, not more than three of whom shall be members of the same political party, one of whom shall be the chief of staff of the governor's office, one of whom shall represent the Ohio arts council, one of whom shall represent the Ohio historical society, and one of whom shall represent the 2124
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public at large; 2130

(4) One member, who shall be a former president of the 2131
senate, appointed by the current president of the senate. If the 2132
current president of the senate, in the current president's 2133
discretion, decides for any reason not to make the appointment or 2134
if no person is eligible or available to serve, the seat shall 2135
remain vacant. 2136

(5) One member, who shall be a former speaker of the house of 2137
representatives, appointed by the current speaker of the house of 2138
representatives. If the current speaker of the house of 2139
representatives, in the current speaker's discretion, decides for 2140
any reason not to make the appointment or if no person is eligible 2141
or available to serve, the seat shall remain vacant. 2142

(6) The clerk of the senate and the clerk of the house of 2143
representatives. 2144

(B) Terms of office of each appointed member of the board 2145
shall be for three years, except that members of the general 2146
assembly appointed to the board shall be members of the board only 2147
so long as they are members of the general assembly and the chief 2148
of staff of the governor's office shall be a member of the board 2149
only so long as the appointing governor remains in office. Each 2150
member shall hold office from the date of the member's appointment 2151
until the end of the term for which the member was appointed. In 2152
case of a vacancy occurring on the board, the president of the 2153
senate, the speaker of the house of representatives, or the 2154
governor, as the case may be, shall in the same manner prescribed 2155
for the regular appointment to the commission, fill the vacancy by 2156
appointing a member. Any member appointed to fill a vacancy 2157
occurring prior to the expiration of the term for which the 2158
member's predecessor was appointed shall hold office for the 2159
remainder of the term. Any appointed member shall continue in 2160
office subsequent to the expiration date of the member's term 2161

until the member's successor takes office, or until a period of 2162
sixty days has elapsed, whichever occurs first. 2163

(C) The board shall hold meetings in a manner and at times 2164
prescribed by the rules adopted by the board. A majority of the 2165
board constitutes a quorum, and no action shall be taken by the 2166
board unless approved by at least six members or by at least seven 2167
members if a person is appointed under division (A)(4) or (5) of 2168
this section. At its first meeting, the board shall adopt rules 2169
for the conduct of its business and the election of its officers, 2170
and shall organize by selecting a chairperson and other officers 2171
as it considers necessary. Board members shall serve without 2172
compensation but shall be reimbursed for actual and necessary 2173
expenses incurred in the performance of their duties. 2174

(D) The board may do any of the following: 2175

(1) Employ or hire on a consulting basis professional, 2176
technical, and clerical employees as are necessary for the 2177
performance of its duties. All employees of the board are in the 2178
unclassified service and serve at the pleasure of the board. For 2179
purposes of section 4117.01 of the Revised Code, employees of the 2180
board shall be considered employees of the general assembly, 2181
except that employees who are covered by a collective bargaining 2182
agreement on September 29, 2011, shall remain subject to the 2183
agreement until the agreement expires on its terms, and the 2184
agreement shall not be extended or renewed. Upon expiration of the 2185
agreement, the employees are considered employees of the general 2186
assembly for purposes of section 4117.01 of the Revised Code and 2187
are in the unclassified service and serve at the pleasure of the 2188
board. 2189

(2) Hold public hearings at times and places as determined by 2190
the board; 2191

(3) Adopt, amend, or rescind rules necessary to accomplish 2192

the duties of the board as set forth in this section; 2193

(4) Sponsor, conduct, and support such social events as the 2194
board may authorize and consider appropriate for the employees of 2195
the board, employees and members of the general assembly, 2196
employees of persons under contract with the board or otherwise 2197
engaged to perform services on the premises of capitol square, or 2198
other persons as the board may consider appropriate. Subject to 2199
the requirements of Chapter 4303. of the Revised Code, the board 2200
may provide beer, wine, and intoxicating liquor, with or without 2201
charge, for those events and may use funds only from the sale of 2202
goods and services fund to purchase the beer, wine, and 2203
intoxicating liquor the board provides; 2204

(5) Purchase a warehouse in which to store items of the 2205
capitol collection trust and, whenever necessary, equipment or 2206
other property of the board. 2207

(E) The board shall do all of the following: 2208

(1) Have sole authority to coordinate and approve any 2209
improvements, additions, and renovations that are made to the 2210
capitol square. The improvements shall include, but not be limited 2211
to, the placement of monuments and sculpture on the capitol 2212
grounds. 2213

(2) Subject to section ~~3353.07~~ 3333.93 of the Revised Code, 2214
operate the capitol square, and have sole authority to regulate 2215
all uses of the capitol square. The uses shall include, but not be 2216
limited to, the casual and recreational use of the capitol square. 2217

(3) Employ, fix the compensation of, and prescribe the duties 2218
of the executive director of the board and other employees the 2219
board considers necessary for the performance of its powers and 2220
duties; 2221

(4) Establish and maintain the capitol collection trust. The 2222
capitol collection trust shall consist of furniture, antiques, and 2223

other items of personal property that the board shall store in 2224
suitable facilities until they are ready to be displayed in the 2225
capitol square. 2226

(5) Perform repair, construction, contracting, purchasing, 2227
maintenance, supervisory, and operating activities the board 2228
determines are necessary for the operation and maintenance of the 2229
capitol square; 2230

(6) Maintain and preserve the capitol square, in accordance 2231
with guidelines issued by the United States secretary of the 2232
interior for application of the secretary's standards for 2233
rehabilitation adopted in 36 C.F.R. part 67; 2234

(7) Plan and develop a center at the capitol building for the 2235
purpose of educating visitors about the history of Ohio, including 2236
its political, economic, and social development and the design and 2237
erection of the capitol building and its grounds. 2238

(F)(1) The board shall lease capital facilities improved or 2239
financed by the Ohio building authority pursuant to Chapter 152. 2240
of the Revised Code for the use of the board, and may enter into 2241
any other agreements with the authority ancillary to improvement, 2242
financing, or leasing of those capital facilities, including, but 2243
not limited to, any agreement required by the applicable bond 2244
proceedings authorized by Chapter 152. of the Revised Code. Any 2245
lease of capital facilities authorized by this section shall be 2246
governed by division (D) of section 152.24 of the Revised Code. 2247

(2) Fees, receipts, and revenues received by the board from 2248
the state underground parking garage constitute available receipts 2249
as defined in section 152.09 of the Revised Code, and may be 2250
pledged to the payment of bond service charges on obligations 2251
issued by the Ohio building authority pursuant to Chapter 152. of 2252
the Revised Code to improve, finance, or purchase capital 2253
facilities useful to the board. The authority may, with the 2254

consent of the board, provide in the bond proceedings for a pledge 2255
of all or a portion of those fees, receipts, and revenues as the 2256
authority determines. The authority may provide in the bond 2257
proceedings or by separate agreement with the board for the 2258
transfer of those fees, receipts, and revenues to the appropriate 2259
bond service fund or bond service reserve fund as required to pay 2260
the bond service charges when due, and any such provision for the 2261
transfer of those fees, receipts, and revenues shall be 2262
controlling notwithstanding any other provision of law pertaining 2263
to those fees, receipts, and revenues. 2264

(3) All moneys received by the treasurer of state on account 2265
of the board and required by the applicable bond proceedings or by 2266
separate agreement with the board to be deposited, transferred, or 2267
credited to the bond service fund or bond service reserve fund 2268
established by the bond proceedings shall be transferred by the 2269
treasurer of state to such fund, whether or not it is in the 2270
custody of the treasurer of state, without necessity for further 2271
appropriation, upon receipt of notice from the Ohio building 2272
authority as prescribed in the bond proceedings. 2273

(G)(1) Except as otherwise provided in division (G)(2) of 2274
this section, all fees, receipts, and revenues received by the 2275
board from the state underground parking garage shall be deposited 2276
into the state treasury to the credit of the underground parking 2277
garage operating fund, which is hereby created, to be used for the 2278
purposes specified in division (F) of this section and for the 2279
operation and maintenance of the garage. All investment earnings 2280
of the fund shall be credited to the fund. 2281

(2) There is hereby created the parking garage automated 2282
equipment fund, which shall be in the custody of the treasurer of 2283
state but shall not be part of the state treasury. Money in the 2284
fund shall be used to purchase the automated teller machine 2285
quality dollar bills needed for operation of the parking garage 2286

automated equipment. The fund shall consist of fees, receipts, or 2287
revenues received by the board from the state underground parking 2288
garage; provided, however, that the total amount deposited into 2289
the fund at any one time shall not exceed ten thousand dollars. 2290
All investment earnings of the fund shall be credited to the fund. 2291

(H) All donations received by the board shall be deposited 2292
into the state treasury to the credit of the capitol square 2293
renovation gift fund, which is hereby created. The fund shall be 2294
used by the board as follows: 2295

(1) To provide part or all of the funding related to 2296
construction, goods, or services for the renovation of the capitol 2297
square; 2298

(2) To purchase art, antiques, and artifacts for display at 2299
the capitol square; 2300

(3) To award contracts or make grants to organizations for 2301
educating the public regarding the historical background and 2302
governmental functions of the capitol square. Chapters 125., 127., 2303
and 153. and section 3517.13 of the Revised Code do not apply to 2304
purchases made exclusively from the fund, notwithstanding anything 2305
to the contrary in those chapters or that section. All investment 2306
earnings of the fund shall be credited to the fund. 2307

(I) Except as provided in divisions (G), (H), and (J) of this 2308
section, all fees, receipts, and revenues received by the board 2309
shall be deposited into the state treasury to the credit of the 2310
sale of goods and services fund, which is hereby created. Money 2311
credited to the fund shall be used solely to pay costs of the 2312
board other than those specified in divisions (F) and (G) of this 2313
section. All investment earnings of the fund shall be credited to 2314
the fund. 2315

(J) There is hereby created in the state treasury the capitol 2316
square improvement fund, to be used by the board to pay 2317

construction, renovation, and other costs related to the capitol 2318
square for which money is not otherwise available to the board. 2319
Whenever the board determines that there is a need to incur those 2320
costs and that the unencumbered, unobligated balance to the credit 2321
of the underground parking garage operating fund exceeds the 2322
amount needed for the purposes specified in division (F) of this 2323
section and for the operation and maintenance of the garage, the 2324
board may request the director of budget and management to 2325
transfer from the underground parking garage operating fund to the 2326
capitol square improvement fund the amount needed to pay such 2327
construction, renovation, or other costs. The director then shall 2328
transfer the amount needed from the excess balance of the 2329
underground parking garage operating fund. 2330

(K) As the operation and maintenance of the capitol square 2331
constitute essential government functions of a public purpose, the 2332
board shall not be required to pay taxes or assessments upon the 2333
square, upon any property acquired or used by the board under this 2334
section, or upon any income generated by the operation of the 2335
square. 2336

(L) As used in this section, "capitol square" means the 2337
capitol building, senate building, capitol atrium, capitol 2338
grounds, the state underground parking garage, and the warehouse 2339
owned by the board. 2340

(M) The capitol annex shall be known as the senate building. 2341

(N) Any person may possess a firearm in a motor vehicle in 2342
the state underground parking garage at the state capitol 2343
building, if the person's possession of the firearm in the motor 2344
vehicle is not in violation of section 2923.16 of the Revised Code 2345
or any other provision of the Revised Code. Any person may store 2346
or leave a firearm in a locked motor vehicle that is parked in the 2347
state underground parking garage at the state capitol building, if 2348
the person's transportation and possession of the firearm in the 2349

motor vehicle while traveling to the garage was not in violation 2350
of section 2923.16 of the Revised Code or any other provision of 2351
the Revised Code. 2352

Sec. 107.033. As part of the state budget the governor 2353
submits to the general assembly under section 107.03 of the 2354
Revised Code, the governor shall include the state appropriation 2355
limitations the general assembly shall not exceed when making 2356
aggregate general revenue fund appropriations for each respective 2357
fiscal year of the biennium covered by that budget. The aggregate 2358
general revenue fund appropriations the governor proposes in the 2359
state budget also shall not exceed those limitations for each 2360
respective fiscal year of the biennium covered by that budget. 2361

(A) For fiscal year 2008, the state appropriation limitation 2362
is the sum of the following: 2363

(1) The aggregate general revenue fund appropriations for 2364
fiscal year 2007; plus 2365

(2) The aggregate general revenue fund appropriations for 2366
fiscal year 2007 multiplied by either three and one-half per cent, 2367
or the sum of the rate of inflation plus the rate of population 2368
change, whichever is greater. 2369

(B) For each fiscal year thereafter that is not a recast 2370
fiscal year, the state appropriation limitation is the sum of the 2371
following: 2372

(1) The state appropriation limitation for the previous 2373
fiscal year; plus 2374

(2) The state appropriation limitation for the previous 2375
fiscal year multiplied by either three and one-half per cent, or 2376
the sum of the rate of inflation plus the rate of population 2377
change, whichever is greater. 2378

(C) For each recast fiscal year, the state appropriation 2379

limitation is the sum of the following: 2380

(1) The aggregate general revenue fund appropriations for the 2381
previous fiscal year; plus 2382

(2) The aggregate general revenue fund appropriations for the 2383
previous fiscal year multiplied by either three and one-half per 2384
cent, or the sum of the rate of inflation plus the rate of 2385
population change, whichever is greater. 2386

(D) The state appropriation limitation for a fiscal year 2387
shall be increased by the amount of a nongeneral revenue fund 2388
appropriation made in the immediately preceding fiscal year, if 2389
all of the following apply to the nongeneral revenue fund 2390
appropriation: 2391

(1) It was made on or after July 1, 2013. 2392

(2) It is included in the aggregate general revenue fund 2393
appropriations proposed for that fiscal year. 2394

(3) It is being made for the first time from the general 2395
revenue fund. 2396

Sec. 107.12. (A) As used in this section, "organization" 2397
means a faith-based or other organization that is exempt from 2398
federal income taxation under section 501(c)(3) of the "Internal 2399
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, 2400
and provides charitable services to needy residents of this state. 2401

(B) There is hereby established within the office of the 2402
governor the governor's office of faith-based and community 2403
initiatives. The office shall: 2404

(1) Serve as a clearinghouse of information on federal, 2405
state, and local funding for charitable services performed by 2406
organizations; 2407

(2) Encourage organizations to seek public funding for their 2408

charitable services; 2409

(3) Assist local, state, and federal agencies in coordinating 2410
their activities to secure maximum use of funds and efforts that 2411
benefit people receiving charitable services from organizations; 2412

(4) Advise the governor, general assembly, and the advisory 2413
board of the governor's office of faith-based and community 2414
initiatives on the barriers that exist to collaboration between 2415
organizations and governmental entities and on ways to remove the 2416
barriers. 2417

(C) The governor shall appoint an executive director and such 2418
other staff as may be necessary to manage the office and perform 2419
or oversee the performance of the duties of the office. Within 2420
sixty days after being appointed, and every twelve months 2421
thereafter, the executive director shall distribute to the 2422
advisory board and review with the board a strategic plan. The 2423
executive director shall report to the board at least quarterly on 2424
proposed initiatives and policies. A report shall include the 2425
condition of the budget and the finances of the office. 2426

(D)(1) There is hereby created the advisory board of the 2427
governor's office of faith-based and community initiatives. The 2428
board shall consist of the following members: 2429

(a) The directors of aging, ~~alcohol and drug addiction~~ 2430
~~services~~, rehabilitation and correction, health, job and family 2431
services, developmental disabilities, ~~mental health~~ mental health 2432
and addiction services, and youth services, or their designees; 2433

(b) The speaker of the house of representatives shall appoint 2434
to the board two members of the house of representatives, not more 2435
than one of whom shall be from the same political party and at 2436
least one of whom shall be from the legislative black caucus. The 2437
president of the senate shall appoint to the board two members of 2438
the senate, not more than one of whom shall be from the same 2439

political party. 2440

(c) The governor, the speaker of the house of 2441
representatives, and the president of the senate shall each 2442
appoint to the board three representatives of the nonprofit, 2443
faith-based and other nonprofit community. 2444

(2) Terms of the office shall be one year. Any vacancy that 2445
occurs on the board shall be filled in the same manner as the 2446
original appointment. 2447

(3) Members of the board are not entitled to compensation, 2448
but the members appointed by the governor, the speaker of the 2449
house of representatives, and the president of the senate who are 2450
representatives of the nonprofit, faith-based and other nonprofit 2451
community shall be reimbursed for their actual and necessary 2452
expenses that are incurred in relation to board meetings. 2453

(4) The board shall be presided over by a chairperson and a 2454
vice-chairperson, who shall be the members of the board who are 2455
also members of the house of representatives or the senate. 2456
Annually on the first day of January, the chairpersonship and 2457
vice-chairpersonship shall alternate between the members of the 2458
house of representatives and the senate. 2459

(E) The board shall have the following duties: 2460

(1) Provide direction, guidance, and oversight to the office; 2461

(2) Assist in the dissemination of information about, and in 2462
the stimulation of public awareness of, the service programs 2463
supported by the office; 2464

(3) Review the budget and finances of the office, proposed 2465
initiatives and policies, and the executive director's annual 2466
strategic plan at board meetings; 2467

(4) Provide feedback for and proposed modifications of the 2468
executive director's strategic plan. Within forty-five days after 2469

submitting a strategic plan, the executive director shall contact 2470
each advisory board member to obtain feedback. With the approval 2471
of the advisory board chairperson, the executive director shall 2472
lead a strategic plan discussion at the first board meeting 2473
following the distribution of the strategic plan. 2474

(5) Publish a report of its activities and accomplishments on 2475
or before the first day of August of each year, and deliver copies 2476
of the report to the governor, the speaker and minority leader of 2477
the house of representatives, and the president and minority 2478
leader of the senate. 2479

(F) No member of the board or organization that the member is 2480
affiliated or involved with is eligible to receive any grant that 2481
the office administers or assists in administering. 2482

Sec. 109.06. Before entering upon the discharge of the duties 2483
of ~~his~~ office, the attorney general shall give a bond to the state 2484
in the sum of five thousand dollars, with ~~two or more sureties~~ 2485
~~approved by the governor~~ a surety authorized to do business in the 2486
state, conditioned for the faithful discharge of the duties of ~~his~~ 2487
the office of attorney general. Such bond, ~~with the approval of~~ 2488
~~the governor~~ and the oath of office ~~indorsed thereon~~, shall be 2489
deposited with and kept by the secretary of state ~~and kept~~ in ~~his~~ 2490
the secretary of state's office. 2491

The first assistant attorney general shall give a bond to the 2492
state in the sum of five thousand dollars, and such other 2493
employees as are designated by the attorney general shall give a 2494
bond to the state in such amounts as the attorney general 2495
determines. Such bonds shall be approved by the attorney general, 2496
conditioned for the faithful discharge of the duties of their 2497
offices, and shall be deposited with and kept by the secretary of 2498
state ~~and kept~~ in ~~his~~ the secretary of state's office. 2499

Sec. 109.36. As used in this section and sections 109.361 to 2500
109.366 of the Revised Code: 2501

(A)(1) "Officer or employee" means any of the following: 2502

(a) A person who, at the time a cause of action against the 2503
person arises, is serving in an elected or appointed office or 2504
position with the state or is employed by the state. 2505

(b) A person that, at the time a cause of action against the 2506
person, partnership, or corporation arises, is rendering medical, 2507
nursing, dental, podiatric, optometric, physical therapeutic, 2508
psychiatric, or psychological services pursuant to a personal 2509
services contract or purchased service contract with a department, 2510
agency, or institution of the state. 2511

(c) A person that, at the time a cause of action against the 2512
person, partnership, or corporation arises, is rendering peer 2513
review, utilization review, or drug utilization review services in 2514
relation to medical, nursing, dental, podiatric, optometric, 2515
physical therapeutic, psychiatric, or psychological services 2516
pursuant to a personal services contract or purchased service 2517
contract with a department, agency, or institution of the state. 2518

(d) A person who, at the time a cause of action against the 2519
person arises, is rendering medical, nursing, dental, podiatric, 2520
optometric, physical therapeutic, psychiatric, or psychological 2521
services to patients in a state institution operated by the 2522
department of ~~mental health~~ mental health and addiction services 2523
pursuant to an agreement with the department. 2524

(2) "Officer or employee" does not include any person 2525
elected, appointed, or employed by any political subdivision of 2526
the state. 2527

(B) "State" means the state of Ohio, including but not 2528
limited to, the general assembly, the supreme court, courts of 2529

appeals, the offices of all elected state officers, and all 2530
departments, boards, offices, commissions, agencies, institutions, 2531
and other instrumentalities of the state of Ohio. "State" does not 2532
include political subdivisions. 2533

(C) "Political subdivisions" of the state means municipal 2534
corporations, townships, counties, school districts, and all other 2535
bodies corporate and politic responsible for governmental 2536
activities only in geographical areas smaller than that of the 2537
state. 2538

(D) "Employer" means the general assembly, the supreme court, 2539
courts of appeals, any office of an elected state officer, or any 2540
department, board, office, commission, agency, institution, or 2541
other instrumentality of the state of Ohio that employs or 2542
contracts with an officer or employee or to which an officer or 2543
employee is elected or appointed. 2544

Sec. 109.57. (A)(1) The superintendent of the bureau of 2545
criminal identification and investigation shall procure from 2546
wherever procurable and file for record photographs, pictures, 2547
descriptions, fingerprints, measurements, and other information 2548
that may be pertinent of all persons who have been convicted of 2549
committing within this state a felony, any crime constituting a 2550
misdemeanor on the first offense and a felony on subsequent 2551
offenses, or any misdemeanor described in division (A)(1)(a), 2552
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of 2553
all children under eighteen years of age who have been adjudicated 2554
delinquent children for committing within this state an act that 2555
would be a felony or an offense of violence if committed by an 2556
adult or who have been convicted of or pleaded guilty to 2557
committing within this state a felony or an offense of violence, 2558
and of all well-known and habitual criminals. The person in charge 2559
of any county, multicounty, municipal, municipal-county, or 2560

multicounty-municipal jail or workhouse, community-based 2561
correctional facility, halfway house, alternative residential 2562
facility, or state correctional institution and the person in 2563
charge of any state institution having custody of a person 2564
suspected of having committed a felony, any crime constituting a 2565
misdemeanor on the first offense and a felony on subsequent 2566
offenses, or any misdemeanor described in division (A)(1)(a), 2567
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or 2568
having custody of a child under eighteen years of age with respect 2569
to whom there is probable cause to believe that the child may have 2570
committed an act that would be a felony or an offense of violence 2571
if committed by an adult shall furnish such material to the 2572
superintendent of the bureau. Fingerprints, photographs, or other 2573
descriptive information of a child who is under eighteen years of 2574
age, has not been arrested or otherwise taken into custody for 2575
committing an act that would be a felony or an offense of violence 2576
who is not in any other category of child specified in this 2577
division, if committed by an adult, has not been adjudicated a 2578
delinquent child for committing an act that would be a felony or 2579
an offense of violence if committed by an adult, has not been 2580
convicted of or pleaded guilty to committing a felony or an 2581
offense of violence, and is not a child with respect to whom there 2582
is probable cause to believe that the child may have committed an 2583
act that would be a felony or an offense of violence if committed 2584
by an adult shall not be procured by the superintendent or 2585
furnished by any person in charge of any county, multicounty, 2586
municipal, municipal-county, or multicounty-municipal jail or 2587
workhouse, community-based correctional facility, halfway house, 2588
alternative residential facility, or state correctional 2589
institution, except as authorized in section 2151.313 of the 2590
Revised Code. 2591

(2) Every clerk of a court of record in this state, other 2592
than the supreme court or a court of appeals, shall send to the 2593

superintendent of the bureau a weekly report containing a summary 2594
of each case involving a felony, involving any crime constituting 2595
a misdemeanor on the first offense and a felony on subsequent 2596
offenses, involving a misdemeanor described in division (A)(1)(a), 2597
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or 2598
involving an adjudication in a case in which a child under 2599
eighteen years of age was alleged to be a delinquent child for 2600
committing an act that would be a felony or an offense of violence 2601
if committed by an adult. The clerk of the court of common pleas 2602
shall include in the report and summary the clerk sends under this 2603
division all information described in divisions (A)(2)(a) to (f) 2604
of this section regarding a case before the court of appeals that 2605
is served by that clerk. The summary shall be written on the 2606
standard forms furnished by the superintendent pursuant to 2607
division (B) of this section and shall include the following 2608
information: 2609

(a) The incident tracking number contained on the standard 2610
forms furnished by the superintendent pursuant to division (B) of 2611
this section; 2612

(b) The style and number of the case; 2613

(c) The date of arrest, offense, summons, or arraignment; 2614

(d) The date that the person was convicted of or pleaded 2615
guilty to the offense, adjudicated a delinquent child for 2616
committing the act that would be a felony or an offense of 2617
violence if committed by an adult, found not guilty of the 2618
offense, or found not to be a delinquent child for committing an 2619
act that would be a felony or an offense of violence if committed 2620
by an adult, the date of an entry dismissing the charge, an entry 2621
declaring a mistrial of the offense in which the person is 2622
discharged, an entry finding that the person or child is not 2623
competent to stand trial, or an entry of a nolle prosequi, or the 2624
date of any other determination that constitutes final resolution 2625

of the case; 2626

(e) A statement of the original charge with the section of 2627
the Revised Code that was alleged to be violated; 2628

(f) If the person or child was convicted, pleaded guilty, or 2629
was adjudicated a delinquent child, the sentence or terms of 2630
probation imposed or any other disposition of the offender or the 2631
delinquent child. 2632

If the offense involved the disarming of a law enforcement 2633
officer or an attempt to disarm a law enforcement officer, the 2634
clerk shall clearly state that fact in the summary, and the 2635
superintendent shall ensure that a clear statement of that fact is 2636
placed in the bureau's records. 2637

(3) The superintendent shall cooperate with and assist 2638
sheriffs, chiefs of police, and other law enforcement officers in 2639
the establishment of a complete system of criminal identification 2640
and in obtaining fingerprints and other means of identification of 2641
all persons arrested on a charge of a felony, any crime 2642
constituting a misdemeanor on the first offense and a felony on 2643
subsequent offenses, or a misdemeanor described in division 2644
(A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the 2645
Revised Code and of all children under eighteen years of age 2646
arrested or otherwise taken into custody for committing an act 2647
that would be a felony or an offense of violence if committed by 2648
an adult. The superintendent also shall file for record the 2649
fingerprint impressions of all persons confined in a county, 2650
multicounty, municipal, municipal-county, or multicounty-municipal 2651
jail or workhouse, community-based correctional facility, halfway 2652
house, alternative residential facility, or state correctional 2653
institution for the violation of state laws and of all children 2654
under eighteen years of age who are confined in a county, 2655
multicounty, municipal, municipal-county, or multicounty-municipal 2656
jail or workhouse, community-based correctional facility, halfway 2657

house, alternative residential facility, or state correctional 2658
institution or in any facility for delinquent children for 2659
committing an act that would be a felony or an offense of violence 2660
if committed by an adult, and any other information that the 2661
superintendent may receive from law enforcement officials of the 2662
state and its political subdivisions. 2663

(4) The superintendent shall carry out Chapter 2950. of the 2664
Revised Code with respect to the registration of persons who are 2665
convicted of or plead guilty to a sexually oriented offense or a 2666
child-victim oriented offense and with respect to all other duties 2667
imposed on the bureau under that chapter. 2668

(5) The bureau shall perform centralized recordkeeping 2669
functions for criminal history records and services in this state 2670
for purposes of the national crime prevention and privacy compact 2671
set forth in section 109.571 of the Revised Code and is the 2672
criminal history record repository as defined in that section for 2673
purposes of that compact. The superintendent or the 2674
superintendent's designee is the compact officer for purposes of 2675
that compact and shall carry out the responsibilities of the 2676
compact officer specified in that compact. 2677

(B) The superintendent shall prepare and furnish to every 2678
county, multicounty, municipal, municipal-county, or 2679
multicounty-municipal jail or workhouse, community-based 2680
correctional facility, halfway house, alternative residential 2681
facility, or state correctional institution and to every clerk of 2682
a court in this state specified in division (A)(2) of this section 2683
standard forms for reporting the information required under 2684
division (A) of this section. The standard forms that the 2685
superintendent prepares pursuant to this division may be in a 2686
tangible format, in an electronic format, or in both tangible 2687
formats and electronic formats. 2688

(C)(1) The superintendent may operate a center for 2689

electronic, automated, or other data processing for the storage 2690
and retrieval of information, data, and statistics pertaining to 2691
criminals and to children under eighteen years of age who are 2692
adjudicated delinquent children for committing an act that would 2693
be a felony or an offense of violence if committed by an adult, 2694
criminal activity, crime prevention, law enforcement, and criminal 2695
justice, and may establish and operate a statewide communications 2696
network to be known as the Ohio law enforcement gateway to gather 2697
and disseminate information, data, and statistics for the use of 2698
law enforcement agencies and for other uses specified in this 2699
division. The superintendent may gather, store, retrieve, and 2700
disseminate information, data, and statistics that pertain to 2701
children who are under eighteen years of age and that are gathered 2702
pursuant to sections 109.57 to 109.61 of the Revised Code together 2703
with information, data, and statistics that pertain to adults and 2704
that are gathered pursuant to those sections. 2705

(2) The superintendent or the superintendent's designee shall 2706
gather information of the nature described in division (C)(1) of 2707
this section that pertains to the offense and delinquency history 2708
of a person who has been convicted of, pleaded guilty to, or been 2709
adjudicated a delinquent child for committing a sexually oriented 2710
offense or a child-victim oriented offense for inclusion in the 2711
state registry of sex offenders and child-victim offenders 2712
maintained pursuant to division (A)(1) of section 2950.13 of the 2713
Revised Code and in the internet database operated pursuant to 2714
division (A)(13) of that section and for possible inclusion in the 2715
internet database operated pursuant to division (A)(11) of that 2716
section. 2717

(3) In addition to any other authorized use of information, 2718
data, and statistics of the nature described in division (C)(1) of 2719
this section, the superintendent or the superintendent's designee 2720
may provide and exchange the information, data, and statistics 2721

pursuant to the national crime prevention and privacy compact as 2722
described in division (A)(5) of this section. 2723

(4) The attorney general may adopt rules under Chapter 119. 2724
of the Revised Code establishing guidelines for the operation of 2725
and participation in the Ohio law enforcement gateway. The rules 2726
may include criteria for granting and restricting access to 2727
information gathered and disseminated through the Ohio law 2728
enforcement gateway. The attorney general shall permit the state 2729
medical board and board of nursing to access and view, but not 2730
alter, information gathered and disseminated through the Ohio law 2731
enforcement gateway. 2732

The attorney general may appoint a steering committee to 2733
advise the attorney general in the operation of the Ohio law 2734
enforcement gateway that is comprised of persons who are 2735
representatives of the criminal justice agencies in this state 2736
that use the Ohio law enforcement gateway and is chaired by the 2737
superintendent or the superintendent's designee. 2738

(D)(1) The following are not public records under section 2739
149.43 of the Revised Code: 2740

(a) Information and materials furnished to the superintendent 2741
pursuant to division (A) of this section; 2742

(b) Information, data, and statistics gathered or 2743
disseminated through the Ohio law enforcement gateway pursuant to 2744
division (C)(1) of this section; 2745

(c) Information and materials furnished to any board or 2746
person under division (F) or (G) of this section. 2747

(2) The superintendent or the superintendent's designee shall 2748
gather and retain information so furnished under division (A) of 2749
this section that pertains to the offense and delinquency history 2750
of a person who has been convicted of, pleaded guilty to, or been 2751
adjudicated a delinquent child for committing a sexually oriented 2752

offense or a child-victim oriented offense for the purposes 2753
described in division (C)(2) of this section. 2754

(E)(1) The attorney general shall adopt rules, in accordance 2755
with Chapter 119. of the Revised Code and subject to division 2756
(E)(2) of this section, setting forth the procedure by which a 2757
person may receive or release information gathered by the 2758
superintendent pursuant to division (A) of this section. A 2759
reasonable fee may be charged for this service. If a temporary 2760
employment service submits a request for a determination of 2761
whether a person the service plans to refer to an employment 2762
position has been convicted of or pleaded guilty to an offense 2763
listed or described in division (A)(1), (2), or (3) of section 2764
109.572 of the Revised Code, the request shall be treated as a 2765
single request and only one fee shall be charged. 2766

(2) Except as otherwise provided in this division, a rule 2767
adopted under division (E)(1) of this section may provide only for 2768
the release of information gathered pursuant to division (A) of 2769
this section that relates to the conviction of a person, or a 2770
person's plea of guilty to, a criminal offense. The superintendent 2771
shall not release, and the attorney general shall not adopt any 2772
rule under division (E)(1) of this section that permits the 2773
release of, any information gathered pursuant to division (A) of 2774
this section that relates to an adjudication of a child as a 2775
delinquent child, or that relates to a criminal conviction of a 2776
person under eighteen years of age if the person's case was 2777
transferred back to a juvenile court under division (B)(2) or (3) 2778
of section 2152.121 of the Revised Code and the juvenile court 2779
imposed a disposition or serious youthful offender disposition 2780
upon the person under either division, unless either of the 2781
following applies with respect to the adjudication or conviction: 2782

(a) The adjudication or conviction was for a violation of 2783
section 2903.01 or 2903.02 of the Revised Code. 2784

(b) The adjudication or conviction was for a sexually 2785
oriented offense, the juvenile court was required to classify the 2786
child a juvenile offender registrant for that offense under 2787
section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that 2788
classification has not been removed. 2789

(F)(1) As used in division (F)(2) of this section, "head 2790
start agency" means an entity in this state that has been approved 2791
to be an agency for purposes of subchapter II of the "Community 2792
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 2793
as amended. 2794

(2)(a) In addition to or in conjunction with any request that 2795
is required to be made under section 109.572, 2151.86, 3301.32, 2796
3301.541, division (C) of section 3310.58, or section 3319.39, 2797
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, or 2798
5153.111 of the Revised Code or that is made under section 2799
3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the 2800
board of education of any school district; the director of 2801
developmental disabilities; any county board of developmental 2802
disabilities; any provider or subcontractor as defined in section 2803
5123.081 of the Revised Code; the chief administrator of any 2804
chartered nonpublic school; the chief administrator of a 2805
registered private provider that is not also a chartered nonpublic 2806
school; the chief administrator of any home health agency; the 2807
chief administrator of or person operating any child day-care 2808
center, type A family day-care home, or type B family day-care 2809
home licensed or certified under Chapter 5104. of the Revised 2810
Code; the administrator of any type C family day-care home 2811
certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 2812
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 2813
general assembly; the chief administrator of any head start 2814
agency; the executive director of a public children services 2815
agency; a private company described in section 3314.41, 3319.392, 2816

3326.25, or 3328.20 of the Revised Code; or an employer described 2817
in division (J)(2) of section 3327.10 of the Revised Code may 2818
request that the superintendent of the bureau investigate and 2819
determine, with respect to any individual who has applied for 2820
employment in any position after October 2, 1989, or any 2821
individual wishing to apply for employment with a board of 2822
education may request, with regard to the individual, whether the 2823
bureau has any information gathered under division (A) of this 2824
section that pertains to that individual. On receipt of the 2825
request, subject to division (E)(2) of this section, the 2826
superintendent shall determine whether that information exists 2827
and, upon request of the person, board, or entity requesting 2828
information, also shall request from the federal bureau of 2829
investigation any criminal records it has pertaining to that 2830
individual. The superintendent or the superintendent's designee 2831
also may request criminal history records from other states or the 2832
federal government pursuant to the national crime prevention and 2833
privacy compact set forth in section 109.571 of the Revised Code. 2834
Within thirty days of the date that the superintendent receives a 2835
request, subject to division (E)(2) of this section, the 2836
superintendent shall send to the board, entity, or person a report 2837
of any information that the superintendent determines exists, 2838
including information contained in records that have been sealed 2839
under section 2953.32 of the Revised Code, and, within thirty days 2840
of its receipt, subject to division (E)(2) of this section, shall 2841
send the board, entity, or person a report of any information 2842
received from the federal bureau of investigation, other than 2843
information the dissemination of which is prohibited by federal 2844
law. 2845

(b) When a board of education or a registered private 2846
provider is required to receive information under this section as 2847
a prerequisite to employment of an individual pursuant to division 2848
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 2849

may accept a certified copy of records that were issued by the 2850
bureau of criminal identification and investigation and that are 2851
presented by an individual applying for employment with the 2852
district in lieu of requesting that information itself. In such a 2853
case, the board shall accept the certified copy issued by the 2854
bureau in order to make a photocopy of it for that individual's 2855
employment application documents and shall return the certified 2856
copy to the individual. In a case of that nature, a district or 2857
provider only shall accept a certified copy of records of that 2858
nature within one year after the date of their issuance by the 2859
bureau. 2860

(c) Notwithstanding division (F)(2)(a) of this section, in 2861
the case of a request under section 3319.39, 3319.391, or 3327.10 2862
of the Revised Code only for criminal records maintained by the 2863
federal bureau of investigation, the superintendent shall not 2864
determine whether any information gathered under division (A) of 2865
this section exists on the person for whom the request is made. 2866

(3) The state board of education may request, with respect to 2867
any individual who has applied for employment after October 2, 2868
1989, in any position with the state board or the department of 2869
education, any information that a school district board of 2870
education is authorized to request under division (F)(2) of this 2871
section, and the superintendent of the bureau shall proceed as if 2872
the request has been received from a school district board of 2873
education under division (F)(2) of this section. 2874

(4) When the superintendent of the bureau receives a request 2875
for information under section 3319.291 of the Revised Code, the 2876
superintendent shall proceed as if the request has been received 2877
from a school district board of education and shall comply with 2878
divisions (F)(2)(a) and (c) of this section. 2879

(5) When a recipient of a classroom reading improvement grant 2880
paid under section 3301.86 of the Revised Code requests, with 2881

respect to any individual who applies to participate in providing 2882
any program or service funded in whole or in part by the grant, 2883
the information that a school district board of education is 2884
authorized to request under division (F)(2)(a) of this section, 2885
the superintendent of the bureau shall proceed as if the request 2886
has been received from a school district board of education under 2887
division (F)(2)(a) of this section. 2888

(G) In addition to or in conjunction with any request that is 2889
required to be made under section 3701.881, 3712.09, or 3721.121 2890
of the Revised Code with respect to an individual who has applied 2891
for employment in a position that involves providing direct care 2892
to an older adult or adult resident, the chief administrator of a 2893
home health agency, hospice care program, home licensed under 2894
Chapter 3721. of the Revised Code, or adult day-care program 2895
operated pursuant to rules adopted under section 3721.04 of the 2896
Revised Code may request that the superintendent of the bureau 2897
investigate and determine, with respect to any individual who has 2898
applied after January 27, 1997, for employment in a position that 2899
does not involve providing direct care to an older adult or adult 2900
resident, whether the bureau has any information gathered under 2901
division (A) of this section that pertains to that individual. 2902

In addition to or in conjunction with any request that is 2903
required to be made under section 173.27 of the Revised Code with 2904
respect to an individual who has applied for employment in a 2905
position that involves providing ombudsperson services to 2906
residents of long-term care facilities or recipients of 2907
community-based long-term care services, the state long-term care 2908
ombudsperson, ~~ombudsperson's designee, or the~~ director of health 2909
aging, a regional long-term care ombudsperson, or the designee of 2910
the ombudsperson, director, or program may request that the 2911
superintendent investigate and determine, with respect to any 2912
individual who has applied for employment in a position that does 2913

not involve providing such ombudsperson services, whether the 2914
bureau has any information gathered under division (A) of this 2915
section that pertains to that applicant. 2916

In addition to or in conjunction with any request that is 2917
required to be made under section ~~173.394~~ 173.38 of the Revised 2918
Code with respect to an individual who has applied for employment 2919
in a direct-care position ~~that involves providing direct care to~~ 2920
~~an individual~~, the chief administrator of a ~~community based~~ 2921
~~long term care agency provider~~, as defined in section 173.39 of 2922
the Revised Code, may request that the superintendent investigate 2923
and determine, with respect to any individual who has applied for 2924
employment in a position that ~~does is not involve providing direct~~ 2925
~~care~~ a direct-care position, whether the bureau has any 2926
information gathered under division (A) of this section that 2927
pertains to that applicant. 2928

In addition to or in conjunction with any request that is 2929
required to be made under section 3712.09 of the Revised Code with 2930
respect to an individual who has applied for employment in a 2931
position that involves providing direct care to a pediatric 2932
respite care patient, the chief administrator of a pediatric 2933
respite care program may request that the superintendent of the 2934
bureau investigate and determine, with respect to any individual 2935
who has applied for employment in a position that does not involve 2936
providing direct care to a pediatric respite care patient, whether 2937
the bureau has any information gathered under division (A) of this 2938
section that pertains to that individual. 2939

On receipt of a request under this division, the 2940
superintendent shall determine whether that information exists 2941
and, on request of the individual requesting information, shall 2942
also request from the federal bureau of investigation any criminal 2943
records it has pertaining to the applicant. The superintendent or 2944
the superintendent's designee also may request criminal history 2945

records from other states or the federal government pursuant to 2946
the national crime prevention and privacy compact set forth in 2947
section 109.571 of the Revised Code. Within thirty days of the 2948
date a request is received, subject to division (E)(2) of this 2949
section, the superintendent shall send to the requester a report 2950
of any information determined to exist, including information 2951
contained in records that have been sealed under section 2953.32 2952
of the Revised Code, and, within thirty days of its receipt, shall 2953
send the requester a report of any information received from the 2954
federal bureau of investigation, other than information the 2955
dissemination of which is prohibited by federal law. 2956

(H) Information obtained by a government entity or person 2957
under this section is confidential and shall not be released or 2958
disseminated. 2959

(I) The superintendent may charge a reasonable fee for 2960
providing information or criminal records under division (F)(2) or 2961
(G) of this section. 2962

(J) As used in this section: 2963

(1) "Pediatric respite care program" and "pediatric respite 2964
care patient" have the same meanings as in section 3712.01 of the 2965
Revised Code. 2966

(2) "Sexually oriented offense" and "child-victim oriented 2967
offense" have the same meanings as in section 2950.01 of the 2968
Revised Code. 2969

(3) "Registered private provider" means a nonpublic school or 2970
entity registered with the superintendent of public instruction 2971
under section 3310.41 of the Revised Code to participate in the 2972
autism scholarship program or section 3310.58 of the Revised Code 2973
to participate in the Jon Peterson special needs scholarship 2974
program. 2975

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 2976
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 2977
a completed form prescribed pursuant to division (C)(1) of this 2978
section, and a set of fingerprint impressions obtained in the 2979
manner described in division (C)(2) of this section, the 2980
superintendent of the bureau of criminal identification and 2981
investigation shall conduct a criminal records check in the manner 2982
described in division (B) of this section to determine whether any 2983
information exists that indicates that the person who is the 2984
subject of the request previously has been convicted of or pleaded 2985
guilty to any of the following: 2986

(a) A violation of section 2903.01, 2903.02, 2903.03, 2987
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2988
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2989
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2990
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2991
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2992
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2993
2925.06, or 3716.11 of the Revised Code, felonious sexual 2994
penetration in violation of former section 2907.12 of the Revised 2995
Code, a violation of section 2905.04 of the Revised Code as it 2996
existed prior to July 1, 1996, a violation of section 2919.23 of 2997
the Revised Code that would have been a violation of section 2998
2905.04 of the Revised Code as it existed prior to July 1, 1996, 2999
had the violation been committed prior to that date, or a 3000
violation of section 2925.11 of the Revised Code that is not a 3001
minor drug possession offense; 3002

(b) A violation of an existing or former law of this state, 3003
any other state, or the United States that is substantially 3004
equivalent to any of the offenses listed in division (A)(1)(a) of 3005
this section; 3006

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

(2) On receipt of a request pursuant to section 3712.09 or 3721.121 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

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

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

(3) On receipt of a request pursuant to section 173.27, ~~173.394~~ 173.38, 3701.881, ~~5111.032~~ 5164.34, ~~5111.033~~ 5164.341, ~~5111.034~~ 5164.342, 5123.081, or 5123.169 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this

section, and a set of fingerprint impressions obtained in the 3039
manner described in division (C)(2) of this section, the 3040
superintendent of the bureau of criminal identification and 3041
investigation shall conduct a criminal records check of the person 3042
for whom the request is made. The superintendent shall conduct the 3043
criminal records check in the manner described in division (B) of 3044
this section to determine whether any information exists that 3045
indicates that the person who is the subject of the request 3046
previously has been convicted of, has pleaded guilty to, or 3047
(except in the case of a request pursuant to section 5164.34, 3048
5164.341, or 5164.342 of the Revised Code) has been found eligible 3049
for intervention in lieu of conviction for any of the following, 3050
regardless of the date of the conviction, the date of entry of the 3051
guilty plea, or (except in the case of a request pursuant to 3052
section 5164.34, 5164.341, or 5164.342 of the Revised Code) the 3053
date the person was found eligible for intervention in lieu of 3054
conviction: 3055

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 3056
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 3057
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 3058
2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 2907.02, 3059
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 3060
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 3061
2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 3062
2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 3063
2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 3064
2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 3065
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 3066
2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 3067
2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.12, 3068
2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 2921.34, 2921.35, 3069
2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 3070
2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 3071

2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 3072
2925.141, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 3073
2927.12, or 3716.11 of the Revised Code; 3074

(b) Felonious sexual penetration in violation of former 3075
section 2907.12 of the Revised Code; 3076

(c) A violation of section 2905.04 of the Revised Code as it 3077
existed prior to July 1, 1996; 3078

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 3079
the Revised Code when the underlying offense that is the object of 3080
the conspiracy, attempt, or complicity is one of the offenses 3081
listed in divisions (A)(3)(a) to (c) of this section; 3082

(e) A violation of an existing or former municipal ordinance 3083
or law of this state, any other state, or the United States that 3084
is substantially equivalent to any of the offenses listed in 3085
divisions (A)(3)(a) to (d) of this section. 3086

(4) On receipt of a request pursuant to section 2151.86 of 3087
the Revised Code, a completed form prescribed pursuant to division 3088
(C)(1) of this section, and a set of fingerprint impressions 3089
obtained in the manner described in division (C)(2) of this 3090
section, the superintendent of the bureau of criminal 3091
identification and investigation shall conduct a criminal records 3092
check in the manner described in division (B) of this section to 3093
determine whether any information exists that indicates that the 3094
person who is the subject of the request previously has been 3095
convicted of or pleaded guilty to any of the following: 3096

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 3097
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 3098
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 3099
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 3100
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 3101
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 3102

2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 3103
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 3104
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 3105
of the Revised Code, a violation of section 2905.04 of the Revised 3106
Code as it existed prior to July 1, 1996, a violation of section 3107
2919.23 of the Revised Code that would have been a violation of 3108
section 2905.04 of the Revised Code as it existed prior to July 1, 3109
1996, had the violation been committed prior to that date, a 3110
violation of section 2925.11 of the Revised Code that is not a 3111
minor drug possession offense, two or more OVI or OVUAC violations 3112
committed within the three years immediately preceding the 3113
submission of the application or petition that is the basis of the 3114
request, or felonious sexual penetration in violation of former 3115
section 2907.12 of the Revised Code; 3116

(b) A violation of an existing or former law of this state, 3117
any other state, or the United States that is substantially 3118
equivalent to any of the offenses listed in division (A)(4)(a) of 3119
this section. 3120

(5) Upon receipt of a request pursuant to section 5104.012 or 3121
5104.013 of the Revised Code, a completed form prescribed pursuant 3122
to division (C)(1) of this section, and a set of fingerprint 3123
impressions obtained in the manner described in division (C)(2) of 3124
this section, the superintendent of the bureau of criminal 3125
identification and investigation shall conduct a criminal records 3126
check in the manner described in division (B) of this section to 3127
determine whether any information exists that indicates that the 3128
person who is the subject of the request has been convicted of or 3129
pleaded guilty to any of the following: 3130

(a) A violation of section 2903.01, 2903.02, 2903.03, 3131
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 3132
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 3133
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 3134

2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 3135
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 3136
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 3137
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 3138
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 3139
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 3140
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3141
3716.11 of the Revised Code, felonious sexual penetration in 3142
violation of former section 2907.12 of the Revised Code, a 3143
violation of section 2905.04 of the Revised Code as it existed 3144
prior to July 1, 1996, a violation of section 2919.23 of the 3145
Revised Code that would have been a violation of section 2905.04 3146
of the Revised Code as it existed prior to July 1, 1996, had the 3147
violation been committed prior to that date, a violation of 3148
section 2925.11 of the Revised Code that is not a minor drug 3149
possession offense, a violation of section 2923.02 or 2923.03 of 3150
the Revised Code that relates to a crime specified in this 3151
division, or a second violation of section 4511.19 of the Revised 3152
Code within five years of the date of application for licensure or 3153
certification. 3154

(b) A violation of an existing or former law of this state, 3155
any other state, or the United States that is substantially 3156
equivalent to any of the offenses or violations described in 3157
division (A)(5)(a) of this section. 3158

(6) Upon receipt of a request pursuant to section 5153.111 of 3159
the Revised Code, a completed form prescribed pursuant to division 3160
(C)(1) of this section, and a set of fingerprint impressions 3161
obtained in the manner described in division (C)(2) of this 3162
section, the superintendent of the bureau of criminal 3163
identification and investigation shall conduct a criminal records 3164
check in the manner described in division (B) of this section to 3165
determine whether any information exists that indicates that the 3166

person who is the subject of the request previously has been 3167
convicted of or pleaded guilty to any of the following: 3168

(a) A violation of section 2903.01, 2903.02, 2903.03, 3169
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3170
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 3171
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 3172
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 3173
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 3174
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 3175
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 3176
felonious sexual penetration in violation of former section 3177
2907.12 of the Revised Code, a violation of section 2905.04 of the 3178
Revised Code as it existed prior to July 1, 1996, a violation of 3179
section 2919.23 of the Revised Code that would have been a 3180
violation of section 2905.04 of the Revised Code as it existed 3181
prior to July 1, 1996, had the violation been committed prior to 3182
that date, or a violation of section 2925.11 of the Revised Code 3183
that is not a minor drug possession offense; 3184

(b) A violation of an existing or former law of this state, 3185
any other state, or the United States that is substantially 3186
equivalent to any of the offenses listed in division (A)(6)(a) of 3187
this section. 3188

(7) On receipt of a request for a criminal records check from 3189
an individual pursuant to section 4749.03 or 4749.06 of the 3190
Revised Code, accompanied by a completed copy of the form 3191
prescribed in division (C)(1) of this section and a set of 3192
fingerprint impressions obtained in a manner described in division 3193
(C)(2) of this section, the superintendent of the bureau of 3194
criminal identification and investigation shall conduct a criminal 3195
records check in the manner described in division (B) of this 3196
section to determine whether any information exists indicating 3197
that the person who is the subject of the request has been 3198

convicted of or pleaded guilty to a felony in this state or in any 3199
other state. If the individual indicates that a firearm will be 3200
carried in the course of business, the superintendent shall 3201
require information from the federal bureau of investigation as 3202
described in division (B)(2) of this section. Subject to division 3203
(F) of this section, the superintendent shall report the findings 3204
of the criminal records check and any information the federal 3205
bureau of investigation provides to the director of public safety. 3206

(8) On receipt of a request pursuant to section 1321.37, 3207
1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised 3208
Code, a completed form prescribed pursuant to division (C)(1) of 3209
this section, and a set of fingerprint impressions obtained in the 3210
manner described in division (C)(2) of this section, the 3211
superintendent of the bureau of criminal identification and 3212
investigation shall conduct a criminal records check with respect 3213
to any person who has applied for a license, permit, or 3214
certification from the department of commerce or a division in the 3215
department. The superintendent shall conduct the criminal records 3216
check in the manner described in division (B) of this section to 3217
determine whether any information exists that indicates that the 3218
person who is the subject of the request previously has been 3219
convicted of or pleaded guilty to any of the following: a 3220
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 3221
2925.03 of the Revised Code; any other criminal offense involving 3222
theft, receiving stolen property, embezzlement, forgery, fraud, 3223
passing bad checks, money laundering, or drug trafficking, or any 3224
criminal offense involving money or securities, as set forth in 3225
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 3226
the Revised Code; or any existing or former law of this state, any 3227
other state, or the United States that is substantially equivalent 3228
to those offenses. 3229

(9) On receipt of a request for a criminal records check from 3230

the treasurer of state under section 113.041 of the Revised Code 3231
or from an individual under section 4701.08, 4715.101, 4717.061, 3232
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 3233
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 3234
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 3235
4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 3236
4762.06, 4776.021, or 4779.091 of the Revised Code, accompanied by 3237
a completed form prescribed under division (C)(1) of this section 3238
and a set of fingerprint impressions obtained in the manner 3239
described in division (C)(2) of this section, the superintendent 3240
of the bureau of criminal identification and investigation shall 3241
conduct a criminal records check in the manner described in 3242
division (B) of this section to determine whether any information 3243
exists that indicates that the person who is the subject of the 3244
request has been convicted of or pleaded guilty to any criminal 3245
offense in this state or any other state. Subject to division (F) 3246
of this section, the superintendent shall send the results of a 3247
check requested under section 113.041 of the Revised Code to the 3248
treasurer of state and shall send the results of a check requested 3249
under any of the other listed sections to the licensing board 3250
specified by the individual in the request. 3251

(10) On receipt of a request pursuant to section 1121.23, 3252
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 3253
Code, a completed form prescribed pursuant to division (C)(1) of 3254
this section, and a set of fingerprint impressions obtained in the 3255
manner described in division (C)(2) of this section, the 3256
superintendent of the bureau of criminal identification and 3257
investigation shall conduct a criminal records check in the manner 3258
described in division (B) of this section to determine whether any 3259
information exists that indicates that the person who is the 3260
subject of the request previously has been convicted of or pleaded 3261
guilty to any criminal offense under any existing or former law of 3262
this state, any other state, or the United States. 3263

(11) On receipt of a request for a criminal records check 3264
from an appointing or licensing authority under section 3772.07 of 3265
the Revised Code, a completed form prescribed under division 3266
(C)(1) of this section, and a set of fingerprint impressions 3267
obtained in the manner prescribed in division (C)(2) of this 3268
section, the superintendent of the bureau of criminal 3269
identification and investigation shall conduct a criminal records 3270
check in the manner described in division (B) of this section to 3271
determine whether any information exists that indicates that the 3272
person who is the subject of the request previously has been 3273
convicted of or pleaded guilty or no contest to any offense under 3274
any existing or former law of this state, any other state, or the 3275
United States that is a disqualifying offense as defined in 3276
section 3772.07 of the Revised Code or substantially equivalent to 3277
such an offense. 3278

(12) On receipt of a request pursuant to section 2151.33 or 3279
2151.412 of the Revised Code, a completed form prescribed pursuant 3280
to division (C)(1) of this section, and a set of fingerprint 3281
impressions obtained in the manner described in division (C)(2) of 3282
this section, the superintendent of the bureau of criminal 3283
identification and investigation shall conduct a criminal records 3284
check with respect to any person for whom a criminal records check 3285
is required by that section. The superintendent shall conduct the 3286
criminal records check in the manner described in division (B) of 3287
this section to determine whether any information exists that 3288
indicates that the person who is the subject of the request 3289
previously has been convicted of or pleaded guilty to any of the 3290
following: 3291

(a) A violation of section 2903.01, 2903.02, 2903.03, 3292
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3293
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 3294
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 3295

2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 3296
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 3297
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 3298
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 3299
2925.22, 2925.23, or 3716.11 of the Revised Code; 3300

(b) An existing or former law of this state, any other state, 3301
or the United States that is substantially equivalent to any of 3302
the offenses listed in division (A)(12)(a) of this section. 3303

(B) Subject to division (F) of this section, the 3304
superintendent shall conduct any criminal records check to be 3305
conducted under this section as follows: 3306

(1) The superintendent shall review or cause to be reviewed 3307
any relevant information gathered and compiled by the bureau under 3308
division (A) of section 109.57 of the Revised Code that relates to 3309
the person who is the subject of the criminal records check, 3310
including, if the criminal records check was requested under 3311
section 113.041, 121.08, 173.27, ~~173.394~~ 173.38, 1121.23, 1155.03, 3312
1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 3313
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3314
3712.09, 3721.121, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 3315
5104.013, ~~5111.032~~ 5164.34, ~~5111.033~~ 5164.341, ~~5111.034~~ 5164.342, 3316
5123.081, 5123.169, or 5153.111 of the Revised Code, any relevant 3317
information contained in records that have been sealed under 3318
section 2953.32 of the Revised Code; 3319

(2) If the request received by the superintendent asks for 3320
information from the federal bureau of investigation, the 3321
superintendent shall request from the federal bureau of 3322
investigation any information it has with respect to the person 3323
who is the subject of the criminal records check, including 3324
fingerprint-based checks of national crime information databases 3325
as described in 42 U.S.C. 671 if the request is made pursuant to 3326
section 2151.86, 5104.012, or 5104.013 of the Revised Code or if 3327

any other Revised Code section requires fingerprint-based checks 3328
of that nature, and shall review or cause to be reviewed any 3329
information the superintendent receives from that bureau. If a 3330
request under section 3319.39 of the Revised Code asks only for 3331
information from the federal bureau of investigation, the 3332
superintendent shall not conduct the review prescribed by division 3333
(B)(1) of this section. 3334

(3) The superintendent or the superintendent's designee may 3335
request criminal history records from other states or the federal 3336
government pursuant to the national crime prevention and privacy 3337
compact set forth in section 109.571 of the Revised Code. 3338

(4) The superintendent shall include in the results of the 3339
criminal records check a list or description of the offenses 3340
listed or described in division (A)(1), (2), (3), (4), (5), (6), 3341
(7), (8), (9), (10), (11), or (12) of this section, whichever 3342
division requires the superintendent to conduct the criminal 3343
records check. The superintendent shall exclude from the results 3344
any information the dissemination of which is prohibited by 3345
federal law. 3346

(5) The superintendent shall send the results of the criminal 3347
records check to the person to whom it is to be sent not later 3348
than the following number of days after the date the 3349
superintendent receives the request for the criminal records 3350
check, the completed form prescribed under division (C)(1) of this 3351
section, and the set of fingerprint impressions obtained in the 3352
manner described in division (C)(2) of this section: 3353

(a) If the superintendent is required by division (A) of this 3354
section (other than division (A)(3) of this section) to conduct 3355
the criminal records check, thirty; 3356

(b) If the superintendent is required by division (A)(3) of 3357
this section to conduct the criminal records check, sixty. 3358

(C)(1) The superintendent shall prescribe a form to obtain 3359
the information necessary to conduct a criminal records check from 3360
any person for whom a criminal records check is to be conducted 3361
under this section. The form that the superintendent prescribes 3362
pursuant to this division may be in a tangible format, in an 3363
electronic format, or in both tangible and electronic formats. 3364

(2) The superintendent shall prescribe standard impression 3365
sheets to obtain the fingerprint impressions of any person for 3366
whom a criminal records check is to be conducted under this 3367
section. Any person for whom a records check is to be conducted 3368
under this section shall obtain the fingerprint impressions at a 3369
county sheriff's office, municipal police department, or any other 3370
entity with the ability to make fingerprint impressions on the 3371
standard impression sheets prescribed by the superintendent. The 3372
office, department, or entity may charge the person a reasonable 3373
fee for making the impressions. The standard impression sheets the 3374
superintendent prescribes pursuant to this division may be in a 3375
tangible format, in an electronic format, or in both tangible and 3376
electronic formats. 3377

(3) Subject to division (D) of this section, the 3378
superintendent shall prescribe and charge a reasonable fee for 3379
providing a criminal records check under this section. The person 3380
requesting the criminal records check shall pay the fee prescribed 3381
pursuant to this division. In the case of a request under section 3382
1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, 2151.33, 3383
2151.412, or ~~5111.032~~ 5164.34 of the Revised Code, the fee shall 3384
be paid in the manner specified in that section. 3385

(4) The superintendent of the bureau of criminal 3386
identification and investigation may prescribe methods of 3387
forwarding fingerprint impressions and information necessary to 3388
conduct a criminal records check, which methods shall include, but 3389
not be limited to, an electronic method. 3390

(D) The results of a criminal records check conducted under 3391
this section, other than a criminal records check specified in 3392
division (A)(7) of this section, are valid for the person who is 3393
the subject of the criminal records check for a period of one year 3394
from the date upon which the superintendent completes the criminal 3395
records check. If during that period the superintendent receives 3396
another request for a criminal records check to be conducted under 3397
this section for that person, the superintendent shall provide the 3398
results from the previous criminal records check of the person at 3399
a lower fee than the fee prescribed for the initial criminal 3400
records check. 3401

(E) When the superintendent receives a request for 3402
information from a registered private provider, the superintendent 3403
shall proceed as if the request was received from a school 3404
district board of education under section 3319.39 of the Revised 3405
Code. The superintendent shall apply division (A)(1)(c) of this 3406
section to any such request for an applicant who is a teacher. 3407

(F)(1) All information regarding the results of a criminal 3408
records check conducted under this section that the superintendent 3409
reports or sends under division (A)(7) or (9) of this section to 3410
the director of public safety, the treasurer of state, or the 3411
person, board, or entity that made the request for the criminal 3412
records check shall relate to the conviction of the subject 3413
person, or the subject person's plea of guilty to, a criminal 3414
offense. 3415

(2) Division (F)(1) of this section does not limit, restrict, 3416
or preclude the superintendent's release of information that 3417
relates to an adjudication of a child as a delinquent child, or 3418
that relates to a criminal conviction of a person under eighteen 3419
years of age if the person's case was transferred back to a 3420
juvenile court under division (B)(2) or (3) of section 2152.121 of 3421
the Revised Code and the juvenile court imposed a disposition or 3422

serious youthful offender disposition upon the person under either 3423
division, if either of the following applies with respect to the 3424
adjudication or conviction: 3425

(a) The adjudication or conviction was for a violation of 3426
section 2903.01 or 2903.02 of the Revised Code. 3427

(b) The adjudication or conviction was for a sexually 3428
oriented offense, as defined in section 2950.01 of the Revised 3429
Code, the juvenile court was required to classify the child a 3430
juvenile offender registrant for that offense under section 3431
2152.82, 2152.83, or 2152.86 of the Revised Code, and that 3432
classification has not been removed. 3433

(G) As used in this section: 3434

(1) "Criminal records check" means any criminal records check 3435
conducted by the superintendent of the bureau of criminal 3436
identification and investigation in accordance with division (B) 3437
of this section. 3438

(2) "Minor drug possession offense" has the same meaning as 3439
in section 2925.01 of the Revised Code. 3440

(3) "OVI or OVUAC violation" means a violation of section 3441
4511.19 of the Revised Code or a violation of an existing or 3442
former law of this state, any other state, or the United States 3443
that is substantially equivalent to section 4511.19 of the Revised 3444
Code. 3445

(4) "Registered private provider" means a nonpublic school or 3446
entity registered with the superintendent of public instruction 3447
under section 3310.41 of the Revised Code to participate in the 3448
autism scholarship program or section 3310.58 of the Revised Code 3449
to participate in the Jon Peterson special needs scholarship 3450
program. 3451

Sec. 109.71. There is hereby created in the office of the 3452

attorney general the Ohio peace officer training commission. The 3453
commission shall consist of nine members appointed by the governor 3454
with the advice and consent of the senate and selected as follows: 3455
one member representing the public; two members who are incumbent 3456
sheriffs; two members who are incumbent chiefs of police; one 3457
member from the bureau of criminal identification and 3458
investigation; one member from the state highway patrol; one 3459
member who is the special agent in charge of a field office of the 3460
federal bureau of investigation in this state; and one member from 3461
the department of education, trade and industrial education 3462
services, law enforcement training. 3463

This section does not confer any arrest authority or any 3464
ability or authority to detain a person, write or issue any 3465
citation, or provide any disposition alternative, as granted under 3466
Chapter 2935. of the Revised Code. 3467

As used in sections 109.71 to 109.801 of the Revised Code: 3468

(A) "Peace officer" means: 3469

(1) A deputy sheriff, marshal, deputy marshal, member of the 3470
organized police department of a township or municipal 3471
corporation, member of a township police district or joint police 3472
district police force, member of a police force employed by a 3473
metropolitan housing authority under division (D) of section 3474
3735.31 of the Revised Code, or township constable, who is 3475
commissioned and employed as a peace officer by a political 3476
subdivision of this state or by a metropolitan housing authority, 3477
and whose primary duties are to preserve the peace, to protect 3478
life and property, and to enforce the laws of this state, 3479
ordinances of a municipal corporation, resolutions of a township, 3480
or regulations of a board of county commissioners or board of 3481
township trustees, or any of those laws, ordinances, resolutions, 3482
or regulations; 3483

(2) A police officer who is employed by a railroad company	3484
and appointed and commissioned by the secretary of state pursuant	3485
to sections 4973.17 to 4973.22 of the Revised Code;	3486
(3) Employees of the department of taxation engaged in the	3487
enforcement of Chapter 5743. of the Revised Code and designated by	3488
the tax commissioner for peace officer training for purposes of	3489
the delegation of investigation powers under section 5743.45 of	3490
the Revised Code;	3491
(4) An undercover drug agent;	3492
(5) Enforcement agents of the department of public safety	3493
whom the director of public safety designates under section	3494
5502.14 of the Revised Code;	3495
(6) An employee of the department of natural resources who is	3496
a natural resources law enforcement staff officer designated	3497
pursuant to section 1501.013, a park officer designated pursuant	3498
to section 1541.10, a forest officer designated pursuant to	3499
section 1503.29, a preserve officer designated pursuant to section	3500
1517.10, a wildlife officer designated pursuant to section	3501
1531.13, or a state watercraft officer designated pursuant to	3502
section 1547.521 of the Revised Code;	3503
(7) An employee of a park district who is designated pursuant	3504
to section 511.232 or 1545.13 of the Revised Code;	3505
(8) An employee of a conservancy district who is designated	3506
pursuant to section 6101.75 of the Revised Code;	3507
(9) A police officer who is employed by a hospital that	3508
employs and maintains its own proprietary police department or	3509
security department, and who is appointed and commissioned by the	3510
secretary of state pursuant to sections 4973.17 to 4973.22 of the	3511
Revised Code;	3512
(10) Veterans' homes police officers designated under section	3513

5907.02 of the Revised Code;	3514
(11) A police officer who is employed by a qualified	3515
nonprofit corporation police department pursuant to section	3516
1702.80 of the Revised Code;	3517
(12) A state university law enforcement officer appointed	3518
under section 3345.04 of the Revised Code or a person serving as a	3519
state university law enforcement officer on a permanent basis on	3520
June 19, 1978, who has been awarded a certificate by the executive	3521
director of the Ohio peace officer training commission attesting	3522
to the person's satisfactory completion of an approved state,	3523
county, municipal, or department of natural resources peace	3524
officer basic training program;	3525
(13) A special police officer employed by the department of	3526
mental health <u>mental health and addiction services</u> pursuant to	3527
section 5119.14 <u>5119.08</u> of the Revised Code or the department of	3528
developmental disabilities pursuant to section 5123.13 of the	3529
Revised Code;	3530
(14) A member of a campus police department appointed under	3531
section 1713.50 of the Revised Code;	3532
(15) A member of a police force employed by a regional	3533
transit authority under division (Y) of section 306.35 of the	3534
Revised Code;	3535
(16) Investigators appointed by the auditor of state pursuant	3536
to section 117.091 of the Revised Code and engaged in the	3537
enforcement of Chapter 117. of the Revised Code;	3538
(17) A special police officer designated by the	3539
superintendent of the state highway patrol pursuant to section	3540
5503.09 of the Revised Code or a person who was serving as a	3541
special police officer pursuant to that section on a permanent	3542
basis on October 21, 1997, and who has been awarded a certificate	3543
by the executive director of the Ohio peace officer training	3544

commission attesting to the person's satisfactory completion of an 3545
approved state, county, municipal, or department of natural 3546
resources peace officer basic training program; 3547

(18) A special police officer employed by a port authority 3548
under section 4582.04 or 4582.28 of the Revised Code or a person 3549
serving as a special police officer employed by a port authority 3550
on a permanent basis on May 17, 2000, who has been awarded a 3551
certificate by the executive director of the Ohio peace officer 3552
training commission attesting to the person's satisfactory 3553
completion of an approved state, county, municipal, or department 3554
of natural resources peace officer basic training program; 3555

(19) A special police officer employed by a municipal 3556
corporation who has been awarded a certificate by the executive 3557
director of the Ohio peace officer training commission for 3558
satisfactory completion of an approved peace officer basic 3559
training program and who is employed on a permanent basis on or 3560
after March 19, 2003, at a municipal airport, or other municipal 3561
air navigation facility, that has scheduled operations, as defined 3562
in section 119.3 of Title 14 of the Code of Federal Regulations, 3563
14 C.F.R. 119.3, as amended, and that is required to be under a 3564
security program and is governed by aviation security rules of the 3565
transportation security administration of the United States 3566
department of transportation as provided in Parts 1542. and 1544. 3567
of Title 49 of the Code of Federal Regulations, as amended; 3568

(20) A police officer who is employed by an owner or operator 3569
of an amusement park that has an average yearly attendance in 3570
excess of six hundred thousand guests and that employs and 3571
maintains its own proprietary police department or security 3572
department, and who is appointed and commissioned by a judge of 3573
the appropriate municipal court or county court pursuant to 3574
section 4973.17 of the Revised Code; 3575

(21) A police officer who is employed by a bank, savings and 3576

loan association, savings bank, credit union, or association of 3577
banks, savings and loan associations, savings banks, or credit 3578
unions, who has been appointed and commissioned by the secretary 3579
of state pursuant to sections 4973.17 to 4973.22 of the Revised 3580
Code, and who has been awarded a certificate by the executive 3581
director of the Ohio peace officer training commission attesting 3582
to the person's satisfactory completion of a state, county, 3583
municipal, or department of natural resources peace officer basic 3584
training program; 3585

(22) An investigator, as defined in section 109.541 of the 3586
Revised Code, of the bureau of criminal identification and 3587
investigation who is commissioned by the superintendent of the 3588
bureau as a special agent for the purpose of assisting law 3589
enforcement officers or providing emergency assistance to peace 3590
officers pursuant to authority granted under that section; 3591

(23) A state fire marshal law enforcement officer appointed 3592
under section 3737.22 of the Revised Code or a person serving as a 3593
state fire marshal law enforcement officer on a permanent basis on 3594
or after July 1, 1982, who has been awarded a certificate by the 3595
executive director of the Ohio peace officer training commission 3596
attesting to the person's satisfactory completion of an approved 3597
state, county, municipal, or department of natural resources peace 3598
officer basic training program; 3599

(24) A gaming agent employed under section 3772.03 of the 3600
Revised Code. 3601

(25) A deputy inspector general appointed under section 3602
121.48 of the Revised Code who has been awarded a certificate by 3603
the executive director of the Ohio peace officer training 3604
commission attesting to the person's satisfactory completion of an 3605
approved state, county, or municipal peace officer basic training 3606
program. 3607

(B) "Undercover drug agent" has the same meaning as in 3608
division (B)(2) of section 109.79 of the Revised Code. 3609

(C) "Crisis intervention training" means training in the use 3610
of interpersonal and communication skills to most effectively and 3611
sensitively interview victims of rape. 3612

(D) "Missing children" has the same meaning as in section 3613
2901.30 of the Revised Code. 3614

Sec. 109.746. (A) The attorney general may prepare public 3615
awareness programs that are designed to educate potential victims 3616
of violations of section 2905.32 of the Revised Code and their 3617
families of the risks of becoming a victim of a violation of that 3618
section. The attorney general may prepare these programs with 3619
assistance from the department of health, the department of ~~mental~~ 3620
~~health~~ mental health and addiction services, the department of job 3621
and family services, ~~the department of alcohol and drug addiction~~ 3622
~~services~~, and the department of education. 3623

(B) Any organization, person, or other governmental agency 3624
with an interest and expertise in trafficking in persons may 3625
submit information or materials to the attorney general regarding 3626
the preparation of the programs and materials permitted under this 3627
section. The attorney general, in developing the programs and 3628
materials permitted by this section, shall consider any 3629
information submitted pursuant to this division. 3630

Sec. 109.77. (A) As used in this section, "felony" has the 3631
same meaning as in section 109.511 of the Revised Code. 3632

(B)(1) Notwithstanding any general, special, or local law or 3633
charter to the contrary, and except as otherwise provided in this 3634
section, no person shall receive an original appointment on a 3635
permanent basis as any of the following unless the person 3636
previously has been awarded a certificate by the executive 3637

director of the Ohio peace officer training commission attesting 3638
to the person's satisfactory completion of an approved state, 3639
county, municipal, or department of natural resources peace 3640
officer basic training program: 3641

(a) A peace officer of any county, township, municipal 3642
corporation, regional transit authority, or metropolitan housing 3643
authority; 3644

(b) A natural resources law enforcement staff officer, park 3645
officer, forest officer, preserve officer, wildlife officer, or 3646
state watercraft officer of the department of natural resources; 3647

(c) An employee of a park district under section 511.232 or 3648
1545.13 of the Revised Code; 3649

(d) An employee of a conservancy district who is designated 3650
pursuant to section 6101.75 of the Revised Code; 3651

(e) A state university law enforcement officer; 3652

(f) A special police officer employed by the department of 3653
~~mental health~~ mental health and addiction services pursuant to 3654
section ~~5119.14~~ 5119.08 of the Revised Code or the department of 3655
developmental disabilities pursuant to section 5123.13 of the 3656
Revised Code; 3657

(g) An enforcement agent of the department of public safety 3658
whom the director of public safety designates under section 3659
5502.14 of the Revised Code; 3660

(h) A special police officer employed by a port authority 3661
under section 4582.04 or 4582.28 of the Revised Code; 3662

(i) A special police officer employed by a municipal 3663
corporation at a municipal airport, or other municipal air 3664
navigation facility, that has scheduled operations, as defined in 3665
section 119.3 of Title 14 of the Code of Federal Regulations, 14 3666
C.F.R. 119.3, as amended, and that is required to be under a 3667

security program and is governed by aviation security rules of the 3668
transportation security administration of the United States 3669
department of transportation as provided in Parts 1542. and 1544. 3670
of Title 49 of the Code of Federal Regulations, as amended; 3671

(j) A gaming agent employed under section 3772.03 of the 3672
Revised Code. 3673

(2) Every person who is appointed on a temporary basis or for 3674
a probationary term or on other than a permanent basis as any of 3675
the following shall forfeit the appointed position unless the 3676
person previously has completed satisfactorily or, within the time 3677
prescribed by rules adopted by the attorney general pursuant to 3678
section 109.74 of the Revised Code, satisfactorily completes a 3679
state, county, municipal, or department of natural resources peace 3680
officer basic training program for temporary or probationary 3681
officers and is awarded a certificate by the director attesting to 3682
the satisfactory completion of the program: 3683

(a) A peace officer of any county, township, municipal 3684
corporation, regional transit authority, or metropolitan housing 3685
authority; 3686

(b) A natural resources law enforcement staff officer, park 3687
officer, forest officer, preserve officer, wildlife officer, or 3688
state watercraft officer of the department of natural resources; 3689

(c) An employee of a park district under section 511.232 or 3690
1545.13 of the Revised Code; 3691

(d) An employee of a conservancy district who is designated 3692
pursuant to section 6101.75 of the Revised Code; 3693

(e) A special police officer employed by the department of 3694
~~mental health~~ mental health and addiction services pursuant to 3695
section ~~5119.14~~ 5119.08 of the Revised Code or the department of 3696
developmental disabilities pursuant to section 5123.13 of the 3697
Revised Code; 3698

(f) An enforcement agent of the department of public safety 3699
whom the director of public safety designates under section 3700
5502.14 of the Revised Code; 3701

(g) A special police officer employed by a port authority 3702
under section 4582.04 or 4582.28 of the Revised Code; 3703

(h) A special police officer employed by a municipal 3704
corporation at a municipal airport, or other municipal air 3705
navigation facility, that has scheduled operations, as defined in 3706
section 119.3 of Title 14 of the Code of Federal Regulations, 14 3707
C.F.R. 119.3, as amended, and that is required to be under a 3708
security program and is governed by aviation security rules of the 3709
transportation security administration of the United States 3710
department of transportation as provided in Parts 1542. and 1544. 3711
of Title 49 of the Code of Federal Regulations, as amended. 3712

(3) For purposes of division (B) of this section, a state, 3713
county, municipal, or department of natural resources peace 3714
officer basic training program, regardless of whether the program 3715
is to be completed by peace officers appointed on a permanent or 3716
temporary, probationary, or other nonpermanent basis, shall 3717
include training in the handling of the offense of domestic 3718
violence, other types of domestic violence-related offenses and 3719
incidents, and protection orders and consent agreements issued or 3720
approved under section 2919.26 or 3113.31 of the Revised Code and 3721
crisis intervention training. The requirement to complete training 3722
in the handling of the offense of domestic violence, other types 3723
of domestic violence-related offenses and incidents, and 3724
protection orders and consent agreements issued or approved under 3725
section 2919.26 or 3113.31 of the Revised Code does not apply to 3726
any person serving as a peace officer on March 27, 1979, and the 3727
requirement to complete training in crisis intervention does not 3728
apply to any person serving as a peace officer on April 4, 1985. 3729
Any person who is serving as a peace officer on April 4, 1985, who 3730

terminates that employment after that date, and who subsequently 3731
is hired as a peace officer by the same or another law enforcement 3732
agency shall complete training in crisis intervention as 3733
prescribed by rules adopted by the attorney general pursuant to 3734
section 109.742 of the Revised Code. No peace officer shall have 3735
employment as a peace officer terminated and then be reinstated 3736
with intent to circumvent this section. 3737

(4) Division (B) of this section does not apply to any person 3738
serving on a permanent basis on March 28, 1985, as a park officer, 3739
forest officer, preserve officer, wildlife officer, or state 3740
watercraft officer of the department of natural resources or as an 3741
employee of a park district under section 511.232 or 1545.13 of 3742
the Revised Code, to any person serving on a permanent basis on 3743
March 6, 1986, as an employee of a conservancy district designated 3744
pursuant to section 6101.75 of the Revised Code, to any person 3745
serving on a permanent basis on January 10, 1991, as a preserve 3746
officer of the department of natural resources, to any person 3747
employed on a permanent basis on July 2, 1992, as a special police 3748
officer by the department of ~~mental health~~ mental health and 3749
addiction services pursuant to section ~~5119.14~~ 5119.08 of the 3750
Revised Code or by the department of developmental disabilities 3751
pursuant to section 5123.13 of the Revised Code, to any person 3752
serving on a permanent basis on May 17, 2000, as a special police 3753
officer employed by a port authority under section 4582.04 or 3754
4582.28 of the Revised Code, to any person serving on a permanent 3755
basis on March 19, 2003, as a special police officer employed by a 3756
municipal corporation at a municipal airport or other municipal 3757
air navigation facility described in division (A)(19) of section 3758
109.71 of the Revised Code, to any person serving on a permanent 3759
basis on June 19, 1978, as a state university law enforcement 3760
officer pursuant to section 3345.04 of the Revised Code and who, 3761
immediately prior to June 19, 1978, was serving as a special 3762
police officer designated under authority of that section, or to 3763

any person serving on a permanent basis on September 20, 1984, as 3764
a liquor control investigator, known after June 30, 1999, as an 3765
enforcement agent of the department of public safety, engaged in 3766
the enforcement of Chapters 4301. and 4303. of the Revised Code. 3767

(5) Division (B) of this section does not apply to any person 3768
who is appointed as a regional transit authority police officer 3769
pursuant to division (Y) of section 306.35 of the Revised Code if, 3770
on or before July 1, 1996, the person has completed satisfactorily 3771
an approved state, county, municipal, or department of natural 3772
resources peace officer basic training program and has been 3773
awarded a certificate by the executive director of the Ohio peace 3774
officer training commission attesting to the person's satisfactory 3775
completion of such an approved program and if, on July 1, 1996, 3776
the person is performing peace officer functions for a regional 3777
transit authority. 3778

(C) No person, after September 20, 1984, shall receive an 3779
original appointment on a permanent basis as a veterans' home 3780
police officer designated under section 5907.02 of the Revised 3781
Code unless the person previously has been awarded a certificate 3782
by the executive director of the Ohio peace officer training 3783
commission attesting to the person's satisfactory completion of an 3784
approved police officer basic training program. Every person who 3785
is appointed on a temporary basis or for a probationary term or on 3786
other than a permanent basis as a veterans' home police officer 3787
designated under section 5907.02 of the Revised Code shall forfeit 3788
that position unless the person previously has completed 3789
satisfactorily or, within one year from the time of appointment, 3790
satisfactorily completes an approved police officer basic training 3791
program. 3792

(D) No bailiff or deputy bailiff of a court of record of this 3793
state and no criminal investigator who is employed by the state 3794
public defender shall carry a firearm, as defined in section 3795

2923.11 of the Revised Code, while on duty unless the bailiff, 3796
deputy bailiff, or criminal investigator has done or received one 3797
of the following: 3798

(1) Has been awarded a certificate by the executive director 3799
of the Ohio peace officer training commission, which certificate 3800
attests to satisfactory completion of an approved state, county, 3801
or municipal basic training program for bailiffs and deputy 3802
bailiffs of courts of record and for criminal investigators 3803
employed by the state public defender that has been recommended by 3804
the Ohio peace officer training commission; 3805

(2) Has successfully completed a firearms training program 3806
approved by the Ohio peace officer training commission prior to 3807
employment as a bailiff, deputy bailiff, or criminal investigator; 3808

(3) Prior to June 6, 1986, was authorized to carry a firearm 3809
by the court that employed the bailiff or deputy bailiff or, in 3810
the case of a criminal investigator, by the state public defender 3811
and has received training in the use of firearms that the Ohio 3812
peace officer training commission determines is equivalent to the 3813
training that otherwise is required by division (D) of this 3814
section. 3815

(E)(1) Before a person seeking a certificate completes an 3816
approved peace officer basic training program, the executive 3817
director of the Ohio peace officer training commission shall 3818
request the person to disclose, and the person shall disclose, any 3819
previous criminal conviction of or plea of guilty of that person 3820
to a felony. 3821

(2) Before a person seeking a certificate completes an 3822
approved peace officer basic training program, the executive 3823
director shall request a criminal history records check on the 3824
person. The executive director shall submit the person's 3825
fingerprints to the bureau of criminal identification and 3826

investigation, which shall submit the fingerprints to the federal 3827
bureau of investigation for a national criminal history records 3828
check. 3829

Upon receipt of the executive director's request, the bureau 3830
of criminal identification and investigation and the federal 3831
bureau of investigation shall conduct a criminal history records 3832
check on the person and, upon completion of the check, shall 3833
provide a copy of the criminal history records check to the 3834
executive director. The executive director shall not award any 3835
certificate prescribed in this section unless the executive 3836
director has received a copy of the criminal history records check 3837
on the person to whom the certificate is to be awarded. 3838

(3) The executive director of the commission shall not award 3839
a certificate prescribed in this section to a person who has been 3840
convicted of or has pleaded guilty to a felony or who fails to 3841
disclose any previous criminal conviction of or plea of guilty to 3842
a felony as required under division (E)(1) of this section. 3843

(4) The executive director of the commission shall revoke the 3844
certificate awarded to a person as prescribed in this section, and 3845
that person shall forfeit all of the benefits derived from being 3846
certified as a peace officer under this section, if the person, 3847
before completion of an approved peace officer basic training 3848
program, failed to disclose any previous criminal conviction of or 3849
plea of guilty to a felony as required under division (E)(1) of 3850
this section. 3851

(F)(1) Regardless of whether the person has been awarded the 3852
certificate or has been classified as a peace officer prior to, 3853
on, or after October 16, 1996, the executive director of the Ohio 3854
peace officer training commission shall revoke any certificate 3855
that has been awarded to a person as prescribed in this section if 3856
the person does either of the following: 3857

(a) Pleads guilty to a felony committed on or after January 3858
1, 1997; 3859

(b) Pleads guilty to a misdemeanor committed on or after 3860
January 1, 1997, pursuant to a negotiated plea agreement as 3861
provided in division (D) of section 2929.43 of the Revised Code in 3862
which the person agrees to surrender the certificate awarded to 3863
the person under this section. 3864

(2) The executive director of the commission shall suspend 3865
any certificate that has been awarded to a person as prescribed in 3866
this section if the person is convicted, after trial, of a felony 3867
committed on or after January 1, 1997. The executive director 3868
shall suspend the certificate pursuant to division (F)(2) of this 3869
section pending the outcome of an appeal by the person from that 3870
conviction to the highest court to which the appeal is taken or 3871
until the expiration of the period in which an appeal is required 3872
to be filed. If the person files an appeal that results in that 3873
person's acquittal of the felony or conviction of a misdemeanor, 3874
or in the dismissal of the felony charge against that person, the 3875
executive director shall reinstate the certificate awarded to the 3876
person under this section. If the person files an appeal from that 3877
person's conviction of the felony and the conviction is upheld by 3878
the highest court to which the appeal is taken or if the person 3879
does not file a timely appeal, the executive director shall revoke 3880
the certificate awarded to the person under this section. 3881

(G)(1) If a person is awarded a certificate under this 3882
section and the certificate is revoked pursuant to division (E)(4) 3883
or (F) of this section, the person shall not be eligible to 3884
receive, at any time, a certificate attesting to the person's 3885
satisfactory completion of a peace officer basic training program. 3886

(2) The revocation or suspension of a certificate under 3887
division (E)(4) or (F) of this section shall be in accordance with 3888
Chapter 119. of the Revised Code. 3889

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

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

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

(J) No part of any approved state, county, or municipal basic training program for bailiffs and deputy bailiffs of courts of record and no part of any approved state, county, or municipal basic training program for criminal investigators employed by the state public defender shall be used as credit toward the completion by a peace officer of any part of the approved state, county, or municipal peace officer basic training program that the

peace officer is required by this section to complete 3922
satisfactorily. 3923

(K) This section does not apply to any member of the police 3924
department of a municipal corporation in an adjoining state 3925
serving in this state under a contract pursuant to section 737.04 3926
of the Revised Code. 3927

Sec. 109.85. (A) Upon the written request of the governor, 3928
the general assembly, the auditor of state, the medicaid director 3929
~~of job and family services~~, the director of health, or the 3930
director of budget and management, or upon the attorney general's 3931
becoming aware of criminal or improper activity related to Chapter 3932
3721. and the ~~medical assistance~~ medicaid program established 3933
~~under section 5111.01 of the Revised Code~~, the attorney general 3934
shall investigate any criminal or civil violation of law related 3935
to Chapter 3721. of the Revised Code or the ~~medical assistance~~ 3936
medicaid program. 3937

(B) When it appears to the attorney general, as a result of 3938
an investigation under division (A) of this section, that there is 3939
cause to prosecute for the commission of a crime or to pursue a 3940
civil remedy, the attorney general may refer the evidence to the 3941
prosecuting attorney having jurisdiction of the matter, or to a 3942
regular grand jury drawn and impaneled pursuant to sections 3943
2939.01 to 2939.24 of the Revised Code, or to a special grand jury 3944
drawn and impaneled pursuant to section 2939.17 of the Revised 3945
Code, or the attorney general may initiate and prosecute any 3946
necessary criminal or civil actions in any court or tribunal of 3947
competent jurisdiction in this state. When proceeding under this 3948
section, the attorney general, and any assistant or special 3949
counsel designated by the attorney general for that purpose, have 3950
all rights, privileges, and powers of prosecuting attorneys. The 3951
attorney general shall have exclusive supervision and control of 3952

all investigations and prosecutions initiated by the attorney 3953
general under this section. The forfeiture provisions of Chapter 3954
2981. of the Revised Code apply in relation to any such criminal 3955
action initiated and prosecuted by the attorney general. 3956

(C) Nothing in this section shall prevent a county 3957
prosecuting attorney from investigating and prosecuting criminal 3958
activity related to Chapter 3721. of the Revised Code and the 3959
~~medical assistance~~ medicaid program established under section 3960
~~5111.01 of the Revised Code.~~ The forfeiture provisions of Chapter 3961
2981. of the Revised Code apply in relation to any prosecution of 3962
criminal activity related to the ~~medical assistance~~ medicaid 3963
program undertaken by the prosecuting attorney. 3964

Sec. 109.86. (A) The attorney general shall investigate any 3965
activity the attorney general has reasonable cause to believe is 3966
in violation of section 2903.34 of the Revised Code. Upon written 3967
request of the governor, the general assembly, the auditor of 3968
state, or the director of health, job and family services, aging, 3969
~~mental health~~ mental health and addiction services, or 3970
developmental disabilities, the attorney general shall investigate 3971
any activity these persons believe is in violation of section 3972
2903.34 of the Revised Code. If after an investigation the 3973
attorney general has probable cause to prosecute for the 3974
commission of a crime, the attorney general shall refer the 3975
evidence to the prosecuting attorney, director of law, or other 3976
similar chief legal officer having jurisdiction over the matter. 3977
If the prosecuting attorney decides to present the evidence to a 3978
grand jury, the prosecuting attorney shall notify the attorney 3979
general in writing of the decision within thirty days after 3980
referral of the matter and shall present the evidence prior to the 3981
discharge of the next regular grand jury. If the director of law 3982
or other chief legal officer decides to prosecute the case, the 3983
director or officer shall notify the attorney general in writing 3984

of the decision within thirty days and shall initiate prosecution 3985
within sixty days after the matter was referred to the director or 3986
officer. 3987

(B) If the prosecuting attorney, director of law, or other 3988
chief legal officer fails to notify the attorney general or to 3989
present evidence or initiate prosecution in accordance with 3990
division (A) of this section, the attorney general may present the 3991
evidence to a regular grand jury drawn and impaneled pursuant to 3992
sections 2939.01 to 2939.24 of the Revised Code, or to a special 3993
grand jury drawn and impaneled pursuant to section 2939.17 of the 3994
Revised Code, or the attorney general may initiate and prosecute 3995
any action in any court or tribunal of competent jurisdiction in 3996
this state. The attorney general, and any assistant or special 3997
counsel designated by the attorney general, have all the powers of 3998
a prosecuting attorney, director of law, or other chief legal 3999
officer when proceeding under this section. Nothing in this 4000
section shall limit or prevent a prosecuting attorney, director of 4001
law, or other chief legal officer from investigating and 4002
prosecuting criminal activity committed against a resident or 4003
patient of a care facility. 4004

Sec. 109.90. (A) The attorney general shall collaborate with 4005
the state board of pharmacy and director of ~~alcohol and drug~~ 4006
~~addiction services~~ mental health and addiction services in the 4007
establishment and administration of a drug take-back program, as 4008
provided under section 4729.69 of the Revised Code. The office of 4009
the attorney general is solely responsible for the costs incurred 4010
in the establishment and administration of the program. 4011

(B) The attorney general may accept grants, gifts, or 4012
donations for purposes of the program. Money received under this 4013
division or section ~~3793.22~~ 5119.49 or 4729.69 of the Revised Code 4014
shall be deposited into the state treasury to the credit of the 4015

drug take-back program fund, which is hereby created. Money 4016
credited to the fund shall be used solely for purposes of the 4017
program. 4018

Sec. 111.02. Before entering upon the discharge of the duties 4019
of ~~his~~ office, the secretary of state shall give a bond to the 4020
state in the sum of one hundred thousand dollars, with ~~two or more~~ 4021
~~sureties approved by the governor, auditor of state, and attorney~~ 4022
~~general~~ a surety authorized to do business in the state, 4023
conditioned for the faithful discharge of the duties of ~~his~~ the 4024
office of secretary of state. The bond, ~~with the approval of the~~ 4025
~~proper officials~~ and the oath of office ~~indorsed thereon,~~ shall be 4026
deposited with and kept by the director of administrative services 4027
~~and kept~~ in ~~his~~ the director's office. 4028

Sec. 111.15. (A) As used in this section: 4029

(1) "Rule" includes any rule, regulation, bylaw, or standard 4030
having a general and uniform operation adopted by an agency under 4031
the authority of the laws governing the agency; any appendix to a 4032
rule; and any internal management rule. "Rule" does not include 4033
any guideline adopted pursuant to section 3301.0714 of the Revised 4034
Code, any order respecting the duties of employees, any finding, 4035
any determination of a question of law or fact in a matter 4036
presented to an agency, or any rule promulgated pursuant to 4037
Chapter 119., section 4141.14, division (C)(1) or (2) of section 4038
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 4039
any amendment or rescission of a rule. 4040

(2) "Agency" means any governmental entity of the state and 4041
includes, but is not limited to, any board, department, division, 4042
commission, bureau, society, council, institution, state college 4043
or university, community college district, technical college 4044
district, or state community college. "Agency" does not include 4045

the general assembly, the controlling board, the adjutant 4046
general's department, or any court. 4047

(3) "Internal management rule" means any rule, regulation, 4048
bylaw, or standard governing the day-to-day staff procedures and 4049
operations within an agency. 4050

(4) "Substantive revision" has the same meaning as in 4051
division (J) of section 119.01 of the Revised Code. 4052

(B)(1) Any rule, other than a rule of an emergency nature, 4053
adopted by any agency pursuant to this section shall be effective 4054
on the tenth day after the day on which the rule in final form and 4055
in compliance with division (B)(3) of this section is filed as 4056
follows: 4057

(a) The rule shall be filed in electronic form with both the 4058
secretary of state and the director of the legislative service 4059
commission; 4060

(b) The rule shall be filed in electronic form with the joint 4061
committee on agency rule review. Division (B)(1)(b) of this 4062
section does not apply to any rule to which division (D) of this 4063
section does not apply. 4064

An agency that adopts or amends a rule that is subject to 4065
division (D) of this section shall assign a review date to the 4066
rule that is not later than five years after its effective date. 4067
If no review date is assigned to a rule, or if a review date 4068
assigned to a rule exceeds the five-year maximum, the review date 4069
for the rule is five years after its effective date. A rule with a 4070
review date is subject to review under section 119.032 of the 4071
Revised Code. This paragraph does not apply to a rule of a state 4072
college or university, community college district, technical 4073
college district, or state community college. 4074

If all filings are not completed on the same day, the rule 4075
shall be effective on the tenth day after the day on which the 4076

latest filing is completed. If an agency in adopting a rule 4077
designates an effective date that is later than the effective date 4078
provided for by division (B)(1) of this section, the rule if filed 4079
as required by such division shall become effective on the later 4080
date designated by the agency. 4081

Any rule that is required to be filed under division (B)(1) 4082
of this section is also subject to division (D) of this section if 4083
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or 4084
(8) of this section. 4085

If a rule incorporates a text or other material by reference, 4086
the agency shall comply with sections 121.71 to 121.76 of the 4087
Revised Code. 4088

(2) A rule of an emergency nature necessary for the immediate 4089
preservation of the public peace, health, or safety shall state 4090
the reasons for the necessity. The emergency rule, in final form 4091
and in compliance with division (B)(3) of this section, shall be 4092
filed in electronic form with the secretary of state, the director 4093
of the legislative service commission, and the joint committee on 4094
agency rule review. The emergency rule is effective immediately 4095
upon completion of the latest filing, except that if the agency in 4096
adopting the emergency rule designates an effective date, or date 4097
and time of day, that is later than the effective date and time 4098
provided for by division (B)(2) of this section, the emergency 4099
rule if filed as required by such division shall become effective 4100
at the later date, or later date and time of day, designated by 4101
the agency. 4102

An emergency rule becomes invalid at the end of the ninetieth 4103
day it is in effect. Prior to that date, the agency may file the 4104
emergency rule as a nonemergency rule in compliance with division 4105
(B)(1) of this section. The agency may not refile the emergency 4106
rule in compliance with division (B)(2) of this section so that, 4107
upon the emergency rule becoming invalid under such division, the 4108

emergency rule will continue in effect without interruption for 4109
another ninety-day period. 4110

(3) An agency shall file a rule under division (B)(1) or (2) 4111
of this section in compliance with the following standards and 4112
procedures: 4113

(a) The rule shall be numbered in accordance with the 4114
numbering system devised by the director for the Ohio 4115
administrative code. 4116

(b) The rule shall be prepared and submitted in compliance 4117
with the rules of the legislative service commission. 4118

(c) The rule shall clearly state the date on which it is to 4119
be effective and the date on which it will expire, if known. 4120

(d) Each rule that amends or rescinds another rule shall 4121
clearly refer to the rule that is amended or rescinded. Each 4122
amendment shall fully restate the rule as amended. 4123

If the director of the legislative service commission or the 4124
director's designee gives an agency notice pursuant to section 4125
103.05 of the Revised Code that a rule filed by the agency is not 4126
in compliance with the rules of the legislative service 4127
commission, the agency shall within thirty days after receipt of 4128
the notice conform the rule to the rules of the commission as 4129
directed in the notice. 4130

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 4131
of this section shall be recorded by the secretary of state and 4132
the director under the title of the agency adopting the rule and 4133
shall be numbered according to the numbering system devised by the 4134
director. The secretary of state and the director shall preserve 4135
the rules in an accessible manner. Each such rule shall be a 4136
public record open to public inspection and may be transmitted to 4137
any law publishing company that wishes to reproduce it. 4138

(D) At least sixty-five days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file the full text of the proposed rule in electronic form with the joint committee on agency rule review, and the proposed rule is subject to legislative review and invalidation under division (I) of section 119.03 of the Revised Code. If a state board, commission, department, division, or bureau makes a substantive revision in a proposed rule after it is filed with the joint committee, the state board, commission, department, division, or bureau shall promptly file the full text of the proposed rule in its revised form in electronic form with the joint committee. The latest version of a proposed rule as filed with the joint committee supersedes each earlier version of the text of the same proposed rule. ~~Except as provided in division (F) of this section,~~ a A state board, commission, department, division, or bureau shall also file the rule summary and fiscal analysis prepared under section 127.18 of the Revised Code in electronic form along with a proposed rule, and along with a proposed rule in revised form, that is filed under this division. If a proposed rule has an adverse impact on businesses, the state board, commission, department, division, or bureau also shall file the business impact analysis, any recommendations received from the common sense initiative office, and the associated memorandum of response, if any, in electronic form along with the proposed rule, or the proposed rule in revised form, that is filed under this division.

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

This division does not apply to any of the following:

(1) A proposed rule of an emergency nature;

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 4171
1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4172
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 4173
Code; 4174

(3) A rule proposed by an agency other than a board, 4175
commission, department, division, or bureau of the government of 4176
the state; 4177

(4) A proposed internal management rule of a board, 4178
commission, department, division, or bureau of the government of 4179
the state; 4180

(5) Any proposed rule that must be adopted verbatim by an 4181
agency pursuant to federal law or rule, to become effective within 4182
sixty days of adoption, in order to continue the operation of a 4183
federally reimbursed program in this state, so long as the 4184
proposed rule contains both of the following: 4185

(a) A statement that it is proposed for the purpose of 4186
complying with a federal law or rule; 4187

(b) A citation to the federal law or rule that requires 4188
verbatim compliance. 4189

(6) An initial rule proposed by the director of health to 4190
impose safety standards and quality-of-care standards with respect 4191
to a health service specified in section 3702.11 of the Revised 4192
Code, or an initial rule proposed by the director to impose 4193
quality standards on a facility listed in division (A)(4) of 4194
section 3702.30 of the Revised Code, if section 3702.12 of the 4195
Revised Code requires that the rule be adopted under this section; 4196

(7) A rule of the state lottery commission pertaining to 4197
instant game rules. 4198

If a rule is exempt from legislative review under division 4199
(D)(5) of this section, and if the federal law or rule pursuant to 4200

which the rule was adopted expires, is repealed or rescinded, or 4201
otherwise terminates, the rule is thereafter subject to 4202
legislative review under division (D) of this section. 4203

(E) Whenever a state board, commission, department, division, 4204
or bureau files a proposed rule or a proposed rule in revised form 4205
under division (D) of this section, it shall also file the full 4206
text of the same proposed rule or proposed rule in revised form in 4207
electronic form with the secretary of state and the director of 4208
the legislative service commission. ~~Except as provided in division~~ 4209
~~(F) of this section, a~~ A state board, commission, department, 4210
division, or bureau shall file the rule summary and fiscal 4211
analysis prepared under section 127.18 of the Revised Code in 4212
electronic form along with a proposed rule or proposed rule in 4213
revised form that is filed with the secretary of state or the 4214
director of the legislative service commission. 4215

~~(F) Except as otherwise provided in this division, the~~ 4216
~~auditor of state or the auditor of state's designee is not~~ 4217
~~required to file a rule summary and fiscal analysis along with a~~ 4218
~~proposed rule, or proposed rule in revised form, that the auditor~~ 4219
~~of state proposes under section 117.12, 117.19, 117.38, or 117.43~~ 4220
~~of the Revised Code and files under division (D) or (E) of this~~ 4221
~~section.~~ 4222

Sec. 111.28. (A) There is hereby created in the state 4223
treasury the help America vote act (HAVA) fund. All moneys 4224
received by the secretary of state from the United States election 4225
assistance commission shall be credited to the fund. The secretary 4226
of state shall use the moneys credited to the fund for activities 4227
conducted pursuant to the "Help America Vote Act of 2002," Pub. L. 4228
No. 107-252, 116 Stat. 1666. All investment earnings of the fund 4229
shall be credited to the fund. 4230

(B) There is hereby created in the state treasury the 4231

election reform/health and human services fund. All moneys 4232
received by the secretary of state from the United States 4233
department of health and human services shall be credited to the 4234
fund. The secretary of state shall use the moneys credited to the 4235
fund for activities conducted pursuant to grants awarded to the 4236
state under Title II, Subtitle D, Sections 261 to 265 of the Help 4237
America Vote Act of 2002 to assure access for individuals with 4238
disabilities. All investment earnings of the fund shall be 4239
credited to the fund. 4240

(C) There is hereby created in the state treasury the 4241
miscellaneous federal grants fund. All moneys the secretary of 4242
state receives as grants from federal sources that are not 4243
otherwise designated shall be credited to the fund. The secretary 4244
of state shall use the moneys credited to the fund for the 4245
purposes and activities required by the applicable federal grant 4246
agreements. All investment earnings of the fund shall be credited 4247
to the fund. 4248

Sec. 113.02. Before entering upon the discharge of the duties 4249
of ~~his~~ office, the treasurer of state shall give a bond to the 4250
state in the sum of one million dollars, with ~~sureties approved by~~ 4251
~~the governor~~ a surety authorized to do business in the state, 4252
conditioned for the faithful discharge of the duties of ~~his~~ the 4253
office of treasurer of state. The bond, ~~with the approval of the~~ 4254
~~governor~~ and the oath of office ~~endorsed thereon,~~ shall be 4255
deposited with and kept by the secretary of state ~~and kept~~ in ~~his~~ 4256
the secretary of state's office. 4257

Sec. 113.061. The treasurer of state shall adopt rules in 4258
accordance with Chapter 119. of the Revised Code governing the 4259
remittance of taxes by electronic funds transfer as required under 4260
sections 5726.03, 5727.311, 5727.83, 5733.022, 5735.062, 5739.032, 4261
~~and~~ 5745.04, 5747.072, 5749.06, and 5751.07 of the Revised Code 4262

and any other section of the Revised Code under which a person is 4263
required to remit taxes by electronic funds transfer. The rules 4264
shall govern the modes of electronic funds transfer acceptable to 4265
the treasurer of state and under what circumstances each mode is 4266
acceptable, the content and format of electronic funds transfers, 4267
the coordination of payment by electronic funds transfer and 4268
filing of associated tax reports and returns, the remittance of 4269
taxes by means other than electronic funds transfer by persons 4270
otherwise required to do so but relieved of the requirement by the 4271
treasurer of state, and any other matter that in the opinion of 4272
the treasurer of state facilitates payment by electronic funds 4273
transfer in a manner consistent with those sections. 4274

Upon failure by a person, if so required, to remit taxes by 4275
electronic funds transfer in the manner prescribed under section 4276
5726.03, 5727.83, 5733.022, 5735.062, 5739.032, 5745.04, ~~or~~ 4277
5747.072, 5749.06, or 5751.07 of the Revised Code and rules 4278
adopted under this section, the treasurer of state shall notify 4279
the tax commissioner of such failure if the treasurer of state 4280
determines that such failure was not due to reasonable cause or 4281
was due to willful neglect, and shall provide the tax commissioner 4282
with any information used in making that determination. The tax 4283
commissioner may assess an additional charge as specified in the 4284
respective section of the Revised Code governing the requirement 4285
to remit taxes by electronic funds transfer. 4286

The treasurer of state may implement means of acknowledging, 4287
upon the request of a taxpayer, receipt of tax remittances made by 4288
electronic funds transfer, and may adopt rules governing 4289
acknowledgments. The cost of acknowledging receipt of electronic 4290
remittances shall be paid by the person requesting acknowledgment. 4291

The treasurer of state, not the tax commissioner, is 4292
responsible for resolving any problems involving electronic funds 4293
transfer transmissions. 4294

Sec. 117.03. Before entering upon the discharge of the duties 4295
of ~~his~~ office, the auditor of state shall give a bond to the state 4296
in the sum of twenty thousand dollars, with a surety ~~approved by~~ 4297
~~the governor~~ authorized to do business in the state, conditioned 4298
for the faithful discharge of the duties of ~~his~~ the office of 4299
auditor of state. The bond, ~~with the approval of the governor~~ and 4300
the oath of office ~~endorsed thereon~~, shall be deposited with and 4301
kept by the secretary of state and kept in ~~his~~ the secretary of 4302
state's office. 4303

Sec. 117.10. The auditor of state shall audit all public 4304
offices as provided in this chapter. The auditor of state also may 4305
audit the accounts of private institutions, associations, boards, 4306
and corporations receiving public money for their use and may 4307
require of them annual reports in such form as the auditor of 4308
state prescribes. 4309

If the auditor of state performs or contracts for the 4310
performance of an audit, including a special audit, of the public 4311
employees retirement system, school employees retirement system, 4312
state teachers retirement system, state highway patrol retirement 4313
system, or Ohio police and fire pension fund, the auditor of state 4314
shall make a timely report of the results of the audit to the Ohio 4315
retirement study council. 4316

The auditor of state may audit the accounts of any medicaid 4317
provider, as defined in section ~~5111.06~~ 5164.01 of the Revised 4318
Code. 4319

If a public office has been audited by an agency of the 4320
United States government, the auditor of state may, if satisfied 4321
that the federal audit has been conducted according to principles 4322
and procedures not contrary to those of the auditor of state, use 4323
and adopt the federal audit and report in lieu of an audit by the 4324

auditor of state's own office. 4325

Within thirty days after the creation or dissolution or the 4326
winding up of the affairs of any public office, that public office 4327
shall notify the auditor of state in writing that this action has 4328
occurred. 4329

Sec. 117.20. (A) In adopting rules pursuant to Chapter 117. 4330
of the Revised Code, the auditor of state or the auditor of 4331
state's designee shall do both of the following: 4332

(1) Before adopting any such rule, except a rule of an 4333
emergency nature, do each of the following: 4334

(a) At least thirty-five days before any public hearing on 4335
the proposed rule-making action, mail or send by electronic mail 4336
notice of the hearing to each public office and to each statewide 4337
organization that the auditor of state or designee determines will 4338
be affected or represents persons who will be affected by the 4339
proposed rule-making action; 4340

(b) Mail or send by electronic mail a copy of the proposed 4341
rule to any person or organization that requests a copy within 4342
five days after receipt of the request; 4343

(c) Consult with appropriate state and local government 4344
agencies, or with persons representative of their interests, 4345
including statewide organizations of local government officials, 4346
and consult with accounting professionals and other interested 4347
persons; 4348

(d) Conduct, on the date and at the time and place designated 4349
in the notice, a public hearing at which any person affected by 4350
the proposed rule, including statewide organizations of local 4351
government officials, may appear and be heard in person, by 4352
attorney, or both, and may present the person's or organization's 4353
position or contentions orally or in writing. 4354

(2) ~~Except as otherwise provided in division (A)(2) of this section, Comply with divisions (B) to (E) of section 111.15 of the Revised Code. The auditor of state is not required to file a rule summary and fiscal analysis along with any copy of a proposed rule, or proposed rule in revised form, that is filed with the joint committee on agency rule review, the secretary of state, or the director of the legislative service commission under division (D) or (E) of section 111.15 of the Revised Code.~~ 4355
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(B) The auditor of state shall diligently discharge the duties imposed by divisions (A)(1)(a), (b), and (c) of this section, but failure to mail or send by electronic mail any notice or copy of a proposed rule, or to consult with any person or organization, shall not invalidate any rule. 4363
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(C) Notwithstanding any contrary provision of the Revised Code, the auditor of state may prepare and disseminate, to public offices and other interested persons and organizations, advisory bulletins, directives, and instructions relating to accounting and financial reporting systems, budgeting procedures, fiscal controls, and the constructions by the auditor of state of constitutional and statutory provisions, court decisions, and opinions of the attorney general. The bulletins, directives, and instructions shall be of an advisory nature only. 4368
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(D) As used in this section, "rule" includes the adoption, amendment, or rescission of a rule. 4377
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Sec. 119.01. As used in sections 119.01 to 119.13 of the Revised Code: 4379
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(A)(1) "Agency" means, except as limited by this division, any official, board, or commission having authority to promulgate rules or make adjudications in the civil service commission, the division of liquor control, the department of taxation, the industrial commission, the bureau of workers' compensation, the 4381
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functions of any administrative or executive officer, department, 4386
division, bureau, board, or commission of the government of the 4387
state specifically made subject to sections 119.01 to 119.13 of 4388
the Revised Code, and the licensing functions of any 4389
administrative or executive officer, department, division, bureau, 4390
board, or commission of the government of the state having the 4391
authority or responsibility of issuing, suspending, revoking, or 4392
canceling licenses. 4393

Except as otherwise provided in division (I) of this section, 4394
sections 119.01 to 119.13 of the Revised Code do not apply to the 4395
public utilities commission. Sections 119.01 to 119.13 of the 4396
Revised Code do not apply to the utility radiological safety 4397
board; to the controlling board; to actions of the superintendent 4398
of financial institutions and the superintendent of insurance in 4399
the taking possession of, and rehabilitation or liquidation of, 4400
the business and property of banks, savings and loan associations, 4401
savings banks, credit unions, insurance companies, associations, 4402
reciprocal fraternal benefit societies, and bond investment 4403
companies; to any action taken by the division of securities under 4404
section 1707.201 of the Revised Code; or to any action that may be 4405
taken by the superintendent of financial institutions under 4406
section 1113.03, 1121.06, 1121.10, 1125.09, 1125.12, 1125.18, 4407
1157.09, 1157.12, 1157.18, 1165.09, 1165.12, 1165.18, 1349.33, 4408
1733.35, 1733.361, 1733.37, or 1761.03 of the Revised Code. 4409

Sections 119.01 to 119.13 of the Revised Code do not apply to 4410
actions of the industrial commission or the bureau of workers' 4411
compensation under sections 4123.01 to 4123.94 of the Revised Code 4412
with respect to all matters of adjudication, or to the actions of 4413
the industrial commission, bureau of workers' compensation board 4414
of directors, and bureau of workers' compensation under division 4415
(D) of section 4121.32, sections 4123.29, 4123.34, 4123.341, 4416
4123.342, 4123.40, 4123.411, 4123.44, 4123.442, 4127.07, divisions 4417

(B), (C), and (E) of section 4131.04, and divisions (B), (C), and 4418
(E) of section 4131.14 of the Revised Code with respect to all 4419
matters concerning the establishment of premium, contribution, and 4420
assessment rates. 4421

(2) "Agency" also means any official or work unit having 4422
authority to promulgate rules or make adjudications in the 4423
department of job and family services, but only with respect to 4424
both of the following: 4425

(a) The adoption, amendment, or rescission of rules that 4426
section 5101.09 of the Revised Code requires be adopted in 4427
accordance with this chapter; 4428

(b) The issuance, suspension, revocation, or cancellation of 4429
licenses. 4430

(B) "License" means any license, permit, certificate, 4431
commission, or charter issued by any agency. "License" does not 4432
include any arrangement whereby a person, ~~institution,~~ or 4433
government entity furnishes medicaid services under a provider 4434
agreement with the department of ~~job and family services pursuant~~ 4435
~~to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 4436
~~U.S.C. 301, as amended~~ medicaid. 4437

(C) "Rule" means any rule, regulation, or standard, having a 4438
general and uniform operation, adopted, promulgated, and enforced 4439
by any agency under the authority of the laws governing such 4440
agency, and includes any appendix to a rule. "Rule" does not 4441
include any internal management rule of an agency unless the 4442
internal management rule affects private rights and does not 4443
include any guideline adopted pursuant to section 3301.0714 of the 4444
Revised Code. 4445

(D) "Adjudication" means the determination by the highest or 4446
ultimate authority of an agency of the rights, duties, privileges, 4447
benefits, or legal relationships of a specified person, but does 4448

not include the issuance of a license in response to an 4449
application with respect to which no question is raised, nor other 4450
acts of a ministerial nature. 4451

(E) "Hearing" means a public hearing by any agency in 4452
compliance with procedural safeguards afforded by sections 119.01 4453
to 119.13 of the Revised Code. 4454

(F) "Person" means a person, firm, corporation, association, 4455
or partnership. 4456

(G) "Party" means the person whose interests are the subject 4457
of an adjudication by an agency. 4458

(H) "Appeal" means the procedure by which a person, aggrieved 4459
by a finding, decision, order, or adjudication of any agency, 4460
invokes the jurisdiction of a court. 4461

(I) "Rule-making agency" means any board, commission, 4462
department, division, or bureau of the government of the state 4463
that is required to file proposed rules, amendments, or 4464
rescissions under division (D) of section 111.15 of the Revised 4465
Code and any agency that is required to file proposed rules, 4466
amendments, or rescissions under divisions (B) and (H) of section 4467
119.03 of the Revised Code. "Rule-making agency" includes the 4468
public utilities commission. "Rule-making agency" does not include 4469
any state-supported college or university. 4470

(J) "Substantive revision" means any addition to, elimination 4471
from, or other change in a rule, an amendment of a rule, or a 4472
rescission of a rule, whether of a substantive or procedural 4473
nature, that changes any of the following: 4474

(1) That which the rule, amendment, or rescission permits, 4475
authorizes, regulates, requires, prohibits, penalizes, rewards, or 4476
otherwise affects; 4477

(2) The scope or application of the rule, amendment, or 4478

rescission. 4479

(K) "Internal management rule" means any rule, regulation, or 4480
standard governing the day-to-day staff procedures and operations 4481
within an agency. 4482

Sec. 120.06. (A)(1) The state public defender, when 4483
designated by the court or requested by a county public defender 4484
or joint county public defender, may provide legal representation 4485
in all courts throughout the state to indigent adults and 4486
juveniles who are charged with the commission of an offense or act 4487
for which the penalty or any possible adjudication includes the 4488
potential loss of liberty. 4489

(2) The state public defender may provide legal 4490
representation to any indigent person who, while incarcerated in 4491
any state correctional institution, is charged with a felony 4492
offense, for which the penalty or any possible adjudication that 4493
may be imposed by a court upon conviction includes the potential 4494
loss of liberty. 4495

(3) The state public defender may provide legal 4496
representation to any person incarcerated in any correctional 4497
institution of the state, in any matter in which the person 4498
asserts the person is unlawfully imprisoned or detained. 4499

(4) The state public defender, in any case in which the state 4500
public defender has provided legal representation or is requested 4501
to do so by a county public defender or joint county public 4502
defender, may provide legal representation on appeal. 4503

(5) The state public defender, when designated by the court 4504
or requested by a county public defender, joint county public 4505
defender, or the director of rehabilitation and correction, shall 4506
provide legal representation in parole and probation revocation 4507
matters or matters relating to the revocation of community control 4508

or post-release control under a community control sanction or 4509
post-release control sanction, unless the state public defender 4510
finds that the alleged parole or probation violator or alleged 4511
violator of a community control sanction or post-release control 4512
sanction has the financial capacity to retain the alleged 4513
violator's own counsel. 4514

(6) If the state public defender contracts with a county 4515
public defender commission, a joint county public defender 4516
commission, or a board of county commissioners for the provision 4517
of services, under authority of division (C)(7) of section 120.04 4518
of the Revised Code, the state public defender shall provide legal 4519
representation in accordance with the contract. 4520

(B) The state public defender shall not be required to 4521
prosecute any appeal, postconviction remedy, or other proceeding 4522
pursuant to division (A)(3), (4), or (5) of this section, unless 4523
the state public defender first is satisfied that there is 4524
arguable merit to the proceeding. 4525

(C) A court may appoint counsel or allow an indigent person 4526
to select the indigent's own personal counsel to assist the state 4527
public defender as co-counsel when the interests of justice so 4528
require. When co-counsel is appointed to assist the state public 4529
defender, the co-counsel shall receive any compensation that the 4530
court may approve, not to exceed the amounts provided for in 4531
section 2941.51 of the Revised Code. 4532

(D)(1) When the state public defender is designated by the 4533
court or requested by a county public defender or joint county 4534
public defender to provide legal representation for an indigent 4535
person in any case, other than pursuant to a contract entered into 4536
under authority of division (C)(7) of section 120.04 of the 4537
Revised Code, the state public defender shall send to the county 4538
in which the case is filed a bill detailing the actual cost of the 4539
representation that separately itemizes legal fees and expenses. 4540

The county, upon receipt of an itemized bill from the state public 4541
defender pursuant to this division, shall pay the state public 4542
defender each of the following amounts: 4543

(a) For the amount identified as legal fees in the itemized 4544
bill, one hundred per cent of the amount identified as legal fees 4545
less the state reimbursement rate as calculated by the state 4546
public defender pursuant to section 120.34 of the Revised Code for 4547
the month the case terminated, as set forth in the itemized bill; 4548

(b) For the amount identified as expenses in the itemized 4549
bill, one hundred per cent. 4550

(2) Upon payment of the itemized bill under division (D)(1) 4551
of this section, the county may submit the cost of the expenses, 4552
excluding legal fees, to the state public defender for 4553
reimbursement pursuant to section 120.33 of the Revised Code. 4554

(3) When the state public defender provides investigation or 4555
mitigation services to private appointed counsel or to a county or 4556
joint county public defender as approved by the appointing court, 4557
other than pursuant to a contract entered into under authority of 4558
division (C)(7) of section 120.04 of the Revised Code, the state 4559
public defender shall send to the county in which the case is 4560
filed a bill itemizing the actual cost of the services provided. 4561
The county, upon receipt of an itemized bill from the state public 4562
defender pursuant to this division, shall pay one hundred per cent 4563
of the amount as set forth in the itemized bill. Upon payment of 4564
the itemized bill received pursuant to this division, the county 4565
may submit the cost of the investigation and mitigation services 4566
to the state public defender for reimbursement pursuant to section 4567
120.33 of the Revised Code. 4568

(4) There is hereby created in the state treasury the county 4569
representation fund for the deposit of moneys received from 4570
counties under this division. All moneys credited to the fund 4571

shall be used by the state public defender to provide legal 4572
representation for indigent persons when designated by the court 4573
or requested by a county or joint county public defender or to 4574
provide investigation or mitigation services, including 4575
investigation or mitigation services to private appointed counsel 4576
or a county or joint county public defender, as approved by the 4577
court. 4578

(E)(1) Notwithstanding any contrary provision of sections 4579
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 4580
that pertains to representation by the attorney general, an 4581
assistant attorney general, or special counsel of an officer or 4582
employee, as defined in section 109.36 of the Revised Code, or of 4583
an entity of state government, the state public defender may elect 4584
to contract with, and to have the state pay pursuant to division 4585
(E)(2) of this section for the services of, private legal counsel 4586
to represent the Ohio public defender commission, the state public 4587
defender, assistant state public defenders, other employees of the 4588
commission or the state public defender, and attorneys described 4589
in division (C) of section 120.41 of the Revised Code in a 4590
malpractice or other civil action or proceeding that arises from 4591
alleged actions or omissions related to responsibilities derived 4592
pursuant to this chapter, or in a civil action that is based upon 4593
alleged violations of the constitution or statutes of the United 4594
States, including section 1983 of Title 42 of the United States 4595
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 4596
arises from alleged actions or omissions related to 4597
responsibilities derived pursuant to this chapter, if the state 4598
public defender determines, in good faith, that the defendant in 4599
the civil action or proceeding did not act manifestly outside the 4600
scope of the defendant's employment or official responsibilities, 4601
with malicious purpose, in bad faith, or in a wanton or reckless 4602
manner. If the state public defender elects not to contract 4603
pursuant to this division for private legal counsel in a civil 4604

action or proceeding, then, in accordance with sections 109.02, 4605
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 4606
attorney general shall represent or provide for the representation 4607
of the Ohio public defender commission, the state public defender, 4608
assistant state public defenders, other employees of the 4609
commission or the state public defender, or attorneys described in 4610
division (C) of section 120.41 of the Revised Code in the civil 4611
action or proceeding. 4612

(2)(a) Subject to division (E)(2)(b) of this section, payment 4613
from the state treasury for the services of private legal counsel 4614
with whom the state public defender has contracted pursuant to 4615
division (E)(1) of this section shall be accomplished only through 4616
the following procedure: 4617

(i) The private legal counsel shall file with the attorney 4618
general a copy of the contract; a request for an award of legal 4619
fees, court costs, and expenses earned or incurred in connection 4620
with the defense of the Ohio public defender commission, the state 4621
public defender, an assistant state public defender, an employee, 4622
or an attorney in a specified civil action or proceeding; a 4623
written itemization of those fees, costs, and expenses, including 4624
the signature of the state public defender and the state public 4625
defender's attestation that the fees, costs, and expenses were 4626
earned or incurred pursuant to division (E)(1) of this section to 4627
the best of the state public defender's knowledge and information; 4628
a written statement whether the fees, costs, and expenses are for 4629
all legal services to be rendered in connection with that defense, 4630
are only for legal services rendered to the date of the request 4631
and additional legal services likely will have to be provided in 4632
connection with that defense, or are for the final legal services 4633
rendered in connection with that defense; a written statement 4634
indicating whether the private legal counsel previously submitted 4635
a request for an award under division (E)(2) of this section in 4636

connection with that defense and, if so, the date and the amount 4637
of each award granted; and, if the fees, costs, and expenses are 4638
for all legal services to be rendered in connection with that 4639
defense or are for the final legal services rendered in connection 4640
with that defense, a certified copy of any judgment entry in the 4641
civil action or proceeding or a signed copy of any settlement 4642
agreement entered into between the parties to the civil action or 4643
proceeding. 4644

(ii) Upon receipt of a request for an award of legal fees, 4645
court costs, and expenses and the requisite supportive 4646
documentation described in division (E)(2)(a)(i) of this section, 4647
the attorney general shall review the request and documentation; 4648
determine whether any of the limitations specified in division 4649
(E)(2)(b) of this section apply to the request; and, if an award 4650
of legal fees, court costs, or expenses is permissible after 4651
applying the limitations, prepare a document awarding legal fees, 4652
court costs, or expenses to the private legal counsel. The 4653
document shall name the private legal counsel as the recipient of 4654
the award; specify the total amount of the award as determined by 4655
the attorney general; itemize the portions of the award that 4656
represent legal fees, court costs, and expenses; specify any 4657
limitation applied pursuant to division (E)(2)(b) of this section 4658
to reduce the amount of the award sought by the private legal 4659
counsel; state that the award is payable from the state treasury 4660
pursuant to division (E)(2)(a)(iii) of this section; and be 4661
approved by the inclusion of the signatures of the attorney 4662
general, the state public defender, and the private legal counsel. 4663

(iii) The attorney general shall forward a copy of the 4664
document prepared pursuant to division (E)(2)(a)(ii) of this 4665
section to the director of budget and management. The award of 4666
legal fees, court costs, or expenses shall be paid out of the 4667
state public defender's appropriations, to the extent there is a 4668

sufficient available balance in those appropriations. If the state public defender does not have a sufficient available balance in the state public defender's appropriations to pay the entire award of legal fees, court costs, or expenses, the director shall make application for a transfer of appropriations out of the emergency purposes account or any other appropriation for emergencies or contingencies in an amount equal to the portion of the award that exceeds the sufficient available balance in the state public defender's appropriations. A transfer of appropriations out of the emergency purposes account or any other appropriation for emergencies or contingencies shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests, or requests for releases from the other appropriation. If a transfer of appropriations out of the emergency purposes account or other appropriation for emergencies or contingencies is made to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the state public defender's appropriations, the director shall cause the payment to be made to the private legal counsel. If sufficient moneys do not exist in the emergency purposes account or other appropriation for emergencies or contingencies to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the state public defender's appropriations, the private legal counsel shall request the general assembly to make an appropriation sufficient to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the state public defender's appropriations, and no payment in that amount shall be made until the appropriation has been made. The private legal counsel shall make the request during the current biennium and during each succeeding biennium until a sufficient appropriation is made.

(b) An award of legal fees, court costs, and expenses pursuant to division (E) of this section is subject to the

following limitations: 4702

(i) The maximum award or maximum aggregate of a series of 4703
awards of legal fees, court costs, and expenses to the private 4704
legal counsel in connection with the defense of the Ohio public 4705
defender commission, the state public defender, an assistant state 4706
public defender, an employee, or an attorney in a specified civil 4707
action or proceeding shall not exceed fifty thousand dollars. 4708

(ii) The private legal counsel shall not be awarded legal 4709
fees, court costs, or expenses to the extent the fees, costs, or 4710
expenses are covered by a policy of malpractice or other 4711
insurance. 4712

(iii) The private legal counsel shall be awarded legal fees 4713
and expenses only to the extent that the fees and expenses are 4714
reasonable in light of the legal services rendered by the private 4715
legal counsel in connection with the defense of the Ohio public 4716
defender commission, the state public defender, an assistant state 4717
public defender, an employee, or an attorney in a specified civil 4718
action or proceeding. 4719

(c) If, pursuant to division (E)(2)(a) of this section, the 4720
attorney general denies a request for an award of legal fees, 4721
court costs, or expenses to private legal counsel because of the 4722
application of a limitation specified in division (E)(2)(b) of 4723
this section, the attorney general shall notify the private legal 4724
counsel in writing of the denial and of the limitation applied. 4725

(d) If, pursuant to division (E)(2)(c) of this section, a 4726
private legal counsel receives a denial of an award notification 4727
or if a private legal counsel refuses to approve a document under 4728
division (E)(2)(a)(ii) of this section because of the proposed 4729
application of a limitation specified in division (E)(2)(b) of 4730
this section, the private legal counsel may commence a civil 4731
action against the attorney general in the court of claims to 4732

prove the private legal counsel's entitlement to the award sought, 4733
to prove that division (E)(2)(b) of this section does not prohibit 4734
or otherwise limit the award sought, and to recover a judgment for 4735
the amount of the award sought. A civil action under division 4736
(E)(2)(d) of this section shall be commenced no later than two 4737
years after receipt of a denial of award notification or, if the 4738
private legal counsel refused to approve a document under division 4739
(E)(2)(a)(ii) of this section because of the proposed application 4740
of a limitation specified in division (E)(2)(b) of this section, 4741
no later than two years after the refusal. Any judgment of the 4742
court of claims in favor of the private legal counsel shall be 4743
paid from the state treasury in accordance with division (E)(2)(a) 4744
of this section. 4745

(F) If a court appoints the office of the state public 4746
defender to represent a petitioner in a postconviction relief 4747
proceeding under section 2953.21 of the Revised Code, the 4748
petitioner has received a sentence of death, and the proceeding 4749
relates to that sentence, all of the attorneys who represent the 4750
petitioner in the proceeding pursuant to the appointment, whether 4751
an assistant state public defender, the state public defender, or 4752
another attorney, shall be certified under Rule 20 of the Rules of 4753
Superintendence for the Courts of Ohio to represent indigent 4754
defendants charged with or convicted of an offense for which the 4755
death penalty can be or has been imposed. 4756

(G)(1) The state public defender may provide legal 4757
representation and services to a child committed to the department 4758
of youth services relative to either of the following: 4759

(a) The fact or duration of the child's confinement, 4760
including, but not limited to, appeals, post-conviction relief, 4761
petitions for habeas corpus, and administrative issues that may 4762
extend the period of confinement; 4763

(b) Conditions of the child's confinement. 4764

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

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

(I) The state public defender shall have access to any child committed to the department of youth services, department of youth services institution, and department of youth services record as needed to implement this section.

(J) As used in this section:

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

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

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

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

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

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

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

(D) The department of transportation, which shall be administered by the director of transportation;	4794 4795
(E) The department of agriculture, which shall be administered by the director of agriculture;	4796 4797
(F) The department of natural resources, which shall be administered by the director of natural resources;	4798 4799
(G) The department of health, which shall be administered by the director of health;	4800 4801
(H) The department of job and family services, which shall be administered by the director of job and family services;	4802 4803
(I) Until July 1, 1997, the department of liquor control, which shall be administered by the director of liquor control;	4804 4805
(J) The department of public safety, which shall be administered by the director of public safety;	4806 4807
(K) The department of mental health <u>mental health and addiction services</u> , which shall be administered by the director of mental health <u>mental health and addiction services</u> ;	4808 4809 4810
(L) The department of developmental disabilities, which shall be administered by the director of developmental disabilities;	4811 4812
(M) The department of insurance, which shall be administered by the superintendent of insurance as director thereof;	4813 4814
(N) The development services agency, which shall be administered by the director of development services;	4815 4816
(O) The department of youth services, which shall be administered by the director of youth services;	4817 4818
(P) The department of rehabilitation and correction, which shall be administered by the director of rehabilitation and correction;	4819 4820 4821
(Q) The environmental protection agency, which shall be	4822

administered by the director of environmental protection;	4823
(R) The department of aging, which shall be administered by the director of aging;	4824 4825
(S) The department of alcohol and drug addiction services, which shall be administered by the director of alcohol and drug addiction services;	4826 4827 4828
(T) The department of veterans services, which shall be administered by the director of veterans services;	4829 4830
<u>(T) The department of medicaid, which shall be administered by the medicaid director.</u>	4831 4832
The director of each department shall exercise the powers and perform the duties vested by law in such department.	4833 4834
Sec. 121.03. The following administrative department heads shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices during the term of the appointing governor, and are subject to removal at the pleasure of the governor.	4835 4836 4837 4838 4839
(A) The director of budget and management;	4840
(B) The director of commerce;	4841
(C) The director of transportation;	4842
(D) The director of agriculture;	4843
(E) The director of job and family services;	4844
(F) Until July 1, 1997, the director of liquor control;	4845
(G) The director of public safety;	4846
(H) The superintendent of insurance;	4847
(I) The director of development services;	4848
(J) The tax commissioner;	4849

(K) The director of administrative services;	4850
(L) The director of natural resources;	4851
(M) The director of mental health <u>mental health and addiction</u> <u>services</u> ;	4852 4853
(N) The director of developmental disabilities;	4854
(O) The director of health;	4855
(P) The director of youth services;	4856
(Q) The director of rehabilitation and correction;	4857
(R) The director of environmental protection;	4858
(S) The director of aging;	4859
(T) The director of alcohol and drug addiction services;	4860
(U) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;	4861 4862 4863
(V) <u>(U)</u> The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;	4864 4865
(W) <u>(V)</u> The chancellor of the Ohio board of regents;	4866
<u>(W) The medicaid director.</u>	4867
Sec. 121.11. (A) Each officer whose office is created by	4868
sections 121.02, 121.04, and 121.05 of the Revised Code, before	4869
entering upon the duties of office, shall take and subscribe an	4870
oath of office as provided by law and give bond, conditioned	4871
according to law, with security to be approved by the governor in	4872
the penal sum, not less than ten thousand dollars, fixed by the	4873
governor . The department of administrative services may procure	4874
from any duly authorized corporate surety <u>authorized to do</u>	4875
<u>business in the state</u> a <u>schedule or</u> blanket bond covering the	4876
officers described in those sections and any other officers the	4877

governor designates. The bond and oath of the officers described 4878
in those sections shall be filed in the office of the secretary of 4879
state. 4880

~~(B) The director of each department, with the approval of the 4881
governor, may require any chief of a division, or any officer or 4882
employee in the director's department, to give bond in the amount 4883
the governor prescribes. The bond or bonds may, in the discretion 4884
of the director, be individual, schedule, or blanket bonds. 4885~~

~~(C) The premium on any bond required or authorized by this 4886
section may be paid from the state treasury. 4887~~

Sec. 121.22. (A) This section shall be liberally construed to 4888
require public officials to take official action and to conduct 4889
all deliberations upon official business only in open meetings 4890
unless the subject matter is specifically excepted by law. 4891

(B) As used in this section: 4892

(1) "Public body" means any of the following: 4893

(a) Any board, commission, committee, council, or similar 4894
decision-making body of a state agency, institution, or authority, 4895
and any legislative authority or board, commission, committee, 4896
council, agency, authority, or similar decision-making body of any 4897
county, township, municipal corporation, school district, or other 4898
political subdivision or local public institution; 4899

(b) Any committee or subcommittee of a body described in 4900
division (B)(1)(a) of this section; 4901

(c) A court of jurisdiction of a sanitary district organized 4902
wholly for the purpose of providing a water supply for domestic, 4903
municipal, and public use when meeting for the purpose of the 4904
appointment, removal, or reappointment of a member of the board of 4905
directors of such a district pursuant to section 6115.10 of the 4906
Revised Code, if applicable, or for any other matter related to 4907

such a district other than litigation involving the district. As 4908
used in division (B)(1)(c) of this section, "court of 4909
jurisdiction" has the same meaning as "court" in section 6115.01 4910
of the Revised Code. 4911

(2) "Meeting" means any prearranged discussion of the public 4912
business of the public body by a majority of its members. 4913

(3) "Regulated individual" means either of the following: 4914

(a) A student in a state or local public educational 4915
institution; 4916

(b) A person who is, voluntarily or involuntarily, an inmate, 4917
patient, or resident of a state or local institution because of 4918
criminal behavior, mental illness or retardation, disease, 4919
disability, age, or other condition requiring custodial care. 4920

(4) "Public office" has the same meaning as in section 4921
149.011 of the Revised Code. 4922

(C) All meetings of any public body are declared to be public 4923
meetings open to the public at all times. A member of a public 4924
body shall be present in person at a meeting open to the public to 4925
be considered present or to vote at the meeting and for purposes 4926
of determining whether a quorum is present at the meeting. 4927

The minutes of a regular or special meeting of any public 4928
body shall be promptly prepared, filed, and maintained and shall 4929
be open to public inspection. The minutes need only reflect the 4930
general subject matter of discussions in executive sessions 4931
authorized under division (G) or (J) of this section. 4932

(D) This section does not apply to any of the following: 4933

(1) A grand jury; 4934

(2) An audit conference conducted by the auditor of state or 4935
independent certified public accountants with officials of the 4936
public office that is the subject of the audit; 4937

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;	4938 4939 4940
(4) The organized crime investigations commission established under section 177.01 of the Revised Code;	4941 4942
(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;	4943 4944 4945
(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;	4946 4947 4948
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;	4949 4950 4951
(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;	4952 4953 4954
(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;	4955 4956 4957
(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;	4958 4959 4960 4961
(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;	4962 4963 4964 4965
(12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public	4966 4967

office that is the subject of that audit under section 5101.37 of 4968
the Revised Code. 4969

(E) The controlling board, ~~the industrial technology and~~ 4970
~~enterprise advisory council,~~ the tax credit authority, or the 4971
minority development financing advisory board, when meeting to 4972
consider granting assistance pursuant to Chapter 122. or 166. of 4973
the Revised Code, in order to protect the interest of the 4974
applicant or the possible investment of public funds, by unanimous 4975
vote of all board, ~~council,~~ or authority members present, may 4976
close the meeting during consideration of the following 4977
information confidentially received by the authority, ~~council,~~ or 4978
board from the applicant: 4979

(1) Marketing plans; 4980

(2) Specific business strategy; 4981

(3) Production techniques and trade secrets; 4982

(4) Financial projections; 4983

(5) Personal financial statements of the applicant or members 4984
of the applicant's immediate family, including, but not limited 4985
to, tax records or other similar information not open to public 4986
inspection. 4987

The vote by the authority, ~~council,~~ or board to accept or 4988
reject the application, as well as all proceedings of the 4989
authority, ~~council,~~ or board not subject to this division, shall 4990
be open to the public and governed by this section. 4991

(F) Every public body, by rule, shall establish a reasonable 4992
method whereby any person may determine the time and place of all 4993
regularly scheduled meetings and the time, place, and purpose of 4994
all special meetings. A public body shall not hold a special 4995
meeting unless it gives at least twenty-four hours' advance notice 4996
to the news media that have requested notification, except in the 4997

event of an emergency requiring immediate official action. In the 4998
event of an emergency, the member or members calling the meeting 4999
shall notify the news media that have requested notification 5000
immediately of the time, place, and purpose of the meeting. 5001

The rule shall provide that any person, upon request and 5002
payment of a reasonable fee, may obtain reasonable advance 5003
notification of all meetings at which any specific type of public 5004
business is to be discussed. Provisions for advance notification 5005
may include, but are not limited to, mailing the agenda of 5006
meetings to all subscribers on a mailing list or mailing notices 5007
in self-addressed, stamped envelopes provided by the person. 5008

(G) Except as provided in division (J) of this section, the 5009
members of a public body may hold an executive session only after 5010
a majority of a quorum of the public body determines, by a roll 5011
call vote, to hold an executive session and only at a regular or 5012
special meeting for the sole purpose of the consideration of any 5013
of the following matters: 5014

(1) To consider the appointment, employment, dismissal, 5015
discipline, promotion, demotion, or compensation of a public 5016
employee or official, or the investigation of charges or 5017
complaints against a public employee, official, licensee, or 5018
regulated individual, unless the public employee, official, 5019
licensee, or regulated individual requests a public hearing. 5020
Except as otherwise provided by law, no public body shall hold an 5021
executive session for the discipline of an elected official for 5022
conduct related to the performance of the elected official's 5023
official duties or for the elected official's removal from office. 5024
If a public body holds an executive session pursuant to division 5025
(G)(1) of this section, the motion and vote to hold that executive 5026
session shall state which one or more of the approved purposes 5027
listed in division (G)(1) of this section are the purposes for 5028
which the executive session is to be held, but need not include 5029

the name of any person to be considered at the meeting. 5030

(2) To consider the purchase of property for public purposes, 5031
or for the sale of property at competitive bidding, if premature 5032
disclosure of information would give an unfair competitive or 5033
bargaining advantage to a person whose personal, private interest 5034
is adverse to the general public interest. No member of a public 5035
body shall use division (G)(2) of this section as a subterfuge for 5036
providing covert information to prospective buyers or sellers. A 5037
purchase or sale of public property is void if the seller or buyer 5038
of the public property has received covert information from a 5039
member of a public body that has not been disclosed to the general 5040
public in sufficient time for other prospective buyers and sellers 5041
to prepare and submit offers. 5042

If the minutes of the public body show that all meetings and 5043
deliberations of the public body have been conducted in compliance 5044
with this section, any instrument executed by the public body 5045
purporting to convey, lease, or otherwise dispose of any right, 5046
title, or interest in any public property shall be conclusively 5047
presumed to have been executed in compliance with this section 5048
insofar as title or other interest of any bona fide purchasers, 5049
lessees, or transferees of the property is concerned. 5050

(3) Conferences with an attorney for the public body 5051
concerning disputes involving the public body that are the subject 5052
of pending or imminent court action; 5053

(4) Preparing for, conducting, or reviewing negotiations or 5054
bargaining sessions with public employees concerning their 5055
compensation or other terms and conditions of their employment; 5056

(5) Matters required to be kept confidential by federal law 5057
or regulations or state statutes; 5058

(6) Details relative to the security arrangements and 5059
emergency response protocols for a public body or a public office, 5060

if disclosure of the matters discussed could reasonably be 5061
expected to jeopardize the security of the public body or public 5062
office; 5063

(7) In the case of a county hospital operated pursuant to 5064
Chapter 339. of the Revised Code, a joint township hospital 5065
operated pursuant to Chapter 513. of the Revised Code, or a 5066
municipal hospital operated pursuant to Chapter 749. of the 5067
Revised Code, to consider trade secrets, as defined in section 5068
1333.61 of the Revised Code. 5069

If a public body holds an executive session to consider any 5070
of the matters listed in divisions (G)(2) to (7) of this section, 5071
the motion and vote to hold that executive session shall state 5072
which one or more of the approved matters listed in those 5073
divisions are to be considered at the executive session. 5074

A public body specified in division (B)(1)(c) of this section 5075
shall not hold an executive session when meeting for the purposes 5076
specified in that division. 5077

(H) A resolution, rule, or formal action of any kind is 5078
invalid unless adopted in an open meeting of the public body. A 5079
resolution, rule, or formal action adopted in an open meeting that 5080
results from deliberations in a meeting not open to the public is 5081
invalid unless the deliberations were for a purpose specifically 5082
authorized in division (G) or (J) of this section and conducted at 5083
an executive session held in compliance with this section. A 5084
resolution, rule, or formal action adopted in an open meeting is 5085
invalid if the public body that adopted the resolution, rule, or 5086
formal action violated division (F) of this section. 5087

(I)(1) Any person may bring an action to enforce this 5088
section. An action under division (I)(1) of this section shall be 5089
brought within two years after the date of the alleged violation 5090
or threatened violation. Upon proof of a violation or threatened 5091

violation of this section in an action brought by any person, the 5092
court of common pleas shall issue an injunction to compel the 5093
members of the public body to comply with its provisions. 5094

(2)(a) If the court of common pleas issues an injunction 5095
pursuant to division (I)(1) of this section, the court shall order 5096
the public body that it enjoins to pay a civil forfeiture of five 5097
hundred dollars to the party that sought the injunction and shall 5098
award to that party all court costs and, subject to reduction as 5099
described in division (I)(2) of this section, reasonable 5100
attorney's fees. The court, in its discretion, may reduce an award 5101
of attorney's fees to the party that sought the injunction or not 5102
award attorney's fees to that party if the court determines both 5103
of the following: 5104

(i) That, based on the ordinary application of statutory law 5105
and case law as it existed at the time of violation or threatened 5106
violation that was the basis of the injunction, a well-informed 5107
public body reasonably would believe that the public body was not 5108
violating or threatening to violate this section; 5109

(ii) That a well-informed public body reasonably would 5110
believe that the conduct or threatened conduct that was the basis 5111
of the injunction would serve the public policy that underlies the 5112
authority that is asserted as permitting that conduct or 5113
threatened conduct. 5114

(b) If the court of common pleas does not issue an injunction 5115
pursuant to division (I)(1) of this section and the court 5116
determines at that time that the bringing of the action was 5117
frivolous conduct, as defined in division (A) of section 2323.51 5118
of the Revised Code, the court shall award to the public body all 5119
court costs and reasonable attorney's fees, as determined by the 5120
court. 5121

(3) Irreparable harm and prejudice to the party that sought 5122

the injunction shall be conclusively and irrebuttably presumed 5123
upon proof of a violation or threatened violation of this section. 5124

(4) A member of a public body who knowingly violates an 5125
injunction issued pursuant to division (I)(1) of this section may 5126
be removed from office by an action brought in the court of common 5127
pleas for that purpose by the prosecuting attorney or the attorney 5128
general. 5129

(J)(1) Pursuant to division (C) of section 5901.09 of the 5130
Revised Code, a veterans service commission shall hold an 5131
executive session for one or more of the following purposes unless 5132
an applicant requests a public hearing: 5133

(a) Interviewing an applicant for financial assistance under 5134
sections 5901.01 to 5901.15 of the Revised Code; 5135

(b) Discussing applications, statements, and other documents 5136
described in division (B) of section 5901.09 of the Revised Code; 5137

(c) Reviewing matters relating to an applicant's request for 5138
financial assistance under sections 5901.01 to 5901.15 of the 5139
Revised Code. 5140

(2) A veterans service commission shall not exclude an 5141
applicant for, recipient of, or former recipient of financial 5142
assistance under sections 5901.01 to 5901.15 of the Revised Code, 5143
and shall not exclude representatives selected by the applicant, 5144
recipient, or former recipient, from a meeting that the commission 5145
conducts as an executive session that pertains to the applicant's, 5146
recipient's, or former recipient's application for financial 5147
assistance. 5148

(3) A veterans service commission shall vote on the grant or 5149
denial of financial assistance under sections 5901.01 to 5901.15 5150
of the Revised Code only in an open meeting of the commission. The 5151
minutes of the meeting shall indicate the name, address, and 5152
occupation of the applicant, whether the assistance was granted or 5153

denied, the amount of the assistance if assistance is granted, and 5154
the votes for and against the granting of assistance. 5155

Sec. 121.35. (A) Subject to division (B) of this section, the 5156
following state agencies shall collaborate to revise and make more 5157
uniform the eligibility standards and eligibility determination 5158
procedures of programs the state agencies administer: 5159

- (1) The department of aging; 5160
- (2) ~~The department of alcohol and drug addiction services;~~ 5161
- ~~(3) The department of development services agency;~~ 5162
- ~~(4)~~(3) The department of developmental disabilities; 5163
- ~~(5)~~(4) The department of education; 5164
- ~~(6)~~(5) The department of health; 5165
- ~~(7)~~(6) The department of job and family services; 5166
- ~~(8)~~(7) The department of medicaid; 5167
- (8) The department of ~~mental health~~ mental health and 5168
addiction services; 5169

(9) The rehabilitation services commission. 5170

(B) In revising eligibility standards and eligibility 5171
determination procedures, a state agency shall not make any 5172
program's eligibility standards or eligibility determination 5173
procedures inconsistent with state or federal law. To the extent 5174
authorized by state and federal law, the revisions may provide for 5175
the state agencies to share administrative operations. 5176
5177

Sec. 121.37. (A)(1) There is hereby created the Ohio family 5178
and children first cabinet council. The council shall be composed 5179
of the superintendent of public instruction, the administrator of 5180
the rehabilitation services commission, the medicaid director, and 5181

the directors of youth services, job and family services, ~~mental~~ 5182
~~health~~ mental health and addiction services, health, ~~alcohol and~~ 5183
~~drug addiction services~~, developmental disabilities, aging, 5184
rehabilitation and correction, and budget and management. The 5185
chairperson of the council shall be the governor or the governor's 5186
designee and shall establish procedures for the council's internal 5187
control and management. 5188

The purpose of the cabinet council is to help families 5189
seeking government services. This section shall not be interpreted 5190
or applied to usurp the role of parents, but solely to streamline 5191
and coordinate existing government services for families seeking 5192
assistance for their children. 5193

(2) In seeking to fulfill its purpose, the council may do any 5194
of the following: 5195

(a) Advise and make recommendations to the governor and 5196
general assembly regarding the provision of services to children; 5197

(b) Advise and assess local governments on the coordination 5198
of service delivery to children; 5199

(c) Hold meetings at such times and places as may be 5200
prescribed by the council's procedures and maintain records of the 5201
meetings, except that records identifying individual children are 5202
confidential and shall be disclosed only as provided by law; 5203

(d) Develop programs and projects, including pilot projects, 5204
to encourage coordinated efforts at the state and local level to 5205
improve the state's social service delivery system; 5206

(e) Enter into contracts with and administer grants to county 5207
family and children first councils, as well as other county or 5208
multicounty organizations to plan and coordinate service delivery 5209
between state agencies and local service providers for families 5210
and children; 5211

(f) Enter into contracts with and apply for grants from federal agencies or private organizations;	5212 5213
(g) Enter into interagency agreements to encourage coordinated efforts at the state and local level to improve the state's social service delivery system. The agreements may include provisions regarding the receipt, transfer, and expenditure of funds;	5214 5215 5216 5217 5218
(h) Identify public and private funding sources for services provided to alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children, including regulations governing access to and use of the services;	5219 5220 5221 5222
(i) Collect information provided by local communities regarding successful programs for prevention, intervention, and treatment of unruly behavior, including evaluations of the programs;	5223 5224 5225 5226
(j) Identify and disseminate publications regarding alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children and regarding programs serving those types of children;	5227 5228 5229 5230
(k) Maintain an inventory of strategic planning facilitators for use by government or nonprofit entities that serve alleged or adjudicated unruly children or children who are at risk of being alleged or adjudicated unruly children.	5231 5232 5233 5234
(3) The cabinet council shall provide for the following:	5235
(a) Reviews of service and treatment plans for children for which such reviews are requested;	5236 5237
(b) Assistance as the council determines to be necessary to meet the needs of children referred by county family and children first councils;	5238 5239 5240
(c) Monitoring and supervision of a statewide, comprehensive,	5241

coordinated, multi-disciplinary, interagency system for infants 5242
and toddlers with developmental disabilities or delays and their 5243
families, as established pursuant to federal grants received and 5244
administered by the department of health for early intervention 5245
services under the "Individuals with Disabilities Education Act of 5246
2004," 118 Stat. 2744, 20 U.S.C.A. 1400, as amended. 5247

(4) The cabinet council shall develop and implement the 5248
following: 5249

(a) An interagency process to select the indicators that will 5250
be used to measure progress toward increasing child well-being in 5251
the state and to update the indicators on an annual basis. The 5252
indicators shall focus on expectant parents and newborns thriving; 5253
infants and toddlers thriving; children being ready for school; 5254
children and youth succeeding in school; youth choosing healthy 5255
behaviors; and youth successfully transitioning into adulthood. 5256

(b) An interagency system to offer guidance and monitor 5257
progress toward increasing child well-being in the state and in 5258
each county; 5259

(c) An annual plan that identifies state-level agency efforts 5260
taken to ensure progress towards increasing child well-being in 5261
the state. 5262

On an annual basis, the cabinet council shall submit to the 5263
governor and the general assembly a report on the status of 5264
efforts to increase child well-being in the state. This report 5265
shall be made available to any other person on request. 5266

(B)(1) Each board of county commissioners shall establish a 5267
county family and children first council. The board may invite any 5268
local public or private agency or group that funds, advocates, or 5269
provides services to children and families to have a 5270
representative become a permanent or temporary member of its 5271
county council. Each county council must include the following 5272

individuals:	5273
(a) At least three individuals who are not employed by an agency represented on the council and whose families are or have received services from an agency represented on the council or another county's council. Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.	5274 5275 5276 5277 5278 5279
(b) The director of the board of alcohol, drug addiction, and mental health services that serves the county, or, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards. If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.	5280 5281 5282 5283 5284 5285 5286
(c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.	5287 5288 5289 5290 5291
(d) The director of the county department of job and family services;	5292 5293
(e) The executive director of the public children services agency;	5294 5295
(f) The superintendent of the county board of developmental disabilities <u>or, if the superintendent serves as superintendent of more than one county board of developmental disabilities, the superintendent's designee;</u>	5296 5297 5298 5299
(g) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing in the county, as determined by the department of education, which shall notify each board of county commissioners of its	5300 5301 5302 5303

determination at least biennially; 5304

(h) A school superintendent representing all other school 5305
districts with territory in the county, as designated at a 5306
biennial meeting of the superintendents of those districts; 5307

(i) A representative of the municipal corporation with the 5308
largest population in the county; 5309

(j) The president of the board of county commissioners or an 5310
individual designated by the board; 5311

(k) A representative of the regional office of the department 5312
of youth services; 5313

(l) A representative of the county's head start agencies, as 5314
defined in section 3301.32 of the Revised Code; 5315

(m) A representative of the county's early intervention 5316
collaborative established pursuant to the federal early 5317
intervention program operated under the "Individuals with 5318
Disabilities Education Act of 2004"; 5319

(n) A representative of a local nonprofit entity that funds, 5320
advocates, or provides services to children and families. 5321

Notwithstanding any other provision of law, the public 5322
members of a county council are not prohibited from serving on the 5323
council and making decisions regarding the duties of the council, 5324
including those involving the funding of joint projects and those 5325
outlined in the county's service coordination mechanism 5326
implemented pursuant to division (C) of this section. 5327

The cabinet council shall establish a state appeals process 5328
to resolve disputes among the members of a county council 5329
concerning whether reasonable responsibilities as members are 5330
being shared. The appeals process may be accessed only by a 5331
majority vote of the council members who are required to serve on 5332
the council. Upon appeal, the cabinet council may order that state 5333

funds for services to children and families be redirected to a county's board of county commissioners.

The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service shall serve as the judicial advisor to the county family and children first council. The judge may advise the county council on the court's utilization of resources, services, or programs provided by the entities represented by the members of the county council and how those resources, services, or programs assist the court in its administration of justice. Service of a judge as a judicial advisor pursuant to this section is a judicial function.

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

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

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

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

(d) Maintenance of an accountability system to monitor the

county council's progress in achieving results for families and children; 5365
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(e) Establishment of a mechanism to ensure ongoing input from a broad representation of families who are receiving services within the county system. 5367
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(3) A county council shall develop and implement the following: 5370
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(a) An interagency process to establish local indicators and monitor the county's progress toward increasing child well-being in the county; 5372
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(b) An interagency process to identify local priorities to increase child well-being. The local priorities shall focus on expectant parents and newborns thriving; infants and toddlers thriving; children being ready for school; children and youth succeeding in school; youth choosing healthy behaviors; and youth successfully transitioning into adulthood and take into account the indicators established by the cabinet council under division (A)(4)(a) of this section. 5375
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(c) An annual plan that identifies the county's interagency efforts to increase child well-being in the county. 5383
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On an annual basis, the county council shall submit a report on the status of efforts by the county to increase child well-being in the county to the county's board of county commissioners and the cabinet council. This report shall be made available to any other person on request. 5385
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(4)(a) Except as provided in division (B)(4)(b) of this section, a county council shall comply with the policies, procedures, and activities prescribed by the rules or interagency agreements of a state department participating on the cabinet council whenever the county council performs a function subject to those rules or agreements. 5390
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(b) On application of a county council, the cabinet council 5396
may grant an exemption from any rules or interagency agreements of 5397
a state department participating on the council if an exemption is 5398
necessary for the council to implement an alternative program or 5399
approach for service delivery to families and children. The 5400
application shall describe the proposed program or approach and 5401
specify the rules or interagency agreements from which an 5402
exemption is necessary. The cabinet council shall approve or 5403
disapprove the application in accordance with standards and 5404
procedures it shall adopt. If an application is approved, the 5405
exemption is effective only while the program or approach is being 5406
implemented, including a reasonable period during which the 5407
program or approach is being evaluated for effectiveness. 5408

(5)(a) Each county council shall designate an administrative 5409
agent for the council from among the following public entities: 5410
the board of alcohol, drug addiction, and mental health services, 5411
including a board of alcohol and drug addiction or a community 5412
mental health board if the county is served by separate boards; 5413
the board of county commissioners; any board of health of the 5414
county's city and general health districts; the county department 5415
of job and family services; the county agency responsible for the 5416
administration of children services pursuant to section 5153.15 of 5417
the Revised Code; the county board of developmental disabilities; 5418
any of the county's boards of education or governing boards of 5419
educational service centers; or the county's juvenile court. Any 5420
of the foregoing public entities, other than the board of county 5421
commissioners, may decline to serve as the council's 5422
administrative agent. 5423

A county council's administrative agent shall serve as the 5424
council's appointing authority for any employees of the council. 5425
The council shall file an annual budget with its administrative 5426
agent, with copies filed with the county auditor and with the 5427

board of county commissioners, unless the board is serving as the 5428
council's administrative agent. The council's administrative agent 5429
shall ensure that all expenditures are handled in accordance with 5430
policies, procedures, and activities prescribed by state 5431
departments in rules or interagency agreements that are applicable 5432
to the council's functions. 5433

The administrative agent of a county council shall send 5434
notice of a member's absence if a member listed in division (B)(1) 5435
of this section has been absent from either three consecutive 5436
meetings of the county council or a county council subcommittee, 5437
or from one-quarter of such meetings in a calendar year, whichever 5438
is less. The notice shall be sent to the board of county 5439
commissioners that establishes the county council and, for the 5440
members listed in divisions (B)(1)(b), (c), (e), and (l) of this 5441
section, to the governing board overseeing the respective entity; 5442
for the member listed in division (B)(1)(f) of this section, to 5443
the county board of developmental disabilities that employs the 5444
superintendent; for a member listed in division (B)(1)(g) or (h) 5445
of this section, to the school board that employs the 5446
superintendent; for the member listed in division (B)(1)(i) of 5447
this section, to the mayor of the municipal corporation; for the 5448
member listed in division (B)(1)(k) of this section, to the 5449
director of youth services; and for the member listed in division 5450
(B)(1)(n) of this section, to that member's board of trustees. 5451

The administrative agent for a county council may do any of 5452
the following on behalf of the council: 5453

(i) Enter into agreements or administer contracts with public 5454
or private entities to fulfill specific council business. Such 5455
agreements and contracts are exempt from the competitive bidding 5456
requirements of section 307.86 of the Revised Code if they have 5457
been approved by the county council and they are for the purchase 5458
of family and child welfare or child protection services or other 5459

social or job and family services for families and children. The 5460
approval of the county council is not required to exempt 5461
agreements or contracts entered into under section 5139.34, 5462
5139.41, or 5139.43 of the Revised Code from the competitive 5463
bidding requirements of section 307.86 of the Revised Code. 5464

(ii) As determined by the council, provide financial 5465
stipends, reimbursements, or both, to family representatives for 5466
expenses related to council activity; 5467

(iii) Receive by gift, grant, devise, or bequest any moneys, 5468
lands, or other property for the purposes for which the council is 5469
established. The agent shall hold, apply, and dispose of the 5470
moneys, lands, or other property according to the terms of the 5471
gift, grant, devise, or bequest. Any interest or earnings shall be 5472
treated in the same manner and are subject to the same terms as 5473
the gift, grant, devise, or bequest from which it accrues. 5474

(b)(i) If the county council designates the board of county 5475
commissioners as its administrative agent, the board may, by 5476
resolution, delegate any of its powers and duties as 5477
administrative agent to an executive committee the board 5478
establishes from the membership of the county council. The board 5479
shall name to the executive committee at least the individuals 5480
described in divisions (B)(1)(b) to (h) of this section and may 5481
appoint the president of the board or another individual as the 5482
chair of the executive committee. The executive committee must 5483
include at least one family county council representative who does 5484
not have a family member employed by an agency represented on the 5485
council. 5486

(ii) The executive committee may, with the approval of the 5487
board, hire an executive director to assist the county council in 5488
administering its powers and duties. The executive director shall 5489
serve in the unclassified civil service at the pleasure of the 5490
executive committee. The executive director may, with the approval 5491

of the executive committee, hire other employees as necessary to 5492
properly conduct the county council's business. 5493

(iii) The board may require the executive committee to submit 5494
an annual budget to the board for approval and may amend or repeal 5495
the resolution that delegated to the executive committee its 5496
authority as the county council's administrative agent. 5497

(6) Two or more county councils may enter into an agreement 5498
to administer their county councils jointly by creating a regional 5499
family and children first council. A regional council possesses 5500
the same duties and authority possessed by a county council, 5501
except that the duties and authority apply regionally rather than 5502
to individual counties. Prior to entering into an agreement to 5503
create a regional council, the members of each county council to 5504
be part of the regional council shall meet to determine whether 5505
all or part of the members of each county council will serve as 5506
members of the regional council. 5507

(7) A board of county commissioners may approve a resolution 5508
by a majority vote of the board's members that requires the county 5509
council to submit a statement to the board each time the council 5510
proposes to enter into an agreement, adopt a plan, or make a 5511
decision, other than a decision pursuant to section 121.38 of the 5512
Revised Code, that requires the expenditure of funds for two or 5513
more families. The statement shall describe the proposed 5514
agreement, plan, or decision. 5515

Not later than fifteen days after the board receives the 5516
statement, it shall, by resolution approved by a majority of its 5517
members, approve or disapprove the agreement, plan, or decision. 5518
Failure of the board to pass a resolution during that time period 5519
shall be considered approval of the agreement, plan, or decision. 5520

An agreement, plan, or decision for which a statement is 5521
required to be submitted to the board shall be implemented only if 5522

it is approved by the board. 5523

(C) Each county shall develop a county service coordination 5524
mechanism. The county service coordination mechanism shall serve 5525
as the guiding document for coordination of services in the 5526
county. For children who also receive services under the help me 5527
grow program, the service coordination mechanism shall be 5528
consistent with rules adopted by the department of health under 5529
section 3701.61 of the Revised Code. All family service 5530
coordination plans shall be developed in accordance with the 5531
county service coordination mechanism. The mechanism shall be 5532
developed and approved with the participation of the county 5533
entities representing child welfare; mental retardation and 5534
developmental disabilities; alcohol, drug addiction, and mental 5535
health services; health; juvenile judges; education; the county 5536
family and children first council; and the county early 5537
intervention collaborative established pursuant to the federal 5538
early intervention program operated under the "Individuals with 5539
Disabilities Education Act of 2004." The county shall establish an 5540
implementation schedule for the mechanism. The cabinet council may 5541
monitor the implementation and administration of each county's 5542
service coordination mechanism. 5543

Each mechanism shall include all of the following: 5544

(1) A procedure for an agency, including a juvenile court, or 5545
a family voluntarily seeking service coordination, to refer the 5546
child and family to the county council for service coordination in 5547
accordance with the mechanism; 5548

(2) A procedure ensuring that a family and all appropriate 5549
staff from involved agencies, including a representative from the 5550
appropriate school district, are notified of and invited to 5551
participate in all family service coordination plan meetings; 5552

(3) A procedure that permits a family to initiate a meeting 5553

to develop or review the family's service coordination plan and 5554
allows the family to invite a family advocate, mentor, or support 5555
person of the family's choice to participate in any such meeting; 5556

(4) A procedure for ensuring that a family service 5557
coordination plan meeting is conducted for each child who receives 5558
service coordination under the mechanism and for whom an emergency 5559
out-of-home placement has been made or for whom a nonemergency 5560
out-of-home placement is being considered. The meeting shall be 5561
conducted within ten days of an emergency out-of-home placement. 5562
The meeting shall be conducted before a nonemergency out-of-home 5563
placement. The family service coordination plan shall outline how 5564
the county council members will jointly pay for services, where 5565
applicable, and provide services in the least restrictive 5566
environment. 5567

(5) A procedure for monitoring the progress and tracking the 5568
outcomes of each service coordination plan requested in the county 5569
including monitoring and tracking children in out-of-home 5570
placements to assure continued progress, appropriateness of 5571
placement, and continuity of care after discharge from placement 5572
with appropriate arrangements for housing, treatment, and 5573
education; 5574

(6) A procedure for protecting the confidentiality of all 5575
personal family information disclosed during service coordination 5576
meetings or contained in the comprehensive family service 5577
coordination plan. 5578

(7) A procedure for assessing the needs and strengths of any 5579
child or family that has been referred to the council for service 5580
coordination, including a child whose parent or custodian is 5581
voluntarily seeking services, and for ensuring that parents and 5582
custodians are afforded the opportunity to participate; 5583

(8) A procedure for development of a family service 5584

coordination plan described in division (D) of this section; 5585

(9) A local dispute resolution process to serve as the 5586
process that must be used first to resolve disputes among the 5587
agencies represented on the county council concerning the 5588
provision of services to children, including children who are 5589
abused, neglected, dependent, unruly, alleged unruly, or 5590
delinquent children and under the jurisdiction of the juvenile 5591
court and children whose parents or custodians are voluntarily 5592
seeking services. The local dispute resolution process shall 5593
comply with sections 121.38, 121.381, and 121.382 of the Revised 5594
Code. The local dispute resolution process shall be used to 5595
resolve disputes between a child's parents or custodians and the 5596
county council regarding service coordination. The county council 5597
shall inform the parents or custodians of their right to use the 5598
dispute resolution process. Parents or custodians shall use 5599
existing local agency grievance procedures to address disputes not 5600
involving service coordination. The dispute resolution process is 5601
in addition to and does not replace other rights or procedures 5602
that parents or custodians may have under other sections of the 5603
Revised Code. 5604

The cabinet council shall adopt rules in accordance with 5605
Chapter 119. of the Revised Code establishing an administrative 5606
review process to address problems that arise concerning the 5607
operation of a local dispute resolution process. 5608

Nothing in division (C)(4) of this section shall be 5609
interpreted as overriding or affecting decisions of a juvenile 5610
court regarding an out-of-home placement, long-term placement, or 5611
emergency out-of-home placement. 5612

(D) Each county shall develop a family service coordination 5613
plan that does all of the following: 5614

(1) Designates service responsibilities among the various 5615

state and local agencies that provide services to children and 5616
their families, including children who are abused, neglected, 5617
dependent, unruly, or delinquent children and under the 5618
jurisdiction of the juvenile court and children whose parents or 5619
custodians are voluntarily seeking services; 5620

(2) Designates an individual, approved by the family, to 5621
track the progress of the family service coordination plan, 5622
schedule reviews as necessary, and facilitate the family service 5623
coordination plan meeting process; 5624

(3) Ensures that assistance and services to be provided are 5625
responsive to the strengths and needs of the family, as well as 5626
the family's culture, race, and ethnic group, by allowing the 5627
family to offer information and suggestions and participate in 5628
decisions. Identified assistance and services shall be provided in 5629
the least restrictive environment possible. 5630

(4) Includes a process for dealing with a child who is 5631
alleged to be an unruly child. The process shall include methods 5632
to divert the child from the juvenile court system; 5633

(5) Includes timelines for completion of goals specified in 5634
the plan with regular reviews scheduled to monitor progress toward 5635
those goals; 5636

(6) Includes a plan for dealing with short-term crisis 5637
situations and safety concerns. 5638

(E)(1) The process provided for under division (D)(4) of this 5639
section may include, but is not limited to, the following: 5640

(a) Designation of the person or agency to conduct the 5641
assessment of the child and the child's family as described in 5642
division (C)(7) of this section and designation of the instrument 5643
or instruments to be used to conduct the assessment; 5644

(b) An emphasis on the personal responsibilities of the child 5645

and the parental responsibilities of the parents, guardian, or
custodian of the child; 5646
5647

(c) Involvement of local law enforcement agencies and
officials. 5648
5649

(2) The method to divert a child from the juvenile court
system that must be included in the service coordination process 5650
5651
may include, but is not limited to, the following: 5652

(a) The preparation of a complaint under section 2151.27 of
the Revised Code alleging that the child is an unruly child and 5653
5654
notifying the child and the parents, guardian, or custodian that 5655
the complaint has been prepared to encourage the child and the 5656
parents, guardian, or custodian to comply with other methods to 5657
divert the child from the juvenile court system; 5658

(b) Conducting a meeting with the child, the parents,
guardian, or custodian, and other interested parties to determine 5659
5660
the appropriate methods to divert the child from the juvenile 5661
court system; 5662

(c) A method to provide to the child and the child's family a
short-term respite from a short-term crisis situation involving a 5663
5664
confrontation between the child and the parents, guardian, or 5665
custodian; 5666

(d) A program to provide a mentor to the child or the
parents, guardian, or custodian; 5667
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(e) A program to provide parenting education to the parents,
guardian, or custodian; 5669
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(f) An alternative school program for children who are truant
from school, repeatedly disruptive in school, or suspended or 5671
5672
expelled from school; 5673

(g) Other appropriate measures, including, but not limited
to, any alternative methods to divert a child from the juvenile 5674
5675

court system that are identified by the Ohio family and children 5676
first cabinet council. 5677

(F) Each county may review and revise the service 5678
coordination process described in division (D) of this section 5679
based on the availability of funds under Title IV-A of the "Social 5680
Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, 5681
or to the extent resources are available from any other federal, 5682
state, or local funds. 5683

Sec. 121.372. (A) As used in this section, "substitute care 5684
provider" means any of the following: 5685

(1) ~~An alcohol and drug~~ A community addiction ~~program~~ 5686
services provider subject to certification under section ~~3793.06~~ 5687
5119.36 of the Revised Code; 5688

(2) An institution or association subject to certification 5689
under section 5103.03 of the Revised Code; 5690

(3) A residential facility subject to licensure under section 5691
~~5119.22~~ 5119.34 of the Revised Code; 5692

(4) A residential facility subject to licensure under section 5693
5123.19 of the Revised Code. 5694

(B) Not later than ninety days after ~~the effective date of~~ 5695
~~this section~~ March 18, 1999, the members of the Ohio family and 5696
children first cabinet council, other than the director of budget 5697
and management, shall enter into an agreement to establish an 5698
office to perform the duties prescribed by division (C) of this 5699
section. The agreement shall specify one of the departments 5700
represented on the council as the department responsible for 5701
housing and supervising the office. The agreement shall include 5702
the recommendation of the council for funding the office. 5703

(C) The office established pursuant to the agreement entered 5704
into under this section shall review rules governing the 5705

certification and licensure of substitute care providers and 5706
determine which of the rules can be made substantively identical 5707
or more similar in order to minimize the number of differing 5708
certification and licensure standards and simplify the 5709
certification or licensure process for substitute care providers 5710
seeking certification or licensure from two or more of the 5711
departments represented on the council. The office shall provide 5712
county family and children first councils, substitute care 5713
providers, and persons interested in substitute care providers the 5714
opportunity to help the office with the review and determination. 5715
The office shall report its findings to the council. Each of the 5716
departments represented on the council that has adopted rules 5717
governing the certification or licensure of substitute care 5718
providers shall review the report and amend the rules as that 5719
department considers appropriate, except that no rule shall be 5720
amended so as to make it inconsistent with substitute care 5721
provider certification or licensure procedures and standards 5722
established by federal or state law. A department shall give 5723
priority to amendments that will not increase the department's 5724
administrative costs. In amending a rule, a department shall 5725
comply with Chapter 119. or section 111.15 of the Revised Code, as 5726
required by the Revised Code section governing the adoption of the 5727
particular rule. 5728

(D) In accordance with section 124.27 of the Revised Code, 5729
the council shall select a coordinator to oversee the office 5730
established pursuant to the agreement entered into under this 5731
section. The coordinator shall be in the classified service. In 5732
addition to overseeing the office, the coordinator shall perform 5733
any other duties the council assigns to the coordinator. The 5734
duties the council assigns to the coordinator shall be related to 5735
the duties of the office under division (C) of this section. 5736

Sec. 121.483. A deputy inspector general appointed under 5737

section 121.48 of the Revised Code, who has been awarded a 5738
certificate by the executive director of the Ohio peace officer 5739
training commission attesting to the person's satisfactory 5740
completion of an approved state, county, or municipal peace 5741
officer basic training program, shall have the power and authority 5742
of a peace officer under the laws of this state while engaged in 5743
the scope of the deputy inspector general's duties. 5744

Sec. 122.075. (A) As used in this section: 5745

(1) "Alternative fuel" has the same meaning as in section 5746
125.831 of the Revised Code. 5747

(2) "Biodiesel" means a mono-alkyl ester combustible liquid 5748
fuel that is derived from vegetable oils or animal fats, or any 5749
combination of those reagents, and that meets American society for 5750
testing and materials specification D6751-03a for biodiesel fuel 5751
(B100) blend stock distillate fuels. 5752

(3) "Diesel fuel" and "gasoline" have the same meanings as in 5753
section 5735.01 of the Revised Code. 5754

(4) "Ethanol" has the same meaning as in section 5733.46 of 5755
the Revised Code. 5756

(5) "Blended biodiesel" means diesel fuel containing at least 5757
twenty per cent biodiesel by volume. 5758

(6) "Blended gasoline" means gasoline containing at least 5759
eighty-five per cent ethanol by volume. 5760

(7) "Incremental cost" means either of the following: 5761

(a) The difference in cost between blended gasoline and 5762
gasoline containing ten per cent or less ethanol at the time that 5763
the blended gasoline is purchased; 5764

(b) The difference in cost between blended biodiesel and 5765
diesel fuel containing two per cent or less biodiesel at the time 5766

that the blended biodiesel is purchased. 5767

(B) For the purpose of improving the air quality in this 5768
state, the director of development services shall establish an 5769
alternative fuel transportation program under which the director 5770
may make grants and loans to businesses, nonprofit organizations, 5771
public school systems, or local governments for the purchase and 5772
installation of alternative fuel refueling or distribution 5773
facilities and terminals, for the purchase and use of alternative 5774
fuel, to pay the cost of fleet conversion, and to pay the costs of 5775
educational and promotional materials and activities intended for 5776
prospective alternative fuel consumers, fuel marketers, and others 5777
in order to increase the availability and use of alternative fuel. 5778

(C) The director, in consultation with the director of 5779
agriculture, shall adopt rules in accordance with Chapter 119. of 5780
the Revised Code that are necessary for the administration of the 5781
alternative fuel transportation program. The rules shall establish 5782
at least all of the following: 5783

(1) An application form and procedures governing the 5784
application process for receiving funds under the program; 5785

(2) A procedure for prioritizing the award of grants and 5786
loans under the program. The procedures shall give preference to 5787
all of the following: 5788

(a) Publicly accessible refueling facilities; 5789

(b) Entities applying to the program that have secured 5790
funding from other sources, including, but not limited to, private 5791
or federal incentives; 5792

(c) Entities that have presented compelling evidence of 5793
demand in the market in which the facilities or terminals will be 5794
located; 5795

(d) Entities that have committed to utilizing purchased or 5796

installed facilities or terminals for the greatest number of 5797
years; 5798

(e) Entities that will be purchasing or installing facilities 5799
or terminals for any type of alternative fuel. 5800

(3) A requirement that the maximum incentive for the purchase 5801
and installation of an alternative fuel refueling or distribution 5802
facility or terminal be eighty per cent of the cost of the 5803
facility or terminal, except that at least twenty per cent of the 5804
total ~~net~~ cost of the facility or terminal shall be incurred by 5805
the recipient and not compensated for by any other source; 5806

(4) A requirement that the maximum incentive for the purchase 5807
of alternative fuel be eighty per cent of the cost of the fuel or, 5808
in the case of blended biodiesel or blended gasoline, eighty per 5809
cent of the incremental cost of the blended biodiesel or blended 5810
gasoline; 5811

(5) Any other criteria, procedures, or guidelines that the 5812
director determines are necessary to administer the program, 5813
including fees, charges, interest rates, and payment schedules. 5814

(D) An applicant for a grant or loan under this section that 5815
sells motor vehicle fuel at retail shall agree that if the 5816
applicant receives funding, the applicant will report to the 5817
director the gallon or gallon equivalent amounts of alternative 5818
fuel the applicant sells at retail in this state for a period of 5819
three years after the project is completed. 5820

The director shall enter into a written confidentiality 5821
agreement with the applicant regarding the gallon or gallon 5822
equivalent amounts sold as described in this division, and upon 5823
execution of the agreement this information is not a public 5824
record. 5825

(E) There is hereby created in the state treasury the 5826
alternative fuel transportation fund. The fund shall consist of 5827

money transferred to the fund under division ~~(C)~~(B) of section 5828
125.836 and under division (B)(2) of section 3706.27 of the 5829
Revised Code, money that is appropriated to it by the general 5830
assembly, ~~and~~ money as may be specified by the general assembly 5831
from the advanced energy fund created by section 4928.61 of the 5832
Revised Code, and all money received from the repayment of loans 5833
made from the fund or in the event of a default on any such loan. 5834
Money in the fund shall be used to make grants and loans under the 5835
alternative fuel transportation program and by the director in the 5836
administration of that program. 5837

Sec. 122.083. (A) The director of development shall 5838
administer a shovel ready sites program to provide grants for 5839
projects to port authorities and development entities approved by 5840
the director. Grants may be used to pay the costs of any or all of 5841
the following: 5842

(1) Acquisition of property, including options; 5843

(2) Preparation of sites, including brownfield clean-up 5844
activities; 5845

(3) Construction of road, water, telecommunication, and 5846
utility infrastructure; 5847

(4) Payment of professional fees the amount of which shall 5848
not exceed twenty per cent of the grant amount for a project. 5849

(B) The director shall adopt rules in accordance with Chapter 5850
119. of the Revised Code that establish procedures and 5851
requirements necessary for the administration of the program, 5852
including a requirement that a recipient of a grant enter into an 5853
agreement with the director governing the use of the grant. 5854

~~(C) There is hereby created in the state treasury the shovel 5855
ready sites fund consisting of money appropriated to it. Money in 5856
the fund shall be used solely for the purposes of this section. 5857~~

Sec. 122.17. (A) As used in this section: 5858

(1) "Income tax revenue" means the total amount withheld 5859
under section 5747.06 of the Revised Code by the taxpayer during 5860
the taxable year, or during the calendar year that includes the 5861
tax period, from the compensation of each employee or each 5862
home-based employee employed in the project to the extent the 5863
employee's withholdings are not used to determine the credit under 5864
section 122.171 of the Revised Code. "Income tax revenue" excludes 5865
amounts withheld before the day the taxpayer becomes eligible for 5866
the credit. 5867

(2) "Baseline income tax revenue" means income tax revenue 5868
except that the applicable withholding period is the twelve months 5869
immediately preceding the date the tax credit authority approves 5870
the taxpayer's application or the date the tax credit authority 5871
receives the recommendation described in division (C)(2)(a) of 5872
this section, whichever occurs first, multiplied by the sum of one 5873
plus an annual pay increase factor to be determined by the tax 5874
credit authority. If the taxpayer becomes eligible for the credit 5875
after the first day of the taxpayer's taxable year or after the 5876
first day of the calendar year that includes the tax period, the 5877
taxpayer's baseline income tax revenue for the first such taxable 5878
or calendar year of credit eligibility shall be reduced in 5879
proportion to the number of days during the taxable or calendar 5880
year for which the taxpayer was not eligible for the credit. For 5881
subsequent taxable or calendar years, "baseline income tax 5882
revenue" equals the unreduced baseline income tax revenue for the 5883
preceding taxable or calendar year multiplied by the sum of one 5884
plus the pay increase factor. 5885

(3) "Excess income tax revenue" means income tax revenue 5886
minus baseline income tax revenue. 5887

(4) "Home-based employee" means an employee whose services 5888

are performed primarily from the employee's residence in this 5889
state exclusively for the benefit of the project and whose rate of 5890
pay is at least one hundred thirty-one per cent of the federal 5891
minimum wage under 29 U.S.C. 206. 5892

(B) The tax credit authority may make grants under this 5893
section to foster job creation in this state. Such a grant shall 5894
take the form of a refundable credit allowed against the tax 5895
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, or 5747.02 5896
or levied under Chapter 5751. of the Revised Code. The credit 5897
shall be claimed for the taxable years or tax periods specified in 5898
the taxpayer's agreement with the tax credit authority under 5899
division (D) of this section. With respect to taxes imposed under 5900
section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the 5901
Revised Code, the credit shall be claimed in the order required 5902
under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised 5903
Code. The amount of the credit available for a taxable year or for 5904
a calendar year that includes a tax period equals the excess 5905
income tax revenue for that year multiplied by the percentage 5906
specified in the agreement with the tax credit authority. Any 5907
credit granted under this section against the tax imposed by 5908
section 5733.06 or 5747.02 of the Revised Code, to the extent not 5909
fully utilized against such tax for taxable years ending prior to 5910
2008, shall automatically be converted without any action taken by 5911
the tax credit authority to a credit against the tax levied under 5912
Chapter 5751. of the Revised Code for tax periods beginning on or 5913
after July 1, 2008, provided that the person to whom the credit 5914
was granted is subject to such tax. The converted credit shall 5915
apply to those calendar years in which the remaining taxable years 5916
specified in the agreement end. 5917

(C)(1) A taxpayer or potential taxpayer who proposes a 5918
project to create new jobs in this state may apply to the tax 5919
credit authority to enter into an agreement for a tax credit under 5920

this section. 5921

An application shall not propose to include both home-based 5922
employees and employees who are not home-based employees in the 5923
computation of income tax revenue for the purposes of the same tax 5924
credit agreement. If a taxpayer or potential taxpayer employs both 5925
home-based employees and employees who are not home-based 5926
employees in a project, the taxpayer shall submit separate 5927
applications for separate tax credit agreements for the project, 5928
one of which shall include home-based employees in the computation 5929
of income tax revenue and one of which shall include all other 5930
employees in the computation of income tax revenue. 5931

The director of development services shall prescribe the form 5932
of the application. After receipt of an application, the authority 5933
may enter into an agreement with the taxpayer for a credit under 5934
this section if it determines all of the following: 5935

(a) The taxpayer's project will increase payroll and income 5936
tax revenue; 5937

(b) The taxpayer's project is economically sound and will 5938
benefit the people of this state by increasing opportunities for 5939
employment and strengthening the economy of this state; 5940

(c) Receiving the tax credit is a major factor in the 5941
taxpayer's decision to go forward with the project. 5942

(2)(a) A taxpayer that chooses to begin the project prior to 5943
receiving the determination of the authority may, upon submitting 5944
the taxpayer's application to the authority, request that the 5945
chief investment officer of the nonprofit corporation formed under 5946
section 187.01 of the Revised Code and the director review the 5947
taxpayer's application and recommend to the authority that the 5948
taxpayer's application be considered. As soon as possible after 5949
receiving such a request, the chief investment officer and the 5950
director shall review the taxpayer's application and, if they 5951

determine that the application warrants consideration by the 5952
authority, make that recommendation to the authority not later 5953
than six months after the application is received by the 5954
authority. 5955

(b) The authority shall consider any taxpayer's application 5956
for which it receives a recommendation under division (C)(2)(a) of 5957
this section. If the authority determines that the taxpayer does 5958
not meet all of the criteria set forth in division (C)(1) of this 5959
section, the authority and the development services agency shall 5960
proceed in accordance with rules adopted by the director pursuant 5961
to division (I) of this section. 5962

(D) An agreement under this section shall include all of the 5963
following: 5964

(1) A detailed description of the project that is the subject 5965
of the agreement; 5966

(2)(a) The term of the tax credit, which, except as provided 5967
in division (D)(2)(b) of this section, shall not exceed fifteen 5968
years, and the first taxable year, or first calendar year that 5969
includes a tax period, for which the credit may be claimed; 5970

(b) If the tax credit is computed on the basis of home-based 5971
employees, the term of the credit shall expire on or before the 5972
last day of the taxable or calendar year ending before the 5973
beginning of the seventh year after September 6, 2012, the 5974
effective date of H.B. 327 of the 129th general assembly~~+~~. 5975

(3) A requirement that the taxpayer shall maintain operations 5976
at the project location for at least the greater of seven years or 5977
the term of the credit plus three years; 5978

(4) The percentage, as determined by the tax credit 5979
authority, of excess income tax revenue that will be allowed as 5980
the amount of the credit for each taxable year or for each 5981
calendar year that includes a tax period; 5982

(5) The pay increase factor to be applied to the taxpayer's 5983
baseline income tax revenue; 5984

(6) A requirement that the taxpayer annually shall report to 5985
the director of development services employment, tax withholding, 5986
investment, the provision of health care benefits and tuition 5987
reimbursement if required in the agreement, and other information 5988
the director needs to perform the director's duties under this 5989
section; 5990

(7) A requirement that the director of development services 5991
annually review the information reported under division (D)(6) of 5992
this section and verify compliance with the agreement; if the 5993
taxpayer is in compliance, a requirement that the director issue a 5994
certificate to the taxpayer stating that the information has been 5995
verified and identifying the amount of the credit that may be 5996
claimed for the taxable or calendar year; 5997

(8) A provision providing that the taxpayer may not relocate 5998
a substantial number of employment positions from elsewhere in 5999
this state to the project location unless the director of 6000
development services determines that the legislative authority of 6001
the county, township, or municipal corporation from which the 6002
employment positions would be relocated has been notified by the 6003
taxpayer of the relocation. 6004

For purposes of this section, the movement of an employment 6005
position from one political subdivision to another political 6006
subdivision shall be considered a relocation of an employment 6007
position unless the employment position in the first political 6008
subdivision is replaced. 6009

(9) If the tax credit is computed on the basis of home-based 6010
employees, that the tax credit may not be claimed by the taxpayer 6011
until the taxable year or tax period in which the taxpayer employs 6012
at least two hundred employees more than the number of employees 6013

the taxpayer employed on June 30, 2011. 6014

(E) If a taxpayer fails to meet or comply with any condition 6015
or requirement set forth in a tax credit agreement, the tax credit 6016
authority may amend the agreement to reduce the percentage or term 6017
of the tax credit. The reduction of the percentage or term may 6018
take effect in the current taxable or calendar year. 6019

(F) Projects that consist solely of point-of-final-purchase 6020
retail facilities are not eligible for a tax credit under this 6021
section. If a project consists of both point-of-final-purchase 6022
retail facilities and nonretail facilities, only the portion of 6023
the project consisting of the nonretail facilities is eligible for 6024
a tax credit and only the excess income tax revenue from the 6025
nonretail facilities shall be considered when computing the amount 6026
of the tax credit. If a warehouse facility is part of a 6027
point-of-final-purchase retail facility and supplies only that 6028
facility, the warehouse facility is not eligible for a tax credit. 6029
Catalog distribution centers are not considered 6030
point-of-final-purchase retail facilities for the purposes of this 6031
division, and are eligible for tax credits under this section. 6032

(G) Financial statements and other information submitted to 6033
the development services agency or the tax credit authority by an 6034
applicant or recipient of a tax credit under this section, and any 6035
information taken for any purpose from such statements or 6036
information, are not public records subject to section 149.43 of 6037
the Revised Code. However, the chairperson of the authority may 6038
make use of the statements and other information for purposes of 6039
issuing public reports or in connection with court proceedings 6040
concerning tax credit agreements under this section. Upon the 6041
request of the tax commissioner or, if the applicant or recipient 6042
is an insurance company, upon the request of the superintendent of 6043
insurance, the chairperson of the authority shall provide to the 6044
commissioner or superintendent any statement or information 6045

submitted by an applicant or recipient of a tax credit in 6046
connection with the credit. The commissioner or superintendent 6047
shall preserve the confidentiality of the statement or 6048
information. 6049

(H) A taxpayer claiming a credit under this section shall 6050
submit to the tax commissioner or, if the taxpayer is an insurance 6051
company, to the superintendent of insurance, a copy of the 6052
director of development services' certificate of verification 6053
under division (D)(7) of this section with the taxpayer's tax 6054
report or return for the taxable year or for the calendar year 6055
that includes the tax period. Failure to submit a copy of the 6056
certificate with the report or return does not invalidate a claim 6057
for a credit if the taxpayer submits a copy of the certificate to 6058
the commissioner or superintendent within sixty days after the 6059
commissioner or superintendent requests it. 6060

(I) The director of development services, after consultation 6061
with the tax commissioner and the superintendent of insurance and 6062
in accordance with Chapter 119. of the Revised Code, shall adopt 6063
rules necessary to implement this section, including rules that 6064
establish a procedure to be followed by the tax credit authority 6065
and the development services agency in the event the authority 6066
considers a taxpayer's application for which it receives a 6067
recommendation under division (C)(2)(a) of this section but does 6068
not approve it. The rules may provide for recipients of tax 6069
credits under this section to be charged fees to cover 6070
administrative costs of the tax credit program. The fees collected 6071
shall be credited to the business assistance fund created in 6072
section 122.174 of the Revised Code. At the time the director 6073
gives public notice under division (A) of section 119.03 of the 6074
Revised Code of the adoption of the rules, the director shall 6075
submit copies of the proposed rules to the chairpersons of the 6076
standing committees on economic development in the senate and the 6077

house of representatives. 6078

(J) For the purposes of this section, a taxpayer may include 6079
a partnership, a corporation that has made an election under 6080
subchapter S of chapter one of subtitle A of the Internal Revenue 6081
Code, or any other business entity through which income flows as a 6082
distributive share to its owners. A partnership, S-corporation, or 6083
other such business entity may elect to pass the credit received 6084
under this section through to the persons to whom the income or 6085
profit of the partnership, S-corporation, or other entity is 6086
distributed. The election shall be made on the annual report 6087
required under division (D)(6) of this section. The election 6088
applies to and is irrevocable for the credit for which the report 6089
is submitted. If the election is made, the credit shall be 6090
apportioned among those persons in the same proportions as those 6091
in which the income or profit is distributed. 6092

(K) If the director of development services determines that a 6093
taxpayer who has received a credit under this section is not 6094
complying with the requirement under division (D)(3) of this 6095
section, the director shall notify the tax credit authority of the 6096
noncompliance. After receiving such a notice, and after giving the 6097
taxpayer an opportunity to explain the noncompliance, the tax 6098
credit authority may require the taxpayer to refund to this state 6099
a portion of the credit in accordance with the following: 6100

(1) If the taxpayer maintained operations at the project 6101
location for a period less than or equal to the term of the 6102
credit, an amount not exceeding one hundred per cent of the sum of 6103
any credits allowed and received under this section; 6104

(2) If the taxpayer maintained operations at the project 6105
location for a period longer than the term of the credit, but less 6106
than the greater of seven years or the term of the credit plus 6107
three years, an amount not exceeding seventy-five per cent of the 6108
sum of any credits allowed and received under this section. 6109

In determining the portion of the tax credit to be refunded 6110
to this state, the tax credit authority shall consider the effect 6111
of market conditions on the taxpayer's project and whether the 6112
taxpayer continues to maintain other operations in this state. 6113
After making the determination, the authority shall certify the 6114
amount to be refunded to the tax commissioner or superintendent of 6115
insurance, as appropriate. If the amount is certified to the 6116
commissioner, the commissioner shall make an assessment for that 6117
amount against the taxpayer under Chapter 5726., 5733., 5747., or 6118
5751. of the Revised Code. If the amount is certified to the 6119
superintendent, the superintendent shall make an assessment for 6120
that amount against the taxpayer under Chapter 5725. or 5729. of 6121
the Revised Code. The time limitations on assessments under those 6122
chapters do not apply to an assessment under this division, but 6123
the commissioner or superintendent, as appropriate, shall make the 6124
assessment within one year after the date the authority certifies 6125
to the commissioner or superintendent the amount to be refunded. 6126

(L) On or before the first day of August each year, the 6127
director of development services shall submit a report to the 6128
governor, the president of the senate, and the speaker of the 6129
house of representatives on the tax credit program under this 6130
section. The report shall include information on the number of 6131
agreements that were entered into under this section during the 6132
preceding calendar year, a description of the project that is the 6133
subject of each such agreement, and an update on the status of 6134
projects under agreements entered into before the preceding 6135
calendar year. 6136

(M) There is hereby created the tax credit authority, which 6137
consists of the director of development services and four other 6138
members appointed as follows: the governor, the president of the 6139
senate, and the speaker of the house of representatives each shall 6140
appoint one member who shall be a specialist in economic 6141

development; the governor also shall appoint a member who is a 6142
specialist in taxation. Of the initial appointees, the members 6143
appointed by the governor shall serve a term of two years; the 6144
members appointed by the president of the senate and the speaker 6145
of the house of representatives shall serve a term of four years. 6146
Thereafter, terms of office shall be for four years. Initial 6147
appointments to the authority shall be made within thirty days 6148
after January 13, 1993. Each member shall serve on the authority 6149
until the end of the term for which the member was appointed. 6150
Vacancies shall be filled in the same manner provided for original 6151
appointments. Any member appointed to fill a vacancy occurring 6152
prior to the expiration of the term for which the member's 6153
predecessor was appointed shall hold office for the remainder of 6154
that term. Members may be reappointed to the authority. Members of 6155
the authority shall receive their necessary and actual expenses 6156
while engaged in the business of the authority. The director of 6157
development services shall serve as chairperson of the authority, 6158
and the members annually shall elect a vice-chairperson from among 6159
themselves. Three members of the authority constitute a quorum to 6160
transact and vote on the business of the authority. The majority 6161
vote of the membership of the authority is necessary to approve 6162
any such business, including the election of the vice-chairperson. 6163

The director of development services may appoint a 6164
professional employee of the development services agency to serve 6165
as the director's substitute at a meeting of the authority. The 6166
director shall make the appointment in writing. In the absence of 6167
the director from a meeting of the authority, the appointed 6168
substitute shall serve as chairperson. In the absence of both the 6169
director and the director's substitute from a meeting, the 6170
vice-chairperson shall serve as chairperson. 6171

(N) For purposes of the credits granted by this section 6172
against the taxes imposed under sections 5725.18 and 5729.03 of 6173

the Revised Code, "taxable year" means the period covered by the taxpayer's annual statement to the superintendent of insurance.

(O) On or before the first day of ~~January~~ March of each of the ~~six five~~ calendar years ~~following the year in which H.B. 327 of the 129th general assembly becomes effective~~ beginning with 2014, each taxpayer subject to an agreement with the tax credit authority under this section on the basis of home-based employees shall report the number of home-based employees and other employees employed by the taxpayer in this state to the ~~department of development~~ services agency.

(P) On or before the first day of January of ~~the seventh~~ calendar year ~~following the year in which H.B. 327 of the 129th general assembly became effective~~ 2019, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the effect of agreements entered into under this section in which the taxpayer included home-based employees in the computation of income tax revenue. The report shall include information on the number of such agreements that were entered into in the preceding six years, a description of the projects that were the subjects of such agreements, and an analysis of nationwide home-based employment trends, including the number of home-based jobs created from July 1, 2011, through June 30, 2017, and a description of any home-based employment tax incentives provided by other states during that time.

(Q) The director of development services may require any agreement entered into under this section for a tax credit computed on the basis of home-based employees to contain a provision that the taxpayer makes available health care benefits and tuition reimbursement to all employees.

Sec. 122.28. As used in sections 122.28 and 122.30 to 122.36

of the Revised Code: 6205

(A) "New technology" means the development through science or 6206
research of methods, processes, and procedures, including but not 6207
limited to those involving the processing and utilization of coal, 6208
for practical application in industrial or agribusiness 6209
situations. 6210

(B) "Industrial research" means study and investigation in 6211
giving new shapes, new qualities or new combinations to matter or 6212
material products by the application of labor thereto or the 6213
rehabilitation of an existing matter or material product. 6214

(C) "Enterprise" means a business with its principal place of 6215
business in this state or which proposes to be engaged in this 6216
state in research and development or in the provision of products 6217
or services involving a significant amount of new technology. 6218

(D) "Educational institutions" means nonprofit public and 6219
private colleges and universities, incorporated or unincorporated, 6220
in the state. 6221

(E) "Small business" means an enterprise with less than four 6222
hundred employees, including corporations, partnerships, 6223
unincorporated entities, proprietorships, and joint enterprises. 6224

(F) "Applied research" means the application of basic 6225
research for the development of new technology. 6226

Sec. 122.30. The ~~industrial technology and enterprise~~ 6227
~~advisory council and the director of development are~~ services is 6228
vested with the powers and duties provided in sections 122.28 and 6229
122.30 to 122.36 of the Revised Code, to promote the welfare of 6230
the people of the state through the interaction of the business 6231
and industrial community and educational institutions in the 6232
development of new technology and enterprise. 6233

(A) It is necessary for the state to establish the ~~industrial~~ 6234

~~technology and enterprise advisory council and the programs~~ 6235
created pursuant to sections 122.28 and 122.30 to 122.36 of the 6236
Revised Code to accomplish the following purposes which are 6237
determined to be essential: 6238

(1) Improve the existing industrial and agricultural base of 6239
the state; 6240

(2) Improve the economy of the state by providing employment, 6241
increasing productivity, and slowing the rate of inflation; 6242

(3) Develop markets worldwide for the products of the state's 6243
natural resources and agricultural and manufacturing industries; 6244

(4) Maintain a high standard of living for the people of the 6245
state. 6246

(B) ~~The industrial technology and enterprise advisory council~~ 6247
~~shall do all of the following:~~ 6248

~~(1) Make recommendations to the director of development as to~~ 6249
~~applications for assistance pursuant to sections 122.28 to 122.36~~ 6250
~~of the Revised Code. The council may revise its recommendations to~~ 6251
~~reflect any changes in the proposed assistance made by the~~ 6252
~~director.~~ 6253

~~(2) Advise the director in the administration of sections~~ 6254
~~122.28 to 122.36 of the Revised Code;~~ 6255

~~(3) Adopt bylaws to govern the conduct of the council's~~ 6256
~~business.~~ 6257

~~(C) The director of development shall do all of the~~ 6258
following: 6259

(1) Receive applications for assistance under sections 122.28 6260
and 122.30 to 122.36 of the Revised Code ~~and, after processing,~~ 6261
~~forward them to the council together with necessary supporting~~ 6262
~~information;~~ 6263

(2) ~~Receive the recommendations of the council and make~~ Make 6264

a ~~final~~ determination whether to approve the application for 6265
assistance; 6266

(3) Transmit determinations to approve assistance exceeding 6267
forty thousand dollars to the controlling board, together with any 6268
information the controlling board requires, for the board's review 6269
and decision as to whether to approve the assistance; 6270

(4) Gather and disseminate information and conduct hearings, 6271
conferences, seminars, investigations, and special studies on 6272
problems and programs concerning industrial research and new 6273
technology and their commercial applications in the state; 6274

(5) Establish an annual program to recognize the 6275
accomplishments and contributions of individuals and organizations 6276
in the development of industrial research and new technology in 6277
the state; 6278

(6) Stimulate both public and industrial awareness and 6279
interest in industrial research and development of new technology 6280
primarily in the areas of industrial processes, implementation, 6281
energy, agribusiness, medical technology, avionics, and food 6282
processing; 6283

(7) Develop and implement comprehensive and coordinated 6284
policies, programs, and procedures promoting industrial research 6285
and new technology; 6286

(8) Propose appropriate legislation or executive actions to 6287
stimulate the development of industrial research and new 6288
technology by enterprises and individuals; 6289

(9) Encourage and facilitate contracts between industry, 6290
agriculture, educational institutions, federal agencies, and state 6291
agencies, with special emphasis on industrial research and new 6292
technology by small businesses and agribusiness; 6293

(10) Participate with any state agency in developing specific 6294

programs and goals to assist in the development of industrial 6295
research and new technology and monitor performance; 6296

(11) Assist enterprises in obtaining alternative forms of 6297
governmental or commercial financing for industrial research and 6298
new technology; 6299

(12) Assist enterprises or individuals in the implementation 6300
of new programs and policies and the expansion of existing 6301
programs to provide an atmosphere conducive to increased 6302
cooperation among and participation by individuals, enterprises, 6303
and educational institutions engaged in industrial research and 6304
the development of new technology; 6305

(13) Advertise, prepare, print, and distribute books, maps, 6306
pamphlets, and other information ~~which in the judgment of the~~ 6307
~~director will further its purposes;~~ 6308

(14) Include in the director's annual report to the governor 6309
and the general assembly a report on the activities for the 6310
preceding calendar year under sections 122.28 and 122.30 to 122.36 6311
of the Revised Code; 6312

(15) Approve the expenditure of money appropriated by the 6313
general assembly for the purpose of sections 122.28 and 122.30 to 6314
122.36 of the Revised Code; 6315

(16) Identify and implement federal research and development 6316
programs which would link Ohio's industrial base, research 6317
facilities, and natural resources; 6318

(17) Employ and fix the compensation of technical and 6319
professional personnel, who shall be in the unclassified civil 6320
service, and employ other personnel, who shall be in the 6321
classified civil service, as necessary to carry out the provisions 6322
of sections 122.28 and 122.30 to 122.36 of the Revised Code. 6323

Sec. 122.31. All expenses and obligations incurred by the 6324

director of development ~~and the industrial technology and~~ 6325
~~enterprise advisory council services~~ in carrying out ~~their the~~ 6326
director's powers and ~~in exercising their~~ duties under sections 6327
122.28 and 122.30 to 122.36 of the Revised Code, are payable from 6328
revenues or other receipts or income from grants, gifts, 6329
contributions, compensation, reimbursement, and funds established 6330
in accordance with those sections or general revenue funds 6331
appropriated by the general assembly for operating expenses of the 6332
director ~~or council~~. 6333

Sec. 122.32. The director of development services, on behalf 6334
of the programs authorized pursuant to sections 122.28 and 122.30 6335
to 122.36 of the Revised Code, may receive and accept grants, 6336
gifts, and contributions of money, property, labor, and other 6337
things of value to be held, used, and applied only for the purpose 6338
for which the grants, gifts, and contributions are made, from 6339
individuals, private and public corporations, from the United 6340
States or any agency of the United States, and from any political 6341
subdivision of the state. The director may agree to repay any 6342
contribution of money or to return any property contributed or its 6343
value at times, in amounts, and on terms and conditions excluding 6344
the payment of interest as the director determines at the time the 6345
contribution is made. The director may evidence the obligation by 6346
written contracts, subject to section 122.31 of the Revised Code, 6347
provided that the director shall not thereby incur indebtedness of 6348
or impose liability upon the state or any political subdivision. 6349

Sec. 122.33. The director of development services shall 6350
administer the following programs: 6351

(A) The industrial technology and enterprise development 6352
grant program, to provide capital to acquire, construct, enlarge, 6353
improve, or equip and to sell, lease, exchange, and otherwise 6354
dispose of property, structures, equipment, and facilities within 6355

the state. 6356

Such funding may be made to enterprises that propose to 6357
develop new products or technologies when the director finds all 6358
of the following factors to be present: 6359

(1) The undertaking will benefit the people of the state by 6360
creating or preserving jobs and employment opportunities or 6361
improving the economic welfare of the people of the state, and 6362
promoting the development of new technology. 6363

(2) There is reasonable assurance that the potential 6364
royalties to be derived from the sale of the product or process 6365
described in the proposal will be sufficient to repay the funding 6366
pursuant to sections 122.28 and 122.30 to 122.36 of the Revised 6367
Code and that, in making the agreement, as it relates to patents, 6368
copyrights, and other ownership rights, there is reasonable 6369
assurance that the resulting new technology will be utilized to 6370
the maximum extent possible in facilities located in Ohio. 6371

(3) The technology and research to be undertaken will allow 6372
enterprises to compete more effectively in the marketplace. Grants 6373
of capital may be in such form and conditioned upon such terms as 6374
the ~~board~~ director deems appropriate. 6375

(B) The industrial technology and enterprise resources 6376
program to provide for the collection, dissemination, and exchange 6377
of information regarding equipment, facilities, and business 6378
planning consultation resources available in business, industry, 6379
and educational institutions and to establish methods by which 6380
small businesses may use available facilities and resources. The 6381
methods may include, but need not be limited to, leases 6382
reimbursing the educational institutions for their actual costs 6383
incurred in maintaining the facilities and agreements assigning 6384
royalties from development of successful products or processes 6385
through the use of the facilities and resources. The director 6386

shall operate this program in conjunction with the board of 6387
regents. 6388

(C) The Thomas Alva Edison grant program to provide grants to 6389
foster research, development, or technology transfer efforts 6390
involving enterprises and educational institutions that will lead 6391
to the creation of jobs. 6392

(1) Grants may be made to a nonprofit organization or a 6393
public or private educational institution, department, college, 6394
institute, faculty member, or other administrative subdivision or 6395
related entity of an educational institution when the director 6396
finds that the undertaking will benefit the people of the state by 6397
supporting research in advanced technology areas likely to improve 6398
the economic welfare of the people of the state through promoting 6399
the development of new commercial technology. 6400

(2) Grants may be made in a form and conditioned upon terms 6401
as the director considers appropriate. 6402

(3) Grants made under this program shall in all instances be 6403
in conjunction with a contribution to the project by a cooperating 6404
enterprise which maintains or proposes to maintain a relevant 6405
research, development, or manufacturing facility in the state, by 6406
a nonprofit organization, or by an educational institution or 6407
related entity; however, funding provided by an educational 6408
institution or related entity shall not be from general revenue 6409
funds appropriated by the Ohio general assembly. No grant made 6410
under this program shall exceed the contribution made by the 6411
cooperating enterprise, nonprofit organization, or educational 6412
institution or related entity. The director may consider 6413
cooperating contributions in the form of state of the art new 6414
equipment or in other forms provided the director determines that 6415
the contribution is essential to the successful implementation of 6416
the project. The director may adopt rules or guidelines for the 6417
valuation of contributions of equipment or other property. 6418

(4) The director may determine fields of research from which 6419
grant applications will be accepted under this program. 6420

Sec. 122.34. The exercise of the powers granted by sections 6421
122.28 and 122.30 to 122.36 of the Revised Code will be in all 6422
respects for the benefit of the people of the state, for the 6423
improvement of commerce and prosperity, improvement of employment 6424
conditions, and will constitute the performance of essential 6425
governmental functions. 6426

Sec. 122.35. All moneys received under sections 122.28 and 6427
122.30 to 122.36 of the Revised Code are trust funds to be held 6428
and applied solely as provided in those sections and section 6429
166.03 of the Revised Code. All moneys, except when deposited with 6430
the treasurer of the state, shall be kept and secured in 6431
depositories as selected by the director of development services 6432
in the manner provided in sections 135.01 to 135.21 of the Revised 6433
Code, insofar as those sections are applicable. All moneys held by 6434
the director in trust to carry out the purposes of sections 122.28 6435
and 122.30 to 122.36 of the Revised Code shall be used as provided 6436
in sections 122.28 and 122.30 to 122.36 of the Revised Code and at 6437
no time be part of other public funds. 6438

Sec. 122.36. Any materials or data submitted to, made 6439
available to, or received by the director of development, ~~the~~ 6440
~~industrial technology and enterprise advisory council,~~ services or 6441
the controlling board, to the extent that the material or data 6442
consist of trade secrets, as defined in section 1333.61 of the 6443
Revised Code, or commercial or financial information, regarding 6444
projects are not public records for the purposes of section 149.43 6445
of the Revised Code. 6446

Sec. 122.657. For the purposes of sections 122.65 to 122.658 6447

of the Revised Code, the director of development shall establish 6448
policies and requirements regarding all of the following: 6449

(A) The form and content of applications for grants or loans 6450
from the clean Ohio revitalization fund under section 122.652 of 6451
the Revised Code. The policies and requirements shall require that 6452
each application include, at a minimum, all of the following: 6453

(1) The name, address, and telephone number of the applicant; 6454

(2) The legal description of the property for which the grant 6455
or loan is requested; 6456

(3) A summary description of the hazardous substances or 6457
petroleum present at the brownfield and a certified copy of the 6458
results of an assessment; 6459

(4) A detailed explanation of the proposed cleanup or 6460
remediation of the brownfield, including an identification of the 6461
applicable cleanup standards, and a detailed description of the 6462
proposed use of the brownfield after completion of the cleanup or 6463
remediation; 6464

(5) An estimate of the total cost to clean up or remediate 6465
the brownfield in order to comply with the applicable cleanup 6466
standards. The total cost shall include the cost of employing a 6467
certified professional under section 122.654 of the Revised Code. 6468

(6) A detailed explanation of the portion of the estimated 6469
total cost of the cleanup or remediation of the brownfield that 6470
the applicant proposes to provide as required under sections 6471
122.653 and 122.658 of the Revised Code and financial records 6472
supporting the proposal; 6473

(7) A certified copy of a resolution or ordinance approving 6474
the project that the applicant shall obtain from the board of 6475
township trustees of the township or the legislative authority of 6476
the municipal corporation in which the property is located, 6477

whichever is applicable; 6478

(8) A description of the estimated economic benefit that will 6479
result from a cleanup or remediation of the brownfield; 6480

(9) An application summary for purposes of review by an 6481
integrating committee or, if applicable, the executive committee 6482
of an integrating committee under division (B) of section 122.652 6483
of the Revised Code; 6484

(10) With respect to applications for loans, information 6485
demonstrating that the applicant will implement a financial 6486
management plan that includes, without limitation, provisions for 6487
the satisfactory repayment of the loan; 6488

(11) Any other provisions that the director determines should 6489
be included in an application. 6490

(B) Procedures for conducting public meetings and providing 6491
public notice under division (A) of section 122.652 of the Revised 6492
Code; 6493

(C) Criteria to be used by integrating committees or, if 6494
required under division (C) of section 122.652 of the Revised 6495
Code, executive committees of integrating committees when 6496
prioritizing projects under division (B) of section 122.652 of the 6497
Revised Code. The policies and requirements also shall establish 6498
procedures that integrating committees or, if required under 6499
division (C) of section 122.652 of the Revised Code, executive 6500
committees of integrating committees shall use in applying the 6501
criteria. 6502

(D) A selection process that provides for the prioritization 6503
of brownfield cleanup or remediation projects for which grant or 6504
loan applications are submitted under section 122.652 of the 6505
Revised Code. The policies and requirements shall require the 6506
selection process to give priority to projects in which the 6507
post-cleanup or remediation use will be for a combination of 6508

residential, commercial, or industrial purposes, which may include 6509
the conversion of a portion of a brownfield to a recreation, park, 6510
or natural area that is integrated with the residential, 6511
commercial, or industrial use of the brownfield after cleanup or 6512
remediation, or will incorporate projects that are funded by 6513
grants awarded under sections 164.20 to 164.27 of the Revised 6514
Code. The policies and requirements shall require the selection 6515
process to incorporate and emphasize all of the following factors: 6516

(1) The potential economic benefit that will result from the 6517
cleanup or remediation of a brownfield; 6518

(2) The potential environmental improvement that will result 6519
from the cleanup or remediation of a brownfield; 6520

(3) The amount and nature of the match provided by an 6521
applicant as required under sections 122.653 and 122.658 of the 6522
Revised Code; 6523

(4) Funding priorities recommended by integrating committees 6524
or, if required under division (C) of section 122.652 of the 6525
Revised Code, executive committees of integrating committees under 6526
division (B) of section 122.652 of the Revised Code; 6527

(5) The potential benefit to low-income communities, 6528
including minority communities, that will result from the cleanup 6529
or remediation of a brownfield; 6530

(6) Any other factors that the director considers 6531
appropriate. 6532

(E) The development of criteria that the director shall use 6533
when awarding grants under section 122.656 of the Revised Code. 6534
The criteria shall give priority to public health projects. In 6535
addition, the director, in consultation with the director of 6536
environmental protection, shall establish policies and 6537
requirements that require the criteria to include a public health 6538
project selection process that incorporates and emphasizes all of 6539

the following factors: 6540

(1) The potential environmental improvement that will result 6541
from the cleanup or remediation; 6542

(2) The ability of an applicant to access the property for 6543
purposes of the cleanup or remediation; 6544

(3) The name and qualifications of the cleanup or remediation 6545
contractor; 6546

(4) Any other factors that the director of development 6547
considers appropriate. 6548

The director of development may develop any other policies 6549
and requirements that the director determines are necessary for 6550
the administration of section 122.656 of the Revised Code. 6551

(F) The development of a brownfield cleanup and remediation 6552
oversight program to ensure compliance with sections 122.65 to 6553
122.658 of the Revised Code and policies and requirements 6554
established under this section. The policies and requirements 6555
shall require the program to include, at a minimum, both of the 6556
following: 6557

(1) Procedures for the accounting of invoices and receipts 6558
and any other documents that are necessary to demonstrate that a 6559
cleanup or remediation was properly performed; 6560

(2) Procedures that are necessary to provide a detailed 6561
explanation of the status of the property five years after the 6562
completed cleanup or remediation. 6563

(G) A delineation of what constitutes administrative costs 6564
for purposes of divisions (D) and (F) of section 122.658 of the 6565
Revised Code; 6566

(H) Procedures and requirements for making loans and loan 6567
agreements that include at least all of the following: 6568

(1) Not more than fifteen per cent of moneys annually 6569

allocated to the clean Ohio revitalization fund shall be used for 6570
loans. 6571

(2) The loans shall be made at or below market rates of 6572
interest, including, without limitation, interest-free loans. 6573

(3) The recipient of a loan shall identify a source of 6574
security and a source of repayment of the loan. 6575

~~(4) All payments of principal and interest on a loan shall be 6576
deposited in the state treasury and credited to the clean Ohio 6577
revitalization revolving loan fund. 6578~~

~~(5) The clean Ohio council may accept notes and other forms 6579
of obligation to evidence indebtedness, accept mortgages, liens, 6580
pledges, assignments, and other security interests to secure such 6581
indebtedness, and take any actions that are considered by the 6582
council to be appropriate to protect such security and safeguard 6583
against losses, including, without limitation, foreclosure and 6584
bidding on the purchase of property upon foreclosure or other 6585
sale. 6586~~

(I) Any other policies and requirements that the director 6587
determines are necessary for the administration of sections 122.65 6588
to 122.658 of the Revised Code. 6589

Sec. 122.658. (A) The clean Ohio revitalization fund is 6590
hereby created in the state treasury. The fund shall consist of 6591
moneys credited to it pursuant to section 151.40 of the Revised 6592
Code. Moneys in the fund shall be used to make grants or loans for 6593
projects that have been approved by the clean Ohio council in 6594
accordance with section 122.653 of the Revised Code, except that 6595
the council annually shall devote twenty per cent of the net 6596
proceeds of obligations deposited in the clean Ohio revitalization 6597
fund for the purposes of section 122.656 of the Revised Code. 6598

Moneys in the clean Ohio revitalization fund may be used to 6599

pay reasonable costs incurred by the department of development and 6600
the environmental protection agency in administering sections 6601
122.65 to 122.658 of the Revised Code. All investment earnings of 6602
the fund shall be credited to the fund. Investment earnings 6603
credited to the clean Ohio revitalization fund may be used to pay 6604
costs incurred by the department of development and the 6605
environmental protection agency pursuant to sections 122.65 to 6606
122.658 of the Revised Code. 6607

The department of development shall administer the clean Ohio 6608
revitalization fund in accordance with this section, policies and 6609
requirements established under section 122.657 of the Revised 6610
Code, and the terms of agreements entered into by the council 6611
under section 122.653 of the Revised Code. 6612

(B) Grants awarded and loans made under section 122.653 of 6613
the Revised Code shall provide not more than seventy-five per cent 6614
of the estimated total cost of a project. A grant or loan to any 6615
one project shall not exceed three million dollars. An applicant 6616
shall provide at least twenty-five per cent of the estimated total 6617
cost of a project. The applicant's share may consist of one or a 6618
combination of any of the following: 6619

(1) Payment of the cost of acquiring the property for the 6620
purposes of sections 122.65 to 122.658 of the Revised Code; 6621

(2) Payment of the reasonable cost of an assessment at the 6622
property; 6623

(3) The reasonable value, as determined by the council, of 6624
labor and materials that will be contributed by the applicant in 6625
performing the cleanup or remediation; 6626

(4) Moneys received by the applicant in any form for use in 6627
performing the cleanup or remediation; 6628

(5) Loans secured by the applicant for the purpose of the 6629
cleanup or remediation of the brownfield. 6630

Costs that were incurred more than two years prior to the 6631
submission of an application to the clean Ohio council for the 6632
acquisition of property, assessments, and labor and materials 6633
shall not be used as part of the applicant's matching share. 6634

(C) The department of development shall not make any payment 6635
to an applicant from the clean Ohio revitalization fund to pay 6636
costs of the applicant that were not included in an application 6637
for a grant or loan under section 122.653 of the Revised Code or 6638
that exceed the amount of the estimated total cost of the project 6639
included in the application. If, upon completion of a project, the 6640
costs of the project are less than the amounts included in the 6641
application, the amounts included in the application less the 6642
amounts of the actual costs of the project shall be credited to 6643
the clean Ohio revitalization fund. However, the amounts credited 6644
shall be equivalent in percentage to the percentage of the costs 6645
of the project that were to be funded by the grant or loan from 6646
the fund. 6647

(D) Grants awarded or loans made under section 122.653 of the 6648
Revised Code from the clean Ohio revitalization fund shall be used 6649
by an applicant only to pay the costs of the actual cleanup or 6650
remediation of a brownfield and shall not be used by an applicant 6651
to pay any administrative costs incurred by the applicant. Costs 6652
related to the use of a certified professional for purposes of 6653
section 122.654 of the Revised Code are not administrative costs 6654
and may be paid with moneys from grants awarded or loans made 6655
under section 122.653 of the Revised Code. 6656

(E) The portion of net proceeds of obligations devoted under 6657
division (A) of this section for the purposes of section 122.656 6658
of the Revised Code shall be used to make grants for assessments, 6659
cleanup or remediation of brownfields, and public health projects 6660
that have been approved by the director of development under that 6661
section. The department of development shall administer section 6662

122.656 of the Revised Code in accordance with this section, 6663
policies and requirements established under section 122.657 of the 6664
Revised Code, and the terms of agreements entered into by the 6665
director under section 122.656 of the Revised Code. The director 6666
shall not grant more than twenty-five million dollars for public 6667
health projects under section 122.656 of the Revised Code. 6668

(F) Grants awarded under section 122.656 of the Revised Code 6669
shall be used by an applicant only to pay the costs of actually 6670
conducting an assessment, a cleanup or remediation of a 6671
brownfield, or a public health project and shall not be used by an 6672
applicant to pay any administrative costs incurred by the 6673
applicant. Costs related to the use of a certified professional 6674
for purposes of section 122.654 of the Revised Code are not 6675
administrative costs and may be paid with moneys from grants 6676
awarded under section 122.656 of the Revised Code. 6677

~~(G)(1) The clean Ohio revitalization revolving loan fund is 6678
hereby created in the state treasury. Payments of principal and 6679
interest on loans made from the clean Ohio revitalization fund 6680
shall be credited to this revolving loan fund, as shall payments 6681
of principal and interest on loans made from the revolving loan 6682
fund itself. The revolving loan fund's investment earnings shall 6683
be credited to it. 6684~~

~~(2) The clean Ohio revitalization revolving loan fund shall 6685
be used to make loans for the same purposes and subject to the 6686
same policies, requirements, criteria, and application procedures 6687
as loans made from the clean Ohio revitalization fund. 6688~~

Sec. 122.66. As used in sections 122.66 to 122.702 of the 6689
Revised Code: 6690

(A) "Poverty line" means the official poverty line 6691
established by the director of the United States office of 6692
management and budget and as revised by the ~~director~~ secretary of 6693

~~the office of community~~ health and human services in accordance 6694
with section 673(2) of the "Community Services Block Grant Act," 6695
95 Stat. 1609, 42 U.S.C.A. 9902. 6696

(B) "Low-income person" means a person whose adjusted gross 6697
income as defined in division (A) of section 5747.01 of the 6698
Revised Code is below the poverty line as defined in division (A) 6699
of this section. 6700

(C) "Advocacy" means the act of pleading for, supporting, or 6701
recommending actions on behalf of low-income persons. 6702

(D) "Community action agency" means a community-based and 6703
operated private nonprofit agency or organization that includes or 6704
is designed to include a sufficient number of projects or 6705
components to provide a range of services and activities having a 6706
measurable and potentially major impact on the causes of poverty 6707
in the community or those areas of the community where poverty is 6708
a particularly acute problem and is designated as a community 6709
action agency by the ~~office of~~ community services division 6710
pursuant to sections 122.68 and 122.69 of the Revised Code. 6711

(E) "Community" means a city, village, county, multicity or 6712
multicounty unit, a neighborhood or other area, disregarding 6713
boundaries or political subdivisions, which provides a suitable 6714
organizational base and possesses a commonality of needs and 6715
interests for a community action program suitable to be served by 6716
a community action agency. 6717

(F) "Service area" means the geographical area served by a 6718
community action agency. 6719

Sec. 122.67. There is hereby created in the ~~department of~~ 6720
development services agency the ~~office of~~ community services 6721
division. The director of development services shall employ and 6722
fix the compensation of professional and technical unclassified 6723

personnel as necessary to carry out the provisions of sections 6724
122.66 to 122.701 of the Revised Code. 6725

Sec. 122.68. The ~~office of~~ community services division shall: 6726
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(A) Administer all federal funds appropriated to the state 6728
from the "Community Services Block Grant Act," 95 Stat. 511, 42 6729
U.S.C.A. 9901, and comply with requirements imposed by that act in 6730
its application for, and administration of, the funds; 6731

(B) Designate community action agencies to receive community 6732
services block grant funds; 6733

(C) Disburse at least ninety-five per cent or such other 6734
higher maximum amount as may from time to time be designated by 6735
congress of the funds received in the state from the "Community 6736
Services Block Grant Act" to community action agencies that comply 6737
with the requirements of section 122.69 of the Revised Code and 6738
migrant and seasonal farm worker organizations that are not 6739
designated community action agencies but which provide the 6740
services described in division (B)(1) of section 122.69 of the 6741
Revised Code. 6742

(D) Provide technical assistance to community action agencies 6743
to improve program planning, development, and administration; 6744

(E) Conduct yearly performance assessments, according to 6745
criteria determined by ~~department of~~ development services agency 6746
rule, to determine whether community action agencies are in 6747
compliance with section 122.69 of the Revised Code; 6748

(F) Annually prepare and submit to the United States 6749
secretary of health and human services, the governor, the 6750
president of the Ohio senate, and the speaker of the Ohio house of 6751
representatives, a comprehensive report that includes: 6752

(1) Certification that all community action agencies 6753

designated to receive funds from the "Community Services Block Grant Act" are in compliance with section 122.69 of the Revised Code; 6754
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(2) A program plan for the next federal fiscal year that has been made available for public inspection and that details how community services block grant funds will be disbursed and used during that fiscal year; 6757
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(3) Information detailing how funds were expended for the current fiscal year; 6761
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(4) An audit of community services block grant expenditures for the preceding federal fiscal year that is conducted in accordance with generally accepted accounting principles by an independent auditing firm that has no connection with any community action agency receiving community services block grant funds or with any employee of the ~~office~~ division. 6763
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(G) Serve as a statewide advocate for social and economic opportunities for low-income persons. 6769
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Sec. 122.681. (A) Except as permitted by this section, or when required by federal law, no person or government entity shall solicit, release, disclose, receive, use, or knowingly permit or participate in the use of any information regarding an individual receiving assistance pursuant to a community services division program under sections 122.66 to 122.702 of the Revised Code for any purpose not directly related to the administration of a division assistance program. 6771
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(B) To the extent permitted by federal law, the division, and any entity that receives division funds to administer a division program to assist individuals, shall release information regarding an individual assistance recipient to the following: 6779
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(1) A government entity responsible for administering the 6783

assistance program for purposes directly related to the 6784
administration of the program; 6785

(2) A law enforcement agency for the purpose of any 6786
investigation, prosecution, or criminal or civil proceeding 6787
relating to the administration of the assistance program; 6788

(3) A government entity responsible for administering a 6789
children's protective services program, for the purpose of 6790
protecting children. 6791

(C) To the extent permitted by federal law and section 6792
1347.08 of the Revised Code, the division, and any entity 6793
administering a division program, shall provide access to 6794
information regarding an individual assistance recipient to all of 6795
the following: 6796

(1) The individual assistance recipient; 6797

(2) The authorized representative of the individual 6798
assistance recipient; 6799

(3) The legal guardian of the individual assistance 6800
recipient; 6801

(4) The attorney of the individual assistance recipient. 6802

(D) To the extent permitted by federal law, the division, and 6803
any entity administering a division program, may do either of the 6804
following: 6805

(1) Release information about an individual assistance 6806
recipient if the recipient gives voluntary, written authorization; 6807

(2) Release information regarding an individual assistance 6808
recipient to a state, federal, or federally assisted program that 6809
provides cash or in-kind assistance or services directly to 6810
individuals based on need. 6811

(E) The community services division, or an entity 6812
administering a division program, shall provide, at no cost, a 6813

copy of each written authorization to the individual who signed 6814
it. 6815

(F) The development services agency may adopt rules defining 6816
who may serve as an individual assistance recipient's authorized 6817
representative for purposes of division (C)(2) of this section. 6818

Sec. 122.69. (A) Any nonprofit agency or organization seeking 6819
designation as a community action agency by the ~~office of~~ 6820
community services division shall obtain the endorsement of the 6821
chief elected officials of at least two-thirds of the municipal 6822
corporations and the counties within the community to be served by 6823
the agency or organization. 6824

(B) Any nonprofit agency or organization that receives the 6825
endorsement provided for in division (A) of this section shall be 6826
designated by the ~~office~~ division as the community action agency 6827
for the community it serves and shall receive community services 6828
block grant funds for any period of time that the nonprofit agency 6829
or organization: 6830

(1) Provides a range of services and opportunities having a 6831
measurable and potentially major impact on the causes of poverty 6832
in the community or those areas of the community where poverty is 6833
a particularly acute problem. These activities may include but 6834
shall not be limited to: 6835

(a) Providing activities designed to assist low-income 6836
persons, including elderly and handicapped low-income persons, to: 6837

(i) Secure and maintain meaningful employment, training, work 6838
experience, and unsubsidized employment; 6839

(ii) Attain an adequate education; 6840

(iii) Make better use of available income; 6841

(iv) Obtain and maintain adequate housing and a suitable 6842
living environment; 6843

(v) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance; 6844
6845
6846
6847

(vi) Remove obstacles and solve personal and family problems that block the achievement of self-sufficiency; 6848
6849

(vii) Achieve greater participation in the affairs of the community; 6850
6851

(viii) Undertake family planning, consistent with personal and family goals and religious and moral convictions; 6852
6853

(ix) Obtain energy assistance, conservation, and weatherization services. 6854
6855

(b) Providing, on an emergency basis, supplies and services, nutritious foodstuffs, and related services necessary to counteract conditions of starvation and malnutrition among low-income persons; 6856
6857
6858
6859

(c) Coordinating and establishing links between government and other social services programs to assure the effective delivery of services to low-income individuals; 6860
6861
6862

(d) Providing child care services, nutrition and health services, transportation services, alcoholism and narcotic addiction prevention and rehabilitation services, youth development services, and community services to elderly and handicapped persons; 6863
6864
6865
6866
6867

(e) Encouraging entities in the private sector to participate in efforts to ameliorate poverty in the community. 6868
6869

(2) Annually submits to the ~~office of community services~~ division a program plan and budget for use of community services block grant funds for the next federal fiscal year. At least ten days prior to its submission to the ~~office of community services~~ 6870
6871
6872
6873

division, a copy of the program plan and budget shall be made 6874
available to the chief elected officials of the municipal 6875
corporations and counties within the service area in order to 6876
provide them the opportunity to review and comment upon such plan 6877
and budget. 6878

(3) Composes its board of directors in compliance with 6879
section (c)(3) of section 675 of ~~the~~ the "Community Services Block 6880
Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9904, except that the board 6881
shall consist of not less than fifteen nor more than thirty-three 6882
members; 6883

(4) Complies with the prohibitions against discrimination and 6884
political activity, as provided in the "Community Services Block 6885
Grant Act"; 6886

(5) Complies with fiscal and program requirements established 6887
by ~~department of~~ development services agency rule. 6888

Sec. 122.70. The board of directors of a community action 6889
agency shall: 6890

(A) Select, appoint, and may remove the executive director of 6891
the community action agency; 6892

(B) Approve contracts, annual program budgets, and policies 6893
of the community action agency; 6894

(C) Advise the elected officials of any political subdivision 6895
located within its service area, and state and federal elected 6896
officials who represent its service area, of the nature and extent 6897
of poverty within its community, and advise them of any needed 6898
changes; 6899

(D) Convene public meetings to provide community members the 6900
opportunity to comment on public policies and programs to reduce 6901
poverty; 6902

(E) Annually evaluate the policies and programs of the 6903

community action agency according to criteria determined by 6904
~~department of~~ development services agency rule; 6905

(F) Submit the results of the evaluation required by division 6906
(E) of this section, along with recommendations for improved 6907
administration of the community action agency, to the ~~office of~~ 6908
community services division; 6909

(G) Adopt a code of ethics for the board of directors and the 6910
employees of the community action agency; 6911

(H) Adopt written policies describing all of the following: 6912

(1) How the community action agency is to expend and 6913
distribute the community services block grant funds that it 6914
receives from the ~~office of community services~~ division under 6915
sections 122.68 and 122.69 of the Revised Code; 6916

(2) The salary, benefits, travel expenses, and any other 6917
compensation that persons are to receive for serving on the 6918
community action agency's board of directors; 6919

(3) The operating procedures to be used by the board to 6920
conduct its meetings, to vote on all official business it 6921
considers, and to provide notice of its meetings. 6922

(I) Provide for the posting of notices in a conspicuous place 6923
indicating that the code of ethics described in division (G) of 6924
this section and the policies described in division (H) of this 6925
section are available for public inspection at the community 6926
action agency during normal business hours. 6927

Sec. 122.701. (A) Prior to designating a new community action 6928
agency or rescinding a community action agency's designation, the 6929
~~office of~~ community services division shall: 6930

(1) Determine whether a community action agency is in 6931
compliance with section 122.69 of the Revised Code; 6932

(2) Consult with the chief elected officials of political subdivisions located within a community action agency's service area, and, in designating a new community action agency, obtain their endorsement of the agency in accordance with division (A) of section 122.69 of the Revised Code;

(3) Hold at least one public meeting within a community action agency's service area for the purpose of allowing citizens to comment on the community action agency's delivery of services;

(4) Evaluate the proposed service area of the community action agency, and, as may be necessary, modify the boundaries of the service area so that low-income persons in the area are adequately and efficiently served.

(B) After providing notice and hearing pursuant to sections 119.01 to 119.13 of the Revised Code, the director of development services:

(1) May rescind the designation of a community action agency ~~if he finds~~ after finding that the agency is not in compliance with any or all of the provisions of section 122.69 of the Revised Code;

(2) Shall rescind the designation of a community action agency upon notification from the chief elected officials of more than one-half of the municipal corporations and the counties within a community currently served by a community action agency that such agency is not endorsed by them and ~~upon a~~ after finding ~~by him~~ that the agency is not in compliance with section 122.69 of the Revised Code.

Any agency whose designation is rescinded pursuant to this section may appeal from an order rescinding such designation pursuant to section 119.12 of the Revised Code.

Sec. 122.76. (A) The director of development services, with

controlling board approval, may lend funds to minority business 6963
enterprises and to community improvement corporations, Ohio 6964
development corporations, minority contractors business assistance 6965
organizations, and minority business supplier development councils 6966
for the purpose of loaning funds to minority business enterprises 6967
~~and~~, for the purpose of procuring or improving real or personal 6968
property, or both, for the establishment, location, or expansion 6969
of industrial, distribution, commercial, or research facilities in 6970
the state, and for the purpose of contract financing, and to 6971
community development corporations that predominantly benefit 6972
minority business enterprises or are located in a census tract 6973
that has a population that is sixty per cent or more minority, if 6974
the director determines, in the director's sole discretion, that 6975
all of the following apply: 6976

(1) The project is economically sound and will benefit the 6977
people of the state by increasing opportunities for employment, by 6978
strengthening the economy of the state, or expanding minority 6979
business enterprises. 6980

(2) The proposed minority business enterprise borrower is 6981
unable to finance the proposed project through ordinary financial 6982
channels at comparable terms. 6983

(3) The value of the project is or, upon completion, will be 6984
at least equal to the total amount of the money expended in the 6985
procurement or improvement of the project. 6986

(4) The amount to be loaned by the director will not exceed 6987
seventy-five per cent of the total amount expended in the 6988
procurement or improvement of the project. 6989

(5) The amount to be loaned by the director will be 6990
adequately secured by a first or second mortgage upon the project 6991
or by mortgages, leases, liens, assignments, or pledges on or of 6992
other property or contracts as the director requires, and such 6993

mortgage will not be subordinate to any other liens or mortgages 6994
except the liens securing loans or investments made by financial 6995
institutions referred to in division (A)(3) of this section, and 6996
the liens securing loans previously made by any financial 6997
institution in connection with the procurement or expansion of all 6998
or part of a project. 6999

(B) Any proposed minority business enterprise borrower 7000
submitting an application for assistance under this section shall 7001
not have defaulted on a previous loan from the director, and no 7002
full or limited partner, major shareholder, or holder of an equity 7003
interest of the proposed minority business enterprise borrower 7004
shall have defaulted on a loan from the director. 7005

(C) The proposed minority business enterprise borrower shall 7006
demonstrate to the satisfaction of the director that it is able to 7007
successfully compete in the private sector if it obtains the 7008
necessary financial, technical, or managerial support and that 7009
support is available through the director, the minority business 7010
development office of the ~~department of development~~ services 7011
agency, or other identified and acceptable sources. In determining 7012
whether a minority business enterprise borrower will be able to 7013
successfully compete, the director may give consideration to such 7014
factors as the successful completion of or participation in 7015
courses of study, recognized by the board of regents as providing 7016
financial, technical, or managerial skills related to the 7017
operation of the business, by the economically disadvantaged 7018
individual, owner, or partner, and the prior success of the 7019
individual, owner, or partner in personal, career, or business 7020
activities, as well as to other factors identified by the 7021
director. 7022

(D) The director shall not lend funds for the purpose of 7023
procuring or improving motor vehicles or accounts receivable. 7024

Sec. 122.85. (A) As used in this section and in sections 7025
5726.55, 5733.59, 5747.66, and 5751.54 of the Revised Code: 7026

(1) "Tax credit-eligible production" means a motion picture 7027
production certified by the director of development under division 7028
(B) of this section as qualifying the motion picture company for a 7029
tax credit under section 5726.55, 5733.59, 5747.66, or 5751.54 of 7030
the Revised Code. 7031

(2) "Certificate owner" means a motion picture company to 7032
which a tax credit certificate is issued. 7033

(3) "Motion picture company" means an individual, 7034
corporation, partnership, limited liability company, or other form 7035
of business association producing a motion picture. 7036

(4) "Eligible production expenditures" means expenditures 7037
made after June 30, 2009, for goods or services purchased and 7038
consumed in this state by a motion picture company directly for 7039
the production of a tax credit-eligible production. 7040

"Eligible production expenditures" includes, but is not 7041
limited to, expenditures for resident and nonresident cast and 7042
crew wages, accommodations, costs of set construction and 7043
operations, editing and related services, photography, sound 7044
synchronization, lighting, wardrobe, makeup and accessories, film 7045
processing, transfer, sound mixing, special and visual effects, 7046
music, location fees, and the purchase or rental of facilities and 7047
equipment. 7048

(5) "Motion picture" means entertainment content created in 7049
whole or in part within this state for distribution or exhibition 7050
to the general public, including, but not limited to, 7051
feature-length films; documentaries; long-form, specials, 7052
miniseries, series, and interstitial television programming; 7053
interactive web sites; sound recordings; videos; music videos; 7054

interactive television; interactive games; video games; 7055
commercials; any format of digital media; and any trailer, pilot, 7056
video teaser, or demo created primarily to stimulate the sale, 7057
marketing, promotion, or exploitation of future investment in 7058
either a product or a motion picture by any means and media in any 7059
digital media format, film, or videotape, provided the motion 7060
picture qualifies as a motion picture. "Motion picture" does not 7061
include any television program created primarily as news, weather, 7062
or financial market reports, a production featuring current events 7063
or sporting events, an awards show or other gala event, a 7064
production whose sole purpose is fundraising, a long-form 7065
production that primarily markets a product or service or in-house 7066
corporate advertising or other similar productions, a production 7067
for purposes of political advocacy, or any production for which 7068
records are required to be maintained under 18 U.S.C. 2257 with 7069
respect to sexually explicit content. 7070

(B) For the purpose of encouraging and developing a strong 7071
film industry in this state, the director of development may 7072
certify a motion picture produced by a motion picture company as a 7073
tax credit-eligible production. In the case of a television 7074
series, the director may certify the production of each episode of 7075
the series as a separate tax credit-eligible production. A motion 7076
picture company shall apply for certification of a motion picture 7077
as a tax credit-eligible production on a form and in the manner 7078
prescribed by the director. Each application shall include the 7079
following information: 7080

(1) The name and telephone number of the motion picture 7081
production company; 7082

(2) The name and telephone number of the company's contact 7083
person; 7084

(3) A list of the first preproduction date through the last 7085
production date in Ohio; 7086

(4) The Ohio production office address and telephone number;	7087
(5) The total production budget of the motion picture;	7088
(6) The total budgeted eligible production expenditures and the percentage that amount is of the total production budget of the motion picture;	7089 7090 7091
(7) The total percentage of the motion picture being shot in Ohio;	7092 7093
(8) The level of employment of cast and crew who reside in Ohio;	7094 7095
(9) A synopsis of the script;	7096
(10) The shooting script;	7097
(11) A creative elements list that includes the names of the principal cast and crew and the producer and director;	7098 7099
(12) Documentation of financial ability to undertake and complete the motion picture;	7100 7101
(13) Estimated value of the tax credit based upon total budgeted eligible production expenditures;	7102 7103
(14) Any other information considered necessary by the director.	7104 7105
Within ninety days after certification of a motion picture as a tax credit-eligible production, and any time thereafter upon the director of development services ¹ request <u>of the director of</u> <u>development services</u> , the motion picture company shall present to the director sufficient evidence of reviewable progress. If the motion picture company fails to present sufficient evidence, the director may rescind the certification. Upon rescission, the director shall notify the applicant that the certification has been rescinded. Nothing in this section prohibits an applicant whose tax credit-eligible production certification has been rescinded from submitting a subsequent application for	7106 7107 7108 7109 7110 7111 7112 7113 7114 7115 7116

certification. 7117

(C)(1) A motion picture company whose motion picture has been 7118
certified as a tax credit-eligible production may apply to the 7119
director of development services on or after July 1, 2009, for a 7120
refundable credit against the tax imposed by section 5726.02, 7121
5733.06, 5747.02, or 5751.02 of the Revised Code. The director in 7122
consultation with the tax commissioner shall prescribe the form 7123
and manner of the application and the information or documentation 7124
required to be submitted with the application. 7125

The credit is determined as follows: 7126

(a) If the total budgeted eligible production expenditures 7127
stated in the application submitted under division (B) of this 7128
section or the actual eligible production expenditures as finally 7129
determined under division (D) of this section, whichever is least, 7130
is less than or equal to three hundred thousand dollars, no credit 7131
is allowed; 7132

(b) If the total budgeted eligible production expenditures 7133
stated in the application submitted under division (B) of this 7134
section or the actual eligible production expenditures as finally 7135
determined under division (D) of this section, whichever is least, 7136
is greater than three hundred thousand dollars, the credit equals 7137
the sum of the following, subject to the limitation in division 7138
(C)(4) of this section: 7139

(i) Twenty-five per cent of the least of such budgeted or 7140
actual eligible expenditure amounts excluding budgeted or actual 7141
eligible expenditures for resident cast and crew wages; 7142

(ii) Thirty-five per cent of budgeted or actual eligible 7143
expenditures for resident cast and crew wages. 7144

(2) Except as provided in division (C)(4) of this section, if 7145
the director of development services approves a motion picture 7146
company's application for a credit, the director shall issue a tax 7147

credit certificate to the company. The director in consultation 7148
with the tax commissioner shall prescribe the form and manner of 7149
issuing certificates. The director shall assign a unique 7150
identifying number to each tax credit certificate and shall record 7151
the certificate in a register devised and maintained by the 7152
director for that purpose. The certificate shall state the amount 7153
of the eligible production expenditures on which the credit is 7154
based and the amount of the credit. Upon the issuance of a 7155
certificate, the director shall certify to the tax commissioner 7156
the name of the applicant, the amount of eligible production 7157
expenditures shown on the certificate, and any other information 7158
required by the rules adopted to administer this section. 7159

(3) The amount of eligible production expenditures for which 7160
a tax credit may be claimed is subject to inspection and 7161
examination by the tax commissioner or employees of the 7162
commissioner under section 5703.19 of the Revised Code and any 7163
other applicable law. Once the eligible production expenditures 7164
are finally determined under section 5703.19 of the Revised Code 7165
and division (D) of this section, the credit amount is not subject 7166
to adjustment unless the director determines an error was 7167
committed in the computation of the credit amount. 7168

(4) No tax credit certificate may be issued before the 7169
completion of the tax credit-eligible production. Not more than 7170
forty million dollars of tax credit may be allowed per fiscal 7171
biennium beginning on or after July 1, 2011, and not more than 7172
twenty million dollars may be allowed in the first year of the 7173
biennium. At any time, not more than five million dollars of tax 7174
credit may be allowed per tax credit-eligible production. 7175

(D) A motion picture company whose motion picture has been 7176
certified as a tax credit-eligible production shall engage, at the 7177
company's expense, an independent certified public accountant to 7178
examine the company's production expenditures to identify the 7179

expenditures that qualify as eligible production expenditures. The 7180
certified public accountant shall issue a report to the company 7181
and to the director of development services certifying the 7182
company's eligible production expenditures and any other 7183
information required by the director. Upon receiving and examining 7184
the report, the director may disallow any expenditure the director 7185
determines is not an eligible production expenditure. If the 7186
director disallows an expenditure, the director shall issue a 7187
written notice to the motion picture production company stating 7188
that the expenditure is disallowed and the reason for the 7189
disallowance. Upon examination of the report and disallowance of 7190
any expenditures, the director shall determine finally the lesser 7191
of the total budgeted eligible production expenditures stated in 7192
the application submitted under division (B) of this section or 7193
the actual eligible production expenditures for the purpose of 7194
computing the amount of the credit. 7195

(E) No credit shall be allowed under section 5726.55, 7196
5733.59, 5747.66, or 5751.54 of the Revised Code unless the 7197
director has reviewed the report and made the determination 7198
prescribed by division (D) of this section. 7199

(F) This state reserves the right to refuse the use of this 7200
state's name in the credits of any tax credit-eligible motion 7201
picture production. 7202

(G)(1) The director of development services in consultation 7203
with the tax commissioner shall adopt rules for the administration 7204
of this section, including rules setting forth and governing the 7205
criteria for determining whether a motion picture production is a 7206
tax credit-eligible production; activities that constitute the 7207
production of a motion picture; reporting sufficient evidence of 7208
reviewable progress; expenditures that qualify as eligible 7209
production expenditures; a competitive process for approving 7210
credits; and consideration of geographic distribution of credits. 7211

The rules shall be adopted under Chapter 119. of the Revised Code. 7212

(2) The director may require a reasonable application fee to 7213
cover administrative costs of the tax credit program. The fees 7214
collected shall be credited to the ~~motion picture tax credit~~ 7215
~~program operating~~ tourism fund, which is hereby created in the 7216
~~state treasury under section 122.072 of the Revised Code.~~ The 7217
~~motion picture tax credit program operating fund shall consist of~~ 7218
~~all grants, gifts, fees, and contributions made to the director~~ 7219
~~for marketing and promotion of the motion picture industry within~~ 7220
~~this state. The director shall use money in the fund to pay~~ 7221
~~expenses related to the administration of the Ohio film office and~~ 7222
~~the credit authorized by this section and sections 5726.55.,~~ 7223
~~5733.59, 5747.66, and 5751.54 of the Revised Code.~~ 7224

Sec. 122.861. (A) As used in this section: 7225

(1) "Certified engine configuration" means a new, rebuilt, or 7226
remanufactured engine configuration that satisfies divisions 7227
(A)(1)(a) and (b) and, if applicable, division (A)(1)(c) of this 7228
section: 7229

(a) It has been certified by the administrator of the United 7230
States environmental protection agency or the California air 7231
resources board. 7232

(b) It meets or is rebuilt or remanufactured to a more 7233
stringent set of engine emission standards than when originally 7234
manufactured, as determined pursuant to Subtitle G of Title VII of 7235
the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 838, 7236
et seq. 7237

(c) In the case of a certified engine configuration involving 7238
the replacement of an existing engine, an engine configuration 7239
that replaced an engine that was removed from the vehicle and 7240
returned to the supplier for remanufacturing to a more stringent 7241

set of engine emissions standards or for scrappage. 7242

(2) "Section 793" means section 793 of the Energy Policy Act 7243
of 2005, Pub. L. No. 109-58, 119 Stat. 841, et seq. 7244

(3) "Verified technology" means a pollution control 7245
technology, including a retrofit technology, advanced truckstop 7246
electrification system, or auxiliary power unit, that has been 7247
verified by the administrator of the United States environmental 7248
protection agency or the California air resources board. 7249

(B) For the purpose of reducing emissions from diesel 7250
engines, the director of environmental protection shall administer 7251
a diesel emissions reduction grant program and a diesel emissions 7252
reduction revolving loan program. The programs shall provide for 7253
the implementation in this state of section 793 and shall 7254
otherwise be administered in compliance with the requirements of 7255
section 793, and any regulations issued pursuant to that section. 7256

The director shall apply to the administrator of the United 7257
States environmental protection agency for grant or loan funds 7258
available under section 793 to help fund the diesel emissions 7259
reduction grant program and the diesel emissions reduction 7260
revolving loan program. 7261

~~(C) There is hereby created in the state treasury the diesel 7262
emissions grant fund consisting of money appropriated to it by the 7263
general assembly, any grants obtained from the federal government 7264
under section 793, and any other grants, gifts, or other 7265
contributions of money made to the credit of the fund. Money in 7266
the fund shall be used for the purpose of making grants for 7267
projects relating to certified engine configurations and verified 7268
technologies in a manner consistent with the requirements of 7269
section 793 and any regulations issued under that section. 7270
Interest earned from moneys in the fund shall be used to 7271
administer the diesel emissions reduction grant program. 7272~~

~~(D)~~ There is hereby created in the state treasury the diesel 7273
emissions reduction revolving loan fund consisting of money 7274
appropriated to it by the general assembly, any grants obtained 7275
from the federal government under section 793, and any other 7276
grants, gifts, or other contributions of money made to the credit 7277
of the fund. Money in the fund shall be used for the purpose of 7278
making loans for projects relating to certified engine 7279
configurations and verified technologies in a manner consistent 7280
with the requirements of section 793 and any regulations issued 7281
pursuant to that section. Interest earned from moneys in the fund 7282
shall be used to administer the diesel emissions reduction 7283
revolving loan program. 7284

Sec. 123.01. (A) The department of administrative services, 7285
in addition to those powers enumerated in Chapters 124. and 125. 7286
of the Revised Code and provided elsewhere by law, shall exercise 7287
the following powers: 7288

(1) To prepare and suggest comprehensive plans for the 7289
development of grounds and buildings under the control of a state 7290
agency; 7291

(2) To acquire, by purchase, gift, devise, lease, or grant, 7292
all real estate required by a state agency, in the exercise of 7293
which power the department may exercise the power of eminent 7294
domain, in the manner provided by sections 163.01 to 163.22 of the 7295
Revised Code; 7296

(3) To erect, supervise, and maintain all public monuments 7297
and memorials erected by the state, except where the supervision 7298
and maintenance is otherwise provided by law; 7299

(4) To procure, by lease, storage accommodations for a state 7300
agency; 7301

(5) To lease or grant easements or licenses for unproductive 7302

and unused lands or other property under the control of a state 7303
agency. Such leases, easements, or licenses may be granted to any 7304
person or entity, shall be for a period not to exceed fifteen 7305
years, and shall be executed for the state by the director of 7306
administrative services, provided that the director shall grant 7307
leases, easements, or licenses of university land for periods not 7308
to exceed twenty-five years for purposes approved by the 7309
respective university's board of trustees wherein the uses are 7310
compatible with the uses and needs of the university and may grant 7311
leases of university land for periods not to exceed forty years 7312
for purposes approved by the respective university's board of 7313
trustees pursuant to section 123.17 of the Revised Code. 7314

(6) To lease space for the use of a state agency; 7315

(7) To have general supervision and care of the storerooms, 7316
offices, and buildings leased for the use of a state agency; 7317

(8) To exercise general custodial care of all real property 7318
of the state; 7319

(9) To assign and group together state offices in any city in 7320
the state and to establish, in cooperation with the state agencies 7321
involved, rules governing space requirements for office or storage 7322
use; 7323

(10) To lease for a period not to exceed forty years, 7324
pursuant to a contract providing for the construction thereof 7325
under a lease-purchase plan, buildings, structures, and other 7326
improvements for any public purpose, and, in conjunction 7327
therewith, to grant leases, easements, or licenses for lands under 7328
the control of a state agency for a period not to exceed forty 7329
years. The lease-purchase plan shall provide that at the end of 7330
the lease period, the buildings, structures, and related 7331
improvements, together with the land on which they are situated, 7332
shall become the property of the state without cost. 7333

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

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

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

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

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

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

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

builder shall comply with Chapter 153. of the Revised Code. 7365

(c) On the day and at the place named for receiving bids for 7366
entering into lease agreements with a state agency, the director 7367
of administrative services shall open the bids and shall publicly 7368
proceed immediately to tabulate the bids upon duplicate sheets. No 7369
lease agreement shall be entered into until the bureau of workers' 7370
compensation has certified that the person to be awarded the lease 7371
agreement has complied with Chapter 4123. of the Revised Code, 7372
until, if the builder submitting the lowest and best bid is a 7373
foreign corporation, the secretary of state has certified that the 7374
corporation is authorized to do business in this state, until, if 7375
the builder submitting the lowest and best bid is a person 7376
nonresident of this state, the person has filed with the secretary 7377
of state a power of attorney designating the secretary of state as 7378
its agent for the purpose of accepting service of summons in any 7379
action brought under Chapter 4123. of the Revised Code, and until 7380
the agreement is submitted to the attorney general and the 7381
attorney general's approval is certified thereon. Within thirty 7382
days after the day on which the bids are received, the department 7383
shall investigate the bids received and shall determine that the 7384
bureau and the secretary of state have made the certifications 7385
required by this section of the builder who has submitted the 7386
lowest and best bid. Within ten days of the completion of the 7387
investigation of the bids, the department shall award the lease 7388
agreement to the builder who has submitted the lowest and best bid 7389
and who has been certified by the bureau and secretary of state as 7390
required by this section. If bidding for the lease agreement has 7391
been conducted upon the basis of basic plans, specifications, 7392
bills of materials, and estimates of costs, upon the award to the 7393
builder the department, or the builder with the approval of the 7394
department, shall appoint an architect or engineer licensed in 7395
this state to prepare such further detailed plans, specifications, 7396
and bills of materials as are required to construct the building, 7397

structure, or improvement. The department shall adopt such rules 7398
as are necessary to give effect to this section. The department 7399
may reject any bid. Where there is reason to believe there is 7400
collusion or combination among bidders, the bids of those 7401
concerned therein shall be rejected. 7402

(11) To acquire by purchase, gift, devise, or grant and to 7403
transfer, lease, or otherwise dispose of all real property 7404
required to assist in the development of a conversion facility as 7405
defined in section 5709.30 of the Revised Code as that section 7406
existed before its repeal by Amended Substitute House Bill 95 of 7407
the 125th general assembly; 7408

(12) To lease for a period not to exceed forty years, 7409
notwithstanding any other division of this section, the 7410
state-owned property located at 408-450 East Town Street, 7411
Columbus, Ohio, formerly the state school for the deaf, to a 7412
developer in accordance with this section. "Developer," as used in 7413
this section, has the same meaning as in section 123.77 of the 7414
Revised Code. 7415

Such a lease shall be for the purpose of development of the 7416
land for use by senior citizens by constructing, altering, 7417
renovating, repairing, expanding, and improving the site as it 7418
existed on June 25, 1982. A developer desiring to lease the land 7419
shall prepare for submission to the department a plan for 7420
development. Plans shall include provisions for roads, sewers, 7421
water lines, waste disposal, water supply, and similar matters to 7422
meet the requirements of state and local laws. The plans shall 7423
also include provision for protection of the property by insurance 7424
or otherwise, and plans for financing the development, and shall 7425
set forth details of the developer's financial responsibility. 7426

The department may employ, as employees or consultants, 7427
persons needed to assist in reviewing the development plans. Those 7428
persons may include attorneys, financial experts, engineers, and 7429

other necessary experts. The department shall review the 7430
development plans and may enter into a lease if it finds all of 7431
the following: 7432

(a) The best interests of the state will be promoted by 7433
entering into a lease with the developer; 7434

(b) The development plans are satisfactory; 7435

(c) The developer has established the developer's financial 7436
responsibility and satisfactory plans for financing the 7437
development. 7438

The lease shall contain a provision that construction or 7439
renovation of the buildings, roads, structures, and other 7440
necessary facilities shall begin within one year after the date of 7441
the lease and shall proceed according to a schedule agreed to 7442
between the department and the developer or the lease will be 7443
terminated. The lease shall contain such conditions and 7444
stipulations as the director considers necessary to preserve the 7445
best interest of the state. Moneys received by the state pursuant 7446
to this lease shall be paid into the general revenue fund. The 7447
lease shall provide that at the end of the lease period the 7448
buildings, structures, and related improvements shall become the 7449
property of the state without cost. 7450

(13) To manage the use of space owned and controlled by the 7451
department, including space in property under the jurisdiction of 7452
the Ohio building authority, by doing all of the following: 7453

(a) Biennially implementing, by state agency location, a 7454
census of agency employees assigned space; 7455

(b) Periodically in the discretion of the director of 7456
administrative services: 7457

(i) Requiring each state agency to categorize the use of 7458
space allotted to the agency between office space, common areas, 7459

storage space, and other uses, and to report its findings to the 7460
department; 7461

(ii) Creating and updating a master space utilization plan 7462
for all space allotted to state agencies. The plan shall 7463
incorporate space utilization metrics. 7464

(iii) Conducting a cost-benefit analysis to determine the 7465
effectiveness of state-owned buildings; 7466

(iv) Assessing the alternatives associated with consolidating 7467
the commercial leases for buildings located in Columbus. 7468

(c) Commissioning a comprehensive space utilization and 7469
capacity study in order to determine the feasibility of 7470
consolidating existing commercially leased space used by state 7471
agencies into a new state-owned facility. 7472

(14) To adopt rules to ensure that energy efficiency and 7473
conservation is considered in the purchase of products and 7474
equipment, except motor vehicles, by any state agency, department, 7475
division, bureau, office, unit, board, commission, authority, 7476
quasi-governmental entity, or institution. The department may 7477
require minimum energy efficiency standards for purchased products 7478
and equipment based on federal testing and labeling if available 7479
or on standards developed by the department. When possible, the 7480
rules shall apply to the competitive selection of energy consuming 7481
systems, components, and equipment under Chapter 125. of the 7482
Revised Code. 7483

(15) To ensure energy efficient and energy conserving 7484
purchasing practices by doing all of the following: 7485

(a) Identifying available energy efficiency and conservation 7486
opportunities; 7487

(b) Providing for interchange of information among purchasing 7488
agencies; 7489

(c) Identifying laws, policies, rules, and procedures that should be modified;	7490 7491
(d) Monitoring experience with and the cost-effectiveness of this state's purchase and use of motor vehicles and of major energy-consuming systems, components, equipment, and products having a significant impact on energy consumption by the government;	7492 7493 7494 7495 7496
(e) Providing technical assistance and training to state employees involved in the purchasing process;	7497 7498
(f) Working with the department of development <u>services agency</u> to make recommendations regarding planning and implementation of purchasing policies and procedures that are supportive of energy efficiency and conservation.	7499 7500 7501 7502
(16) To require all state agencies, departments, divisions, bureaus, offices, units, commissions, boards, authorities, quasi-governmental entities, institutions, and state institutions of higher education to implement procedures to ensure that all of the passenger automobiles they acquire in each fiscal year, except for those passenger automobiles acquired for use in law enforcement or emergency rescue work, achieve a fleet average fuel economy of not less than the fleet average fuel economy for that fiscal year as the department shall prescribe by rule. The department shall adopt the rule prior to the beginning of the fiscal year, in accordance with the average fuel economy standards established by federal law for passenger automobiles manufactured during the model year that begins during the fiscal year.	7503 7504 7505 7506 7507 7508 7509 7510 7511 7512 7513 7514 7515
Each state agency, department, division, bureau, office, unit, commission, board, authority, quasi-governmental entity, institution, and state institution of higher education shall determine its fleet average fuel economy by dividing the total number of passenger vehicles acquired during the fiscal year,	7516 7517 7518 7519 7520

except for those passenger vehicles acquired for use in law 7521
enforcement or emergency rescue work, by a sum of terms, each of 7522
which is a fraction created by dividing the number of passenger 7523
vehicles of a given make, model, and year, except for passenger 7524
vehicles acquired for use in law enforcement or emergency rescue 7525
work, acquired during the fiscal year by the fuel economy measured 7526
by the administrator of the United States environmental protection 7527
agency, for the given make, model, and year of vehicle, that 7528
constitutes an average fuel economy for combined city and highway 7529
driving. 7530

As used in division (A)(16) of this section, "acquired" means 7531
leased for a period of sixty continuous days or more, or 7532
purchased. 7533

(B) This section and section 125.02 of the Revised Code shall 7534
not interfere with any of the following: 7535

(1) The power of the adjutant general to purchase military 7536
supplies, or with the custody of the adjutant general of property 7537
leased, purchased, or constructed by the state and used for 7538
military purposes, or with the functions of the adjutant general 7539
as director of state armories; 7540

(2) The power of the director of transportation in acquiring 7541
rights-of-way for the state highway system, or the leasing of 7542
lands for division or resident district offices, or the leasing of 7543
lands or buildings required in the maintenance operations of the 7544
department of transportation, or the purchase of real property for 7545
garage sites or division or resident district offices, or in 7546
preparing plans and specifications for and constructing such 7547
buildings as the director may require in the administration of the 7548
department; 7549

(3) The power of the director of public safety and the 7550
registrar of motor vehicles to purchase or lease real property and 7551

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

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

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

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

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

purchases or leases for, and the custody and repair of, office 7584
space used for the purposes of the joint legislative ethics 7585
committee are not subject to the control and jurisdiction of the 7586
department of administrative services. 7587

If the joint legislative ethics committee so requests, the 7588
committee and the director of administrative services may enter 7589
into a contract under which the department of administrative 7590
services agrees to perform any services requested by the committee 7591
that the department is authorized under this section to perform. 7592

(D) Unless the house of representatives notifies the 7593
department of administrative services that the house of 7594
representatives opts out, purchases for the maintenance, care, 7595
custodial care, utility costs, and repair of office space used by 7596
the house of representatives are subject to the control and 7597
jurisdiction of the department. If the house of representatives 7598
opts out, the house of representatives may enter into a contract 7599
for the purchase of any such services as is permitted under 7600
sections 125.02 and 125.04 of the Revised Code and the department 7601
shall pay the costs of the purchase and shall not charge the house 7602
of representatives service fees related to the purchase. 7603

(E) Any instrument by which real property is acquired 7604
pursuant to this section shall identify the agency of the state 7605
that has the use and benefit of the real property as specified in 7606
section 5301.012 of the Revised Code. 7607

Sec. 123.10. (A) As used in this section and section 123.11 7608
of the Revised Code, "public exigency" means an injury or 7609
obstruction that occurs in any public works of the state 7610
maintained by the director of administrative services and that 7611
materially impairs its immediate use or places in jeopardy 7612
property adjacent to it; an immediate danger of such an injury or 7613
obstruction; or an injury or obstruction, or an immediate danger 7614

of an injury or obstruction, that occurs in any public works of 7615
the state maintained by the director of administrative services 7616
and that materially impairs its immediate use or places in 7617
jeopardy property adjacent to it. 7618

(B) When a declaration of public exigency is issued pursuant 7619
to division (C) of this section, ~~the director of administrative~~ 7620
~~services may request~~ the Ohio facilities construction commission 7621
~~to~~ shall enter into contracts with proper persons for the 7622
performance of labor, the furnishing of materials, or the 7623
construction of any structures and buildings necessary to the 7624
maintenance, control, and management of the public works of the 7625
state or any part of those public works. Any contracts awarded for 7626
the work performed pursuant to the declaration of a public 7627
exigency may be awarded without competitive bidding or selection 7628
as set forth in Chapter 153. of the Revised Code. 7629

(C) The executive director of ~~administrative services~~ the 7630
Ohio facilities construction commission may issue a declaration of 7631
a public exigency on the executive director's own initiative or 7632
upon the request of the director of any state agency. The 7633
executive director's declaration shall identify the specific 7634
injury, obstruction, or danger that is the subject of the 7635
declaration and shall set forth a dollar limitation for the 7636
repair, removal, or prevention of that exigency under the 7637
declaration. 7638

Before any project to repair, remove, or prevent a public 7639
exigency under the executive director's declaration may begin, the 7640
executive director shall send notice of the project, in writing, 7641
to the director of budget and management and to the members of the 7642
controlling board. That notice shall detail the project to be 7643
undertaken to address the public exigency and shall include a copy 7644
of the executive director's declaration that establishes the 7645
monetary limitations on that project. 7646

Sec. 123.11. When a public exigency, as defined in division 7647
(A) of section 123.10 of the Revised Code, exists, the executive 7648
director of ~~administrative services~~ the Ohio facilities 7649
construction commission may take possession of lands and use them, 7650
or materials and other property necessary for the maintenance, 7651
protection, or repair of the public works, in accordance with 7652
sections 163.01 to 163.22 of the Revised Code. 7653

Sec. 123.19. There is hereby established in the state 7654
treasury the theater equipment maintenance fund. All appropriate 7655
theater-related revenues of the department of administrative 7656
services, as determined by the department, shall be credited to 7657
that fund and to any accounts created in that fund with the 7658
department's approval. All appropriate theater-related expenses of 7659
the department, as determined by the department, including 7660
reimbursement of, or payment to, any other fund or any 7661
governmental agency for advances made or services rendered to or 7662
on behalf of the department, shall be paid from that fund as 7663
determined by or pursuant to directions of the department. All 7664
investment earnings of that fund shall be credited to it and shall 7665
be allocated among any accounts created in the fund in the manner 7666
determined by the department. 7667

Sec. 123.201. (A) There is hereby created in the state 7668
treasury the Ohio facilities construction commission fund, 7669
consisting of transfers of moneys authorized by the general 7670
assembly and revenues received by the Ohio facilities construction 7671
commission under section 123.21 of the Revised Code. Investment 7672
earnings on moneys in the fund shall be credited to the fund. 7673
Moneys in the fund may be used by the commission, in performing 7674
its duties under this chapter, to pay personnel and other 7675
administrative expenses, to pay the cost of preparing building 7676

design specifications, to pay the cost of providing project 7677
management services, and for other purposes determined by the 7678
commission to be necessary to fulfill its duties under this 7679
chapter. 7680

(B)(1) There is hereby created in the state treasury the 7681
cultural and sports facilities building fund, consisting of 7682
proceeds of obligations authorized to pay costs of Ohio cultural 7683
facilities and Ohio sports facilities for which appropriations are 7684
made by the general assembly. All investment earnings of the fund 7685
shall be credited to the fund. 7686

(2) Upon the request of the executive director of the Ohio 7687
facilities construction commission and subject to applicable tax 7688
law limitations, the director of budget and management may 7689
transfer to the Ohio cultural facilities administration fund 7690
moneys credited to the cultural and sports facilities building 7691
fund to pay the costs of administering projects funded through the 7692
cultural and sports facilities building fund. 7693

(C) There is hereby created in the state treasury the Ohio 7694
cultural facilities administration fund, consisting of transfers 7695
of money authorized by the general assembly and revenues received 7696
by the commission under division (A)(9) of section 123.21 of the 7697
Revised Code. Moneys in the fund may be used by the Ohio 7698
facilities construction commission in administering projects 7699
funded through the cultural and sports facilities building fund 7700
pursuant to sections 123.28 and 128.281 of the Revised Code. All 7701
investment earnings of that fund shall be credited to it and shall 7702
be allocated among any accounts created in the fund in the manner 7703
determined by the commission. 7704

(D)(1) There is hereby created in the state treasury the 7705
capital donations fund, which shall be administered by the Ohio 7706
facilities construction commission. The fund consists of gifts, 7707

grants, devises, bequests, and other financial contributions made 7708
to the commission for the construction or improvement of cultural 7709
and sports facilities and shall be used in accordance with the 7710
specific purposes for which the gifts, grants, devises, bequests, 7711
or other financial contributions are made. All investment earnings 7712
of the fund shall be credited to the fund. Chapters 123., 125., 7713
127., and 153. and section 3517.13 of the Revised Code do not 7714
apply to contract obligations paid from the fund, notwithstanding 7715
anything to the contrary in those chapters or that section. 7716

(2) Not later than one month following the end of each 7717
quarter of the fiscal year, the commission shall allocate the 7718
amounts credited to the fund from investment earnings during that 7719
preceding quarter of the fiscal year among the specific projects 7720
for which they are to be used and shall certify this information 7721
to the director of budget and management. 7722

(3) If the amounts credited to the fund for a particular 7723
project exceed what is required to complete that project, the 7724
commission may refund any of those excess amounts, including 7725
unexpended investment earnings attributable to those amounts, to 7726
the entity from which they were received. 7727

Sec. 123.21. (A) The Ohio facilities construction commission 7728
may perform any act and ensure the performance of any function 7729
necessary or appropriate to carry out the purposes of, and 7730
exercise the powers granted under this chapter or any other 7731
provision of the Revised Code, including any of the following: 7732

(1) Prepare, or contract to be prepared, by licensed 7733
engineers or architects, surveys, general and detailed plans, 7734
specifications, bills of materials, and estimates of cost for any 7735
projects, improvements, or public buildings to be constructed by 7736
state agencies that may be authorized by legislative 7737
appropriations or any other funds made available therefor, 7738

provided that the construction of the projects, improvements, or 7739
public buildings is a statutory duty of the commission. This 7740
section does not require the independent employment of an 7741
architect or engineer as provided by section 153.01 of the Revised 7742
Code in the cases to which section 153.01 of the Revised Code 7743
applies. This section does not affect or alter the existing powers 7744
of the director of transportation. 7745

(2) Have general supervision over the construction of any 7746
projects, improvements, or public buildings constructed for a 7747
state agency and over the inspection of materials prior to their 7748
incorporation into those projects, improvements, or buildings. 7749

(3) Make contracts for and supervise the design and 7750
construction of any projects and improvements or the construction 7751
and repair of buildings under the control of a state agency. All 7752
such contracts may be based in whole or in part on the unit price 7753
or maximum estimated cost, with payment computed and made upon 7754
actual quantities or units. 7755

(4) Adopt, amend, and rescind rules pertaining to the 7756
administration of the construction of the public works of the 7757
state as required by law, in accordance with Chapter 119. of the 7758
Revised Code. 7759

(5) Contract with, retain the services of, or designate, and 7760
fix the compensation of, such agents, accountants, consultants, 7761
advisers, and other independent contractors as may be necessary or 7762
desirable to carry out the programs authorized under this chapter, 7763
or authorize the executive director to perform such powers and 7764
duties. 7765

(6) Receive and accept any gifts, grants, donations, and 7766
pledges, and receipts therefrom, to be used for the programs 7767
authorized under this chapter. 7768

(7) Make and enter into all contracts, commitments, and 7769

agreements, and execute all instruments, necessary or incidental 7770
to the performance of its duties and the execution of its rights 7771
and powers under this chapter, or authorize the executive director 7772
to perform such powers and duties. 7773

(8) Debar a contractor as provided in section 153.02 of the 7774
Revised Code. 7775

(9) Enter into and administer cooperative agreements for 7776
cultural projects, as provided in sections 123.28 and 123.281 of 7777
the Revised Code. 7778

(B) The commission shall appoint and fix the compensation of 7779
an executive director who shall serve at the pleasure of the 7780
commission. The executive director shall exercise all powers that 7781
the commission possesses, supervise the operations of the 7782
commission, and perform such other duties as delegated by the 7783
commission. The executive director also shall employ and fix the 7784
compensation of such employees as will facilitate the activities 7785
and purposes of the commission, who shall serve at the pleasure of 7786
the executive director. The employees of the commission are exempt 7787
from Chapter 4117. of the Revised Code and are not considered 7788
public employees as defined in section 4117.01 of the Revised 7789
Code. Any agreement entered into prior to July 1, 2012, between 7790
the office of collective bargaining and the exclusive 7791
representative for employees of the commission is binding and 7792
shall continue to have effect. 7793

(C) The attorney general shall serve as the legal 7794
representative for the commission and may appoint other counsel as 7795
necessary for that purpose in accordance with section 109.07 of 7796
the Revised Code. 7797

Sec. 123.27. (A) As used in this section: 7798

"Capital facilities project" means the construction, 7799

reconstruction, improvement, enlargement, alteration, or repair of a building by a public entity. 7800
7801

"Public entity" includes a state agency and a state institution of higher education. 7802
7803

"State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code. 7804
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(B) Commencing not later than July 1, 2012, and upon completion of a capital facilities project that is funded wholly or in part using state funds, each public entity shall submit a report about the project to the executive director of the Ohio facilities construction commission. The report shall be submitted in Ohio administrative knowledge system capital improvement format or in a manner determined by the executive director and not later than thirty days after the project is complete. The report shall provide the total original contract bid, total cost of change orders, total actual cost of the project, total costs incurred for mediation and litigation services, and any other data requested by the executive director. The first report submitted pursuant to this division shall include information about any capital facilities project completed on or after July 1, 2011. Any capital facilities project that is funded wholly or in part through appropriations made to the Ohio school facilities commission, or the Ohio public works commission, ~~or the Ohio cultural facilities commission,~~ or for which a joint use agreement has been entered into with any public entity, is exempt from the reporting requirement prescribed under this division. 7806
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(C) Commencing not later than July 1, 2012, and annually thereafter, the attorney general shall report to the executive director of the Ohio facilities construction commission on any mediation and litigation costs associated with capital facilities projects for which a judgment has been rendered. The report shall be submitted in a manner prescribed by the executive director and 7826
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shall contain any information requested by the executive director 7832
related to capital facilities project mediation and litigation 7833
costs. 7834

(D) As soon as practicable after such information is made 7835
available, the executive director of the Ohio facilities 7836
construction commission shall incorporate the information reported 7837
pursuant to divisions (B) and (C) of this section into the Ohio 7838
administrative knowledge system. 7839

Sec. ~~3383.01~~ 123.28. As used in this ~~chapter~~ section and in 7840
section 123.281 of the Revised Code: 7841

(A) "Culture" means any of the following: 7842

(1) Visual, musical, dramatic, graphic, design, and other 7843
arts, including, but not limited to, architecture, dance, 7844
literature, motion pictures, music, painting, photography, 7845
sculpture, and theater, and the provision of training or education 7846
in these arts; 7847

(2) The presentation or making available, in museums or other 7848
indoor or outdoor facilities, of principles of science and their 7849
development, use, or application in business, industry, or 7850
commerce or of the history, heritage, development, presentation, 7851
and uses of the arts described in division (A)(1) of this section 7852
and of transportation; 7853

(3) The preservation, presentation, or making available of 7854
features of archaeological, architectural, environmental, or 7855
historical interest or significance in a state historical facility 7856
or a local historical facility. 7857

(B) "Cultural organization" means either of the following: 7858

(1) A governmental agency or Ohio nonprofit corporation, 7859
including the Ohio historical society, that provides programs or 7860
activities in areas directly concerned with culture; 7861

(2) A regional arts and cultural district as defined in 7862
section 3381.01 of the Revised Code. 7863

(C) "Cultural project" means all or any portion of an Ohio 7864
cultural facility for which the general assembly has ~~specifically~~ 7865
~~authorized the spending of money, or made an appropriation,~~ 7866
~~pursuant to division (D)(3) or (E) of section 3383.07 of the~~ 7867
~~Revised Code~~ or has specifically authorized the spending of money 7868
or the making of rental payments relating to the financing of 7869
construction. 7870

(D) "Cooperative contract" means a contract between the Ohio 7871
~~cultural~~ facilities construction commission and a cultural 7872
organization providing the terms and conditions of the cooperative 7873
use of an Ohio cultural facility. 7874

(E) "Costs of operation" means amounts required to manage an 7875
Ohio cultural facility that are incurred following the completion 7876
of construction of its cultural project, provided that both of the 7877
following apply: 7878

(1) Those amounts either: 7879

(a) Have been committed to a fund dedicated to that purpose; 7880

(b) Equal the principal of any endowment fund, the income 7881
from which is dedicated to that purpose. 7882

(2) The commission and the cultural organization have 7883
executed an agreement with respect to either of those funds. 7884

(F) ~~"General building services" means general building~~ 7885
~~services for an Ohio cultural facility or an Ohio sports facility,~~ 7886
~~including, but not limited to, general custodial care, security,~~ 7887
~~maintenance, repair, painting, decoration, cleaning, utilities,~~ 7888
~~fire safety, grounds and site maintenance and upkeep, and~~ 7889
~~plumbing.~~ 7890

(G) "Governmental agency" means ~~a state agency, a~~ 7891

~~state supported or state assisted institution of higher education,~~ 7892
a municipal corporation, county, township, or school district, a 7893
port authority created under Chapter 4582. of the Revised Code, 7894
any other political subdivision or special district in this state 7895
established by or pursuant to law, or any combination of these 7896
entities; except where otherwise indicated, the United States or 7897
any department, division, or agency of the United States, or any 7898
agency, commission, or authority established pursuant to an 7899
interstate compact or agreement. 7900

~~(H)~~(G) "Local contributions" means the value of an asset 7901
provided by or on behalf of a cultural organization from sources 7902
other than the state, the value and nature of which shall be 7903
approved by the Ohio ~~cultural~~ facilities construction commission, 7904
in its sole discretion. "Local contributions" may include the 7905
value of the site where a cultural project is to be constructed. 7906
All "local contributions," except a contribution attributable to 7907
such a site, shall be for the costs of construction of a cultural 7908
project or the creation or expansion of an endowment for the costs 7909
of operation of a cultural facility. 7910

~~(I)~~(H) "Local historical facility" means a site or facility, 7911
other than a state historical facility, of archaeological, 7912
architectural, environmental, or historical interest or 7913
significance, or a facility, including a storage facility, 7914
appurtenant to the operations of such a site or facility, that is 7915
owned by a cultural organization, ~~provided the facility meets the~~ 7916
~~requirements of division (K)(2)(b) of this section, is managed by~~ 7917
~~or pursuant to a contract with the Ohio cultural facilities~~ 7918
~~commission,~~ and is used for or in connection with the cultural 7919
activities ~~of the commission,~~ including the presentation or making 7920
available of culture to the public. 7921

~~(J)~~(I) "Manage," "operate," or "management" means the 7922
provision of, or the exercise of control over the provision of, 7923

activities: 7924

(1) Relating to culture for an Ohio cultural facility, 7925
including as applicable, but not limited to, providing for 7926
displays, exhibitions, specimens, and models; booking of artists, 7927
performances, or presentations; scheduling; and hiring or 7928
contracting for directors, curators, technical and scientific 7929
staff, ushers, stage managers, and others directly related to the 7930
cultural activities in the facility; but not including general 7931
building services; 7932

(2) Relating to sports and athletic events for an Ohio sports 7933
facility, including as applicable, but not limited to, providing 7934
for booking of athletes, teams, and events; scheduling; and hiring 7935
or contracting for staff, ushers, managers, and others directly 7936
related to the sports and athletic events in the facility; but not 7937
including general building services. 7938

~~(K)~~(J) "Ohio cultural facility" means any of the following: 7939

(1) The theaters located in the state office tower at 77 7940
South High street in Columbus; 7941

(2) Any ~~capital~~ cultural facility in this state ~~to which both~~ 7942
~~of the following apply:~~ 7943

~~(a) The construction of a cultural project related to the 7944
facility was authorized or funded by the general assembly pursuant 7945
to division (D)(3) of section 3383.07 of the Revised Code and 7946
proceeds of state bonds are used for costs of the cultural 7947
project. 7948~~

~~(b) The facility that is managed directly by, or is subject 7949
to a cooperative or management contract with, the Ohio ~~cultural~~ 7950
facilities construction commission, ~~and is used for or in~~ 7951
~~connection with the activities of the commission, including the~~ 7952
~~presentation or making available of culture to the public and the~~ 7953
~~provision of training or education in culture. 7954~~~~

(3) A state historical facility or a local historical facility. 7955
7956

~~(L) "State agency" means the state or any of its branches, officers, boards, commissions, authorities, departments, divisions, or other units or agencies.~~ 7957
7958
7959

~~(M)~~(K) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements, and related equipping and furnishing. 7960
7961
7962
7963

~~(N)~~(L) "State historical facility" means a site or facility that has all of the following characteristics: 7964
7965

(1) It is created, supervised, operated, protected, maintained, and promoted by the Ohio historical society pursuant to the society's performance of public functions under sections 149.30 and 149.302 of the Revised Code. 7966
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(2) Its title must reside wholly or in part with the state, the society, or both the state and the society. 7970
7971

(3) It is managed directly by or is subject to a cooperative or management contract with the Ohio ~~cultural~~ facilities construction commission and is used for or in connection with ~~the~~ cultural activities ~~of the commission~~, including the presentation or making available of culture to the public. 7972
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~~(O)~~(M) "Ohio sports facility" means all or a portion of a stadium, arena, tennis facility, motorsports complex, or other capital facility in this state. A primary purpose of the facility shall be to provide a site or venue for the presentation to the public of motorsports events, professional tennis tournaments, or events of one or more major or minor league professional athletic or sports teams that are associated with the state or with a city or region of the state. The facility shall be, in the case of a motorsports complex, owned by the state or governmental agency, or 7977
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in all other instances, owned by or located on real property owned 7986
by the state or a governmental agency, and includes all parking 7987
facilities, walkways, and other auxiliary facilities, equipment, 7988
furnishings, and real and personal property and interests and 7989
rights therein, that may be appropriate for or used for or in 7990
connection with the facility or its operation, for capital costs 7991
of which state funds are spent pursuant to ~~this chapter~~ this 7992
section and section 123.281 of the Revised Code. A facility 7993
constructed as an Ohio sports facility may be both an Ohio 7994
cultural facility and an Ohio sports facility. 7995

~~(P)~~(N) "Motorsports" means sporting events in which motor 7996
vehicles are driven on a clearly demarcated tracked surface. 7997

~~Sec. 3383.07~~ 123.281. (A) The Ohio facilities construction 7998
commission shall provide for the construction of a cultural 7999
project in conformity with Chapter 153. of the Revised Code, 8000
except as follows: 8001

~~(1) For a cultural project other than a state historical~~ 8002
~~facility, construction services may be provided on behalf of the~~ 8003
~~state by the Ohio cultural facilities commission, or by for~~ 8004
construction services provided on behalf of the state by a 8005
governmental agency or a cultural organization in accordance with 8006
divisions (B) and (C) of this section. 8007

(B) In order for a governmental agency or a cultural 8008
~~organization that occupies, will occupy, or is responsible for the~~ 8009
~~Ohio cultural facility, as determined by the Ohio cultural~~ 8010
~~facilities commission. For a project receiving a state~~ 8011
~~appropriation of fifty thousand dollars or less, the Ohio cultural~~ 8012
~~facilities commission may delegate to its executive director the~~ 8013
~~authority to approve the provision of construction services by~~ 8014
~~such an agency or organization, but not the authority to~~ 8015
~~disapprove that provision. Construction services to be provided by~~ 8016

~~a governmental agency or a cultural organization shall be 8017
specified in an agreement between the Ohio cultural facilities 8018
commission and the governmental agency or cultural organization. 8019
The agreement, or any actions taken under it, are not subject to 8020
Chapter 123. or 153. of the Revised Code, except for sections 8021
123.081 and 153.011 of the Revised Code, and shall be subject to 8022
Chapter 4115. of the Revised Code. 8023~~

~~(2) For a cultural project that is to provide construction 8024
services on behalf of the state for a cultural project, other than 8025
a state historical facility, for which the general assembly has 8026
made an appropriation or specifically authorized the spending of 8027
money or the making of rental payments relating to the financing 8028
of the construction, the governmental agency or cultural 8029
organization shall submit to the Ohio facilities construction 8030
commission a cooperative agreement that includes, but is not 8031
limited to, provisions that: 8032~~

~~(1) Specify how the proposed project will support culture, as 8033
defined in section 123.28 of the Revised Code; 8034~~

~~(2) Specify that the governmental agency or cultural 8035
organization has local contributions amounting to not less than 8036
fifty per cent of the total state funding for the cultural 8037
project; 8038~~

~~(3) Specify that the funds shall be used only for 8039
construction, as defined in section 123.28 of the Revised Code; 8040~~

~~(4) Identify the facility to be constructed, renovated, 8041
remodeled, or improved; 8042~~

~~(5) Specify that the project scope meets the intent and 8043
purpose of the project appropriation and that the project can be 8044
completed and ready for full occupancy without exceeding 8045
appropriated funds; 8046~~

~~(6) Specify that the governmental agency or cultural 8047~~

organization shall hold the Ohio facilities construction 8048
commission harmless from all liability for the operation and 8049
maintenance costs of the facility; 8050

(7) Specify that the agreement or any actions taken under it 8051
are not subject to Chapters 123. or 153. of the Revised Code, 8052
except for section 153.011 of the Revised Code, and are subject to 8053
Chapter 4115. of the Revised Code; and 8054

(8) Provide that amendments to the agreement shall require 8055
the approval of the Ohio facilities construction commission. 8056

(C) In order for a cultural organization to provide 8057
construction services on behalf of the state for a state 8058
historical facility, construction services may be provided by the 8059
Ohio cultural facilities commission or by a cultural organization 8060
that occupies, will occupy, or is responsible for the facility, as 8061
determined by the Ohio cultural facilities commission. For a 8062
facility receiving a state appropriation of fifty thousand dollars 8063
or less, the Ohio cultural facilities commission may delegate to 8064
its executive director the authority to approve the provision of 8065
construction services by such an organization, but not the 8066
authority to disapprove that provision. The construction services 8067
to be provided by the cultural organization shall be specified in 8068
an agreement between the Ohio cultural facilities commission and 8069
the cultural organization. That agreement, and any actions taken 8070
under it, are not subject to Chapter 123., 153., or 4115. of the 8071
Revised Code. 8072

(B) For an Ohio sports facility that is financed in part by 8073
obligations issued pursuant to Chapter 154. of the Revised Code, 8074
construction services shall be provided on behalf of the state by 8075
or at the direction of the governmental agency or nonprofit 8076
corporation that will own or be responsible for the management of 8077
the facility, all as determined by the Ohio cultural facilities 8078
commission. For a facility receiving a state appropriation of 8079

~~fifty thousand dollars or less, the Ohio cultural facilities 8080
commission may delegate to its executive director the authority to 8081
approve the provision of construction services by or at the 8082
direction of the agency or corporation, but not the authority to 8083
disapprove that provision. Any construction services to be 8084
provided by a governmental agency or nonprofit corporation shall 8085
be specified in an agreement between the Ohio cultural facilities 8086
commission and the governmental agency or nonprofit corporation. 8087
That agreement, and any actions taken under it, are not subject to 8088
Chapter 123. or 153. of the Revised Code, except for sections 8089
123.081 and 153.011 of the Revised Code, and shall be subject to 8090
Chapter 4115. of the Revised Code. 8091~~

~~(C) General building services for an Ohio cultural facility 8092
shall be provided by the Ohio cultural facilities commission or by 8093
a cultural organization that occupies, will occupy, or is 8094
responsible for the facility, as determined by the Ohio cultural 8095
facilities commission. For a facility receiving a state 8096
appropriation of fifty thousand dollars or less, the Ohio cultural 8097
facilities commission may delegate to its executive director the 8098
authority to approve the provision of general building services by 8099
such an organization, but not the authority to disapprove that 8100
provision. Alternatively, the Ohio building authority may elect to 8101
provide those services for Ohio cultural facilities financed with 8102
proceeds of state bonds issued by the authority. The costs of 8103
management and general building services shall be paid by the 8104
cultural organization that occupies, will occupy, or is 8105
responsible for the facility as provided in an agreement between 8106
the Ohio cultural facilities commission and the cultural 8107
organization, except that the state may pay for general building 8108
services for state owned cultural facilities constructed on 8109
state owned land. 8110~~

~~General building services for an Ohio sports facility shall 8111~~

~~be provided by or at the direction of the governmental agency or 8112
nonprofit corporation that will be responsible for the management 8113
of the facility, all as determined by the Ohio cultural facilities 8114
commission. For a facility receiving a state appropriation of 8115
fifty thousand dollars or less, the Ohio cultural facilities 8116
commission may delegate to its executive director the authority to 8117
approve the provision of general building services by or at the 8118
direction of the agency or corporation, but not the authority to 8119
disapprove that provision. Any general building services to be 8120
provided by a governmental agency or nonprofit corporation for an 8121
Ohio sports facility shall be specified in an agreement between 8122
the Ohio cultural facilities commission and the governmental 8123
agency or nonprofit corporation. That agreement, and any actions 8124
taken under it, are not subject to Chapter 123. or 153. of the 8125
Revised Code, except for sections 123.081 and 153.011 of the 8126
Revised Code, and shall be subject to Chapter 4115. of the Revised 8127
Code. 8128~~

~~(D) This division does not apply to a state historical 8129
facility. No state funds, including any state bond proceeds, shall 8130
be spent on the construction of any cultural project under this 8131
chapter unless, with respect to the cultural project and to the 8132
Ohio cultural facility related to the project, all of the 8133
following apply: 8134~~

~~(1) The Ohio cultural facilities commission has determined 8135
that there is a need for the cultural project and the Ohio 8136
cultural facility related to the project in the region of the 8137
state in which the Ohio cultural facility is located or for which 8138
the facility is proposed. For a project receiving a state 8139
appropriation of fifty thousand dollars or less, the Ohio cultural 8140
facilities commission may delegate to its executive director the 8141
authority to determine need but only in the affirmative. 8142~~

~~(2) The Ohio cultural facilities commission has determined 8143~~

~~that, as an indication of substantial regional support for the cultural project, the cultural organization has made provision satisfactory to the Ohio cultural facilities commission, in its sole discretion, for local contributions amounting to not less than fifty per cent of the total state funding for the cultural project. For a project receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine the adequacy of the regional support but only in the affirmative.~~

~~(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the cultural project, or for rental payments relating to the financing of the construction of the cultural project. Authorization to spend money, or an appropriation, for planning the cultural project does not constitute authorization to spend money on, or an appropriation for, construction of the cultural project.~~

~~(E) No state funds, including any state bond proceeds, shall be spent on the construction of any state historical facility under this chapter unless the general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the state historical project related to the facility, or for rental payments relating to the financing of the construction of the state historical project. Authorization to spend money, or an appropriation, for planning the state historical project does not constitute authorization to spend money on, or an appropriation for, the construction of the state historical project.~~

~~(F) for which the general assembly has made an appropriation or specifically authorized the spending of money or the making of rental payments relating to the financing of the construction, the cultural organization shall submit to the Ohio facilities~~

construction commission a cooperative agreement that includes, but 8176
is not limited to, provisions that: 8177

(1) Specify how the proposed project will support culture, as 8178
defined in section 123.28 of the Revised Code; 8179

(2) Specify that the funds shall be used only for 8180
construction, as defined in section 123.28 of the Revised Code; 8181

(3) Identify the facility to be constructed, renovated, 8182
remodeled, or improved; 8183

(4) Specify that the project scope meets the intent and 8184
purpose of the project appropriation and that the project can be 8185
completed and ready for full occupancy without exceeding 8186
appropriated funds; 8187

(5) Specify that the cultural organization shall hold the 8188
Ohio facilities construction commission harmless from all 8189
liability for the operation and maintenance costs of the facility; 8190

(6) Specify that the agreement or any actions taken under it 8191
are not subject to Chapters 123., 153., or 4115. of the Revised 8192
Code; and 8193

(7) Provide that amendments to the agreement shall require 8194
the approval of the Ohio facilities construction commission. 8195

(D) State funds shall not be used to pay or reimburse more 8196
than fifteen per cent of the initial estimated construction cost 8197
of an Ohio sports facility, excluding any site acquisition cost, 8198
and no state funds, including any state bond proceeds, shall be 8199
spent on any Ohio sports facility under this chapter unless, with 8200
respect to that facility, all of the following apply: 8201

(1) The Ohio ~~cultural~~ facilities construction commission has 8202
determined that there is a need for the facility in the region of 8203
the state for which the facility is proposed to provide the 8204
function of an Ohio sports facility as provided for in this 8205

~~chapter. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine need but only in the affirmative.~~

~~(2) As an indication of substantial local support for the facility, the Ohio cultural facilities commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the Ohio cultural facilities commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to evaluate the financial and development plan and the contribution and to determine their adequacy but only in the affirmative.~~

~~(3)(2) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.~~

~~(4)(3) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and athletic events to the~~

public at the facility. 8238

~~(G)~~(E) In addition to the requirements of division ~~(F)~~(D) of 8239
this section, no state funds, including any state bond proceeds, 8240
shall be spent on any Ohio sports facility that is a motorsports 8241
complex, unless, with respect to that facility, both of the 8242
following apply: 8243

(1) Motorsports events shall be presented at the facility 8244
pursuant to a lease entered into with the owner of the facility. 8245
The term of the lease shall be for a period of not less than the 8246
greater of the useful life of the portion of the facility financed 8247
from proceeds of state bonds as determined using the guidelines 8248
for maximum maturities as provided under divisions (B) and (C) of 8249
section 133.20 of the Revised Code, or the period of time 8250
remaining to the date of payment or provision for payment of 8251
outstanding state bonds allocable to costs of the facility, all as 8252
determined by the director of budget and management and certified 8253
by the executive director ~~to~~ of the Ohio ~~cultural~~ facilities 8254
construction commission and to the treasurer of state. 8255

(2) Any motorsports organization that commits to using the 8256
facility for an established period of time shall give the 8257
political subdivision in which the facility is located not less 8258
than six months' advance notice if the organization intends to 8259
cease utilizing the facility prior to the expiration of that 8260
established period. Such a motorsports organization shall be 8261
liable to the state for any state funds used on the construction 8262
costs of the facility. 8263

~~(H)~~(F) In addition to the requirements of division ~~(F)~~(D) of 8264
this section, no state bond proceeds shall be spent on any Ohio 8265
sports facility that is a tennis facility, unless the owner or 8266
manager of the facility provides contractual commitments from a 8267
national or international professional tennis organization in a 8268
form acceptable to the ~~cultural~~ Ohio facilities construction 8269

commission that assures that one or more sanctioned professional 8270
tennis events will be presented at the facility during each year 8271
that the bonds remain outstanding. 8272

Sec. 124.11. The civil service of the state and the several 8273
counties, cities, civil service townships, city health districts, 8274
general health districts, and city school districts of the state 8275
shall be divided into the unclassified service and the classified 8276
service. 8277

(A) The unclassified service shall comprise the following 8278
positions, which shall not be included in the classified service, 8279
and which shall be exempt from all examinations required by this 8280
chapter: 8281

(1) All officers elected by popular vote or persons appointed 8282
to fill vacancies in those offices; 8283

(2) All election officers as defined in section 3501.01 of 8284
the Revised Code; 8285

(3)(a) The members of all boards and commissions, and heads 8286
of principal departments, boards, and commissions appointed by the 8287
governor or by and with the governor's consent; 8288

(b) The heads of all departments appointed by a board of 8289
county commissioners; 8290

(c) The members of all boards and commissions and all heads 8291
of departments appointed by the mayor, or, if there is no mayor, 8292
such other similar chief appointing authority of any city or city 8293
school district; 8294

Except as otherwise provided in division (A)(17) or (C) of 8295
this section, this chapter does not exempt the chiefs of police 8296
departments and chiefs of fire departments of cities or civil 8297
service townships from the competitive classified service. 8298

(4) The members of county or district licensing boards or 8299

commissions and boards of revision, and not more than five deputy 8300
county auditors; 8301

(5) All officers and employees elected or appointed by either 8302
or both branches of the general assembly, and employees of the 8303
city legislative authority engaged in legislative duties; 8304

(6) All commissioned, warrant, and noncommissioned officers 8305
and enlisted persons in the Ohio organized militia, including 8306
military appointees in the adjutant general's department; 8307

(7)(a) All presidents, business managers, administrative 8308
officers, superintendents, assistant superintendents, principals, 8309
deans, assistant deans, instructors, teachers, and such employees 8310
as are engaged in educational or research duties connected with 8311
the public school system, colleges, and universities, as 8312
determined by the governing body of the public school system, 8313
colleges, and universities; 8314

(b) The library staff of any library in the state supported 8315
wholly or in part at public expense. 8316

(8) Four clerical and administrative support employees for 8317
each of the elective state officers, four clerical and 8318
administrative support employees for each board of county 8319
commissioners and one such employee for each county commissioner, 8320
and four clerical and administrative support employees for other 8321
elective officers and each of the principal appointive executive 8322
officers, boards, or commissions, except for civil service 8323
commissions, that are authorized to appoint such clerical and 8324
administrative support employees; 8325

(9) The deputies and assistants of state agencies authorized 8326
to act for and on behalf of the agency, or holding a fiduciary or 8327
administrative relation to that agency and those persons employed 8328
by and directly responsible to elected county officials or a 8329
county administrator and holding a fiduciary or administrative 8330

relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department of job and family services created pursuant to Chapter 329. of the Revised Code.

(10) Bailiffs, constables, official stenographers, and commissioners of courts of record, deputies of clerks of the courts of common pleas who supervise or who handle public moneys or secured documents, and such officers and employees of courts of record and such deputies of clerks of the courts of common pleas as the appointing authority finds it impracticable to determine their fitness by competitive examination;

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

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

(13) Any physician or dentist who is a full-time employee of 8363
the department of ~~mental health~~ mental health and addiction 8364
services, the department of developmental disabilities, or an 8365
institution under the jurisdiction of either department; and 8366
physicians who are in residency programs at the institutions; 8367

(14) Up to twenty positions at each institution under the 8368
jurisdiction of the department of ~~mental health~~ mental health and 8369
addiction services or the department of developmental disabilities 8370
that the department director determines to be primarily 8371
administrative or managerial; and up to fifteen positions in any 8372
division of either department, excluding administrative assistants 8373
to the director and division chiefs, which are within the 8374
immediate staff of a division chief and which the director 8375
determines to be primarily and distinctively administrative and 8376
managerial; 8377

(15) Noncitizens of the United States employed by the state, 8378
or its counties or cities, as physicians or nurses who are duly 8379
licensed to practice their respective professions under the laws 8380
of this state, or medical assistants, in mental or chronic disease 8381
hospitals, or institutions; 8382

(16) Employees of the governor's office; 8383

(17) Fire chiefs and chiefs of police in civil service 8384
townships appointed by boards of township trustees under section 8385
505.38 or 505.49 of the Revised Code; 8386

(18) Executive directors, deputy directors, and program 8387
directors employed by boards of alcohol, drug addiction, and 8388
mental health services under Chapter 340. of the Revised Code, and 8389
secretaries of the executive directors, deputy directors, and 8390
program directors; 8391

(19) Superintendents, and management employees as defined in 8392
section 5126.20 of the Revised Code, of county boards of 8393

developmental disabilities;	8394
(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;	8395 8396 8397
(21) The executive director of the state medical board, who is appointed pursuant to division (B) of section 4731.05 of the Revised Code;	8398 8399 8400
(22) County directors of job and family services as provided in section 329.02 of the Revised Code and administrators appointed under section 329.021 of the Revised Code;	8401 8402 8403
(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;	8404 8405
(24) Chiefs of construction and compliance, of operations and maintenance, of worker protection, and of licensing and certification in the division of industrial compliance in the department of commerce;	8406 8407 8408 8409
(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;	8410 8411 8412
(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay	8413 8414 8415 8416 8417 8418 8419 8420 8421 8422 8423 8424

range 44 47 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.

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

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

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

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

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

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

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or

(C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

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

(2) The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class for positions in service of the state shall be filled by appointment from lists of applicants registered by the director or the director's designee. Vacancies in the labor class for all other positions shall be filled by appointment from lists of applicants registered by a commission. The director or the commission, as applicable, by rule, shall require an applicant for registration in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which

application is made. Laborers who fulfill the requirements shall 8488
be placed on the eligible list for the kind of labor or employment 8489
sought, and preference shall be given in employment in accordance 8490
with the rating received from that evidence or in those tests. 8491
Upon the request of an appointing officer, stating the kind of 8492
labor needed, the pay and probable length of employment, and the 8493
number to be employed, the director or commission, as applicable, 8494
shall certify from the highest on the list double the number to be 8495
employed; from this number, the appointing officer shall appoint 8496
the number actually needed for the particular work. If more than 8497
one applicant receives the same rating, priority in time of 8498
application shall determine the order in which their names shall 8499
be certified for appointment. 8500

(C) A municipal or civil service township civil service 8501
commission may place volunteer firefighters who are paid on a 8502
fee-for-service basis in either the classified or the unclassified 8503
civil service. 8504

(D)(1) This division does not apply to persons in the 8505
unclassified service who have the right to resume positions in the 8506
classified service under sections 4121.121, ~~5119.071~~ 5119.18, 8507
5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the 8508
Revised Code or to cities, counties, or political subdivisions of 8509
the state. 8510

(2) A person who holds a position in the classified service 8511
of the state and who is appointed to a position in the 8512
unclassified service shall retain the right to resume the position 8513
and status held by the person in the classified service 8514
immediately prior to the person's appointment to the position in 8515
the unclassified service, regardless of the number of positions 8516
the person held in the unclassified service. An employee's right 8517
to resume a position in the classified service may only be 8518
exercised when an appointing authority demotes the employee to a 8519

pay range lower than the employee's current pay range or revokes 8520
the employee's appointment to the unclassified service and: 8521

(a) That person held a certified position prior to July 1, 8522
2007, in the classified service within the appointing authority's 8523
agency; or 8524

(b) That person held a permanent position on or after July 1, 8525
2007, in the classified service within the appointing authority's 8526
agency. 8527

(3) An employee forfeits the right to resume a position in 8528
the classified service when: 8529

(a) The employee is removed from the position in the 8530
unclassified service due to incompetence, inefficiency, 8531
dishonesty, drunkenness, immoral conduct, insubordination, 8532
discourteous treatment of the public, neglect of duty, violation 8533
of this chapter or the rules of the director of administrative 8534
services, any other failure of good behavior, any other acts of 8535
misfeasance, malfeasance, or nonfeasance in office, or conviction 8536
of a felony; or 8537

(b) Upon transfer to a different agency. 8538

(4) Reinstatement to a position in the classified service 8539
shall be to a position substantially equal to that position in the 8540
classified service held previously, as certified by the director 8541
of administrative services. If the position the person previously 8542
held in the classified service has been placed in the unclassified 8543
service or is otherwise unavailable, the person shall be appointed 8544
to a position in the classified service within the appointing 8545
authority's agency that the director of administrative services 8546
certifies is comparable in compensation to the position the person 8547
previously held in the classified service. Service in the position 8548
in the unclassified service shall be counted as service in the 8549
position in the classified service held by the person immediately 8550

prior to the person's appointment to the position in the 8551
unclassified service. When a person is reinstated to a position in 8552
the classified service as provided in this division, the person is 8553
entitled to all rights, status, and benefits accruing to the 8554
position in the classified service during the person's time of 8555
service in the position in the unclassified service. 8556

Sec. 124.14. (A)(1) The director of administrative services 8557
shall establish, and may modify or rescind, by rule, a job 8558
classification plan for all positions, offices, and employments 8559
~~the salaries of which are paid in whole or in part by~~ in the 8560
service of the state. The director shall group jobs within a 8561
classification so that the positions are similar enough in duties 8562
and responsibilities to be described by the same title, to have 8563
the same pay assigned with equity, and to have the same 8564
qualifications for selection applied. The director shall, by rule, 8565
assign a classification title to each classification within the 8566
classification plan. However, the director shall consider in 8567
establishing classifications, including classifications with 8568
parenthetical titles, and assigning pay ranges such factors as 8569
duties performed only on one shift, special skills in short supply 8570
in the labor market, recruitment problems, separation rates, 8571
comparative salary rates, the amount of training required, and 8572
other conditions affecting employment. The director shall describe 8573
the duties and responsibilities of the class, establish the 8574
qualifications for being employed in each position in the class, 8575
and file with the secretary of state a copy of specifications for 8576
all of the classifications. The director shall file new, 8577
additional, or revised specifications with the secretary of state 8578
before they are used. 8579

The director shall, by rule, assign each classification, 8580
either on a statewide basis or in particular counties or state 8581
institutions, to a pay range established under section 124.15 or 8582

section 124.152 of the Revised Code. The director may assign a 8583
classification to a pay range on a temporary basis for a period of 8584
six months. The director may establish, by rule adopted under 8585
Chapter 119. of the Revised Code, experimental classification 8586
plans for some or all employees paid directly by warrant of the 8587
director of budget and management. The rule shall include 8588
specifications for each classification within the plan and shall 8589
specifically address compensation ranges, and methods for 8590
advancing within the ranges, for the classifications, which may be 8591
assigned to pay ranges other than the pay ranges established under 8592
section 124.15 or 124.152 of the Revised Code. 8593

(2) The director of administrative services may reassign to a 8594
proper classification those positions that have been assigned to 8595
an improper classification. If the compensation of an employee in 8596
such a reassigned position exceeds the maximum rate of pay for the 8597
employee's new classification, the employee shall be placed in pay 8598
step X and shall not receive an increase in compensation until the 8599
maximum rate of pay for that classification exceeds the employee's 8600
compensation. 8601

(3) The director may reassign an exempt employee, as defined 8602
in section 124.152 of the Revised Code, to a bargaining unit 8603
classification if the director determines that the bargaining unit 8604
classification is the proper classification for that employee. 8605
Notwithstanding Chapter 4117. of the Revised Code or instruments 8606
and contracts negotiated under it, these placements are at the 8607
director's discretion. 8608

(4) The director shall, by rule, assign related 8609
classifications, which form a career progression, to a 8610
classification series. The director shall, by rule, assign each 8611
classification in the classification plan a five-digit number, the 8612
first four digits of which shall denote the classification series 8613
to which the classification is assigned. When a career progression 8614

encompasses more than ten classifications, the director shall, by 8615
rule, identify the additional classifications belonging to a 8616
classification series. The additional classifications shall be 8617
part of the classification series, notwithstanding the fact that 8618
the first four digits of the number assigned to the additional 8619
classifications do not correspond to the first four digits of the 8620
numbers assigned to other classifications in the classification 8621
series. 8622

(B) Division (A) of this section and sections 124.15 and 8623
124.152 of the Revised Code do not apply to the following persons, 8624
positions, offices, and employments: 8625

(1) Elected officials; 8626

(2) Legislative employees, employees of the legislative 8627
service commission, employees in the office of the governor, 8628
employees who are in the unclassified civil service and exempt 8629
from collective bargaining coverage in the office of the secretary 8630
of state, auditor of state, treasurer of state, and attorney 8631
general, and employees of the supreme court; 8632

(3) Any position for which the authority to determine 8633
compensation is given by law to another individual or entity; 8634

(4) Employees of the bureau of workers' compensation whose 8635
compensation the administrator of workers' compensation 8636
establishes under division (B) of section 4121.121 of the Revised 8637
Code. 8638

(C) The director may employ a consulting agency to aid and 8639
assist the director in carrying out this section. 8640

(D)(1) When the director proposes to modify a classification 8641
or the assignment of classes to appropriate pay ranges, the 8642
director shall send written notice of the proposed rule to the 8643
appointing authorities of the affected employees thirty days 8644
before a hearing on the proposed rule. The appointing authorities 8645

shall notify the affected employees regarding the proposed rule. 8646
The director also shall send those appointing authorities notice 8647
of any final rule that is adopted within ten days after adoption. 8648

(2) When the director proposes to reclassify any employee in 8649
the service of the state so that the employee is adversely 8650
affected, the director shall give to the employee affected and to 8651
the employee's appointing authority a written notice setting forth 8652
the proposed new classification, pay range, and salary. Upon the 8653
request of any classified employee in the service of the state who 8654
is not serving in a probationary period, the director shall 8655
perform a job audit to review the classification of the employee's 8656
position to determine whether the position is properly classified. 8657
The director shall give to the employee affected and to the 8658
employee's appointing authority a written notice of the director's 8659
determination whether or not to reclassify the position or to 8660
reassign the employee to another classification. An employee or 8661
appointing authority desiring a hearing shall file a written 8662
request for the hearing with the state personnel board of review 8663
within thirty days after receiving the notice. The board shall set 8664
the matter for a hearing and notify the employee and appointing 8665
authority of the time and place of the hearing. The employee, the 8666
appointing authority, or any authorized representative of the 8667
employee who wishes to submit facts for the consideration of the 8668
board shall be afforded reasonable opportunity to do so. After the 8669
hearing, the board shall consider anew the reclassification and 8670
may order the reclassification of the employee and require the 8671
director to assign the employee to such appropriate classification 8672
as the facts and evidence warrant. As provided in division (A)(1) 8673
of section 124.03 of the Revised Code, the board may determine the 8674
most appropriate classification for the position of any employee 8675
coming before the board, with or without a job audit. The board 8676
shall disallow any reclassification or reassignment classification 8677
of any employee when it finds that changes have been made in the 8678

duties and responsibilities of any particular employee for 8679
political, religious, or other unjust reasons. 8680

(E)(1) Employees of each county department of job and family 8681
services shall be paid a salary or wage established by the board 8682
of county commissioners. The provisions of section 124.18 of the 8683
Revised Code concerning the standard work week apply to employees 8684
of county departments of job and family services. A board of 8685
county commissioners may do either of the following: 8686

(a) Notwithstanding any other section of the Revised Code, 8687
supplement the sick leave, vacation leave, personal leave, and 8688
other benefits of any employee of the county department of job and 8689
family services of that county, if the employee is eligible for 8690
the supplement under a written policy providing for the 8691
supplement; 8692

(b) Notwithstanding any other section of the Revised Code, 8693
establish alternative schedules of sick leave, vacation leave, 8694
personal leave, or other benefits for employees not inconsistent 8695
with the provisions of a collective bargaining agreement covering 8696
the affected employees. 8697

(2) Division (E)(1) of this section does not apply to 8698
employees for whom the state employment relations board 8699
establishes appropriate bargaining units pursuant to section 8700
4117.06 of the Revised Code, except in either of the following 8701
situations: 8702

(a) The employees for whom the state employment relations 8703
board establishes appropriate bargaining units elect no 8704
representative in a board-conducted representation election. 8705

(b) After the state employment relations board establishes 8706
appropriate bargaining units for such employees, all employee 8707
organizations withdraw from a representation election. 8708

(F)(1) Notwithstanding any contrary provision of sections 8709

124.01 to 124.64 of the Revised Code, the board of trustees of 8710
each state university or college, as defined in section 3345.12 of 8711
the Revised Code, shall carry out all matters of governance 8712
involving the officers and employees of the university or college, 8713
including, but not limited to, the powers, duties, and functions 8714
of the department of administrative services and the director of 8715
administrative services specified in this chapter. Officers and 8716
employees of a state university or college shall have the right of 8717
appeal to the state personnel board of review as provided in this 8718
chapter. 8719

(2) Each board of trustees shall adopt rules under section 8720
111.15 of the Revised Code to carry out the matters of governance 8721
described in division (F)(1) of this section. Until the board of 8722
trustees adopts those rules, a state university or college shall 8723
continue to operate pursuant to the applicable rules adopted by 8724
the director of administrative services under this chapter. 8725

(G)(1) Each board of county commissioners may, by a 8726
resolution adopted by a majority of its members, establish a 8727
county personnel department to exercise the powers, duties, and 8728
functions specified in division (G) of this section. As used in 8729
division (G) of this section, "county personnel department" means 8730
a county personnel department established by a board of county 8731
commissioners under division (G)(1) of this section. 8732

(2)(a) Each board of county commissioners, by a resolution 8733
adopted by a majority of its members, may designate the county 8734
personnel department of the county to exercise the powers, duties, 8735
and functions specified in sections 124.01 to 124.64 and Chapter 8736
325. of the Revised Code with regard to employees in the service 8737
of the county, except for the powers and duties of the state 8738
personnel board of review, which powers and duties shall not be 8739
construed as having been modified or diminished in any manner by 8740
division (G)(2) of this section, with respect to the employees for 8741

whom the board of county commissioners is the appointing authority 8742
or co-appointing authority. 8743

(b) Nothing in division (G)(2) of this section shall be 8744
construed to limit the right of any employee who possesses the 8745
right of appeal to the state personnel board of review to continue 8746
to possess that right of appeal. 8747

(c) Any board of county commissioners that has established a 8748
county personnel department may contract with the department of 8749
administrative services, in accordance with division (H) of this 8750
section, another political subdivision, or an appropriate public 8751
or private entity to provide competitive testing services or other 8752
appropriate services. 8753

(3) After the county personnel department of a county has 8754
been established as described in division (G)(2) of this section, 8755
any elected official, board, agency, or other appointing authority 8756
of that county, upon written notification to the county personnel 8757
department, may elect to use the services and facilities of the 8758
county personnel department. Upon receipt of the notification by 8759
the county personnel department, the county personnel department 8760
shall exercise the powers, duties, and functions as described in 8761
division (G)(2) of this section with respect to the employees of 8762
that elected official, board, agency, or other appointing 8763
authority. 8764

(4) Each board of county commissioners, by a resolution 8765
adopted by a majority of its members, may disband the county 8766
personnel department. 8767

(5) Any elected official, board, agency, or appointing 8768
authority of a county may end its involvement with a county 8769
personnel department upon actual receipt by the department of a 8770
certified copy of the notification that contains the decision to 8771
no longer participate. 8772

(6) A county personnel department, in carrying out its 8773
duties, shall adhere to merit system principles with regard to 8774
employees of county departments of job and family services, child 8775
support enforcement agencies, and public child welfare agencies so 8776
that there is no threatened loss of federal funding for these 8777
agencies, and the county is financially liable to the state for 8778
any loss of federal funds due to the action or inaction of the 8779
county personnel department. 8780

(H) County agencies may contract with the department of 8781
administrative services for any human resources services, 8782
including, but not limited to, establishment and modification of 8783
job classification plans, competitive testing services, and 8784
periodic audits and reviews of the county's uniform application of 8785
the powers, duties, and functions specified in sections 124.01 to 8786
124.64 and Chapter 325. of the Revised Code with regard to 8787
employees in the service of the county. Nothing in this division 8788
modifies the powers and duties of the state personnel board of 8789
review with respect to employees in the service of the county. 8790
Nothing in this division limits the right of any employee who 8791
possesses the right of appeal to the state personnel board of 8792
review to continue to possess that right of appeal. 8793

(I) The director of administrative services shall establish 8794
the rate and method of compensation for all employees who are paid 8795
directly by warrant of the director of budget and management and 8796
who are serving in positions that the director of administrative 8797
services has determined impracticable to include in the state job 8798
classification plan. This division does not apply to elected 8799
officials, legislative employees, employees of the legislative 8800
service commission, employees who are in the unclassified civil 8801
service and exempt from collective bargaining coverage in the 8802
office of the secretary of state, auditor of state, treasurer of 8803
state, and attorney general, employees of the courts, employees of 8804

the bureau of workers' compensation whose compensation the 8805
administrator of workers' compensation establishes under division 8806
(B) of section 4121.121 of the Revised Code, or employees of an 8807
appointing authority authorized by law to fix the compensation of 8808
those employees. 8809

(J) The director of administrative services shall set the 8810
rate of compensation for all intermittent, seasonal, temporary, 8811
emergency, and casual employees in the service of the state who 8812
are not considered public employees under section 4117.01 of the 8813
Revised Code. Those employees are not entitled to receive employee 8814
benefits. This rate of compensation shall be equitable in terms of 8815
the rate of employees serving in the same or similar 8816
classifications. This division does not apply to elected 8817
officials, legislative employees, employees of the legislative 8818
service commission, employees who are in the unclassified civil 8819
service and exempt from collective bargaining coverage in the 8820
office of the secretary of state, auditor of state, treasurer of 8821
state, and attorney general, employees of the courts, employees of 8822
the bureau of workers' compensation whose compensation the 8823
administrator establishes under division (B) of section 4121.121 8824
of the Revised Code, or employees of an appointing authority 8825
authorized by law to fix the compensation of those employees. 8826

Sec. 124.141. The director of administrative services may 8827
establish, by rule adopted under Chapter 119. of the Revised Code, 8828
an appointment incentive program that allows an appointing 8829
authority to pay to an officer or employee described in division 8830
(A)(30) of section 124.11, division (B)(2) of section 124.14, or 8831
division (B) of section 126.32 of the Revised Code a salary and 8832
benefits package that differs from the salary and benefits 8833
otherwise provided by law for that officer or employee, provided 8834
that the appointment incentive program established by the director 8835
cannot include authority for an appointing authority to provide 8836

health care benefits to a covered officer or employee that are 8837
different from health care benefits otherwise provided by law for 8838
that officer or employee. 8839

Sec. 124.18. (A) Forty hours shall be the standard work week 8840
for all employees whose salary or wage is paid in whole or in part 8841
by the state or by any state-supported college or university. When 8842
any employee whose salary or wage is paid in whole or in part by 8843
the state or by any state-supported college or university is 8844
required by an authorized administrative authority to be in an 8845
active pay status more than forty hours in any calendar week, the 8846
employee shall be compensated for such time over forty hours, 8847
except as otherwise provided in this section, at one and one-half 8848
times the employee's regular rate of pay. The use of sick leave or 8849
any leave used in lieu of sick leave shall not be considered to be 8850
active pay status for the purposes of earning overtime or 8851
compensatory time by employees whose wages are paid directly by 8852
warrant of the director of budget and management. A flexible-hours 8853
employee is not entitled to compensation for overtime work unless 8854
the employee's authorized administrative authority required the 8855
employee to be in active pay status for more than forty hours in a 8856
calendar week, regardless of the number of hours the employee 8857
works on any day in the same calendar week. 8858

Such compensation for overtime work shall be paid no later 8859
than at the conclusion of the next succeeding pay period. 8860

If the employee elects to take compensatory time off in lieu 8861
of overtime pay for any overtime worked, such compensatory time 8862
shall be granted by the employee's administrative superior, on a 8863
time and one-half basis, at a time mutually convenient to the 8864
employee and the administrative superior. Compensatory time is not 8865
available for use until it appears on the employee's earning 8866
statement and the compensation described in the earning statement 8867

is available to the employee. 8868

An employee may accrue compensatory time to a maximum of two 8869
hundred forty hours, except that public safety employees and other 8870
employees who meet the criteria established in the "Federal Fair 8871
Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, 8872
as amended, may accrue a maximum of four hundred eighty hours of 8873
compensatory time. An employee shall be paid at the employee's 8874
regular rate of pay for any hours of compensatory time accrued in 8875
excess of these maximum amounts if the employee has not used the 8876
compensatory time within three hundred sixty-five days after it is 8877
granted, if the employee transfers to another agency of the state, 8878
or if a change in the employee's status exempts the employee from 8879
the payment of overtime compensation. Upon the termination of 8880
employment, any employee with accrued but unused compensatory time 8881
shall be paid for that time at a rate that is the greater of the 8882
employee's final regular rate of pay or the employee's average 8883
regular rate of pay during the employee's last three years of 8884
employment with the state. 8885

No overtime, as described in this section, can be paid unless 8886
it has been authorized by the authorized administrative authority. 8887
Employees may be exempted from the payment of compensation as 8888
required by this section only under the criteria for exemption 8889
from the payment of overtime compensation established in the 8890
"Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 8891
U.S.C.A. 207, 213, as amended. With the approval of the director 8892
of administrative services, the appointing authority may establish 8893
a policy to grant compensatory time or to pay compensation to 8894
~~state~~ employees in the service of the state who are exempt from 8895
overtime compensation. With the approval of the board of county 8896
commissioners, a county human services department may establish a 8897
policy to grant compensatory time or to pay compensation to 8898
employees of the department who are exempt from overtime 8899

compensation. 8900

(B)(1) An employee, whose salary or wage is paid in whole or 8901
in part by the state, shall be paid for the holidays declared in 8902
section 124.19 of the Revised Code and shall not be required to 8903
work on those holidays, unless, in the opinion of the employee's 8904
responsible administrative authority, failure to work on those 8905
holidays would impair the public service. 8906

(2) An employee paid directly by warrant of the director of 8907
budget and management who is scheduled to work on the first day of 8908
January, the commemoration of memorial day, the fourth day of 8909
July, the fourth Thursday in November, or the twenty-fifth day of 8910
December and who does not report to work the day before, the day 8911
of, or the day after the holiday due to an illness of the employee 8912
or of a member of the employee's immediate family shall not 8913
receive holiday pay as provided by this division, unless the 8914
employee can provide documentation of extenuating circumstances 8915
that prohibited the employee from so reporting to work. If the 8916
employee works a shift between the employee's scheduled shift and 8917
the holiday, the employee shall be paid for the holiday. 8918

(3) An employee also shall not be paid for a holiday unless 8919
the employee was in active pay status on the scheduled work day 8920
immediately preceding the holiday, except that an employee need 8921
not be in active pay status on that work day in order to be paid 8922
for the holiday if the employee is participating in a mandatory or 8923
voluntary cost savings day under section 124.392 of the Revised 8924
Code. 8925

(4) If any of the holidays declared in section 124.19 of the 8926
Revised Code falls on Saturday, the Friday immediately preceding 8927
shall be observed as the holiday. If any of the holidays declared 8928
in section 124.19 of the Revised Code falls on Sunday, the Monday 8929
immediately succeeding shall be observed as the holiday. Employees 8930
whose work schedules are based on the requirements of a 8931

seven-days-a-week work operation shall observe holidays on the 8932
actual days specified in section 124.19 of the Revised Code. 8933

(5) If an employee's work schedule is other than Monday 8934
through Friday, the employee shall be entitled to eight hours of 8935
holiday pay for holidays observed on the employee's day off 8936
regardless of the day of the week on which they are observed. 8937

(6) A full-time permanent employee is entitled to a minimum 8938
of eight hours of pay for each holiday regardless of the 8939
employee's work shift and work schedule. A flexible-hours 8940
employee, who is normally scheduled to work in excess of eight 8941
hours on a day on which a holiday falls, either shall be required 8942
to work an alternate schedule for that week or shall receive 8943
additional holiday pay for the hours the employee is normally 8944
scheduled to work. Such an alternate schedule may require a 8945
flexible-hours employee to work five shifts consisting of eight 8946
hours each during the week including the holiday, and, in that 8947
case, the employee shall receive eight hours of holiday pay for 8948
the day the holiday is observed. 8949

(7) Except as provided under section 124.392 of the Revised 8950
Code, part-time permanent employees shall receive four hours of 8951
holiday pay regardless of the employee's work shift and work 8952
schedule. 8953

(8) When an employee who is eligible for overtime pay under 8954
this section is required by the employee's responsible 8955
administrative authority to work on the day observed as a holiday, 8956
the employee shall be entitled to pay for such time worked at one 8957
and one-half times the employee's regular rate of pay in addition 8958
to the employee's regular pay, or to be granted compensatory time 8959
off at time and one-half thereafter, at the employee's option. 8960
Payment at such rate shall be excluded in the calculation of hours 8961
in active pay status. 8962

(C) Each appointing authority may designate the number of employees in an agency who are flexible-hours employees. The appointing authority may establish for each flexible-hours employee a specified minimum number of hours to be worked each day that is consistent with the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended.

(D) This section shall be uniformly administered for employees as defined in section 124.01 of the Revised Code and by the personnel departments of state-supported colleges and universities for employees of state-supported colleges and universities. If employees are not paid directly by warrant of the director of budget and management, the political subdivision shall determine whether the use of sick leave shall be considered to be active pay status for purposes of those employees earning overtime or compensatory time.

(E) Policies relating to the payment of overtime pay or the granting of compensatory time off shall be adopted by the chief administrative officer of the house of representatives for employees of the house of representatives, by the clerk of the senate for employees of the senate, and by the director of the legislative service commission for all other legislative employees.

(F) As used in this section, "regular rate of pay" means the base rate of pay an employee receives plus any pay supplements received pursuant to section 124.181 of the Revised Code.

Sec. 124.30. (A) Classified positions in the civil service may be filled without competition as follows:

(1) Whenever there are urgent reasons for filling a vacancy in any position in the classified civil service and the director of administrative services is unable to certify to the appointing authority, upon its request, a list of persons eligible for

appointment to the position after a competitive examination, the 8994
appointing authority may fill the position by noncompetitive 8995
examination. 8996

A temporary appointment may be made without regard to the 8997
rules of sections 124.01 to 124.64 of the Revised Code. Except as 8998
otherwise provided in this division, the temporary appointment may 8999
not continue longer than one hundred twenty days, and in no case 9000
shall successive temporary appointments be made. A temporary 9001
appointment longer than one hundred twenty days may be made if 9002
necessary by reason of sickness, disability, or other approved 9003
leave of absence of regular officers or employees, in which case 9004
it may continue during the period of sickness, disability, or 9005
other approved leave of absence, subject to the rules of the 9006
director. 9007

(2) In case of a vacancy in a position in the classified 9008
civil service where peculiar and exceptional qualifications of a 9009
scientific, managerial, professional, or educational character are 9010
required, and upon satisfactory evidence that for specified 9011
reasons competition in this special case is impracticable and that 9012
the position can best be filled by a selection of some designated 9013
person of high and recognized attainments in those qualities, the 9014
director may suspend the provisions of sections 124.01 to 124.64 9015
of the Revised Code that require competition in this special case, 9016
but no suspension shall be general in its application. All such 9017
cases of suspension shall be reported in the annual report of the 9018
director with the reasons for each suspension. The director shall 9019
suspend the provisions when ~~the~~ either of the following applies: 9020

(a) The director of job and family services provides the 9021
certification under section 5101.051 of the Revised Code that a 9022
position with the department of job and family services can best 9023
be filled if the provisions are suspended; 9024

(b) The medicaid director provides the certification under 9025

section 5160.051 of the Revised Code that a position with the 9026
department of medicaid can best be filled if the provisions are 9027
suspended. 9028

(3) The acceptance or refusal by an eligible person of a 9029
temporary appointment shall not affect the person's standing on 9030
the eligible list for permanent appointment, nor shall the period 9031
of temporary service be counted as a part of the probationary 9032
service in case of subsequent appointment to a permanent position. 9033

(B) Persons who receive temporary or intermittent 9034
appointments are in the unclassified civil service and serve at 9035
the pleasure of their appointing authority. 9036

Sec. 124.341. (A) If an employee in the classified or 9037
unclassified civil service becomes aware in the course of 9038
employment of a violation of state or federal statutes, rules, or 9039
regulations or the misuse of public resources, and the employee's 9040
supervisor or appointing authority has authority to correct the 9041
violation or misuse, the employee may file a written report 9042
identifying the violation or misuse with the supervisor or 9043
appointing authority. In addition to or instead of filing a 9044
written report with the supervisor or appointing authority, the 9045
employee may file a written report with the office of internal 9046
~~auditing~~ audit created under section 126.45 of the Revised Code or 9047
file a complaint with the auditor of state's fraud-reporting 9048
system under section 117.103 of the Revised Code. 9049

If the employee reasonably believes that a violation or 9050
misuse of public resources is a criminal offense, the employee, in 9051
addition to or instead of filing a written report or complaint 9052
with the supervisor, appointing authority, the office of internal 9053
~~auditing~~ audit, or the auditor of state's fraud-reporting system, 9054
may report it to a prosecuting attorney, director of law, village 9055
solicitor, or similar chief legal officer of a municipal 9056

corporation, to a peace officer, as defined in section 2935.01 of 9057
the Revised Code, or, if the violation or misuse of public 9058
resources is within the jurisdiction of the inspector general, to 9059
the inspector general in accordance with section 121.46 of the 9060
Revised Code. In addition to that report, if the employee 9061
reasonably believes the violation or misuse is also a violation of 9062
Chapter 102., section 2921.42, or section 2921.43 of the Revised 9063
Code, the employee may report it to the appropriate ethics 9064
commission. 9065

(B) Except as otherwise provided in division (C) of this 9066
section, no officer or employee in the classified or unclassified 9067
civil service shall take any disciplinary action against an 9068
employee in the classified or unclassified civil service for 9069
making any report or filing a complaint as authorized by division 9070
(A) of this section, including, without limitation, doing any of 9071
the following: 9072

(1) Removing or suspending the employee from employment; 9073

(2) Withholding from the employee salary increases or 9074
employee benefits to which the employee is otherwise entitled; 9075

(3) Transferring or reassigning the employee; 9076

(4) Denying the employee promotion that otherwise would have 9077
been received; 9078

(5) Reducing the employee in pay or position. 9079

(C) An employee in the classified or unclassified civil 9080
service shall make a reasonable effort to determine the accuracy 9081
of any information reported under division (A) of this section. 9082
The employee is subject to disciplinary action, including 9083
suspension or removal, as determined by the employee's appointing 9084
authority, for purposely, knowingly, or recklessly reporting false 9085
information under division (A) of this section. 9086

(D) If an appointing authority takes any disciplinary or 9087
retaliatory action against a classified or unclassified employee 9088
as a result of the employee's having filed a report or complaint 9089
under division (A) of this section, the employee's sole and 9090
exclusive remedy, notwithstanding any other provision of law, is 9091
to file an appeal with the state personnel board of review within 9092
thirty days after receiving actual notice of the appointing 9093
authority's action. If the employee files such an appeal, the 9094
board shall immediately notify the employee's appointing authority 9095
and shall hear the appeal. The board may affirm or disaffirm the 9096
action of the appointing authority or may issue any other order as 9097
is appropriate. The order of the board is appealable in accordance 9098
with Chapter 119. of the Revised Code. 9099

(E) As used in this section: 9100

(1) "Purposely," "knowingly," and "recklessly" have the same 9101
meanings as in section 2901.22 of the Revised Code. 9102

(2) "Appropriate ethics commission" has the same meaning as 9103
in section 102.01 of the Revised Code. 9104

(3) "Inspector general" means the inspector general appointed 9105
under section 121.48 of the Revised Code. 9106

Sec. 124.381. (A)(1)(a) An employee in the service of the 9107
state may be eligible to receive salary continuation not to exceed 9108
four hundred eighty hours at the employee's total rate of pay for 9109
absence as a result of injury incurred during the performance of, 9110
or arising out of, state employment. When an eligible employee's 9111
absence as a result of such an injury extends beyond four hundred 9112
eighty hours, the employee immediately becomes subject to sections 9113
124.382 and 124.385 of the Revised Code regarding sick leave and 9114
disability leave benefits. 9115

An employee is ineligible to receive salary continuation 9116

until the date of implementation is established in the rules 9117
adopted under division (C)(1) of this section. 9118

(b) Employees of the secretary of state, auditor of state, 9119
treasurer of state, attorney general, supreme court, general 9120
assembly, or legislative service commission are not subject to 9121
division (A)(1)(a) of this section unless the relevant appointing 9122
authority notifies the director of administrative services in 9123
writing of the intent to have all of the appointing authority's 9124
employees participate in salary continuation. The relevant 9125
appointing authority also may discontinue salary continuation for 9126
all of its employees by providing written notice of the 9127
discontinuation to the director. 9128

Participation in salary continuation is subject to rules 9129
adopted under division (C)(1) of this section. 9130

(2) Each employee of the department of rehabilitation and 9131
correction, the department of ~~mental health~~ mental health and 9132
addiction services, the department of developmental disabilities, 9133
the department of veterans services, or the Ohio schools for the 9134
deaf and blind, and each employee of the department of youth 9135
services as established in division (A) of section 124.14 of the 9136
Revised Code who sustains a qualifying physical condition 9137
inflicted by a ward of these agencies during the time the employee 9138
is lawfully carrying out the assigned duties of the employee's 9139
position shall be paid occupational injury leave at the employee's 9140
total rate of pay during the period the employee is disabled as a 9141
result of that qualifying physical condition, but in no case to 9142
exceed nine hundred sixty hours, in lieu of workers' compensation. 9143
Pay made according to this division shall not be charged to the 9144
employee's accumulation of sick leave credit. In any case when an 9145
employee's disability as a result of such a qualifying physical 9146
condition extends beyond nine hundred sixty hours, the employee 9147
immediately becomes subject to sections 124.382 and 124.385 of the 9148

Revised Code regarding sick leave and disability leave benefits. 9149

(B) An employee who is receiving salary continuation or 9150
occupational injury leave under division (A)(1) or (2) of this 9151
section is not eligible for other paid leave, including holiday 9152
pay, while receiving benefits under either division. While an 9153
employee is receiving salary continuation or occupational injury 9154
leave under division (A)(1) or (2) of this section, vacation leave 9155
credit ceases to accrue to the employee under section 124.134 of 9156
the Revised Code, but sick leave credit and personal leave credit 9157
continue to accrue to the employee under sections 124.382 and 9158
124.386 of the Revised Code. 9159

(C)(1) The director of administrative services shall adopt 9160
rules for the administration of both the salary continuation 9161
program and the occupational injury leave program. The rules shall 9162
include, but not be limited to, provisions for determining a 9163
disability, for filing a claim for leave under this section, and 9164
for allowing or denying claims for the leave. 9165

(2) The director also may adopt rules for the payment of 9166
health benefits while an employee is on workers' compensation 9167
leave. 9168

(D) An appointing authority may apply to the director of 9169
administrative services to grant salary continuation under 9170
division (A)(1) of this section or occupational injury leave under 9171
division (A)(2) of this section to law enforcement personnel 9172
employed by the agency. 9173

Sec. 124.57. (A) No officer or employee in the classified 9174
service of the state, the several counties, cities, and city 9175
school districts of the state, or the civil service townships of 9176
the state shall directly or indirectly, orally or by letter, 9177
solicit or receive, or be in any manner concerned in soliciting or 9178
receiving, any assessment, subscription, or contribution for any 9179

political party or for any candidate for public office; nor shall 9180
any person solicit directly or indirectly, orally or by letter, or 9181
be in any manner concerned in soliciting, any such assessment, 9182
contribution, or payment from any officer or employee in the 9183
classified service of the state, the several counties, cities, or 9184
city school districts of the state, or the civil service townships 9185
of the state; nor shall any officer or employee in the classified 9186
service of the state, the several counties, cities, and city 9187
school districts of the state, or the civil service townships of 9188
the state be an officer in any political organization or take part 9189
in politics other than to vote as the officer or employee pleases 9190
and to express freely political opinions. 9191

(B)(1) Nothing in division (A) of this section prohibits an 9192
officer or employee described in that division from serving as a 9193
precinct election official under section 3501.22 of the Revised 9194
Code. 9195

(2) Nothing in division (A) of this section prohibits an 9196
employee of ~~the Ohio cooperative~~ OSU extension service whose 9197
position is transferred from the unclassified civil service to the 9198
classified civil service and who also holds the office of 9199
president of a city legislative authority from completing the 9200
existing term of office as president. 9201

Sec. 125.05. Except as provided in division (F) of this 9202
section, no state agency shall purchase any supplies or services 9203
except as provided in divisions (A) to (D) of this section. 9204

(A) Subject to division (E) of this section, a state agency 9205
may, without competitive selection, make any purchase of supplies 9206
or services that cost twenty-five thousand dollars or less. The 9207
agency may make the purchase directly or may make the purchase 9208
from or through the department of administrative services, 9209
whichever the agency determines. The agency shall adopt written 9210

procedures consistent with the department's purchasing procedures 9211
and shall use those procedures when making purchases under this 9212
division. 9213

(B) Subject to division (E) of this section and in accordance 9214
with section 125.051 of the Revised Code, a state agency may make 9215
purchases of supplies and services that cost more than twenty-five 9216
thousand dollars but less than fifty thousand dollars if the 9217
purchases are made under the direction of an employee of the 9218
agency who is certified by the department to make purchases and if 9219
the purchases comply with the department's purchasing procedures. 9220
Section 127.16 of the Revised Code does not apply to purchases 9221
made under this division. Until the certification effective date 9222
established by the department in rules adopted under section 9223
125.051 of the Revised Code, state agencies may make purchases of 9224
supplies and services that cost more than twenty-five thousand 9225
dollars but less than fifty thousand dollars in the same manner as 9226
provided in division (A) of this section. 9227

(C) Subject to division (E) of this section, a state agency 9228
wanting to purchase supplies or services that cost more than 9229
twenty-five thousand dollars shall, unless otherwise authorized by 9230
law, make the purchase from or through the department. The 9231
department shall make the purchase by competitive selection. If 9232
the director of administrative services determines that it is not 9233
possible or not advantageous to the state for the department to 9234
make the purchase, the department shall grant the agency a release 9235
and permit under section 125.06 of the Revised Code to make the 9236
purchase. Section 127.16 of the Revised Code does not apply to 9237
purchases the department makes under this section. 9238

(D) An agency that has been granted a release and permit to 9239
make a purchase may make the purchase without competitive 9240
selection if after making the purchase the cumulative purchase 9241
threshold as computed under division (E) of section 127.16 of the 9242

Revised Code would: 9243

(1) Be exceeded and the controlling board approves the 9244
purchase; 9245

(2) Not be exceeded and the department of administrative 9246
services approves the purchase. 9247

(E) Not later than the thirty-first day of January of each 9248
even-numbered year, the directors of administrative services and 9249
budget and management shall review and recommend to the general 9250
assembly, if necessary, adjustments to the amounts specified in 9251
divisions (A) to (C) of this section and division (B) of section 9252
127.16 of the Revised Code. 9253

(F) If ~~the eTech Ohio commission~~, the department of 9254
education, or the Ohio education computer network determines that 9255
it can purchase software services or supplies for specified school 9256
districts at a price less than the price for which the districts 9257
could purchase the same software services or supplies for 9258
themselves, the ~~commission~~, department, or network shall certify 9259
that fact to the department of administrative services and, acting 9260
as an agent for the specified school districts, shall make that 9261
purchase without following the provisions in divisions (A) to (D) 9262
of this section. 9263

Sec. 125.21. The director of administrative services shall 9264
process payroll information for the purpose of payment for 9265
personal services of state officials and employees on the basis of 9266
rates of pay determined by pertinent law, the director, or other 9267
competent authority. 9268

Calculation of payrolls may be made after the conclusion of 9269
each pay period based upon the amount of time served as certified 9270
by the appropriate appointing authority. Payment for personal 9271
service rendered by an official or employee during any pay period 9272

shall be made no later than at the conclusion of the official's or 9273
employee's next succeeding pay period. 9274

The director of administrative services shall furnish to the 9275
director of budget and management all necessary data for drawing 9276
state official and employee pay warrants and preparing earning 9277
statements. These data shall include the rate at which paid; the 9278
time for which paid, including overtime and any other adjustments 9279
affecting the official's or employee's gross pay; all taxes 9280
withheld, including, whenever practicable, year-to-date figures on 9281
all taxes withheld; the amount of contribution to the appropriate 9282
retirement system; any voluntary deductions made in accordance 9283
with authorizations filed by the official or employee; and whether 9284
a direct deposit is to be made in accordance with an authorization 9285
filed by the official or employee. 9286

Amounts deducted from the salaries or wages of all officials 9287
and employees shall be transferred to the payroll ~~withholding~~ 9288
deduction fund, which is hereby created in the state treasury for 9289
the purpose of consolidating all such deductions made in any 9290
month. Payments from this fund shall be made at intervals for the 9291
intended purpose of the deduction or for refund where it is 9292
determined that deductions were made in error. 9293

Sec. 125.212. The life insurance investment fund is hereby 9294
created in the state treasury. The fund shall consist of amounts 9295
from ~~the payroll withholding fund created by section 125.21 of the~~ 9296
~~Revised Code~~ state agencies, life insurance premium refunds 9297
received by the state, and other receipts related to the state's 9298
life insurance benefit program. The fund shall be used to pay the 9299
costs of the state's life insurance benefit program. All 9300
investment earnings of the life insurance investment fund shall be 9301
credited to the fund. 9302

Sec. 125.27. (A) There is hereby created in the state 9303
treasury the building improvement fund. The fund shall retain the 9304
interest earned. 9305

(B) The fund shall consist of any payments made by intrastate 9306
transfer voucher from the appropriation item for office building 9307
operating payments. 9308

(C) The fund shall be used for major maintenance or 9309
improvements required in the James A. Rhodes or Frank J. Lausche 9310
state office tower, Toledo government center, Senator Oliver R. 9311
Ocasek government office building, and Vern Riffe center for 9312
government and the arts. 9313

Sec. 125.28. (A)(1) Each state agency that is supported in 9314
whole or in part by nongeneral revenue fund money and that 9315
occupies space in the James A. Rhodes or Frank J. Lausche state 9316
office tower, Toledo government center, Senator Oliver R. Ocasek 9317
government office building, Vern Riffe center for government and 9318
the arts, capitol square, or governor's mansion shall reimburse 9319
the general revenue fund for the cost of occupying the space in 9320
the ratio that the occupied space in each facility attributable to 9321
the nongeneral revenue fund money bears to the total space 9322
occupied by the state agency in the facility. 9323

(2) All agencies that occupy space in the old blind school or 9324
that occupy warehouse space in the general services facility shall 9325
reimburse the department of administrative services for the cost 9326
of occupying the space. The director of administrative services 9327
shall determine the amount of debt service, if any, to be charged 9328
to building tenants and shall collect reimbursements for it. 9329

(3) Each agency that is supported in whole or in part by 9330
nongeneral revenue fund money and that occupies space in any other 9331
facility or facilities owned and maintained by the department of 9332

administrative services or space in the general services facility 9333
other than warehouse space shall reimburse the department for the 9334
cost of occupying the space, including debt service, if any, in 9335
the ratio that the occupied space in each facility attributable to 9336
the nongeneral revenue fund money bears to the total space 9337
occupied by the state agency in the facility. 9338

(B) The director of administrative services may provide 9339
building maintenance services and ~~skilled trades~~ minor 9340
construction project management services to any state agency 9341
~~occupying space in a facility that is not owned by the department~~ 9342
~~of administrative services~~ and may collect reimbursements for the 9343
cost of providing those services. 9344

(C) All money collected by the department of administrative 9345
services for operating expenses of facilities owned or maintained 9346
by the department shall be deposited into the state treasury to 9347
the credit of the building management fund, which is hereby 9348
created, or to the credit of the building operation fund, which is 9349
hereby created. All money collected by the department for ~~skilled~~ 9350
~~trades~~ minor construction project management services shall be 9351
deposited into the state treasury to the credit of the ~~skilled~~ 9352
~~trades~~ minor construction project management fund, which is hereby 9353
created. All money collected for debt service shall be deposited 9354
into the general revenue fund. 9355

(D) The director of administrative services shall determine 9356
the reimbursable cost of space in state-owned or state-leased 9357
facilities and shall collect reimbursements for that cost. 9358

Sec. 125.602. (A) The department of developmental 9359
disabilities, the department of ~~mental health~~ mental health and 9360
addiction services, the department of job and family services, the 9361
rehabilitation services commission, and any other state or 9362
governmental agency or community rehabilitation program 9363

responsible for the provision of rehabilitation and vocational 9364
educational services to persons with work-limiting disabilities 9365
may, through written agreement, cooperate in providing resources 9366
to the department of administrative services for the operation of 9367
the office of procurement from community rehabilitation programs. 9368
These resources may include, but are not limited to, leadership 9369
and assistance in dealing with the societal aspects of meeting the 9370
needs of persons with work-limiting disabilities. 9371

(B) The office and all governmental entities that administer 9372
socioeconomic programs may enter into contractual agreements, 9373
cooperative working relationships, or other arrangements that are 9374
necessary for effective coordination and realization of the 9375
objectives of these entities. 9376

Sec. 125.603. (A) The office of procurement from community 9377
rehabilitation programs shall do the following in addition to 9378
other duties specified in sections 125.60 to 125.6012 of the 9379
Revised Code: 9380

(1) Establish, maintain, and periodically update a 9381
procurement list of approved supplies and services available from 9382
qualified nonprofit agencies; 9383

(2) Monitor the procurement practices of government ordering 9384
offices to ensure compliance with sections 125.60 to 125.6012 of 9385
the Revised Code; 9386

(3) In cooperation with qualified nonprofit agencies, 9387
government ordering offices, the department of developmental 9388
disabilities, the department of ~~mental health~~ mental health and 9389
addiction services, the department of job and family services, and 9390
the rehabilitation services commission, develop and recommend to 9391
the director of administrative services rules the director shall 9392
adopt in accordance with Chapter 119. of the Revised Code for the 9393
effective and efficient administration of sections 125.60 to 9394

125.6012 of the Revised Code; 9395

(4) Prepare a report of its activities by the last day of 9396
December of each year. The report shall be posted electronically 9397
on the office's web site. 9398

(B) The office of procurement from community rehabilitation 9399
programs may enter into contractual agreements and establish pilot 9400
programs to further the objectives of sections 125.60 to 125.6012 9401
of the Revised Code. 9402

Sec. 125.832. (A) The department of administrative services 9403
is granted exclusive authority over the acquisition and management 9404
of all motor vehicles used by state agencies. In carrying out this 9405
authority, the department shall do both of the following: 9406

(1) Approve the purchase or lease of each motor vehicle for 9407
use by a state agency. The department shall decide if a motor 9408
vehicle shall be leased or purchased for that use. 9409

Except as otherwise provided in division (A)(1) of this 9410
section, on and after July 1, 2005, each state agency shall 9411
acquire all passenger motor vehicles under the department's master 9412
leasing program. If the department determines that acquisition 9413
under that program is not the most economical method and if the 9414
department and the state agency acquiring the passenger motor 9415
vehicle can provide economic justification for doing so, the 9416
department may approve the purchase, rather than the lease, of a 9417
passenger motor vehicle for the acquiring state agency. 9418

(2) Direct and approve all funds that are expended for the 9419
purchase, lease, repair, maintenance, registration, insuring, and 9420
other costs related to the possession and operation of motor 9421
vehicles for the use of state agencies. 9422

(B) The director of administrative services shall establish 9423
and operate a fleet management program. The director shall operate 9424

the program for purposes including, but not limited to, 9425
cost-effective acquisition, maintenance, management, analysis, and 9426
disposal of all motor vehicles owned or leased by the state. All 9427
state agencies shall comply with statewide fleet management 9428
policies and procedures established by the director for the 9429
program, including, but not limited to, motor vehicle assignments, 9430
additions of motor vehicles to fleets or motor vehicle 9431
replacements, motor vehicle fueling, and motor vehicle repairs. 9432

(C) The director shall establish and maintain a fleet 9433
reporting system and shall require state agencies to submit to the 9434
department information relative to state motor vehicles, including 9435
motor vehicles described in division (G)(2) of section 125.831 of 9436
the Revised Code, to be used in operating the fleet management 9437
program. State agencies shall provide to the department fleet data 9438
and other information, including, but not limited to, mileage and 9439
costs. The data and other information shall be submitted in 9440
formats and in a manner determined by the department. 9441

(D) All state agency purchases or leases of motor vehicles 9442
are subject to the prior approval of the director under division 9443
(A)(1) of this section. 9444

(E) State agencies that utilize state motor vehicles or pay 9445
mileage reimbursements to employees shall provide a fleet plan to 9446
the department as directed by the department. 9447

(F)(1) The fleets of state agencies that consist of one 9448
hundred or less vehicles on July 1, 2004, shall be managed by the 9449
department's fleet management program on a time schedule 9450
determined by the department, unless the state agency has received 9451
delegated authority as described in division (G) of this section. 9452

(2) The fleets of state agencies that consist of greater than 9453
one hundred motor vehicles, but less than five hundred motor 9454
vehicles, on July 1, 2005, also shall be managed by the 9455

department's fleet management program on a time schedule 9456
determined by the department, unless the state agency has received 9457
delegated authority as described in division (G) of this section. 9458

(G)(1) The department may delegate any or all of its duties 9459
regarding fleet management to a state agency, if the state agency 9460
demonstrates to the satisfaction of the department both of the 9461
following: 9462

(a) Capabilities to institute and manage a fleet management 9463
program, including, but not limited to, the presence of a 9464
certified fleet manager; 9465

(b) Fleet management performance, as demonstrated by fleet 9466
data and other information submitted pursuant to annual reporting 9467
requirements and any other criteria the department considers 9468
necessary in evaluating the performance. 9469

(2) The department may determine that a state agency is not 9470
in compliance with this section and direct that the agency's fleet 9471
management duties be transferred to the department. 9472

(H) The proceeds derived from the disposition of any motor 9473
vehicles under this section shall be paid to whichever of the 9474
following applies: 9475

(1) The fund that originally provided moneys for the purchase 9476
or lease of the motor vehicles; 9477

(2) If the motor vehicles were originally purchased with 9478
moneys derived from the general revenue fund, the proceeds shall 9479
be deposited, in the director's discretion, into the state 9480
treasury to the credit of either the fleet management fund created 9481
by section 125.83 of the Revised Code or the investment recovery 9482
fund created by section 125.14 of the Revised Code. 9483

(I)(1) The department shall create and maintain a certified 9484
fleet manager program. 9485

(2) State agencies that have received delegated authority as 9486
described in division (G) of this section shall have a certified 9487
fleet manager. 9488

(J) The department annually shall prepare and submit a 9489
statewide fleet report to the governor, the speaker of the house 9490
of representatives, and the president of the senate. The report 9491
shall be submitted not later than the thirty-first day of January 9492
following the end of each fiscal year. It may include, but is not 9493
limited to, the numbers and types of motor vehicles, their 9494
mileage, miles per gallon, and cost per mile, mileage 9495
reimbursements, accident and insurance data, and information 9496
regarding compliance by state agencies having delegated authority 9497
under division (G) of this section with applicable fleet 9498
management requirements. 9499

(K) The director shall adopt rules for implementing the fleet 9500
management program that are consistent with recognized best 9501
practices. The program shall be supported by reasonable fee 9502
charges for the services provided. The director shall collect 9503
these fees and deposit them into the state treasury to the credit 9504
for the fleet management fund created by section 125.83 of the 9505
Revised Code. The setting and collection of fees under this 9506
division is not subject to any restriction imposed by law upon the 9507
director's or the department's authority to set or collect fees. 9508

(L) The director also shall adopt rules that prohibit, except 9509
in very limited circumstances, the exclusive assignment of 9510
state-owned, leased, or pooled motor vehicles to state employees 9511
and that prohibit the reimbursement under section 126.31 of the 9512
Revised Code of state employees who use their own motor vehicles 9513
for any mileage they incur above an amount that the department 9514
shall determine annually unless reimbursement for the excess 9515
mileage is approved by the department in accordance with standards 9516
for that approval the director shall establish in those rules. 9517

Beginning on September 26, 2003, no state-owned, leased, or pooled motor vehicle shall be personally assigned as any form of compensation or benefit of state employment, and no state-owned, leased, or pooled motor vehicle shall be assigned to an employee solely for commuting to and from home and work.

(M) The director shall do both of the following:

(1) Implement to the greatest extent possible the recommendations from the 2002 report entitled "Administrative Analysis of the Ohio Fleet Management Program" in connection with the authority granted to the department by this section;

(2) Attempt to reduce the number of passenger vehicles used by state agencies during the fiscal years ending on June 30, 2004, and June 30, 2005.

(N) Each state agency shall reimburse the department for all costs incurred in the assignment of motor vehicles to the state agency.

(O) The director shall do all of the following in managing the fleet management program:

(1) Determine how motor vehicles will be maintained, insured, operated, financed, and licensed;

(2) Pursuant to the formula in division (O)(3) of this section, annually establish the minimum number of business miles per year an employee of a state agency must drive in order to qualify for approval by the department to receive a motor vehicle for business use;

(3) Establish the minimum number of business miles per year at an amount that results when the annual motor vehicle cost is divided by the amount that is the reimbursement rate per mile minus the amount that is the sum of the fuel cost, the operating cost, and the insurance cost. As used in this division:

(a) "Annual motor vehicle cost" means the price of a motor vehicle divided by the number of years an average motor vehicle is used. 9548
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(b) "Fuel cost" means the average price per gallon of motor fuel divided by the miles per gallon fuel efficiency of a motor vehicle. 9551
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(c) "Insurance cost" means the cost of insuring a motor vehicle per year divided by the number of miles an average motor vehicle is driven per year. 9554
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(d) "Operating cost" means the maintenance cost of a motor vehicle per year divided by the product resulting when the number of miles an average motor vehicle is driven per year is multiplied by the number of years an average motor vehicle is used. 9557
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(e) "Reimbursement rate per mile" means the reimbursement per mile rate for travel expenses as provided by rule of the director of budget and management adopted under division (B) of section 126.31 of the Revised Code. 9561
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~~(P)(1) Not later than the fifteenth day of September of each year, each state institution of higher education shall report to the department on all of the following topics relating to motor vehicles that the institution acquires and manages:~~ 9565
9566
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~~(a) The methods it uses to track the motor vehicles;~~ 9569

~~(b) Whether or not it uses a fuel card program to purchase fuel for, or to pay for the maintenance of, the motor vehicles;~~ 9570
9571

~~(c) Whether or not it makes bulk purchases of fuel for the motor vehicles.~~ 9572
9573

~~(2) Assuming it does not use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides, the report of a state institution of higher education required by division (P)(1) of this section also~~ 9574
9575
9576
9577

~~shall include both of the following:~~ 9578

~~(a) An analysis of the amount the institution would save, if 9579
any, if it were to use the fleet management tracking, fuel card 9580
program, and bulk fuel purchases tools and services that the 9581
department provides instead of the fleet management system the 9582
institution regularly uses;~~ 9583

~~(b) A rationale for either continuing with the fleet 9584
management system that the institution regularly uses or changing 9585
to the use of those tools and services that the department 9586
provides.~~ 9587

~~(3) The department shall certify within ninety days after 9588
receipt of all reports under division (P)(1) of this section a 9589
list of those state institutions of higher education that the 9590
department determines would save amounts if they were to use the 9591
fleet management tracking, fuel card program, and bulk fuel 9592
purchases tools and services that the department provides. The 9593
institutions so certified then shall use those tools and services 9594
that the department provides until the department next certifies 9595
institutions under division (P)(3) of this section.~~ 9596

Sec. 125.836. (A) As used in this section: 9597

(1) "Biodiesel," "blended biodiesel," and "diesel fuel" have 9598
the same meanings as in section 125.831 of the Revised Code. 9599

~~(2) "Credit" means a credit generated by the acquisition of 9600
alternative fueled vehicles in accordance with the "Energy Policy 9601
Act of 1992," 106 Stat. 2897, 42 U.S.C. 13257.~~ 9602

~~(3) "Incremental cost" means the difference in cost between 9603
blended biodiesel and conventional petroleum-based diesel fuel at 9604
the time the blended biodiesel is purchased.~~ 9605

~~(B) The department of administrative services shall establish 9606
and administer a credit banking and selling program. The 9607~~

~~department may sell or trade credits in accordance with procedures 9608
established pursuant to the "Energy Policy Act of 1992," 106 Stat. 9609
2897, 42 U.S.C. 13258. 9610~~

~~(C) There is hereby created in the state treasury the 9611
"biodiesel revolving fund," to which shall be credited moneys 9612
received from the sale of credits under this section, any moneys 9613
appropriated to the fund by the general assembly, and any other 9614
moneys obtained or accepted by the ~~department~~ development services 9615
agency for crediting to the fund. Moneys credited to the fund 9616
shall be used to pay for the incremental cost of biodiesel for use 9617
in vehicles owned or leased by the state that use diesel fuel. The 9618
director of ~~administrative services~~, after consultation with the 9619
~~director~~ of development, services may direct the director of 9620
budget and management to transfer available moneys in the 9621
biodiesel revolving fund to the alternative fuel transportation 9622
fund created in section 122.075 of the Revised Code to be used by 9623
the ~~department~~ of development services agency for the purposes 9624
specified in that section. 9625~~

~~(D) The director of administrative services shall adopt rules 9626
under Chapter 119. of the Revised Code that are necessary for the 9627
administration of the credit banking and selling program. 9628~~

Sec. 126.07. Except as provided in division (B) of section 9629
126.21 of the Revised Code, no contract, agreement, or obligation 9630
involving the expenditure of money chargeable to an appropriation, 9631
nor any resolution or order for the expenditure of money 9632
chargeable to an appropriation, shall be valid and enforceable 9633
unless the director of budget and management first certifies that 9634
there is a balance in the appropriation not already obligated to 9635
pay existing obligations, in an amount at least equal to the 9636
portion of the contract, agreement, obligation, resolution, or 9637
order to be performed in the current fiscal year. Any written 9638

contract or agreement entered into by the state shall contain a 9639
clause stating that the obligations of the state are subject to 9640
this section. 9641

The chief administrative officer of a state agency is 9642
responsible for the preaudit and approval of expenditures and 9643
other transactions of the agency. In order to initiate the making 9644
of a payment from the state treasury, the person in a state agency 9645
who requests that the payment be made shall first submit to the 9646
chief administrative officer of the agency all invoices, claims, 9647
vouchers, and other documentation related to the payment. The 9648
chief administrative officer shall examine each voucher and all 9649
other documentation required to support the voucher and determine 9650
whether they meet all the requirements established by the director 9651
of budget and management for making the payment. If they do meet 9652
those requirements, the chief administrative officer shall certify 9653
to the director the approval of the chief administrative officer 9654
for payment. 9655

Prior to drawing a warrant or processing an electronic funds 9656
transfer as provided in section 126.35 of the Revised Code, the 9657
director may review and audit the voucher, any documentation 9658
accompanying the voucher, and any other documentation related to 9659
the transaction that the director may require to determine if the 9660
transaction is in accordance with law. The director shall not 9661
approve payment to be made if the director finds that there is not 9662
an unobligated balance in the appropriation for the payment, that 9663
the payment is not for a valid claim against the state that is 9664
legally due, or that insufficient documentation has been 9665
submitted. If the director does not approve payment, the director 9666
shall notify the agency of the reasons the director has not given 9667
approval. 9668

In approving payments to be made under this section, the 9669
director, upon receipt of certification from the director of job 9670

and family services pursuant to section 4141.231 of the Revised Code, shall withhold from amounts otherwise payable to a person who is the subject of the director of jobs and family services' certification, the amount certified to be due and unpaid to the director of job and family services, and shall approve for payment to the director of job and family services, the amount withheld.

As used in this section and in section 126.21 of the Revised Code, "chief administrative officer" means either of the following:

(A) The director of the agency or, in the case of a state agency without a director, the equivalent officer of that agency;

(B) The designee of the chief administrative officer for the purposes of such sections.

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

Within sixty days after the effective date of any act appropriating money for capital projects, the director shall determine which appropriations are for general projects and which

are for specific projects. Specific projects may include specific 9702
higher education projects that are to be funded from general 9703
purpose appropriations from the higher education improvement fund 9704
or the higher education improvement taxable fund created in 9705
section 154.21 of the Revised Code. Upon determining which 9706
projects are general and which are specific, the director shall 9707
submit to the controlling board a list that includes a brief 9708
description of and the estimated expenditures for each specific 9709
project. The release of money for any specific higher education 9710
projects that are to be funded from general purpose appropriations 9711
from the higher education improvement fund or the higher education 9712
improvement taxable fund but that are not included on the list, 9713
and the release of money for any specific higher education 9714
projects included on the list that will exceed the estimated 9715
expenditures by more than ten per cent, are subject to the 9716
approval of the controlling board. 9717

The director may create new appropriation items and make 9718
transfers of appropriations to them for specific higher education 9719
projects included on the list that are to be funded from general 9720
purpose appropriations for basic renovations that are made from 9721
the higher education improvement fund or the higher education 9722
improvement taxable fund. 9723

Sec. 126.32. (A) Any officer of any state agency may 9724
authorize reimbursement for travel, including the costs of 9725
transportation, for lodging, and for meals to any person who is 9726
interviewing for a position that is classified in pay range 13 or 9727
above in schedule E-1 or schedule E-1 for step seven only, or is 9728
classified in schedule E-2, of section 124.152 of the Revised 9729
Code. 9730

(B) If a person is appointed to a position listed in section 9731
121.03 of the Revised Code, to the position of chairperson of the 9732

industrial commission, adjutant general, chancellor of the Ohio 9733
board of regents, superintendent of public instruction, 9734
chairperson of the public utilities commission of Ohio, or 9735
director of the state lottery commission, to a position holding a 9736
fiduciary relationship to the governor, to a position of an 9737
appointing authority of the department of ~~mental health~~ mental 9738
health and addiction services, developmental disabilities, or 9739
rehabilitation and correction, to a position of superintendent in 9740
the department of youth services, or to a position under section 9741
122.05 of the Revised Code, and if that appointment requires a 9742
permanent change of residence, the appropriate state agency may 9743
reimburse the person for the person's actual and necessary 9744
expenses, including the cost of in-transit storage of household 9745
goods and personal effects, of moving the person and members of 9746
the person's immediate family residing in the person's household, 9747
and of moving their household goods and personal effects, to the 9748
person's new location. 9749

Until that person moves the person's permanent residence to 9750
the new location, but not for a period that exceeds thirty 9751
consecutive days, the state agency may reimburse the person for 9752
the person's temporary living expenses at the new location that 9753
the person has incurred on behalf of the person and members of the 9754
person's immediate family residing in the person's household. In 9755
addition, the state agency may reimburse that person for the 9756
person's travel expenses between the new location and the person's 9757
former residence during this period for a maximum number of trips 9758
specified by rule of the director of budget and management, but 9759
the state agency shall not reimburse the person for travel 9760
expenses incurred for those trips by members of the person's 9761
immediate family. With the prior written approval of the director, 9762
the maximum thirty-day period for temporary living expenses may be 9763
extended for a person appointed to a position under section 122.05 9764
of the Revised Code. 9765

The director of development services may reimburse a person 9766
appointed to a position under section 122.05 of the Revised Code 9767
for the person's actual and necessary expenses of moving the 9768
person and members of the person's immediate family residing in 9769
the person's household back to the United States and may reimburse 9770
a person appointed to such a position for the cost of storage of 9771
household goods and personal effects of the person and the 9772
person's immediate family while the person is serving outside the 9773
United States, if the person's office outside the United States is 9774
the person's primary job location. 9775

(C) All reimbursement under division (A) or (B) of this 9776
section shall be made in the manner, and at rates that do not 9777
exceed those, provided by rule of the director of budget and 9778
management in accordance with section 111.15 of the Revised Code. 9779
Reimbursements may be made under division (B) of this section 9780
directly to the persons who incurred the expenses or directly to 9781
the providers of goods or services the persons receive, as 9782
determined by the director of budget and management. 9783

Sec. 126.35. (A) The director of budget and management shall 9784
draw warrants or process electronic funds transfers against the 9785
treasurer of state pursuant to all requests for payment that the 9786
director has approved under section 126.07 of the Revised Code. 9787

(B) Unless a cash assistance payment is to be made by 9788
electronic benefit transfer, payment by the director of budget and 9789
management to a participant in the Ohio works first program 9790
pursuant to Chapter 5107. of the Revised Code, a recipient of 9791
disability financial assistance pursuant to Chapter 5115. of the 9792
Revised Code, or a recipient of cash assistance provided under the 9793
refugee assistance program established under section 5101.49 of 9794
the Revised Code shall be made by direct deposit to the account of 9795
the participant or recipient in the financial institution 9796

designated under section 329.03 of the Revised Code. Payment by 9797
the director of budget and management to a recipient of benefits 9798
distributed through the medium of electronic benefit transfer 9799
pursuant to section 5101.33 of the Revised Code shall be by 9800
electronic benefit transfer. Payment by the director of budget and 9801
management as compensation to an employee of the state who has, 9802
pursuant to section 124.151 of the Revised Code, designated a 9803
financial institution and account for the direct deposit of such 9804
payments shall be made by direct deposit to the account of the 9805
employee. Payment to any other payee who has designated a 9806
financial institution and account for the direct deposit of such 9807
payment may be made by direct deposit to the account of the payee 9808
in the financial institution as provided in section 9.37 of the 9809
Revised Code. Accounts maintained by the director of budget and 9810
management or the director's agent in a financial institution for 9811
the purpose of effectuating payment by direct deposit or 9812
electronic benefit transfer shall be maintained in accordance with 9813
section 135.18 of the Revised Code. 9814

(C) All other payments from the state treasury shall be made 9815
by paper warrants, electronic funds transfers, or by direct 9816
deposit payable to the respective payees. The director of budget 9817
and management may mail the paper warrants to the respective 9818
payees or distribute them through other state agencies, whichever 9819
the director determines to be the better procedure. 9820

~~(D) If the average per transaction cost the director of 9821
budget and management incurs in making direct deposits for a state 9822
agency exceeds the average per transaction cost the director 9823
incurs in drawing paper warrants for all public offices during the 9824
same period of time, the director may certify the difference in 9825
cost and the number of direct deposits for the agency to the 9826
director of administrative services. The director of 9827
administrative services shall reimburse the director of budget and 9828~~

~~management for such additional costs and add the amount to the~~ 9829
~~processing charge assessed upon the state agency.~~ 9830

Sec. 126.45. (A) As used in sections 126.45 to 126.48 of the 9831
Revised Code, "state agency" means the administrative departments 9832
listed in section 121.02 of the Revised Code, the department of 9833
taxation, the bureau of workers' compensation, ~~and~~ the Ohio board 9834
of regents, the rehabilitation services commission, the public 9835
utilities commission of Ohio, the adjutant general, and the state 9836
lottery commission. 9837

(B) The office of internal ~~auditing~~ audit is hereby created 9838
in the office of budget and management to ~~conduct~~ direct internal 9839
audits of state agencies or divisions of state agencies to improve 9840
their operations in the areas of risk management, internal 9841
controls, and governance. The director of budget and management, 9842
with the approval of the governor, shall appoint for the office of 9843
internal ~~auditing~~ audit a chief internal auditor who meets the 9844
qualifications specified in division ~~(C)~~(E) of this section. The 9845
chief internal auditor shall serve at the director's pleasure and 9846
be responsible for the administration of the office of internal 9847
~~auditing~~ audit consistent with sections 126.45 to 126.48 of the 9848
Revised Code. 9849

(C) The office of internal ~~auditing~~ audit shall conduct 9850
programs for the internal auditing of state agencies. The programs 9851
shall include an annual internal audit plan, reviewed by the state 9852
audit committee, that utilizes risk assessment techniques and 9853
identifies the specific audits to be ~~conducted~~ directed during the 9854
year. The programs also shall include periodic audits of each 9855
state agency's major systems and controls, including those systems 9856
and controls pertaining to accounting, administration, and 9857
~~electronic data processing~~ information technology. Upon the 9858
request of the office of internal ~~auditing~~ audit, each state 9859

agency shall provide office employees access to all records and 9860
documents necessary for the performance of an internal audit. 9861

The director of budget and management shall assess a charge 9862
against each state agency for which the office of internal 9863
~~auditing~~ audit conducts internal auditing programs under sections 9864
126.45 to 126.48 of the Revised Code so that the total amount of 9865
these charges is sufficient to cover the costs of the operation of 9866
the office of internal ~~auditing~~ audit. 9867

(D) At the request of any other organized body, office, or 9868
agency established by the laws of the state for the exercise of 9869
any function of state government that is not described in division 9870
(A) of this section, the office of internal audit may direct an 9871
internal audit of all or part of that body, office, or agency. The 9872
office of internal audit shall charge an amount sufficient to 9873
cover the costs it incurs in relation to the requested audit. 9874

~~(C)~~(E) The chief internal auditor of the office of internal 9875
~~auditing~~ audit shall hold at least a bachelor's degree and be one 9876
of the following: 9877

(1) A certified internal auditor, a certified government 9878
auditing professional, or a certified public accountant, who also 9879
has held a PA registration or a CPA certificate authorized by 9880
Chapter 4701. of the Revised Code for at least four years and has 9881
at least six years of auditing experience; 9882

(2) An auditor who has held a PA registration or a CPA 9883
certificate authorized by Chapter 4701. of the Revised Code for at 9884
least four years and has at least ten years of auditing 9885
experience. 9886

~~(D)~~(F) The chief internal auditor, subject to the direction 9887
and control of the director of budget and management, may appoint 9888
and maintain any staff necessary to carry out the duties assigned 9889
by sections 126.45 to 126.48 of the Revised Code to the office of 9890

internal ~~auditing~~ audit or to the chief internal auditor. 9891

Sec. 126.46. (A)(1) There is hereby created the state audit 9892
committee, consisting of the following five members: one public 9893
member appointed by the governor; two public members appointed by 9894
the speaker of the house of representatives, one of which may be a 9895
person who is recommended by the minority leader of the house of 9896
representatives; and two public members appointed by the president 9897
of the senate, one of which may be a person who is recommended by 9898
the minority leader of the senate. Not more than two of the four 9899
members appointed by the speaker of the house of representatives 9900
and the president of the senate shall belong to or be affiliated 9901
with the same political party. The member appointed by the 9902
governor shall have the program and management expertise required 9903
to perform the duties of the committee's chairperson. 9904

Each member of the committee shall be external to the 9905
management structure of state government and shall serve a 9906
three-year term. Each term shall commence on the first day of July 9907
and end on the thirtieth day of June. Any member may continue in 9908
office subsequent to the expiration date of the member's term 9909
until the member's successor takes office or until a period of 9910
ninety days has elapsed, whichever occurs first. Members may be 9911
reappointed to serve one additional term. 9912

~~On the effective date of the amendment of this section by~~ 9913
~~H.B. 153 of the 129th general assembly~~ September 29, 2011, the 9914
terms of the members shall be altered as follows: 9915

(a) The terms of the members appointed by the president shall 9916
expire on June 30, 2012. 9917

(b) The term of the member appointed by the speaker scheduled 9918
to expire on November 17, 2012, shall expire on June 30, 2013. 9919

(c) The term of the other member appointed by the speaker 9920

shall expire on June 30, 2014. 9921

(d) The term of the member appointed by the governor shall 9922
expire on June 30, 2014. 9923

The committee shall include at least one member who is a 9924
financial expert; at least one member who is an active, inactive, 9925
or retired certified public accountant; at least one member who is 9926
familiar with governmental financial accounting; at least one 9927
member who is familiar with information technology systems and 9928
services; and at least one member who is a representative of the 9929
public. 9930

Any vacancy on the committee shall be filled in the same 9931
manner as provided in this division, and, when applicable, the 9932
person appointed to fill a vacancy shall serve the remainder of 9933
the predecessor's term. 9934

(2) Members of the committee shall receive reimbursement for 9935
actual and necessary expenses incurred in the discharge of their 9936
duties. 9937

(3) The member of the committee appointed by the governor 9938
shall serve as the committee's chairperson. 9939

(4) Members of the committee shall be subject to the 9940
disclosure statement requirements of section 102.02 of the Revised 9941
Code. 9942

(B) The state audit committee shall do all of the following: 9943

(1) ~~Ensure that~~ Evaluate whether the internal audits 9944
~~conducted~~ directed by the office of internal ~~auditing~~ audit in the 9945
office of budget and management conform to the institute of 9946
internal auditors' international ~~standards for the~~ professional 9947
~~practice of~~ practices framework for internal auditing and to the 9948
institute of internal auditors' code of ethics; 9949

(2) Review and comment on the process used by the office of 9950

budget and management to prepare ~~its annual budgetary financial~~ 9951
~~report and~~ the state's comprehensive annual financial report 9952
required under division (A)(9) of section 126.21 of the Revised 9953
Code; 9954

(3) Review and comment on unaudited financial statements 9955
submitted to the auditor of state and communicate with external 9956
auditors as required by government auditing standards; 9957

(4) Perform the additional functions imposed upon it by 9958
section 126.47 of the Revised Code. 9959

(C) As used in this section, "financial expert" means a 9960
person who has all of the following: 9961

(1) An understanding of generally accepted accounting 9962
principles and financial statements; 9963

(2) The ability to assess the general application of those 9964
principles in connection with accounting for estimates, accruals, 9965
and reserves; 9966

(3) Experience preparing, auditing, analyzing, or evaluating 9967
financial statements presenting accounting issues that generally 9968
are of comparable breadth and level of complexity to those likely 9969
to be presented by a state agency's financial statements, or 9970
experience actively supervising one or more persons engaged in 9971
those activities; 9972

(4) An understanding of internal controls and procedures for 9973
financial reporting; and 9974

(5) An understanding of audit committee functions. 9975

Sec. 126.47. (A) The state audit committee created by section 9976
126.46 of the Revised Code shall ensure that the office of 9977
internal ~~auditing~~ audit in the office of budget and management has 9978
an annual internal audit plan that identifies the internal audits 9979
of state agencies or divisions of state agencies scheduled for the 9980

next fiscal year. The chief internal auditor of the office of 9981
internal ~~auditing~~ audit shall submit the plan to the state audit 9982
committee for review and comment before the beginning of each 9983
fiscal year. The chief internal auditor may submit a revised 9984
internal audit plan for review and comment at any time the 9985
director of budget and management believes there is reason to 9986
modify the previously submitted plan for a fiscal year. 9987

(B) To determine the state agencies or divisions of state 9988
agencies that are to be internally audited, the office of internal 9989
~~auditing~~ audit, in the formulation of an annual or revised 9990
internal audit plan, and the state audit committee, in reviewing a 9991
submitted annual or revised internal audit plan, shall consider 9992
the following factors: 9993

(1) The risk for fraud, waste, or abuse of public money 9994
within an agency or division; 9995

(2) The length of time since an agency or division was last 9996
subject to an internal audit; 9997

(3) The size of an agency or division, and the amount of time 9998
and resources necessary to audit it; 9999

(4) Any other factor the state audit committee determines to 10000
be relevant. 10001

(C) All internal audits shall be ~~conducted only~~ directed by 10002
employees of the office of internal ~~auditing~~ audit. 10003

(D) After the conclusion of an internal audit, the chief 10004
internal auditor shall submit a preliminary report of the internal 10005
audit's findings and recommendations to the state audit committee 10006
and to the director of the state agency involved. The state agency 10007
or division of the state agency covered by the preliminary report 10008
shall be provided an opportunity to respond within thirty days 10009
after receipt of the preliminary report. The response shall 10010
include a corrective action plan for any recommendations in the 10011

preliminary report that are not disputed by the agency or 10012
division. Any response received by the office of internal ~~auditing~~ 10013
audit within that thirty-day period shall be included in the 10014
office's final report of the internal audit's findings and 10015
recommendations. The final report shall be issued by the office of 10016
internal ~~auditing~~ audit within thirty days after the termination 10017
of the thirty-day response period. Copies of the final report 10018
shall be submitted to the state audit committee, the governor, and 10019
the director of the state agency involved. The state audit 10020
committee shall determine an appropriate method for making the 10021
preliminary and final reports available for public inspection in a 10022
timely manner. 10023

Any suspected fraud or other illegal activity discovered by 10024
the office of internal ~~auditing~~ audit during ~~the conduct of an~~ 10025
internal audit shall be reported immediately to the state audit 10026
committee, the director of the state agency in which the fraud or 10027
illegal activity is suspected to have occurred, and the auditor of 10028
state. 10029

(E) The chief internal auditor shall prepare an annual report 10030
and submit the report to the governor, the president of the 10031
senate, the speaker of the house of representatives, and the 10032
auditor of state. The office of budget and management shall make 10033
the report available to the public by posting it on the office's 10034
web site before the first of ~~July~~ August of each year. 10035

Sec. 126.48. ~~Any~~ (A) Except as provided in division (B) of 10036
this section, any preliminary or final report of an internal 10037
audit's findings and recommendations which is produced by the 10038
office of internal ~~auditing~~ audit in the office of budget and 10039
management and all work papers of the internal audit are 10040
confidential and are not public records under section 149.43 of 10041
the Revised Code until the final report of an internal audit's 10042

findings and recommendations is submitted to the state audit committee, the governor, and the director of the state agency involved.

(B) The following are not public records under section 149.43 of the Revised Code:

(1) An internal audit report that meets the definition of a security record under section 149.433 of the Revised Code;

(2) Any information derived from a state tax return or state tax return information as permitted to be used by the office of internal audit under section 5703.21 of the Revised Code.

Sec. 127.14. The controlling board may, at the request of any state agency or the director of budget and management, authorize, with respect to the provisions of any appropriation act:

(A) Transfers of all or part of an appropriation within but not between state agencies, except such transfers as the director of budget and management is authorized by law to make, provided that no transfer shall be made by the director for the purpose of effecting new or changed levels of program service not authorized by the general assembly;

(B) Transfers of all or part of an appropriation from one fiscal year to another;

(C) Transfers of all or part of an appropriation within or between state agencies made necessary by administrative reorganization or by the abolition of an agency or part of an agency;

(D) Transfers of all or part of cash balances in excess of needs from any fund of the state to the general revenue fund or to such other fund of the state to which the money would have been credited in the absence of the fund from which the transfers are

authorized to be made, except that the controlling board may not	10073
authorize such transfers from the accrued leave liability fund,	10074
auto registration distribution fund, budget stabilization fund,	10075
<u>building improvement fund</u> , development bond retirement fund,	10076
facilities establishment fund, gasoline excise tax fund, general	10077
revenue fund, higher education improvement fund, highway	10078
improvement bond retirement fund, highway obligations bond	10079
retirement fund, highway capital improvement fund, highway	10080
operating fund, horse racing tax fund, improvements bond	10081
retirement fund, public library fund, liquor control fund, local	10082
government fund, local transportation improvement program fund,	10083
mental health facilities improvement fund, Ohio fairs fund, parks	10084
and recreation improvement fund, public improvements bond	10085
retirement fund, school district income tax fund, state agency	10086
facilities improvement fund, state and local government highway	10087
distribution fund, state highway safety fund, state lottery fund,	10088
undivided liquor permit fund, Vietnam conflict compensation bond	10089
retirement fund, volunteer fire fighters' dependents fund,	10090
waterways safety fund, wildlife fund, workers' compensation fund,	10091
or any fund not specified in this division that the director of	10092
budget and management determines to be a bond fund or bond	10093
retirement fund;	10094
(E) Transfers of all or part of those appropriations included	10095
in the emergency purposes account of the controlling board;	10096
(F) Temporary transfers of all or part of an appropriation or	10097
other moneys into and between existing funds, or new funds, as may	10098
be established by law when needed for capital outlays for which	10099
notes or bonds will be issued;	10100
(G) Transfer or release of all or part of an appropriation to	10101
a state agency requiring controlling board approval of such	10102
transfer or release as provided by law;	10103
(H) Temporary transfer of funds included in the emergency	10104

purposes appropriation of the controlling board. Such temporary 10105
transfers may be made subject to conditions specified by the 10106
controlling board at the time temporary transfers are authorized. 10107
No transfers shall be made under this division for the purpose of 10108
effecting new or changed levels of program service not authorized 10109
by the general assembly. 10110

As used in this section, "request" means an application by a 10111
state agency or the director of budget and management seeking some 10112
action by the controlling board. 10113

When authorizing the transfer of all or part of an 10114
appropriation under this section, the controlling board may 10115
authorize the transfer to an existing appropriation item and the 10116
creation of and transfer to a new appropriation item. 10117

Whenever there is a transfer of all or part of funds included 10118
in the emergency purposes appropriation by the controlling board, 10119
pursuant to division (E) of this section, the state agency or the 10120
director of budget and management receiving such transfer shall 10121
keep a detailed record of the use of the transferred funds. At the 10122
earliest scheduled meeting of the controlling board following the 10123
accomplishment of the purposes specified in the request originally 10124
seeking the transfer, or following the total expenditure of the 10125
transferred funds for the specified purposes, the state agency or 10126
the director of budget and management shall submit a report on the 10127
expenditure of such funds to the board. The portion of any 10128
appropriation so transferred which is not required to accomplish 10129
the purposes designated in the original request to the controlling 10130
board shall be returned to the proper appropriation of the 10131
controlling board at this time. 10132

Notwithstanding any provisions of law providing for the 10133
deposit of revenues received by a state agency to the credit of a 10134
particular fund in the state treasury, whenever there is a 10135
temporary transfer of funds included in the emergency purposes 10136

appropriation of the controlling board pursuant to division (H) of 10137
this section, revenues received by any state agency receiving such 10138
a temporary transfer of funds shall, as directed by the 10139
controlling board, be transferred back to the emergency purposes 10140
appropriation. 10141

The board may delegate to the director of budget and 10142
management authority to approve transfers among items of 10143
appropriation under division (A) of this section. 10144

Sec. 127.16. (A) Upon the request of either a state agency or 10145
the director of budget and management and after the controlling 10146
board determines that an emergency or a sufficient economic reason 10147
exists, the controlling board may approve the making of a purchase 10148
without competitive selection as provided in division (B) of this 10149
section. 10150

(B) Except as otherwise provided in this section, no state 10151
agency, using money that has been appropriated to it directly, 10152
shall: 10153

(1) Make any purchase from a particular supplier, that would 10154
amount to fifty thousand dollars or more when combined with both 10155
the amount of all disbursements to the supplier during the fiscal 10156
year for purchases made by the agency and the amount of all 10157
outstanding encumbrances for purchases made by the agency from the 10158
supplier, unless the purchase is made by competitive selection or 10159
with the approval of the controlling board; 10160

(2) Lease real estate from a particular supplier, if the 10161
lease would amount to seventy-five thousand dollars or more when 10162
combined with both the amount of all disbursements to the supplier 10163
during the fiscal year for real estate leases made by the agency 10164
and the amount of all outstanding encumbrances for real estate 10165
leases made by the agency from the supplier, unless the lease is 10166
made by competitive selection or with the approval of the 10167

controlling board. 10168

(C) Any person who authorizes a purchase in violation of 10169
division (B) of this section shall be liable to the state for any 10170
state funds spent on the purchase, and the attorney general shall 10171
collect the amount from the person. 10172

(D) Nothing in division (B) of this section shall be 10173
construed as: 10174

(1) A limitation upon the authority of the director of 10175
transportation as granted in sections 5501.17, 5517.02, and 10176
5525.14 of the Revised Code; 10177

(2) Applying to medicaid provider agreements under ~~Chapter~~ 10178
~~5111. of the Revised Code~~ medicaid program; 10179

(3) Applying to the purchase of examinations from a sole 10180
supplier by a state licensing board under Title XLVII of the 10181
Revised Code; 10182

(4) Applying to entertainment contracts for the Ohio state 10183
fair entered into by the Ohio expositions commission, provided 10184
that the controlling board has given its approval to the 10185
commission to enter into such contracts and has approved a total 10186
budget amount for such contracts as agreed upon by commission 10187
action, and that the commission causes to be kept itemized records 10188
of the amounts of money spent under each contract and annually 10189
files those records with the clerk of the house of representatives 10190
and the clerk of the senate following the close of the fair; 10191

(5) Limiting the authority of the chief of the division of 10192
mineral resources management to contract for reclamation work with 10193
an operator mining adjacent land as provided in section 1513.27 of 10194
the Revised Code; 10195

(6) Applying to investment transactions and procedures of any 10196
state agency, except that the agency shall file with the board the 10197

name of any person with whom the agency contracts to make, broker, 10198
service, or otherwise manage its investments, as well as the 10199
commission, rate, or schedule of charges of such person with 10200
respect to any investment transactions to be undertaken on behalf 10201
of the agency. The filing shall be in a form and at such times as 10202
the board considers appropriate. 10203

(7) Applying to purchases made with money for the per cent 10204
for arts program established by section 3379.10 of the Revised 10205
Code; 10206

(8) Applying to purchases made by the rehabilitation services 10207
commission of services, or supplies, that are provided to persons 10208
with disabilities, or to purchases made by the commission in 10209
connection with the eligibility determinations it makes for 10210
applicants of programs administered by the social security 10211
administration; 10212

(9) Applying to payments by the department of ~~job and family~~ 10213
~~services~~ medicaid under section ~~5111.13~~ 5164.85 of the Revised 10214
Code for group health plan premiums, deductibles, coinsurance, and 10215
other cost-sharing expenses; 10216

(10) Applying to any agency of the legislative branch of the 10217
state government; 10218

(11) Applying to agreements or contracts entered into under 10219
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 10220
Revised Code; 10221

(12) Applying to purchases of services by the adult parole 10222
authority under section 2967.14 of the Revised Code or by the 10223
department of youth services under section 5139.08 of the Revised 10224
Code; 10225

(13) Applying to dues or fees paid for membership in an 10226
organization or association; 10227

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	10228
	10229
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	10230
	10231
	10232
	10233
(16) Applying to purchases of tickets for passenger air transportation;	10234
	10235
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	10236
	10237
	10238
(18) Applying to the judicial branch of state government;	10239
(19) Applying to purchases of liquor for resale by the division of liquor control;	10240
	10241
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	10242
	10243
	10244
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	10245
	10246
	10247
	10248
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	10249
	10250
	10251
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	10252
	10253
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	10254
	10255
	10256
	10257

(25) Applying to purchases from a qualified nonprofit agency	10258
pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of	10259
the Revised Code;	10260
(26) Applying to payments by the department of job and family	10261
services to the United States department of health and human	10262
services for printing and mailing notices pertaining to the tax	10263
refund offset program of the internal revenue service of the	10264
United States department of the treasury;	10265
(27) Applying to contracts entered into by the department of	10266
developmental disabilities under section 5123.18 of the Revised	10267
Code;	10268
(28) Applying to payments made by the department of mental	10269
health <u>mental health and addiction services</u> under a physician	10270
recruitment program authorized by section 5119.101 <u>5119.185</u> of the	10271
Revised Code;	10272
(29) Applying to contracts entered into with persons by the	10273
director of commerce for unclaimed funds collection and remittance	10274
efforts as provided in division (F) of section 169.03 of the	10275
Revised Code. The director shall keep an itemized accounting of	10276
unclaimed funds collected by those persons and amounts paid to	10277
them for their services.	10278
(30) Applying to purchases made by a state institution of	10279
higher education in accordance with the terms of a contract	10280
between the vendor and an inter-university purchasing group	10281
comprised of purchasing officers of state institutions of higher	10282
education;	10283
(31) Applying to the department of job and family services	10284
<u>medicaid's</u> purchases of health assistance services under the	10285
children's health insurance program part I provided for under	10286
section 5101.50 of the Revised Code, the children's health	10287
insurance program part II provided for under section 5101.51 of	10288

the Revised Code, or the children's health insurance program part	10289
III provided for under section 5101.52 of the Revised Code;	10290
(32) Applying to payments by the attorney general from the	10291
reparations fund to hospitals and other emergency medical	10292
facilities for performing medical examinations to collect physical	10293
evidence pursuant to section 2907.28 of the Revised Code;	10294
(33) Applying to contracts with a contracting authority or	10295
administrative receiver under division (B) of section 5126.056 of	10296
the Revised Code;	10297
(34) Applying to purchases of goods and services by the	10298
department of veterans services in accordance with the terms of	10299
contracts entered into by the United States department of veterans	10300
affairs;	10301
(35) Applying to payments by the superintendent of the bureau	10302
of criminal identification and investigation to the federal bureau	10303
of investigation for criminal records checks pursuant to section	10304
109.572 of the Revised Code;	10305
(36) Applying to contracts entered into by the department of	10306
job and family services <u>medicaid</u> under section 5111.054 <u>5164.47</u> of	10307
the Revised Code;	10308
<u>(37) Applying to contracts entered into under section 5160.12</u>	10309
<u>of the Revised Code.</u>	10310
(E) When determining whether a state agency has reached the	10311
cumulative purchase thresholds established in divisions (B)(1) and	10312
(2) of this section, all of the following purchases by such agency	10313
shall not be considered:	10314
(1) Purchases made through competitive selection or with	10315
controlling board approval;	10316
(2) Purchases listed in division (D) of this section;	10317
(3) For the purposes of the threshold of division (B)(1) of	10318

this section only, leases of real estate. 10319

(F) As used in this section, "competitive selection," 10320
"purchase," "supplies," and "services" have the same meanings as 10321
in section 125.01 of the Revised Code. 10322

Sec. 133.06. (A) A school district shall not incur, without a 10323
vote of the electors, net indebtedness that exceeds an amount 10324
equal to one-tenth of one per cent of its tax valuation, except as 10325
provided in divisions (G) and (H) of this section and in division 10326
(C) of section 3313.372 of the Revised Code, or as prescribed in 10327
section 3318.052 or 3318.44 of the Revised Code, or as provided in 10328
division (J) of this section. 10329

(B) Except as provided in divisions (E), (F), and (I) of this 10330
section, a school district shall not incur net indebtedness that 10331
exceeds an amount equal to nine per cent of its tax valuation. 10332

(C) A school district shall not submit to a vote of the 10333
electors the question of the issuance of securities in an amount 10334
that will make the district's net indebtedness after the issuance 10335
of the securities exceed an amount equal to four per cent of its 10336
tax valuation, unless the superintendent of public instruction, 10337
acting under policies adopted by the state board of education, and 10338
the tax commissioner, acting under written policies of the 10339
commissioner, consent to the submission. A request for the 10340
consents shall be made at least one hundred twenty days prior to 10341
the election at which the question is to be submitted. 10342

The superintendent of public instruction shall certify to the 10343
district the superintendent's and the tax commissioner's decisions 10344
within thirty days after receipt of the request for consents. 10345

If the electors do not approve the issuance of securities at 10346
the election for which the superintendent of public instruction 10347
and tax commissioner consented to the submission of the question, 10348

the school district may submit the same question to the electors 10349
on the date that the next special election may be held under 10350
section 3501.01 of the Revised Code without submitting a new 10351
request for consent. If the school district seeks to submit the 10352
same question at any other subsequent election, the district shall 10353
first submit a new request for consent in accordance with this 10354
division. 10355

(D) In calculating the net indebtedness of a school district, 10356
none of the following shall be considered: 10357

(1) Securities issued to acquire school buses and other 10358
equipment used in transporting pupils or issued pursuant to 10359
division (D) of section 133.10 of the Revised Code; 10360

(2) Securities issued under division (F) of this section, 10361
under section 133.301 of the Revised Code, and, to the extent in 10362
excess of the limitation stated in division (B) of this section, 10363
under division (E) of this section; 10364

(3) Indebtedness resulting from the dissolution of a joint 10365
vocational school district under section 3311.217 of the Revised 10366
Code, evidenced by outstanding securities of that joint vocational 10367
school district; 10368

(4) Loans, evidenced by any securities, received under 10369
sections 3313.483, 3317.0210, and 3317.0211, ~~and 3317.64~~ of the 10370
Revised Code; 10371

(5) Debt incurred under section 3313.374 of the Revised Code; 10372

(6) Debt incurred pursuant to division (B)(5) of section 10373
3313.37 of the Revised Code to acquire computers and related 10374
hardware; 10375

(7) Debt incurred under section 3318.042 of the Revised Code. 10376

(E) A school district may become a special needs district as 10377
to certain securities as provided in division (E) of this section. 10378

(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:

(a) The student population is not being adequately serviced by the existing permanent improvements of the district.

(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.

(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:

(a) The history of and a projection of the growth of the tax valuation;

(b) The projected needs;

(c) The estimated cost of permanent improvements proposed to meet such projected needs.

(3) The superintendent of public instruction shall certify the district as an approved special needs district if the superintendent finds both of the following:

(a) The district does not have available sufficient additional funds from state or federal sources to meet the projected needs.

(b) The projection of the potential average growth of tax valuation during the next five years, according to the information certified to the superintendent and any other information the superintendent obtains, indicates a likelihood of potential average growth of tax valuation of the district during the next five years of an average of not less than one and one-half per cent per year. The findings and certification of the

superintendent shall be conclusive. 10409

(4) An approved special needs district may incur net 10410
indebtedness by the issuance of securities in accordance with the 10411
provisions of this chapter in an amount that does not exceed an 10412
amount equal to the greater of the following: 10413

(a) Twelve per cent of the sum of its tax valuation plus an 10414
amount that is the product of multiplying that tax valuation by 10415
the percentage by which the tax valuation has increased over the 10416
tax valuation on the first day of the sixtieth month preceding the 10417
month in which its board determines to submit to the electors the 10418
question of issuing the proposed securities; 10419

(b) Twelve per cent of the sum of its tax valuation plus an 10420
amount that is the product of multiplying that tax valuation by 10421
the percentage, determined by the superintendent of public 10422
instruction, by which that tax valuation is projected to increase 10423
during the next ten years. 10424

(F) A school district may issue securities for emergency 10425
purposes, in a principal amount that does not exceed an amount 10426
equal to three per cent of its tax valuation, as provided in this 10427
division. 10428

(1) A board of education, by resolution, may declare an 10429
emergency if it determines both of the following: 10430

(a) School buildings or other necessary school facilities in 10431
the district have been wholly or partially destroyed, or condemned 10432
by a constituted public authority, or that such buildings or 10433
facilities are partially constructed, or so constructed or planned 10434
as to require additions and improvements to them before the 10435
buildings or facilities are usable for their intended purpose, or 10436
that corrections to permanent improvements are necessary to remove 10437
or prevent health or safety hazards. 10438

(b) Existing fiscal and net indebtedness limitations make 10439

adequate replacement, additions, or improvements impossible. 10440

(2) Upon the declaration of an emergency, the board of 10441
education may, by resolution, submit to the electors of the 10442
district pursuant to section 133.18 of the Revised Code the 10443
question of issuing securities for the purpose of paying the cost, 10444
in excess of any insurance or condemnation proceeds received by 10445
the district, of permanent improvements to respond to the 10446
emergency need. 10447

(3) The procedures for the election shall be as provided in 10448
section 133.18 of the Revised Code, except that: 10449

(a) The form of the ballot shall describe the emergency 10450
existing, refer to this division as the authority under which the 10451
emergency is declared, and state that the amount of the proposed 10452
securities exceeds the limitations prescribed by division (B) of 10453
this section; 10454

(b) The resolution required by division (B) of section 133.18 10455
of the Revised Code shall be certified to the county auditor and 10456
the board of elections at least one hundred days prior to the 10457
election; 10458

(c) The county auditor shall advise and, not later than 10459
ninety-five days before the election, confirm that advice by 10460
certification to, the board of education of the information 10461
required by division (C) of section 133.18 of the Revised Code; 10462

(d) The board of education shall then certify its resolution 10463
and the information required by division (D) of section 133.18 of 10464
the Revised Code to the board of elections not less than ninety 10465
days prior to the election. 10466

(4) Notwithstanding division (B) of section 133.21 of the 10467
Revised Code, the first principal payment of securities issued 10468
under this division may be set at any date not later than sixty 10469
months after the earliest possible principal payment otherwise 10470

provided for in that division. 10471

(G)(1) The board of education may contract with an architect, 10472
professional engineer, or other person experienced in the design 10473
and implementation of energy conservation measures for an analysis 10474
and recommendations pertaining to installations, modifications of 10475
installations, or remodeling that would significantly reduce 10476
energy consumption in buildings owned by the district. The report 10477
shall include estimates of all costs of such installations, 10478
modifications, or remodeling, including costs of design, 10479
engineering, installation, maintenance, repairs, and debt service, 10480
forgone residual value of materials or equipment replaced by the 10481
energy conservation measure, as defined by the Ohio school 10482
facilities commission, a baseline analysis of actual energy 10483
consumption data for the preceding three years with the utility 10484
baseline based on only the actual energy consumption data for the 10485
preceding twelve months, and estimates of the amounts by which 10486
energy consumption and resultant operational and maintenance 10487
costs, as defined by the commission, would be reduced. 10488

If the board finds after receiving the report that the amount 10489
of money the district would spend on such installations, 10490
modifications, or remodeling is not likely to exceed the amount of 10491
money it would save in energy and resultant operational and 10492
maintenance costs over the ensuing fifteen years, the board may 10493
submit to the commission a copy of its findings and a request for 10494
approval to incur indebtedness to finance the making or 10495
modification of installations or the remodeling of buildings for 10496
the purpose of significantly reducing energy consumption. 10497

~~If the commission determines that the board's findings are~~ 10498
~~reasonable, it~~ The school facilities commission, in consultation 10499
with the auditor of state, may deny a request under this division 10500
by the board of education any school district is in a state of 10501
fiscal watch pursuant to division (A) of section 3316.03 of the 10502

Revised Code, if it determines that the expenditure of funds is 10503
not in the best interest of the school district. 10504

No district board of education of a school district that is 10505
in a state of fiscal emergency pursuant to division (B) of section 10506
3316.03 of the Revised Code shall submit a request without 10507
submitting evidence that the installations, modifications, or 10508
remodeling have been approved by the district's financial planning 10509
and supervision commission established under section 3316.05 of 10510
the Revised Code. 10511

No board of education of a school district that, for three or 10512
more consecutive years, has been declared to be in a state of 10513
academic emergency under section 3302.03 of the Revised Code, as 10514
that section existed prior to March 22, 2013, and has failed to 10515
meet adequate yearly progress, or has met any condition set forth 10516
in division (A)(2), (3), or (4) of section 3302.10 of the Revised 10517
Code shall submit a request without first receiving approval to 10518
incur indebtedness from the district's academic distress 10519
commission established under that section, for so long as such 10520
commission continues to be required for the district. 10521

(2) The school facilities commission shall approve the 10522
board's request. ~~Upon~~ provided that the following conditions are 10523
satisfied: 10524

(a) The commission determines that the board's findings are 10525
reasonable. 10526

(b) The request for approval is complete. 10527

(c) The installations, modifications, or remodeling are 10528
consistent with any project to construct or acquire classroom 10529
facilities, or to reconstruct or make additions to existing 10530
classroom facilities under sections 3318.01 to 3318.20 or sections 10531
3318.40 to 3318.45 of the Revised Code. 10532

Upon receipt of the commission's approval, the district may 10533

issue securities without a vote of the electors in a principal 10534
amount not to exceed nine-tenths of one per cent of its tax 10535
valuation for the purpose of making such installations, 10536
modifications, or remodeling, but the total net indebtedness of 10537
the district without a vote of the electors incurred under this 10538
and all other sections of the Revised Code, except section 10539
3318.052 of the Revised Code, shall not exceed one per cent of the 10540
district's tax valuation. 10541

(3) So long as any securities issued under ~~division (G) of~~ 10542
this ~~section~~ division remain outstanding, the board of education 10543
shall monitor the energy consumption and resultant operational and 10544
maintenance costs of buildings in which installations or 10545
modifications have been made or remodeling has been done pursuant 10546
to ~~division (G) of this section~~ division and shall maintain and 10547
annually update a report documenting the reductions in energy 10548
consumption and resultant operational and maintenance cost savings 10549
attributable to such installations, modifications, or remodeling. 10550
The report shall be certified by an architect or engineer 10551
independent of any person that provided goods or services to the 10552
board in connection with the energy conservation measures that are 10553
the subject of the report. The resultant operational and 10554
maintenance cost savings shall be certified by the school district 10555
treasurer. The report shall be submitted annually to the 10556
commission. 10557

(H) With the consent of the superintendent of public 10558
instruction, a school district may incur without a vote of the 10559
electors net indebtedness that exceeds the amounts stated in 10560
divisions (A) and (G) of this section for the purpose of paying 10561
costs of permanent improvements, if and to the extent that both of 10562
the following conditions are satisfied: 10563

(1) The fiscal officer of the school district estimates that 10564
receipts of the school district from payments made under or 10565

pursuant to agreements entered into pursuant to section 725.02, 10566
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 10567
5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised 10568
Code, or distributions under division (C) of section 5709.43 of 10569
the Revised Code, or any combination thereof, are, after 10570
accounting for any appropriate coverage requirements, sufficient 10571
in time and amount, and are committed by the proceedings, to pay 10572
the debt charges on the securities issued to evidence that 10573
indebtedness and payable from those receipts, and the taxing 10574
authority of the district confirms the fiscal officer's estimate, 10575
which confirmation is approved by the superintendent of public 10576
instruction; 10577

(2) The fiscal officer of the school district certifies, and 10578
the taxing authority of the district confirms, that the district, 10579
at the time of the certification and confirmation, reasonably 10580
expects to have sufficient revenue available for the purpose of 10581
operating such permanent improvements for their intended purpose 10582
upon acquisition or completion thereof, and the superintendent of 10583
public instruction approves the taxing authority's confirmation. 10584

The maximum maturity of securities issued under division (H) 10585
of this section shall be the lesser of twenty years or the maximum 10586
maturity calculated under section 133.20 of the Revised Code. 10587

(I) A school district may incur net indebtedness by the 10588
issuance of securities in accordance with the provisions of this 10589
chapter in excess of the limit specified in division (B) or (C) of 10590
this section when necessary to raise the school district portion 10591
of the basic project cost and any additional funds necessary to 10592
participate in a project under Chapter 3318. of the Revised Code, 10593
including the cost of items designated by the Ohio school 10594
facilities commission as required locally funded initiatives, the 10595
cost of other locally funded initiatives in an amount that does 10596
not exceed fifty per cent of the district's portion of the basic 10597

project cost, and the cost for site acquisition. The school 10598
facilities commission shall notify the superintendent of public 10599
instruction whenever a school district will exceed either limit 10600
pursuant to this division. 10601

(J) A school district whose portion of the basic project cost 10602
of its classroom facilities project under sections 3318.01 to 10603
3318.20 of the Revised Code is greater than or equal to one 10604
hundred million dollars may incur without a vote of the electors 10605
net indebtedness in an amount up to two per cent of its tax 10606
valuation through the issuance of general obligation securities in 10607
order to generate all or part of the amount of its portion of the 10608
basic project cost if the controlling board has approved the 10609
school facilities commission's conditional approval of the project 10610
under section 3318.04 of the Revised Code. The school district 10611
board and the Ohio school facilities commission shall include the 10612
dedication of the proceeds of such securities in the agreement 10613
entered into under section 3318.08 of the Revised Code. No state 10614
moneys shall be released for a project to which this section 10615
applies until the proceeds of any bonds issued under this section 10616
that are dedicated for the payment of the school district portion 10617
of the project are first deposited into the school district's 10618
project construction fund. 10619

Sec. 140.01. As used in this chapter: 10620

(A) "Hospital agency" means any public hospital agency or any 10621
nonprofit hospital agency. 10622

(B) "Public hospital agency" means any county, board of 10623
county hospital trustees established pursuant to section 339.02 of 10624
the Revised Code, county hospital commission established pursuant 10625
to section 339.14 of the Revised Code, municipal corporation, new 10626
community authority organized under Chapter 349. of the Revised 10627
Code, joint township hospital district, state or municipal 10628

university or college operating or authorized to operate a 10629
hospital facility, or the state. 10630

(C) "Nonprofit hospital agency" means a corporation or 10631
association not for profit, no part of the net earnings of which 10632
inures or may lawfully inure to the benefit of any private 10633
shareholder or individual, that has authority to own or operate a 10634
hospital facility or provides or is to provide services to one or 10635
more other hospital agencies. 10636

(D) "Governing body" means, in the case of a county, the 10637
board of county commissioners or other legislative body; in the 10638
case of a board of county hospital trustees, the board; in the 10639
case of a county hospital commission, the commission; in the case 10640
of a municipal corporation, the council or other legislative 10641
authority; in the case of a new community authority, its board of 10642
trustees; in the case of a joint township hospital district, the 10643
joint township district hospital board; in the case of a state or 10644
municipal university or college, its board of trustees or board of 10645
directors; in the case of a nonprofit hospital agency, the board 10646
of trustees or other body having general management of the agency; 10647
and, in the case of the state, the director of development 10648
services or the Ohio higher educational facility commission. 10649

(E) "Hospital facilities" means buildings, structures and 10650
other improvements, additions thereto and extensions thereof, 10651
furnishings, equipment, and real estate and interests in real 10652
estate, used or to be used for or in connection with one or more 10653
hospitals, emergency, intensive, intermediate, extended, 10654
long-term, or self-care facilities, diagnostic and treatment and 10655
out-patient facilities, facilities related to programs for home 10656
health services, clinics, laboratories, public health centers, 10657
research facilities, and rehabilitation facilities, for or 10658
pertaining to diagnosis, treatment, care, or rehabilitation of 10659
sick, ill, injured, infirm, impaired, disabled, or handicapped 10660

persons, or the prevention, detection, and control of disease, and 10661
also includes education, training, and food service facilities for 10662
health professions personnel, housing facilities for such 10663
personnel and their families, and parking and service facilities 10664
in connection with any of the foregoing; and includes any one, 10665
part of, or any combination of the foregoing; and further includes 10666
site improvements, utilities, machinery, facilities, furnishings, 10667
and any separate or connected buildings, structures, improvements, 10668
sites, utilities, facilities, or equipment to be used in, or in 10669
connection with the operation or maintenance of, or supplementing 10670
or otherwise related to the services or facilities to be provided 10671
by, any one or more of such hospital facilities. 10672

(F) "Costs of hospital facilities" means the costs of 10673
acquiring hospital facilities or interests in hospital facilities, 10674
including membership interests in nonprofit hospital agencies, 10675
costs of constructing hospital facilities, costs of improving one 10676
or more hospital facilities, including reconstructing, 10677
rehabilitating, remodeling, renovating, and enlarging, costs of 10678
equipping and furnishing such facilities, and all financing costs 10679
pertaining thereto, including, without limitation thereto, costs 10680
of engineering, architectural, and other professional services, 10681
designs, plans, specifications and surveys, and estimates of cost, 10682
costs of tests and inspections, the costs of any indemnity or 10683
surety bonds and premiums on insurance, all related direct or 10684
allocable administrative expenses pertaining thereto, fees and 10685
expenses of trustees, depositories, and paying agents for the 10686
obligations, cost of issuance of the obligations and financing 10687
charges and fees and expenses of financial advisors, attorneys, 10688
accountants, consultants and rating services in connection 10689
therewith, capitalized interest on the obligations, amounts 10690
necessary to establish reserves as required by the bond 10691
proceedings, the reimbursement of all moneys advanced or applied 10692
by the hospital agency or others or borrowed from others for the 10693

payment of any item or items of costs of such facilities, and all 10694
other expenses necessary or incident to planning or determining 10695
feasibility or practicability with respect to such facilities, and 10696
such other expenses as may be necessary or incident to the 10697
acquisition, construction, reconstruction, rehabilitation, 10698
remodeling, renovation, enlargement, improvement, equipment, and 10699
furnishing of such facilities, the financing thereof, and the 10700
placing of the same in use and operation, including any one, part 10701
of, or combination of such classes of costs and expenses, and 10702
means the costs of refinancing obligations issued by, or 10703
reimbursement of money advanced by, nonprofit hospital agencies or 10704
others the proceeds of which were used for the payment of costs of 10705
hospital facilities, if the governing body of the public hospital 10706
agency determines that the refinancing or reimbursement advances 10707
the purposes of this chapter, whether or not the refinancing or 10708
reimbursement is in conjunction with the acquisition or 10709
construction of additional hospital facilities. 10710

(G) "Hospital receipts" means all moneys received by or on 10711
behalf of a hospital agency from or in connection with the 10712
ownership, operation, acquisition, construction, improvement, 10713
equipping, or financing of any hospital facilities, including, 10714
without limitation thereto, any rentals and other moneys received 10715
from the lease, sale, or other disposition of hospital facilities, 10716
and any gifts, grants, interest subsidies, or other moneys 10717
received under any federal program for assistance in financing the 10718
costs of hospital facilities, and any other gifts, grants, and 10719
donations, and receipts therefrom, available for financing the 10720
costs of hospital facilities. 10721

(H) "Obligations" means bonds, notes, or other evidences of 10722
indebtedness or obligation, including interest coupons pertaining 10723
thereto, issued or issuable by a public hospital agency to pay 10724
costs of hospital facilities. 10725

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.	10726 10727
(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.	10728 10729 10730 10731 10732 10733 10734
(K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code.	10735 10736
(L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code.	10737 10738
(M) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:	10739 10740 10741 10742 10743
(1) A hospital required to be certified by section 3727.02 of the Revised Code;	10744 10745
(2) A nursing home or residential care facility;	10746
(3) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code and used for the program's hospice patients;	10747 10748 10749
(4) A residential facility licensed by the department of mental health <u>mental health and addiction services</u> under section 5119.22 <u>5119.34</u> of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;	10750 10751 10752 10753 10754
(5) A residential facility licensed by the department of	10755

~~mental health~~ mental health and addiction services under section 10756
~~5119.22~~ 5119.34 of the Revised Code that is not a residential 10757
facility described in division (M)(4) of this section; 10758

(6) A facility licensed to provide methadone treatment under 10759
section ~~3793.11~~ 5119.39 of the Revised Code; 10760

(7) A facility certified as ~~an alcohol and drug~~ a community 10761
~~addiction program~~ services provider under section ~~3793.06~~ 5119.36 10762
of the Revised Code; 10763

(8) A residential facility licensed under section 5123.19 of 10764
the Revised Code or a facility providing services under a contract 10765
with the department of developmental disabilities under section 10766
5123.18 of the Revised Code; 10767

(9) A residential facility used as part of a hospital to 10768
provide housing for staff of the hospital or students pursuing a 10769
course of study at the hospital. 10770

Sec. 140.03. (A) Two or more hospital agencies may enter into 10771
agreements for the acquisition, construction, reconstruction, 10772
rehabilitation, remodeling, renovating, enlarging, equipping, and 10773
furnishing of hospital facilities, or the management, operation, 10774
occupancy, use, maintenance, and repair of hospital facilities, or 10775
for participation in programs, projects, activities, and services 10776
useful to, connected with, supplementing, or otherwise related to 10777
the services provided by, or the operation of, hospital facilities 10778
operated by one or more participating hospital agencies, including 10779
any combination of such purposes, all in such manner as to promote 10780
the public purpose stated in section 140.02 of the Revised Code. A 10781
city health district; general health district; board of alcohol, 10782
drug addiction, and mental health services; county board of 10783
developmental disabilities; the department of ~~mental health~~ mental 10784
health and addiction services; the department of developmental 10785
disabilities; or any public body engaged in the education or 10786

training of health professions personnel may join in any such 10787
agreement for purposes related to its authority under laws 10788
applicable to it, and as such a participant shall be considered a 10789
public hospital agency or hospital agency for the purposes of this 10790
section. 10791

(B) An agreement entered into under authority of this section 10792
shall, where appropriate, provide for: 10793

(1) The manner in which the title to the hospital facilities, 10794
including the sites and interest in real estate pertaining 10795
thereto, is to be held, transferred, or disposed of; 10796

(2) Unless provided for by lease pursuant to section 140.05 10797
of the Revised Code, the method by which such hospital facilities 10798
are to be acquired, constructed, or otherwise improved and by 10799
which they shall be managed, occupied, maintained, and repaired, 10800
including the designation of one of the hospital agencies to have 10801
charge of the details of acquisition, construction, or improvement 10802
pursuant to the contracting procedures prescribed under the law 10803
applicable to one of the participating public hospital agencies; 10804

(3) The management or administration of any such programs, 10805
projects, activities, or services, which may include management or 10806
administration by one of said hospital agencies or a board or 10807
agency thereof; 10808

(4) Annual, or more frequent, reports to the participating 10809
hospital agencies as to the revenues and receipts pertaining to 10810
the subject of the agreement, the expenditures thereof, the status 10811
and application of other funds contributed under such agreement, 10812
and such other matters as may be specified by or pursuant to such 10813
agreement; 10814

(5) The manner of apportionment or sharing of costs of 10815
hospital facilities, any other applicable costs of management, 10816
operation, maintenance, and repair of hospital facilities, and 10817

costs for the programs, projects, activities, and services forming 10818
the subject of the agreement, which apportionment or sharing may 10819
be prescribed in fixed amounts, or determined by ratios, formulas, 10820
or otherwise, and paid as service charges, rentals, or in such 10821
other manner as provided in the agreement, and may include amounts 10822
sufficient to meet the bond service charges and other payments and 10823
deposits required under the bond proceedings for obligations 10824
issued to pay costs of hospital facilities. A hospital agency may 10825
commit itself to make such payments at least for so long as any 10826
such obligations are outstanding. In the apportionment, different 10827
classes of costs or expenses may be apportioned to one or more, 10828
all or less than all, of the participating hospital agencies as 10829
determined under such agreement. 10830

(C) An agreement entered into under authority of this section 10831
may provide for: 10832

(1) An orderly process for making determinations or advising 10833
as to planning, execution, implementation, and operation, which 10834
may include designating one of the hospital agencies, or a board 10835
thereof, for any of such purposes, provisions for a committee, 10836
board, or commission, and for representation thereon, or as may 10837
otherwise be provided; 10838

(2) Securing necessary personnel, including participation of 10839
personnel from the respective hospital agencies; 10840

(3) Standards or conditions for the admission or 10841
participation of patients and physicians; 10842

(4) Conditions for admittance of other hospital agencies to 10843
participation under the agreement; 10844

(5) Fixing or establishing the method of determining charges 10845
to be made for particular services; 10846

(6) The manner of amending, supplementing, terminating, or 10847
withdrawal or removal of any party from, the agreement, and the 10848

term of the agreement, or an indefinite term; 10849

(7) Designation of the applicants for or recipients of any 10850
federal, state, or other aid, assistance, or loans available by 10851
reason of any activities conducted under the agreement; 10852

(8) Designation of one or more of the participating hospital 10853
agencies to maintain, prepare, and submit, on behalf of all 10854
parties to the agreement, any or all records and reports with 10855
regard to the activities conducted under the agreement; 10856

(9) Any incidental use of the hospital facilities, or 10857
services thereof, by participating public hospital agencies for 10858
any of their lawful purposes, which incidental use does not impair 10859
the character of the facilities as hospital facilities for any 10860
purpose of this chapter; 10861

(10) Such other matters as the parties thereto may agree upon 10862
for the purposes of division (A) of this section. 10863

(D) For the purpose of paying or contributing its share under 10864
an agreement made under this section, a public hospital agency 10865
may: 10866

(1) Expend any moneys from its general fund, and from any 10867
other funds not otherwise restricted by law, but including funds 10868
for permanent improvements of hospital facilities of such public 10869
hospital agency where the contribution is to be made toward the 10870
costs of hospital facilities under the agreement, and including 10871
funds derived from levies for, or receipts available for, 10872
operating expenses of hospital facilities or services of such 10873
public hospital agency where the contribution or payment is to be 10874
made toward operating expenses of the hospital facilities or 10875
services under the agreement or for the services provided thereby; 10876

(2) Issue obligations under Chapter 133. or section 140.06, 10877
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 10878
3 of Article XVIII, Ohio Constitution, if applicable to such 10879

public hospital agency, to pay costs of hospital facilities, or 10880
issue obligations under any other provision of law authorizing 10881
such public hospital agency to issue obligations for any costs of 10882
hospital facilities; 10883

(3) Levy taxes under Chapter 5705. or section 513.13 or 10884
3709.29 of the Revised Code, if applicable to such public hospital 10885
agency, provided that the purpose of such levy may include the 10886
provision of funds for either or both permanent improvements and 10887
current expenses if required for the contribution or payment of 10888
such hospital agency under such agreement, and each such public 10889
hospital agency may issue notes in anticipation of any such levy, 10890
pursuant to the procedures provided in section 5705.191 of the 10891
Revised Code if the levy is solely for current expenses, and in 10892
section 5705.193 of the Revised Code if the levy is all or in part 10893
for permanent improvements; 10894

(4) Contribute real and personal property or interest therein 10895
without necessity for competitive bidding or public auction on 10896
disposition of such property. 10897

(E) Any funds provided by public hospital agencies that are 10898
parties to an agreement entered into under this section shall be 10899
transferred to and placed in a separate fund or funds of such 10900
participating public hospital agency as is designated under the 10901
agreement. The funds shall be applied for the purposes provided in 10902
such agreement and are subject to audit. Pursuant to any 10903
determinations to be made under such agreement, the funds shall be 10904
deposited, invested, and disbursed under the provisions of law 10905
applicable to the public hospital agency in whose custody the 10906
funds are held. This division is subject to the provisions of any 10907
applicable bond proceedings under section 133.08, 140.06, 339.15, 10908
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 10909
Constitution. The records and reports of such public hospital 10910
agency under Chapter 117. of the Revised Code and sections 3702.51 10911

to 3702.62 of the Revised Code, with respect to the funds shall be 10912
sufficient without necessity for reports thereon by the other 10913
public hospital agencies participating under such agreement. 10914

(F)(1) Prior to its entry into any such agreement, the public 10915
hospital agency must determine, and set forth in a resolution or 10916
ordinance, that the contribution to be made by it under such 10917
agreement will be fair consideration for value and benefit to be 10918
derived by it under such agreement and that the agreement will 10919
promote the public purpose stated in section 140.02 of the Revised 10920
Code. 10921

(2) If the agreement is with a board of county commissioners, 10922
board of county hospital trustees, or county hospital commission 10923
and is an initial agreement for the acquisition or operation of a 10924
county hospital operated by a board of county hospital trustees 10925
under section 339.06 of the Revised Code, the governing body of 10926
the public hospital agency shall submit the agreement, accompanied 10927
by the resolution or ordinance, to the board of county 10928
commissioners for review pursuant to section 339.091 of the 10929
Revised Code. The agreement may be entered into only if the board 10930
of county commissioners adopts a resolution under that section. 10931
The requirements of division (F)(2) of this section do not apply 10932
to the agreement if one or more hospitals classified as general 10933
hospitals by the director of health under section 3701.07 of the 10934
Revised Code are operating in the same county as the county 10935
hospital. 10936

Sec. 140.05. (A)(1) A public hospital agency may lease any 10937
hospital facility to one or more hospital agencies for use as a 10938
hospital facility, or to one or more city or general health 10939
districts; boards of alcohol, drug addiction, and mental health 10940
services; county boards of developmental disabilities; the 10941
department of ~~mental health~~ mental health and addiction services; 10942

or the department of developmental disabilities, for uses which 10943
they are authorized to make thereof under the laws applicable to 10944
them, or any combination of them, and they may lease such 10945
facilities to or from a hospital agency for such uses, upon such 10946
terms and conditions as are agreed upon by the parties. Such lease 10947
may be for a term of fifty years or less and may provide for an 10948
option of the lessee to renew for a term of fifty years or less, 10949
as therein set forth. Prior to entering into such lease, the 10950
governing body of any public hospital agency granting such lease 10951
must determine, and set forth in a resolution or ordinance, that 10952
such lease will promote the public purpose stated in section 10953
140.02 of the Revised Code and that the lessor public hospital 10954
agency will be duly benefited thereby. 10955

(2) If the lease is with a board of county commissioners, 10956
board of county hospital trustees, or county hospital commission 10957
and is an agreement for the initial lease of a county hospital 10958
operated by a board of county hospital trustees under section 10959
339.06 of the Revised Code, the governing body of the public 10960
hospital agency shall submit the agreement, accompanied by the 10961
resolution or ordinance, to the board of county commissioners for 10962
review pursuant to section 339.091 of the Revised Code. The 10963
agreement may be entered into only if the board of county 10964
commissioners adopts a resolution under that section. The 10965
requirements of division (A)(2) of this section do not apply to 10966
the lease if one or more hospitals classified as general hospitals 10967
by the director of health under section 3701.07 of the Revised 10968
Code are operating in the same county as the county hospital. 10969

(B) Any lease entered into pursuant to this section shall 10970
provide that in the event that the lessee fails faithfully and 10971
efficiently to administer, maintain, and operate such leased 10972
facilities as hospital facilities, or fails to provide the 10973
services thereof without regard to race, creed, color, or national 10974

origin, or fails to require that any hospital agency using such facilities or the services thereof shall not discriminate by reason of race, creed, color, or national origin, after an opportunity to be heard upon written charges, said lease may be terminated at the time, in the manner and with consequences therein provided. If any such lease does not contain terms to the effect provided in this division, it shall nevertheless be deemed to contain such terms which shall be implemented as determined by the governing body of the lessor.

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

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

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

(F) If land acquired by a public hospital agency for a hospital facility is adjacent to an existing hospital facility owned by another hospital agency, the public hospital agency may, in connection with such acquisition or the leasing of such land

and hospital facilities thereon to one or more hospital agencies, 11007
enter into an agreement with the hospital agency which owns such 11008
adjacent hospital facility for the use of common walls in the 11009
construction, operation, or maintenance of hospital facilities of 11010
the public hospital agency. For the purpose of construction, 11011
operation, or maintenance of hospital facilities, a public 11012
hospital agency may acquire by purchase, gift, lease, lease with 11013
option to purchase, lease-purchase, or installment purchase, 11014
easement deed, or other agreement, real estate and interests in 11015
real estate, including rights to use space over, under or upon 11016
real property owned by others, and support, access, common wall, 11017
and other rights in connection therewith. Any public hospital 11018
agency or other political subdivision or any public agency, board, 11019
commission, institution, body, or instrumentality may grant such 11020
real estate, interests, or rights to any hospital agency upon such 11021
terms as are agreed upon without necessity for competitive bidding 11022
or public auction. 11023

Sec. 145.01. As used in this chapter: 11024

(A) "Public employee" means: 11025

(1) Any person holding an office, not elective, under the 11026
state or any county, township, municipal corporation, park 11027
district, conservancy district, sanitary district, health 11028
district, metropolitan housing authority, state retirement board, 11029
Ohio historical society, public library, county law library, union 11030
cemetery, joint hospital, institutional commissary, state 11031
university, or board, bureau, commission, council, committee, 11032
authority, or administrative body as the same are, or have been, 11033
created by action of the general assembly or by the legislative 11034
authority of any of the units of local government named in 11035
division (A)(1) of this section, or employed and paid in whole or 11036
in part by the state or any of the authorities named in division 11037

(A)(1) of this section in any capacity not covered by section 11038
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 11039

(2) A person who is a member of the public employees 11040
retirement system and who continues to perform the same or similar 11041
duties under the direction of a contractor who has contracted to 11042
take over what before the date of the contract was a publicly 11043
operated function. The governmental unit with which the contract 11044
has been made shall be deemed the employer for the purposes of 11045
administering this chapter. 11046

(3) Any person who is an employee of a public employer, 11047
notwithstanding that the person's compensation for that employment 11048
is derived from funds of a person or entity other than the 11049
employer. Credit for such service shall be included as total 11050
service credit, provided that the employee makes the payments 11051
required by this chapter, and the employer makes the payments 11052
required by sections 145.48 and 145.51 of the Revised Code. 11053

(4) A person who elects in accordance with section 145.015 of 11054
the Revised Code to remain a contributing member of the public 11055
employees retirement system. 11056

(5) A person who is an employee of the legal rights service 11057
on September 30, 2012, and continues to be employed by the 11058
nonprofit entity established under Section 319.20 of Am. Sub. H.B. 11059
153 of the 129th general assembly. The nonprofit entity is the 11060
employer for the purpose of this chapter. 11061

In all cases of doubt, the public employees retirement board 11062
shall determine under section 145.036, 145.037, or 145.038 of the 11063
Revised Code whether any person is a public employee, and its 11064
decision is final. 11065

(B) "Member" means any public employee, other than a public 11066
employee excluded or exempted from membership in the retirement 11067
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 11068

145.035, or 145.38 of the Revised Code. "Member" includes a PERS 11069
retirant who becomes a member under division (C) of section 145.38 11070
of the Revised Code. "Member" also includes a disability benefit 11071
recipient. 11072

(C) "Head of the department" means the elective or appointive 11073
head of the several executive, judicial, and administrative 11074
departments, institutions, boards, and commissions of the state 11075
and local government as the same are created and defined by the 11076
laws of this state or, in case of a charter government, by that 11077
charter. 11078

(D) "Employer" or "public employer" means the state or any 11079
county, township, municipal corporation, park district, 11080
conservancy district, sanitary district, health district, 11081
metropolitan housing authority, state retirement board, Ohio 11082
historical society, public library, county law library, union 11083
cemetery, joint hospital, institutional commissary, state medical 11084
university, state university, or board, bureau, commission, 11085
council, committee, authority, or administrative body as the same 11086
are, or have been, created by action of the general assembly or by 11087
the legislative authority of any of the units of local government 11088
named in this division not covered by section 742.01, 3307.01, 11089
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 11090
means the employer of any public employee. 11091

(E) "Prior military service" also means all service credited 11092
for active duty with the armed forces of the United States as 11093
provided in section 145.30 of the Revised Code. 11094

(F) "Contributor" means any person who has an account in the 11095
employees' savings fund created by section 145.23 of the Revised 11096
Code. When used in the sections listed in division (B) of section 11097
145.82 of the Revised Code, "contributor" includes any person 11098
participating in a PERS defined contribution plan. 11099

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

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

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

corporation as the employer of the employees. 11132

(3) Where a member also is a member of the state teachers 11133
retirement system or the school employees retirement system, or 11134
both, except in cases of retirement on a combined basis pursuant 11135
to section 145.37 of the Revised Code or as provided in section 11136
145.383 of the Revised Code, service credit for any period shall 11137
be credited on the basis of the ratio that contributions to the 11138
public employees retirement system bear to total contributions in 11139
all state retirement systems. 11140

(4) Not more than one year of credit may be given for any 11141
period of twelve months. 11142

(5) "Ohio service credit" means credit for service that was 11143
rendered to the state or any of its political subdivisions or any 11144
employer. 11145

(I) "Regular interest" means interest at any rates for the 11146
respective funds and accounts as the public employees retirement 11147
board may determine from time to time. 11148

(J) "Accumulated contributions" means the sum of all amounts 11149
credited to a contributor's individual account in the employees' 11150
savings fund together with any interest credited to the 11151
contributor's account under section 145.471 or 145.472 of the 11152
Revised Code. 11153

(K)(1) "Final average salary" means the greater of the 11154
following: 11155

(a) The sum of the member's earnable salaries for the 11156
appropriate number of calendar years of contributing service, 11157
determined under section 145.017 of the Revised Code, in which the 11158
member's earnable salary was highest, divided by the same number 11159
of calendar years or, if the member has fewer than the appropriate 11160
number of calendar years of contributing service, the total of the 11161
member's earnable salary for all years of contributing service 11162

divided by the number of calendar years of the member's 11163
contributing service; 11164

(b) The sum of a member's earnable salaries for the 11165
appropriate number of consecutive months, determined under section 11166
145.017 of the Revised Code, that were the member's last months of 11167
service, up to and including the last month, divided by the 11168
appropriate number of years or, if the time between the first and 11169
final months of service is less than the appropriate number of 11170
consecutive months, the total of the member's earnable salary for 11171
all months of contributing service divided by the number of years 11172
between the first and final months of contributing service, 11173
including any fraction of a year, except that the member's final 11174
average salary shall not exceed the member's highest earnable 11175
salary for any twelve consecutive months. 11176

(2) If contributions were made in only one calendar year, 11177
"final average salary" means the member's total earnable salary. 11178

(L) "Annuity" means payments for life derived from 11179
contributions made by a contributor and paid from the annuity and 11180
pension reserve fund as provided in this chapter. All annuities 11181
shall be paid in twelve equal monthly installments. 11182

(M) "Annuity reserve" means the present value, computed upon 11183
the basis of the mortality and other tables adopted by the board, 11184
of all payments to be made on account of any annuity, or benefit 11185
in lieu of any annuity, granted to a retirant as provided in this 11186
chapter. 11187

(N)(1) "Disability retirement" means retirement as provided 11188
in section 145.36 of the Revised Code. 11189

(2) "Disability allowance" means an allowance paid on account 11190
of disability under section 145.361 of the Revised Code. 11191

(3) "Disability benefit" means a benefit paid as disability 11192
retirement under section 145.36 of the Revised Code, as a 11193

disability allowance under section 145.361 of the Revised Code, or 11194
as a disability benefit under section 145.37 of the Revised Code. 11195

(4) "Disability benefit recipient" means a member who is 11196
receiving a disability benefit. 11197

(O) "Age and service retirement" means retirement as provided 11198
in sections 145.32, 145.33, 145.331, 145.332, 145.37, and 145.46 11199
and former section 145.34 of the Revised Code. 11200

(P) "Pensions" means annual payments for life derived from 11201
contributions made by the employer that at the time of retirement 11202
are credited into the annuity and pension reserve fund from the 11203
employers' accumulation fund and paid from the annuity and pension 11204
reserve fund as provided in this chapter. All pensions shall be 11205
paid in twelve equal monthly installments. 11206

(Q) "Retirement allowance" means the pension plus that 11207
portion of the benefit derived from contributions made by the 11208
member. 11209

(R)(1) Except as otherwise provided in division (R) of this 11210
section, "earnable salary" means all salary, wages, and other 11211
earnings paid to a contributor by reason of employment in a 11212
position covered by the retirement system. The salary, wages, and 11213
other earnings shall be determined prior to determination of the 11214
amount required to be contributed to the employees' savings fund 11215
under section 145.47 of the Revised Code and without regard to 11216
whether any of the salary, wages, or other earnings are treated as 11217
deferred income for federal income tax purposes. "Earnable salary" 11218
includes the following: 11219

(a) Payments made by the employer in lieu of salary, wages, 11220
or other earnings for sick leave, personal leave, or vacation used 11221
by the contributor; 11222

(b) Payments made by the employer for the conversion of sick 11223
leave, personal leave, and vacation leave accrued, but not used if 11224

the payment is made during the year in which the leave is accrued, 11225
except that payments made pursuant to section 124.383 or 124.386 11226
of the Revised Code are not earnable salary; 11227

(c) Allowances paid by the employer for maintenance, 11228
consisting of housing, laundry, and meals, as certified to the 11229
retirement board by the employer or the head of the department 11230
that employs the contributor; 11231

(d) Fees and commissions paid under section 507.09 of the 11232
Revised Code; 11233

(e) Payments that are made under a disability leave program 11234
sponsored by the employer and for which the employer is required 11235
by section 145.296 of the Revised Code to make periodic employer 11236
and employee contributions; 11237

(f) Amounts included pursuant to former division (K)(3) and 11238
former division (Y) of this section and section 145.2916 of the 11239
Revised Code. 11240

(2) "Earnable salary" does not include any of the following: 11241

(a) Fees and commissions, other than those paid under section 11242
507.09 of the Revised Code, paid as sole compensation for personal 11243
services and fees and commissions for special services over and 11244
above services for which the contributor receives a salary; 11245

(b) Amounts paid by the employer to provide life insurance, 11246
sickness, accident, endowment, health, medical, hospital, dental, 11247
or surgical coverage, or other insurance for the contributor or 11248
the contributor's family, or amounts paid by the employer to the 11249
contributor in lieu of providing the insurance; 11250

(c) Incidental benefits, including lodging, food, laundry, 11251
parking, or services furnished by the employer, or use of the 11252
employer's property or equipment, or amounts paid by the employer 11253
to the contributor in lieu of providing the incidental benefits; 11254

(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;	11255 11256 11257
(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;	11258 11259 11260 11261
(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;	11262 11263 11264 11265 11266
(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;	11267 11268 11269 11270 11271 11272
(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:	11273 11274 11275 11276 11277
(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;	11278 11279
(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.	11280 11281 11282
(i) The portion of any amount included in section 145.2916 of the Revised Code that represents employer contributions.	11283 11284

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

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

(T) "Contributing service" means both of the following:

(1) All service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed in accordance with section 145.016 of the Revised Code.

(2) Service credit received by election of the member under section 145.814 of the Revised Code.

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

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.332, and 145.46 and former section 145.34 of the Revised Code.

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

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

(Y) "Five years of service credit," for the exclusive purpose

of satisfying the service credit requirements and of determining 11315
eligibility under section 145.33 or 145.332 of the Revised Code, 11316
means employment covered under this chapter or under a former 11317
retirement plan operated, recognized, or endorsed by the employer 11318
prior to coverage under this chapter or under a combination of the 11319
coverage. 11320

(Z) "Deputy sheriff" means any person who is commissioned and 11321
employed as a full-time peace officer by the sheriff of any 11322
county, and has been so employed since on or before December 31, 11323
1965; any person who is or has been commissioned and employed as a 11324
peace officer by the sheriff of any county since January 1, 1966, 11325
and who has received a certificate attesting to the person's 11326
satisfactory completion of the peace officer training school as 11327
required by section 109.77 of the Revised Code; or any person 11328
deputized by the sheriff of any county and employed pursuant to 11329
section 2301.12 of the Revised Code as a criminal bailiff or court 11330
constable who has received a certificate attesting to the person's 11331
satisfactory completion of the peace officer training school as 11332
required by section 109.77 of the Revised Code. 11333

(AA) "Township constable or police officer in a township 11334
police department or district" means any person who is 11335
commissioned and employed as a full-time peace officer pursuant to 11336
Chapter 505. or 509. of the Revised Code, who has received a 11337
certificate attesting to the person's satisfactory completion of 11338
the peace officer training school as required by section 109.77 of 11339
the Revised Code. 11340

(BB) "Drug agent" means any person who is either of the 11341
following: 11342

(1) Employed full time as a narcotics agent by a county 11343
narcotics agency created pursuant to section 307.15 of the Revised 11344
Code and has received a certificate attesting to the satisfactory 11345
completion of the peace officer training school as required by 11346

section 109.77 of the Revised Code; 11347

(2) Employed full time as an undercover drug agent as defined 11348
in section 109.79 of the Revised Code and is in compliance with 11349
section 109.77 of the Revised Code. 11350

(CC) "Department of public safety enforcement agent" means a 11351
full-time employee of the department of public safety who is 11352
designated under section 5502.14 of the Revised Code as an 11353
enforcement agent and who is in compliance with section 109.77 of 11354
the Revised Code. 11355

(DD) "Natural resources law enforcement staff officer" means 11356
a full-time employee of the department of natural resources who is 11357
designated a natural resources law enforcement staff officer under 11358
section 1501.013 of the Revised Code and is in compliance with 11359
section 109.77 of the Revised Code. 11360

(EE) "Park officer" means a full-time employee of the 11361
department of natural resources who is designated a park officer 11362
under section 1541.10 of the Revised Code and is in compliance 11363
with section 109.77 of the Revised Code. 11364

(FF) "Forest officer" means a full-time employee of the 11365
department of natural resources who is designated a forest officer 11366
under section 1503.29 of the Revised Code and is in compliance 11367
with section 109.77 of the Revised Code. 11368

(GG) "Preserve officer" means a full-time employee of the 11369
department of natural resources who is designated a preserve 11370
officer under section 1517.10 of the Revised Code and is in 11371
compliance with section 109.77 of the Revised Code. 11372

(HH) "Wildlife officer" means a full-time employee of the 11373
department of natural resources who is designated a wildlife 11374
officer under section 1531.13 of the Revised Code and is in 11375
compliance with section 109.77 of the Revised Code. 11376

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

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

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

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

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

(NN) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section ~~5119.14~~ 5119.08 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(OO) "Special police officer for an institution for the developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(PP) "State university law enforcement officer" means any person who is employed full time as a state university law

enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code. 11408
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(QQ) "House sergeant at arms" means any person appointed by the speaker of the house of representatives under division (B)(1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section. 11411
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(RR) "Assistant house sergeant at arms" means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code. 11415
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(SS) "Regional transit authority police officer" means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised Code and is in compliance with section 109.77 of the Revised Code. 11418
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(TT) "State highway patrol police officer" means a special police officer employed full time and designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person serving full time as a special police officer pursuant to that section on a permanent basis on October 21, 1997, who is in compliance with section 109.77 of the Revised Code. 11422
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(UU) "Municipal public safety director" means a person who serves full time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police department and fire department. 11429
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(VV) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety 11433
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enforcement agent, natural resources law enforcement staff 11439
officer, park officer, forest officer, preserve officer, wildlife 11440
officer, state watercraft officer, park district police officer, 11441
conservancy district officer, veterans' home police officer, 11442
special police officer for a mental health institution, special 11443
police officer for an institution for the developmentally 11444
disabled, state university law enforcement officer, municipal 11445
police officer, house sergeant at arms, assistant house sergeant 11446
at arms, regional transit authority police officer, or state 11447
highway patrol police officer. "PERS law enforcement officer" also 11448
includes a person serving as a municipal public safety director at 11449
any time during the period from September 29, 2005, to March 24, 11450
2009, if the duties of that service were to preserve the peace, 11451
protect life and property, and enforce the laws of this state. 11452

(WW) "Hamilton county municipal court bailiff" means a person 11453
appointed by the clerk of courts of the Hamilton county municipal 11454
court under division (A)(3) of section 1901.32 of the Revised Code 11455
who is employed full time as a bailiff or deputy bailiff, who has 11456
received a certificate attesting to the person's satisfactory 11457
completion of the peace officer basic training described in 11458
division (D)(1) of section 109.77 of the Revised Code. 11459

(XX) "PERS public safety officer" means a Hamilton county 11460
municipal court bailiff, or any of the following whose primary 11461
duties are other than to preserve the peace, protect life and 11462
property, and enforce the laws of this state: a deputy sheriff, 11463
township constable or police officer in a township police 11464
department or district, drug agent, department of public safety 11465
enforcement agent, natural resources law enforcement staff 11466
officer, park officer, forest officer, preserve officer, wildlife 11467
officer, state watercraft officer, park district police officer, 11468
conservancy district officer, veterans' home police officer, 11469
special police officer for a mental health institution, special 11470

police officer for an institution for the ~~mentally retarded and~~ 11471
developmentally disabled, state university law enforcement 11472
officer, municipal police officer, house sergeant at arms, 11473
assistant house sergeant at arms, regional transit authority 11474
police officer, or state highway patrol police officer. "PERS 11475
public safety officer" also includes a person serving as a 11476
municipal public safety director at any time during the period 11477
from September 29, 2005, to March 24, 2009, if the duties of that 11478
service were other than to preserve the peace, protect life and 11479
property, and enforce the laws of this state. 11480

(YY) "Fiduciary" means a person who does any of the 11481
following: 11482

(1) Exercises any discretionary authority or control with 11483
respect to the management of the system or with respect to the 11484
management or disposition of its assets; 11485

(2) Renders investment advice for a fee, direct or indirect, 11486
with respect to money or property of the system; 11487

(3) Has any discretionary authority or responsibility in the 11488
administration of the system. 11489

(ZZ) "Actuary" means an individual who satisfies all of the 11490
following requirements: 11491

(1) Is a member of the American academy of actuaries; 11492

(2) Is an associate or fellow of the society of actuaries; 11493

(3) Has a minimum of five years' experience in providing 11494
actuarial services to public retirement plans. 11495

(AAA) "PERS defined benefit plan" means the plan described in 11496
sections 145.201 to 145.79 of the Revised Code. 11497

(BBB) "PERS defined contribution plans" means the plan or 11498
plans established under section 145.81 of the Revised Code. 11499

Sec. 145.012. (A) "Public employee," as defined in division	11500
(A) of section 145.01 of the Revised Code, does not include any	11501
person:	11502
(1) Who is employed by a private, temporary-help service and	11503
performs services under the direction of a public employer or is	11504
employed on a contractual basis as an independent contractor under	11505
a personal service contract with a public employer;	11506
(2) Who is an emergency employee serving on a temporary basis	11507
in case of fire, snow, earthquake, flood, or other similar	11508
emergency;	11509
(3) Who is employed in a program established pursuant to the	11510
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A.	11511
1501;	11512
(4) Who is an appointed member of either the motor vehicle	11513
salvage dealers board or the motor vehicle dealer's board whose	11514
rate and method of payment are determined pursuant to division (J)	11515
of section 124.15 of the Revised Code;	11516
(5) Who is employed as an election worker and paid less than	11517
five hundred dollars per calendar year for that service;	11518
(6) Who is employed as a firefighter in a position requiring	11519
satisfactory completion of a firefighter training course approved	11520
under former section 3303.07 or section 4765.55 of the Revised	11521
Code or conducted under section 3737.33 of the Revised Code except	11522
for the following:	11523
(a) Any firefighter who has elected under section 145.013 of	11524
the Revised Code to remain a contributing member of the public	11525
employees retirement system;	11526
(b) Any firefighter who was eligible to transfer from the	11527
public employees retirement system to the Ohio police and fire	11528
pension fund under section 742.51 or 742.515 of the Revised Code	11529

and did not elect to transfer; 11530

(c) Any firefighter who has elected under section 742.516 of 11531
the Revised Code to transfer from the Ohio police and fire pension 11532
fund to the public employees retirement system. 11533

(7) Who is a member of the board of health of a city or 11534
general health district, which pursuant to sections 3709.051 and 11535
3709.07 of the Revised Code includes a combined health district, 11536
and whose compensation for attendance at meetings of the board is 11537
set forth in division (B) of section 3709.02 or division (B) of 11538
section 3709.05 of the Revised Code, as appropriate; 11539

(8) Who participates in an alternative retirement plan 11540
established under Chapter 3305. of the Revised Code; 11541

(9) Who is a member of the board of directors of a sanitary 11542
district established under Chapter 6115. of the Revised Code; 11543

(10) Who is a member of the unemployment compensation 11544
advisory council; 11545

(11) Who is an employee, officer, or governor-appointed 11546
member of the board of directors of the nonprofit corporation 11547
formed under section 187.01 of the Revised Code; 11548

(12) Who is employed by the nonprofit entity established to 11549
provide advocacy services and a client assistance program for 11550
people with disabilities under Section 319.20 of Am. Sub. H.B. 153 11551
of the 129th general assembly and whose employment begins on or 11552
after October 1, 2012. 11553

(B) No inmate of a correctional institution operated by the 11554
department of rehabilitation and correction, no patient in a 11555
hospital for the mentally ill or criminally insane operated by the 11556
department of ~~mental health~~ mental health and addiction services, 11557
no resident in an institution for the mentally retarded operated 11558
by the department of developmental disabilities, no resident 11559

admitted as a patient of a veterans' home operated under Chapter 11560
5907. of the Revised Code, and no resident of a county home shall 11561
be considered as a public employee for the purpose of establishing 11562
membership or calculating service credit or benefits under this 11563
chapter. Nothing in this division shall be construed to affect any 11564
service credit attained by any person who was a public employee 11565
before becoming an inmate, patient, or resident at any institution 11566
listed in this division, or the payment of any benefit for which 11567
such a person or such a person's beneficiaries otherwise would be 11568
eligible. 11569

Sec. 145.22. (A) The public employees retirement board shall 11570
have prepared annually by or under the supervision of an actuary 11571
an actuarial valuation of the pension assets, liabilities, and 11572
funding requirements of the public employees retirement system as 11573
established pursuant to this chapter. The actuary shall complete 11574
the valuation in accordance with actuarial standards of practice 11575
promulgated by the actuarial standards board of the American 11576
academy of actuaries and prepare a report of the valuation. The 11577
report shall include all of the following: 11578

(1) A summary of the benefit provisions evaluated; 11579

(2) A summary of the census data and financial information 11580
used in the valuation; 11581

(3) A description of the actuarial assumptions, actuarial 11582
cost method, and asset valuation method used in the valuation, 11583
including a statement of the assumed rate of payroll growth and 11584
assumed rate of growth or decline in the number of members 11585
contributing to the retirement system; 11586

(4) A summary of findings that includes a statement of the 11587
actuarial accrued pension liabilities and unfunded actuarial 11588
accrued pension liabilities; 11589

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the first day of September following the year for which the valuation was made.

(B) At such time as the public employees retirement board determines, and at least once in each five-year period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, contributors, and beneficiaries of the system to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended

changes in actuarial assumptions. 11621

The board shall submit the report to the Ohio retirement 11622
study council and the standing committees of the house of 11623
representatives and the senate with primary responsibility for 11624
retirement legislation not later than the first day of November 11625
following the last fiscal year of the period the report covers. 11626

(C) The board may at any time request the actuary to make any 11627
studies or actuarial valuations to determine the adequacy of the 11628
contribution rate determined under section 145.48 of the Revised 11629
Code, and those rates may be adjusted by the board, as recommended 11630
by the actuary, effective as of the first of any year thereafter. 11631

(D) The board shall have prepared by or under the supervision 11632
of an actuary an actuarial analysis of any introduced legislation 11633
expected to have a measurable financial impact on the retirement 11634
system. The actuarial analysis shall be completed in accordance 11635
with the actuarial standards of practice promulgated by the 11636
actuarial standards board of the American academy of actuaries. 11637
The actuary shall prepare a report of the actuarial analysis, 11638
which shall include all of the following: 11639

(1) A summary of the statutory changes that are being 11640
evaluated; 11641

(2) A description of or reference to the actuarial 11642
assumptions and actuarial cost method used in the report; 11643

(3) A description of the participant group or groups included 11644
in the report; 11645

(4) A statement of the financial impact of the legislation, 11646
including the resulting increase, if any, in the employer normal 11647
cost percentage; the increase, if any, in actuarial accrued 11648
liabilities; and the per cent of payroll that would be required to 11649
amortize the increase in actuarial accrued liabilities as a level 11650
per cent of covered payroll for all active members over a period 11651

not to exceed thirty years; 11652

(5) A statement of whether the scheduled contributions to the 11653
system after the proposed change is enacted are expected to be 11654
sufficient to satisfy the funding objectives established by the 11655
board. 11656

Not later than sixty days from the date of introduction of 11657
the legislation, the board shall submit a copy of the actuarial 11658
analysis to the legislative service commission, the standing 11659
committees of the house of representatives and the senate with 11660
primary responsibility for retirement legislation, and the Ohio 11661
retirement study council. 11662

(E) The board shall have prepared annually a report giving a 11663
full accounting of the revenues and costs relating to the 11664
provision of benefits under sections 145.58 and 145.584 of the 11665
Revised Code. The report shall be made as of December 31, 1997, 11666
and the thirty-first day of December of each year thereafter. The 11667
report shall include the following: 11668

(1) A description of the statutory authority for the benefits 11669
provided; 11670

(2) A summary of the benefits; 11671

(3) A summary of the eligibility requirements for the 11672
benefits; 11673

(4) A statement of the number of participants eligible for 11674
the benefits; 11675

(5) A description of the accounting, asset valuation, and 11676
funding method used to provide the benefits; 11677

(6) A statement of the net assets available for the provision 11678
of the benefits as of the last day of the fiscal year; 11679

(7) A statement of any changes in the net assets available 11680
for the provision of benefits, including participant and employer 11681

contributions, net investment income, administrative expenses, and 11682
benefits provided to participants, as of the last day of the 11683
fiscal year; 11684

(8) For the last six consecutive fiscal years, a schedule of 11685
the net assets available for the benefits, the annual cost of 11686
benefits, administrative expenses incurred, and annual employer 11687
contributions allocated for the provision of benefits; 11688

(9) A description of any significant changes that affect the 11689
comparability of the report required under this division; 11690

(10) A statement of the amount paid under division (C) of 11691
section 145.58 of the Revised Code. 11692

The board shall submit the report to the Ohio retirement 11693
study council, the director of budget and management, and the 11694
standing committees of the house of representatives and the senate 11695
with primary responsibility for retirement legislation immediately 11696
upon its availability and not later than the thirtieth day of June 11697
following the year for which the report was made. 11698

Sec. 149.01. Each elective state officer, the adjutant 11699
general, the adult parole authority, the department of 11700
agriculture, the director of administrative services, the public 11701
utilities commission, the superintendent of insurance, the 11702
superintendent of financial institutions, the superintendent of 11703
purchases and printing, the fire marshal, the industrial 11704
commission, the administrator of workers' compensation, the state 11705
department of transportation, the department of health, the state 11706
medical board, the state dental board, the board of embalmers and 11707
funeral directors, the Ohio commission for the blind, the 11708
accountancy board of Ohio, the state council of uniform state 11709
laws, the board of commissioners of the sinking fund, the 11710
department of taxation, the board of tax appeals, the division of 11711
liquor control, the director of state armories, the trustees of 11712

the Ohio state university, and every private or quasi-public 11713
institution, association, board, or corporation receiving state 11714
money for its use and purpose shall make annually, at the end of 11715
each fiscal year, in quadruplicate, a report of the transactions 11716
and proceedings of that office or department for that fiscal year, 11717
excepting receipts and disbursements unless otherwise specifically 11718
required by law. The report shall contain a summary of the 11719
official acts of the officer, board, council, commission, 11720
institution, association, or corporation and any suggestions and 11721
recommendations that are proper. ~~On the first day of August of~~ 11722
~~each year, one~~ 11723

One of the reports shall be filed with the governor, one with 11724
the secretary of state, and one with the state library, and one 11725
shall be kept on file in the office of the officer, board, 11726
council, commission, institution, association, or corporation. The 11727
reports shall be so filed by the first day of August, except that 11728
the report of the treasurer of state shall be so filed by the 11729
thirty-first day of December. 11730

Sec. 149.43. (A) As used in this section: 11731

(1) "Public record" means records kept by any public office, 11732
including, but not limited to, state, county, city, village, 11733
township, and school district units, and records pertaining to the 11734
delivery of educational services by an alternative school in this 11735
state kept by the nonprofit or for-profit entity operating the 11736
alternative school pursuant to section 3313.533 of the Revised 11737
Code. "Public record" does not mean any of the following: 11738

(a) Medical records; 11739

(b) Records pertaining to probation and parole proceedings or 11740
to proceedings related to the imposition of community control 11741
sanctions and post-release control sanctions; 11742

(c) Records pertaining to actions under section 2151.85 and	11743
division (C) of section 2919.121 of the Revised Code and to	11744
appeals of actions arising under those sections;	11745
(d) Records pertaining to adoption proceedings, including the	11746
contents of an adoption file maintained by the department of	11747
health under section 3705.12 of the Revised Code;	11748
(e) Information in a record contained in the putative father	11749
registry established by section 3107.062 of the Revised Code,	11750
regardless of whether the information is held by the department of	11751
job and family services or, pursuant to section 3111.69 of the	11752
Revised Code, the office of child support in the department or a	11753
child support enforcement agency;	11754
(f) Records listed in division (A) of section 3107.42 of the	11755
Revised Code or specified in division (A) of section 3107.52 of	11756
the Revised Code;	11757
(g) Trial preparation records;	11758
(h) Confidential law enforcement investigatory records;	11759
(i) Records containing information that is confidential under	11760
section 2710.03 or 4112.05 of the Revised Code;	11761
(j) DNA records stored in the DNA database pursuant to	11762
section 109.573 of the Revised Code;	11763
(k) Inmate records released by the department of	11764
rehabilitation and correction to the department of youth services	11765
or a court of record pursuant to division (E) of section 5120.21	11766
of the Revised Code;	11767
(l) Records maintained by the department of youth services	11768
pertaining to children in its custody released by the department	11769
of youth services to the department of rehabilitation and	11770
correction pursuant to section 5139.05 of the Revised Code;	11771
(m) Intellectual property records;	11772

(n) Donor profile records;	11773
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	11774 11775
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	11776 11777 11778 11779 11780 11781
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	11782 11783 11784 11785 11786
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	11787 11788
(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	11789 11790 11791 11792 11793 11794 11795 11796
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	11797 11798 11799 11800
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners <u>executives</u> of nursing home administrators	11801 11802 11803

long-term services and supports administers under section 4751.04 11804
of the Revised Code or contracts under that section with a private 11805
or government entity to administer; 11806

(v) Records the release of which is prohibited by state or 11807
federal law; 11808

(w) Proprietary information of or relating to any person that 11809
is submitted to or compiled by the Ohio venture capital authority 11810
created under section 150.01 of the Revised Code; 11811

~~(x) Information reported and evaluations conducted pursuant 11812
to section 3701.072 of the Revised Code;~~ 11813

~~(y)~~ Financial statements and data any person submits for any 11814
purpose to the Ohio housing finance agency or the controlling 11815
board in connection with applying for, receiving, or accounting 11816
for financial assistance from the agency, and information that 11817
identifies any individual who benefits directly or indirectly from 11818
financial assistance from the agency; 11819

~~(z)~~(y) Records listed in section 5101.29 of the Revised Code; 11820

~~(aa)~~(z) Discharges recorded with a county recorder under 11821
section 317.24 of the Revised Code, as specified in division 11822
(B)(2) of that section; 11823

~~(bb)~~(aa) Usage information including names and addresses of 11824
specific residential and commercial customers of a municipally 11825
owned or operated public utility; 11826

~~(cc)~~(bb) Records described in division (C) of section 187.04 11827
of the Revised Code that are not designated to be made available 11828
to the public as provided in that division. 11829

(2) "Confidential law enforcement investigatory record" means 11830
any record that pertains to a law enforcement matter of a 11831
criminal, quasi-criminal, civil, or administrative nature, but 11832
only to the extent that the release of the record would create a 11833

high probability of disclosure of any of the following: 11834

(a) The identity of a suspect who has not been charged with 11835
the offense to which the record pertains, or of an information 11836
source or witness to whom confidentiality has been reasonably 11837
promised; 11838

(b) Information provided by an information source or witness 11839
to whom confidentiality has been reasonably promised, which 11840
information would reasonably tend to disclose the source's or 11841
witness's identity; 11842

(c) Specific confidential investigatory techniques or 11843
procedures or specific investigatory work product; 11844

(d) Information that would endanger the life or physical 11845
safety of law enforcement personnel, a crime victim, a witness, or 11846
a confidential information source. 11847

(3) "Medical record" means any document or combination of 11848
documents, except births, deaths, and the fact of admission to or 11849
discharge from a hospital, that pertains to the medical history, 11850
diagnosis, prognosis, or medical condition of a patient and that 11851
is generated and maintained in the process of medical treatment. 11852

(4) "Trial preparation record" means any record that contains 11853
information that is specifically compiled in reasonable 11854
anticipation of, or in defense of, a civil or criminal action or 11855
proceeding, including the independent thought processes and 11856
personal trial preparation of an attorney. 11857

(5) "Intellectual property record" means a record, other than 11858
a financial or administrative record, that is produced or 11859
collected by or for faculty or staff of a state institution of 11860
higher learning in the conduct of or as a result of study or 11861
research on an educational, commercial, scientific, artistic, 11862
technical, or scholarly issue, regardless of whether the study or 11863
research was sponsored by the institution alone or in conjunction 11864

with a governmental body or private concern, and that has not been 11865
publicly released, published, or patented. 11866

(6) "Donor profile record" means all records about donors or 11867
potential donors to a public institution of higher education 11868
except the names and reported addresses of the actual donors and 11869
the date, amount, and conditions of the actual donation. 11870

(7) "Peace officer, parole officer, probation officer, 11871
bailiff, prosecuting attorney, assistant prosecuting attorney, 11872
correctional employee, community-based correctional facility 11873
employee, youth services employee, firefighter, EMT, or 11874
investigator of the bureau of criminal identification and 11875
investigation residential and familial information" means any 11876
information that discloses any of the following about a peace 11877
officer, parole officer, probation officer, bailiff, prosecuting 11878
attorney, assistant prosecuting attorney, correctional employee, 11879
community-based correctional facility employee, youth services 11880
employee, firefighter, EMT, or investigator of the bureau of 11881
criminal identification and investigation: 11882

(a) The address of the actual personal residence of a peace 11883
officer, parole officer, probation officer, bailiff, assistant 11884
prosecuting attorney, correctional employee, community-based 11885
correctional facility employee, youth services employee, 11886
firefighter, EMT, or an investigator of the bureau of criminal 11887
identification and investigation, except for the state or 11888
political subdivision in which the peace officer, parole officer, 11889
probation officer, bailiff, assistant prosecuting attorney, 11890
correctional employee, community-based correctional facility 11891
employee, youth services employee, firefighter, EMT, or 11892
investigator of the bureau of criminal identification and 11893
investigation resides; 11894

(b) Information compiled from referral to or participation in 11895
an employee assistance program; 11896

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility

employee's, youth services employee's, firefighter's, EMT's, or 11929
investigator of the bureau of criminal identification and 11930
investigation's compensation unless the amount of the deduction is 11931
required by state or federal law; 11932

(f) The name, the residential address, the name of the 11933
employer, the address of the employer, the social security number, 11934
the residential telephone number, any bank account, debit card, 11935
charge card, or credit card number, or the emergency telephone 11936
number of the spouse, a former spouse, or any child of a peace 11937
officer, parole officer, probation officer, bailiff, prosecuting 11938
attorney, assistant prosecuting attorney, correctional employee, 11939
community-based correctional facility employee, youth services 11940
employee, firefighter, EMT, or investigator of the bureau of 11941
criminal identification and investigation; 11942

(g) A photograph of a peace officer who holds a position or 11943
has an assignment that may include undercover or plain clothes 11944
positions or assignments as determined by the peace officer's 11945
appointing authority. 11946

As used in divisions (A)(7) and (B)(9) of this section, 11947
"peace officer" has the same meaning as in section 109.71 of the 11948
Revised Code and also includes the superintendent and troopers of 11949
the state highway patrol; it does not include the sheriff of a 11950
county or a supervisory employee who, in the absence of the 11951
sheriff, is authorized to stand in for, exercise the authority of, 11952
and perform the duties of the sheriff. 11953

As used in divisions (A)(7) and (B)(5) of this section, 11954
"correctional employee" means any employee of the department of 11955
rehabilitation and correction who in the course of performing the 11956
employee's job duties has or has had contact with inmates and 11957
persons under supervision. 11958

As used in divisions (A)(7) and (B)(5) of this section, 11959

"youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a 11990
person under the age of eighteen for the purpose of allowing that 11991
person to participate in any recreational activity conducted or 11992
sponsored by a public office or to use or obtain admission 11993
privileges to any recreational facility owned or operated by a 11994
public office. 11995

(9) "Community control sanction" has the same meaning as in 11996
section 2929.01 of the Revised Code. 11997

(10) "Post-release control sanction" has the same meaning as 11998
in section 2967.01 of the Revised Code. 11999

(11) "Redaction" means obscuring or deleting any information 12000
that is exempt from the duty to permit public inspection or 12001
copying from an item that otherwise meets the definition of a 12002
"record" in section 149.011 of the Revised Code. 12003

(12) "Designee" and "elected official" have the same meanings 12004
as in section 109.43 of the Revised Code. 12005

(B)(1) Upon request and subject to division (B)(8) of this 12006
section, all public records responsive to the request shall be 12007
promptly prepared and made available for inspection to any person 12008
at all reasonable times during regular business hours. Subject to 12009
division (B)(8) of this section, upon request, a public office or 12010
person responsible for public records shall make copies of the 12011
requested public record available at cost and within a reasonable 12012
period of time. If a public record contains information that is 12013
exempt from the duty to permit public inspection or to copy the 12014
public record, the public office or the person responsible for the 12015
public record shall make available all of the information within 12016
the public record that is not exempt. When making that public 12017
record available for public inspection or copying that public 12018
record, the public office or the person responsible for the public 12019
record shall notify the requester of any redaction or make the 12020

redaction plainly visible. A redaction shall be deemed a denial of 12021
a request to inspect or copy the redacted information, except if 12022
federal or state law authorizes or requires a public office to 12023
make the redaction. 12024

(2) To facilitate broader access to public records, a public 12025
office or the person responsible for public records shall organize 12026
and maintain public records in a manner that they can be made 12027
available for inspection or copying in accordance with division 12028
(B) of this section. A public office also shall have available a 12029
copy of its current records retention schedule at a location 12030
readily available to the public. If a requester makes an ambiguous 12031
or overly broad request or has difficulty in making a request for 12032
copies or inspection of public records under this section such 12033
that the public office or the person responsible for the requested 12034
public record cannot reasonably identify what public records are 12035
being requested, the public office or the person responsible for 12036
the requested public record may deny the request but shall provide 12037
the requester with an opportunity to revise the request by 12038
informing the requester of the manner in which records are 12039
maintained by the public office and accessed in the ordinary 12040
course of the public office's or person's duties. 12041

(3) If a request is ultimately denied, in part or in whole, 12042
the public office or the person responsible for the requested 12043
public record shall provide the requester with an explanation, 12044
including legal authority, setting forth why the request was 12045
denied. If the initial request was provided in writing, the 12046
explanation also shall be provided to the requester in writing. 12047
The explanation shall not preclude the public office or the person 12048
responsible for the requested public record from relying upon 12049
additional reasons or legal authority in defending an action 12050
commenced under division (C) of this section. 12051

(4) Unless specifically required or authorized by state or 12052

federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking

the copy makes a choice under this division, the public office or 12085
person responsible for the public record shall provide a copy of 12086
it in accordance with the choice made by the person seeking the 12087
copy. Nothing in this section requires a public office or person 12088
responsible for the public record to allow the person seeking a 12089
copy of the public record to make the copies of the public record. 12090

(7) Upon a request made in accordance with division (B) of 12091
this section and subject to division (B)(6) of this section, a 12092
public office or person responsible for public records shall 12093
transmit a copy of a public record to any person by United States 12094
mail or by any other means of delivery or transmission within a 12095
reasonable period of time after receiving the request for the 12096
copy. The public office or person responsible for the public 12097
record may require the person making the request to pay in advance 12098
the cost of postage if the copy is transmitted by United States 12099
mail or the cost of delivery if the copy is transmitted other than 12100
by United States mail, and to pay in advance the costs incurred 12101
for other supplies used in the mailing, delivery, or transmission. 12102

Any public office may adopt a policy and procedures that it 12103
will follow in transmitting, within a reasonable period of time 12104
after receiving a request, copies of public records by United 12105
States mail or by any other means of delivery or transmission 12106
pursuant to this division. A public office that adopts a policy 12107
and procedures under this division shall comply with them in 12108
performing its duties under this division. 12109

In any policy and procedures adopted under this division, a 12110
public office may limit the number of records requested by a 12111
person that the office will transmit by United States mail to ten 12112
per month, unless the person certifies to the office in writing 12113
that the person does not intend to use or forward the requested 12114
records, or the information contained in them, for commercial 12115
purposes. For purposes of this division, "commercial" shall be 12116

narrowly construed and does not include reporting or gathering 12117
news, reporting or gathering information to assist citizen 12118
oversight or understanding of the operation or activities of 12119
government, or nonprofit educational research. 12120

(8) A public office or person responsible for public records 12121
is not required to permit a person who is incarcerated pursuant to 12122
a criminal conviction or a juvenile adjudication to inspect or to 12123
obtain a copy of any public record concerning a criminal 12124
investigation or prosecution or concerning what would be a 12125
criminal investigation or prosecution if the subject of the 12126
investigation or prosecution were an adult, unless the request to 12127
inspect or to obtain a copy of the record is for the purpose of 12128
acquiring information that is subject to release as a public 12129
record under this section and the judge who imposed the sentence 12130
or made the adjudication with respect to the person, or the 12131
judge's successor in office, finds that the information sought in 12132
the public record is necessary to support what appears to be a 12133
justiciable claim of the person. 12134

(9)(a) Upon written request made and signed by a journalist 12135
on or after December 16, 1999, a public office, or person 12136
responsible for public records, having custody of the records of 12137
the agency employing a specified peace officer, parole officer, 12138
probation officer, bailiff, prosecuting attorney, assistant 12139
prosecuting attorney, correctional employee, community-based 12140
correctional facility employee, youth services employee, 12141
firefighter, EMT, or investigator of the bureau of criminal 12142
identification and investigation shall disclose to the journalist 12143
the address of the actual personal residence of the peace officer, 12144
parole officer, probation officer, bailiff, prosecuting attorney, 12145
assistant prosecuting attorney, correctional employee, 12146
community-based correctional facility employee, youth services 12147
employee, firefighter, EMT, or investigator of the bureau of 12148

criminal identification and investigation and, if the peace 12149
officer's, parole officer's, probation officer's, bailiff's, 12150
prosecuting attorney's, assistant prosecuting attorney's, 12151
correctional employee's, community-based correctional facility 12152
employee's, youth services employee's, firefighter's, EMT's, or 12153
investigator of the bureau of criminal identification and 12154
investigation's spouse, former spouse, or child is employed by a 12155
public office, the name and address of the employer of the peace 12156
officer's, parole officer's, probation officer's, bailiff's, 12157
prosecuting attorney's, assistant prosecuting attorney's, 12158
correctional employee's, community-based correctional facility 12159
employee's, youth services employee's, firefighter's, EMT's, or 12160
investigator of the bureau of criminal identification and 12161
investigation's spouse, former spouse, or child. The request shall 12162
include the journalist's name and title and the name and address 12163
of the journalist's employer and shall state that disclosure of 12164
the information sought would be in the public interest. 12165

(b) Division (B)(9)(a) of this section also applies to 12166
journalist requests for customer information maintained by a 12167
municipally owned or operated public utility, other than social 12168
security numbers and any private financial information such as 12169
credit reports, payment methods, credit card numbers, and bank 12170
account information. 12171

(c) As used in division (B)(9) of this section, "journalist" 12172
means a person engaged in, connected with, or employed by any news 12173
medium, including a newspaper, magazine, press association, news 12174
agency, or wire service, a radio or television station, or a 12175
similar medium, for the purpose of gathering, processing, 12176
transmitting, compiling, editing, or disseminating information for 12177
the general public. 12178

(C)(1) If a person allegedly is aggrieved by the failure of a 12179
public office or the person responsible for public records to 12180

promptly prepare a public record and to make it available to the 12181
person for inspection in accordance with division (B) of this 12182
section or by any other failure of a public office or the person 12183
responsible for public records to comply with an obligation in 12184
accordance with division (B) of this section, the person allegedly 12185
aggrieved may commence a mandamus action to obtain a judgment that 12186
orders the public office or the person responsible for the public 12187
record to comply with division (B) of this section, that awards 12188
court costs and reasonable attorney's fees to the person that 12189
instituted the mandamus action, and, if applicable, that includes 12190
an order fixing statutory damages under division (C)(1) of this 12191
section. The mandamus action may be commenced in the court of 12192
common pleas of the county in which division (B) of this section 12193
allegedly was not complied with, in the supreme court pursuant to 12194
its original jurisdiction under Section 2 of Article IV, Ohio 12195
Constitution, or in the court of appeals for the appellate 12196
district in which division (B) of this section allegedly was not 12197
complied with pursuant to its original jurisdiction under Section 12198
3 of Article IV, Ohio Constitution. 12199

If a requestor transmits a written request by hand delivery 12200
or certified mail to inspect or receive copies of any public 12201
record in a manner that fairly describes the public record or 12202
class of public records to the public office or person responsible 12203
for the requested public records, except as otherwise provided in 12204
this section, the requestor shall be entitled to recover the 12205
amount of statutory damages set forth in this division if a court 12206
determines that the public office or the person responsible for 12207
public records failed to comply with an obligation in accordance 12208
with division (B) of this section. 12209

The amount of statutory damages shall be fixed at one hundred 12210
dollars for each business day during which the public office or 12211
person responsible for the requested public records failed to 12212

comply with an obligation in accordance with division (B) of this 12213
section, beginning with the day on which the requester files a 12214
mandamus action to recover statutory damages, up to a maximum of 12215
one thousand dollars. The award of statutory damages shall not be 12216
construed as a penalty, but as compensation for injury arising 12217
from lost use of the requested information. The existence of this 12218
injury shall be conclusively presumed. The award of statutory 12219
damages shall be in addition to all other remedies authorized by 12220
this section. 12221

The court may reduce an award of statutory damages or not 12222
award statutory damages if the court determines both of the 12223
following: 12224

(a) That, based on the ordinary application of statutory law 12225
and case law as it existed at the time of the conduct or 12226
threatened conduct of the public office or person responsible for 12227
the requested public records that allegedly constitutes a failure 12228
to comply with an obligation in accordance with division (B) of 12229
this section and that was the basis of the mandamus action, a 12230
well-informed public office or person responsible for the 12231
requested public records reasonably would believe that the conduct 12232
or threatened conduct of the public office or person responsible 12233
for the requested public records did not constitute a failure to 12234
comply with an obligation in accordance with division (B) of this 12235
section; 12236

(b) That a well-informed public office or person responsible 12237
for the requested public records reasonably would believe that the 12238
conduct or threatened conduct of the public office or person 12239
responsible for the requested public records would serve the 12240
public policy that underlies the authority that is asserted as 12241
permitting that conduct or threatened conduct. 12242

(2)(a) If the court issues a writ of mandamus that orders the 12243
public office or the person responsible for the public record to 12244

comply with division (B) of this section and determines that the 12245
circumstances described in division (C)(1) of this section exist, 12246
the court shall determine and award to the relator all court 12247
costs. 12248

(b) If the court renders a judgment that orders the public 12249
office or the person responsible for the public record to comply 12250
with division (B) of this section, the court may award reasonable 12251
attorney's fees subject to reduction as described in division 12252
(C)(2)(c) of this section. The court shall award reasonable 12253
attorney's fees, subject to reduction as described in division 12254
(C)(2)(c) of this section when either of the following applies: 12255

(i) The public office or the person responsible for the 12256
public records failed to respond affirmatively or negatively to 12257
the public records request in accordance with the time allowed 12258
under division (B) of this section. 12259

(ii) The public office or the person responsible for the 12260
public records promised to permit the relator to inspect or 12261
receive copies of the public records requested within a specified 12262
period of time but failed to fulfill that promise within that 12263
specified period of time. 12264

(c) Court costs and reasonable attorney's fees awarded under 12265
this section shall be construed as remedial and not punitive. 12266
Reasonable attorney's fees shall include reasonable fees incurred 12267
to produce proof of the reasonableness and amount of the fees and 12268
to otherwise litigate entitlement to the fees. The court may 12269
reduce an award of attorney's fees to the relator or not award 12270
attorney's fees to the relator if the court determines both of the 12271
following: 12272

(i) That, based on the ordinary application of statutory law 12273
and case law as it existed at the time of the conduct or 12274
threatened conduct of the public office or person responsible for 12275

the requested public records that allegedly constitutes a failure 12276
to comply with an obligation in accordance with division (B) of 12277
this section and that was the basis of the mandamus action, a 12278
well-informed public office or person responsible for the 12279
requested public records reasonably would believe that the conduct 12280
or threatened conduct of the public office or person responsible 12281
for the requested public records did not constitute a failure to 12282
comply with an obligation in accordance with division (B) of this 12283
section; 12284

(ii) That a well-informed public office or person responsible 12285
for the requested public records reasonably would believe that the 12286
conduct or threatened conduct of the public office or person 12287
responsible for the requested public records as described in 12288
division (C)(2)(c)(i) of this section would serve the public 12289
policy that underlies the authority that is asserted as permitting 12290
that conduct or threatened conduct. 12291

(D) Chapter 1347. of the Revised Code does not limit the 12292
provisions of this section. 12293

(E)(1) To ensure that all employees of public offices are 12294
appropriately educated about a public office's obligations under 12295
division (B) of this section, all elected officials or their 12296
appropriate designees shall attend training approved by the 12297
attorney general as provided in section 109.43 of the Revised 12298
Code. In addition, all public offices shall adopt a public records 12299
policy in compliance with this section for responding to public 12300
records requests. In adopting a public records policy under this 12301
division, a public office may obtain guidance from the model 12302
public records policy developed and provided to the public office 12303
by the attorney general under section 109.43 of the Revised Code. 12304
Except as otherwise provided in this section, the policy may not 12305
limit the number of public records that the public office will 12306
make available to a single person, may not limit the number of 12307

public records that it will make available during a fixed period 12308
of time, and may not establish a fixed period of time before it 12309
will respond to a request for inspection or copying of public 12310
records, unless that period is less than eight hours. 12311

(2) The public office shall distribute the public records 12312
policy adopted by the public office under division (E)(1) of this 12313
section to the employee of the public office who is the records 12314
custodian or records manager or otherwise has custody of the 12315
records of that office. The public office shall require that 12316
employee to acknowledge receipt of the copy of the public records 12317
policy. The public office shall create a poster that describes its 12318
public records policy and shall post the poster in a conspicuous 12319
place in the public office and in all locations where the public 12320
office has branch offices. The public office may post its public 12321
records policy on the internet web site of the public office if 12322
the public office maintains an internet web site. A public office 12323
that has established a manual or handbook of its general policies 12324
and procedures for all employees of the public office shall 12325
include the public records policy of the public office in the 12326
manual or handbook. 12327

(F)(1) The bureau of motor vehicles may adopt rules pursuant 12328
to Chapter 119. of the Revised Code to reasonably limit the number 12329
of bulk commercial special extraction requests made by a person 12330
for the same records or for updated records during a calendar 12331
year. The rules may include provisions for charges to be made for 12332
bulk commercial special extraction requests for the actual cost of 12333
the bureau, plus special extraction costs, plus ten per cent. The 12334
bureau may charge for expenses for redacting information, the 12335
release of which is prohibited by law. 12336

(2) As used in division (F)(1) of this section: 12337

(a) "Actual cost" means the cost of depleted supplies, 12338
records storage media costs, actual mailing and alternative 12339

delivery costs, or other transmitting costs, and any direct 12340
equipment operating and maintenance costs, including actual costs 12341
paid to private contractors for copying services. 12342

(b) "Bulk commercial special extraction request" means a 12343
request for copies of a record for information in a format other 12344
than the format already available, or information that cannot be 12345
extracted without examination of all items in a records series, 12346
class of records, or ~~data base~~ database by a person who intends to 12347
use or forward the copies for surveys, marketing, solicitation, or 12348
resale for commercial purposes. "Bulk commercial special 12349
extraction request" does not include a request by a person who 12350
gives assurance to the bureau that the person making the request 12351
does not intend to use or forward the requested copies for 12352
surveys, marketing, solicitation, or resale for commercial 12353
purposes. 12354

(c) "Commercial" means profit-seeking production, buying, or 12355
selling of any good, service, or other product. 12356

(d) "Special extraction costs" means the cost of the time 12357
spent by the lowest paid employee competent to perform the task, 12358
the actual amount paid to outside private contractors employed by 12359
the bureau, or the actual cost incurred to create computer 12360
programs to make the special extraction. "Special extraction 12361
costs" include any charges paid to a public agency for computer or 12362
records services. 12363

(3) For purposes of divisions (F)(1) and (2) of this section, 12364
"surveys, marketing, solicitation, or resale for commercial 12365
purposes" shall be narrowly construed and does not include 12366
reporting or gathering news, reporting or gathering information to 12367
assist citizen oversight or understanding of the operation or 12368
activities of government, or nonprofit educational research. 12369

Sec. 149.60. (A) There is the local government information 12370

exchange grant program in the department of administrative 12371
services. The program shall be administered by the director of 12372
administrative services. The director shall adopt rules under 12373
Chapter 119. of the Revised Code as are necessary to administer 12374
the program. The rules shall include all of the following: 12375

(1) Grant eligibility criteria; 12376

(2) A requirement that exchange-related electronic data be 12377
posted on the internet in an open format in such a manner that the 12378
data is searchable and downloadable through the internet by the 12379
public; 12380

(3) Specifications for consistent formatting of, and 12381
specifications for accounting and technology standards for, 12382
information provided by participating local governments for 12383
inclusion in the exchange; and 12384

(4) Specifications for data that must be included by 12385
participating local governments in the information they provide, 12386
which must include budgetary data, revenues, expenditures, 12387
staffing information, and employee compensation. 12388

(B) The director shall disburse a grant of ten thousand 12389
dollars to each local government that meets the grant eligibility 12390
criteria established by the director. Grants shall be awarded to 12391
local governments in the order in which the local governments have 12392
met the grant eligibility criteria. The total amount of grants 12393
awarded shall not exceed the amount that can be funded with 12394
appropriations made by the general assembly for this purpose. 12395

(C) Not later than July 1, 2014, the director shall prepare 12396
and issue to members of the general assembly a demonstration 12397
report that does all of the following: 12398

(1) Demonstrates how the information exchange may provide 12399
local governments with insights regarding efficiency and 12400

productivity; 12401

(2) Demonstrates how the information exchange may help local governments improve services to vulnerable populations by providing insights regarding programs that benefit the poor, including general welfare support programs; and 12402
12403
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12405

(3) Demonstrates how information exchange data may create opportunities for private sector and research institutions to provide value-added products or services that may be commercialized or create jobs, and thereby contribute to the state economy. 12406
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(D) A local government that elects not to participate in the exchange or that does not meet all the grant eligibility criteria established by the director, but that does make available on the internet electronic data that is specified by the director to be included in the exchange by participating local governments, shall post the data on the internet in an open format in such a manner that the data is searchable and downloadable through the internet by the public. 12411
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Sec. 151.11. (A) As used in this section: 12419

(1) "Costs of sites and facilities" includes related direct administrative expenses and allocable portions of the direct costs of those projects. "Costs of sites and facilities" includes "allowable costs" as defined in section 122.085 of the Revised Code. 12420
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(2) "Obligations" means obligations as defined in section 151.01 of the Revised Code issued to pay costs of sites and facilities in Ohio for and in support of industry, commerce, distribution, and research and development purposes as referred to in division (A)(3) of Section 2p of Article VIII, Ohio Constitution. 12425
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(B) The issuing authority shall issue general obligations of the state to pay costs of sites and facilities pursuant to division (B)(3) of Section 2p of Article VIII, Ohio Constitution, section 151.01 of the Revised Code, and this section. The issuing authority shall issue obligations in the amount determined by the issuing authority to be required for those purposes. The total principal amount of obligations issued under this section shall not exceed one hundred fifty million dollars.

(C) Net proceeds of obligations shall be deposited into the job ready site development fund created by section 122.0820 of the Revised Code.

(D) There is hereby created in the state treasury the job ready site development bond service fund. All moneys received by the state and required by the bond proceedings, consistent with section 151.01 of the Revised Code and this section, to be deposited, transferred, or credited to the bond service fund, and all other moneys transferred or allocated to or received for the purposes of that fund, shall be deposited and credited to the bond service fund, subject to any applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during the time that any obligations are outstanding in accordance with their terms, so long as moneys in the bond service fund are insufficient to pay debt service when due on those obligations payable from that fund, except the principal amounts of bond anticipation notes payable from the proceeds of renewal notes or bonds anticipated, and due in the particular fiscal year, a sufficient amount of revenues of the state is committed and, without necessity for further act of appropriation, shall be paid to the bond service fund for the purpose of paying that debt service when due. All investment earnings on the cash balance in the fund shall be credited to the

fund. 12463

Sec. 151.50. (A) There is hereby created in the state 12464
treasury the clean Ohio distribution fund. The fund shall consist 12465
of money credited to it under section 1509.73 of the Revised Code. 12466

(B) Not later than the fifth day of October each year, the 12467
director of budget and management shall determine the balance of 12468
the fund. If the balance of the fund is twenty-five million 12469
dollars or more, the director shall transfer the total balance of 12470
the fund as follows: 12471

(1) Seventy-five per cent of the money shall be credited to 12472
the clean Ohio conservation fund created in section 164.27 of the 12473
Revised Code. 12474

(2) Twelve and one-half per cent of the money shall be 12475
credited to the clean Ohio agricultural easement fund created in 12476
section 901.21 of the Revised Code. 12477

(3) Twelve and one-half per cent of the money shall be 12478
credited to the clean Ohio trail fund created in section 1519.05 12479
of the Revised Code. 12480

Sec. 152.09. (A) As used in sections 152.06 and 152.09 to 12481
152.33 of the Revised Code: 12482

(1) "Obligations" means bonds, notes, or other evidences of 12483
obligation, including interest coupons pertaining thereto, issued 12484
pursuant to sections 152.09 to 152.33 of the Revised Code. 12485

(2) "State agencies" means the state of Ohio and branches, 12486
officers, boards, commissions, authorities, departments, 12487
divisions, courts, general assembly, or other units or agencies of 12488
the state. "State agency" also includes counties, municipal 12489
corporations, and governmental entities of this state that enter 12490
into leases with the Ohio building authority pursuant to section 12491

152.31 of the Revised Code or that are designated by law as state 12492
agencies for the purpose of performing a state function that is to 12493
be housed by a capital facility for which the Ohio building 12494
authority is authorized to issue revenue obligations pursuant to 12495
sections 152.09 to 152.33 of the Revised Code. 12496

(3) "Bond service charges" means principal, including 12497
mandatory sinking fund requirements for retirement of obligations, 12498
and interest, and redemption premium, if any, required to be paid 12499
by the Ohio building authority on obligations. 12500

(4) "Capital facilities" means buildings, structures, and 12501
other improvements, and equipment, real estate, and interests in 12502
real estate therefor, within the state, and any one, part of, or 12503
combination of the foregoing, for housing of branches and agencies 12504
of state government, including capital facilities for the purpose 12505
of housing personnel, equipment, or functions, or any combination 12506
thereof that the state agencies are responsible for housing, for 12507
which the Ohio building authority is authorized to issue 12508
obligations pursuant to Chapter 152. of the Revised Code, and 12509
includes storage and parking facilities related to such capital 12510
facilities. For purposes of sections 152.10 to 152.15 of the 12511
Revised Code, "capital facilities" includes community or technical 12512
college capital facilities. 12513

(5) "Cost of capital facilities" means the costs of 12514
assessing, planning, acquiring, constructing, reconstructing, 12515
rehabilitating, remodeling, renovating, enlarging, improving, 12516
altering, maintaining, equipping, furnishing, repairing, painting, 12517
decorating, managing, or operating capital facilities, and the 12518
financing thereof, including the cost of clearance and preparation 12519
of the site and of any land to be used in connection with capital 12520
facilities, the cost of participating in capital facilities 12521
pursuant to section 152.33 of the Revised Code, the cost of any 12522
indemnity and surety bonds and premiums on insurance, all related 12523

direct administrative expenses and allocable portions of direct 12524
costs of the authority and lessee state agencies, cost of 12525
engineering and architectural services, designs, plans, 12526
specifications, surveys, and estimates of cost, legal fees, fees 12527
and expenses of trustees, depositories, and paying agents for the 12528
obligations, cost of issuance of the obligations and financing 12529
charges and fees and expenses of financial advisers and 12530
consultants in connection therewith, interest on obligations from 12531
the date thereof to the time when interest is to be covered from 12532
sources other than proceeds of obligations, amounts that represent 12533
the portion of investment earnings to be rebated or to be paid to 12534
the federal government in order to maintain the exclusion from 12535
gross income for federal income tax purposes of interest on those 12536
obligations pursuant to section 148(f) of the Internal Revenue 12537
Code, amounts necessary to establish reserves as required by the 12538
resolutions or the obligations, trust agreements, or indentures, 12539
costs of audits, the reimbursement of all moneys advanced or 12540
applied by or borrowed from any governmental entity, whether to or 12541
by the authority or others, from whatever source provided, for the 12542
payment of any item or items of cost of the capital facilities, 12543
any share of the cost undertaken by the authority pursuant to 12544
arrangements made with governmental entities under division (J) of 12545
section 152.21 of the Revised Code, and all other expenses 12546
necessary or incident to assessing, planning, or determining the 12547
feasibility or practicability with respect to capital facilities, 12548
and such other expenses as may be necessary or incident to the 12549
assessment, planning, acquisition, construction, reconstruction, 12550
rehabilitation, remodeling, renovation, enlargement, improvement, 12551
alteration, maintenance, equipment, furnishing, repair, painting, 12552
decoration, management, or operation of capital facilities, the 12553
financing thereof and the placing of the same in use and 12554
operation, including any one, part of, or combination of such 12555
classes of costs and expenses. 12556

(6) "Governmental entity" means any state agency, municipal corporation, county, township, school district, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or any of the states or any department, division, or agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(7) "Governing body" means:

(a) In the case of a county, the board of county commissioners or other legislative authority; in the case of a municipal corporation, the legislative authority; in the case of a township, the board of township trustees; in the case of a school district, the board of education;

(b) In the case of any other governmental entity, the officer, board, commission, authority, or other body having the general management of the entity or having jurisdiction or authority in the particular circumstances.

(8) "Available receipts" means fees, charges, revenues, grants, subsidies, income from the investment of moneys, proceeds from the sale of goods or services, and all other revenues or receipts received by or on behalf of any state agency for which capital facilities are financed with obligations issued under Chapter 152. of the Revised Code, any state agency participating in capital facilities pursuant to section 152.33 of the Revised Code, or any state agency by which the capital facilities are constructed or financed; revenues or receipts derived by the authority from the operation, leasing, or other disposition of capital facilities, and the proceeds of obligations issued under Chapter 152. of the Revised Code; and also any moneys appropriated by a governmental entity, gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service

charges on such obligations. 12589

(9) "Available community or technical college receipts" means 12590
all money received by a community or technical college or 12591
community or technical college district, including income, 12592
revenues, and receipts from the operation, ownership, or control 12593
of facilities, grants, gifts, donations, and pledges and receipts 12594
therefrom, receipts from fees and charges, the allocated state 12595
share of instruction as defined in section ~~3333.90~~ 3333.59 of the 12596
Revised Code, and the proceeds of the sale of obligations, 12597
including proceeds of obligations issued to refund obligations 12598
previously issued, but excluding any special fee, and receipts 12599
therefrom, charged pursuant to division (D) of section 154.21 of 12600
the Revised Code. 12601

(10) "Community or technical college," "college," "community 12602
or technical college district," and "district" have the same 12603
meanings as in section ~~3333.90~~ 3333.59 of the Revised Code. 12604

(11) "Community or technical college capital facilities" 12605
means auxiliary facilities, education facilities, and housing and 12606
dining facilities, as those terms are defined in section 3345.12 12607
of the Revised Code, to the extent permitted to be financed by the 12608
issuance of obligations under division (A)(2) of section 3357.112 12609
of the Revised Code, that are authorized by sections 3354.121, 12610
3357.112, and 3358.10 of the Revised Code to be financed by 12611
obligations issued by a community or technical college district, 12612
and for which the Ohio building authority is authorized to issue 12613
obligations pursuant to Chapter 152. of the Revised Code, and 12614
includes any one, part of, or any combination of the foregoing, 12615
and further includes site improvements, utilities, machinery, 12616
furnishings, and any separate or connected buildings, structures, 12617
improvements, sites, open space and green space areas, utilities, 12618
or equipment to be used in, or in connection with the operation or 12619
maintenance of, or supplementing or otherwise related to the 12620

services or facilities to be provided by, such facilities. 12621

(12) "Cost of community or technical college capital 12622
facilities" means the costs of acquiring, constructing, 12623
reconstructing, rehabilitating, remodeling, renovating, enlarging, 12624
improving, equipping, or furnishing community or technical college 12625
capital facilities, and the financing thereof, including the cost 12626
of clearance and preparation of the site and of any land to be 12627
used in connection with community or technical college capital 12628
facilities, the cost of any indemnity and surety bonds and 12629
premiums on insurance, all related direct administrative expenses 12630
and allocable portions of direct costs of the authority, community 12631
or technical college or community or technical college district, 12632
cost of engineering, architectural services, design, plans, 12633
specifications and surveys, estimates of cost, legal fees, fees 12634
and expenses of trustees, depositories, bond registrars, and 12635
paying agents for the obligations, cost of issuance of the 12636
obligations and financing costs and fees and expenses of financial 12637
advisers and consultants in connection therewith, interest on the 12638
obligations from the date thereof to the time when interest is to 12639
be covered by available receipts or other sources other than 12640
proceeds of the obligations, amounts that represent the portion of 12641
investment earnings to be rebated or to be paid to the federal 12642
government in order to maintain the exclusion from gross income 12643
for federal income tax purposes of interest on those obligations 12644
pursuant to section 148(f) of the Internal Revenue Code, amounts 12645
necessary to establish reserves as required by the bond 12646
proceedings, costs of audits, the reimbursements of all moneys 12647
advanced or applied by or borrowed from the community or technical 12648
college, community or technical college district, or others, from 12649
whatever source provided, including any temporary advances from 12650
state appropriations, for the payment of any item or items of cost 12651
of community or technical college facilities, and all other 12652
expenses necessary or incident to planning or determining 12653

feasibility or practicability with respect to such facilities, and 12654
such other expenses as may be necessary or incident to the 12655
acquisition, construction, reconstruction, rehabilitation, 12656
remodeling, renovation, enlargement, improvement, equipment, and 12657
furnishing of community or technical college capital facilities, 12658
the financing thereof and the placing of them in use and 12659
operation, including any one, part of, or combination of such 12660
classes of costs and expenses. 12661

(B) Pursuant to the powers granted to the general assembly 12662
under Section 2i of Article VIII, Ohio Constitution, to authorize 12663
the issuance of revenue obligations and other obligations, the 12664
owners or holders of which are not given the right to have excises 12665
or taxes levied by the general assembly for the payment of 12666
principal thereof or interest thereon, the Ohio building authority 12667
may issue obligations, in accordance with Chapter 152. of the 12668
Revised Code, and shall cause the net proceeds thereof, after any 12669
deposits of accrued interest for the payment of bond service 12670
charges and after any deposit of all or such lesser portion as the 12671
authority may direct of the premium received upon the sale of 12672
those obligations for the payment of the bond service charges, to 12673
be applied to the costs of capital facilities designated by or 12674
pursuant to act of the general assembly for housing state agencies 12675
as authorized by Chapter 152. of the Revised Code. The authority 12676
shall provide by resolution for the issuance of such obligations. 12677
The bond service charges and all other payments required to be 12678
made by the trust agreement or indenture securing such obligations 12679
shall be payable solely from available receipts of the authority 12680
pledged thereto as provided in such resolution. The available 12681
receipts pledged and thereafter received by the authority are 12682
immediately subject to the lien of such pledge without any 12683
physical delivery thereof or further act, and the lien of any such 12684
pledge is valid and binding against all parties having claims of 12685
any kind against the authority, irrespective of whether those 12686

parties have notice thereof, and creates a perfected security 12687
interest for all purposes of Chapter 1309. of the Revised Code and 12688
a perfected lien for purposes of any real property interest, all 12689
without the necessity for separation or delivery of funds or for 12690
the filing or recording of the resolution, trust agreement, 12691
indenture, or other agreement by which such pledge is created or 12692
any certificate, statement, or other document with respect 12693
thereto; and the pledge of such available receipts is effective 12694
and the money therefrom and thereof may be applied to the purposes 12695
for which pledged. Every pledge, and every covenant and agreement 12696
made with respect to the pledge, made in the resolution may 12697
therein be extended to the benefit of the owners and holders of 12698
obligations authorized by Chapter 152. of the Revised Code, the 12699
net proceeds of which are to be applied to the costs of capital 12700
facilities, and to any trustee therefor, for the further securing 12701
of the payment of the bond service charges, and all or any rights 12702
under any agreement or lease made under this section may be 12703
assigned for such purpose. Obligations may be issued at one time 12704
or from time to time, and each issue shall be dated, shall mature 12705
at such time or times as determined by the authority not exceeding 12706
forty years from the date of issue, and may be redeemable before 12707
maturity at the option of the authority at such price or prices 12708
and under such terms and conditions as are fixed by the authority 12709
prior to the issuance of the obligations. The authority shall 12710
determine the form of the obligations, fix their denominations, 12711
establish their interest rate or rates, which may be a variable 12712
rate or rates, or the maximum interest rate, and establish within 12713
or without this state a place or places of payment of bond service 12714
charges. 12715

(C) The obligations shall be signed by the authority 12716
chairperson, vice-chairperson, and secretary-treasurer, and the 12717
authority seal shall be affixed. The signatures may be facsimile 12718
signatures and the seal affixed may be a facsimile seal, as 12719

provided by resolution of the authority. Any coupons attached may 12720
bear the facsimile signature of the chairperson. In case any 12721
officer who has signed any obligations, or caused the officer's 12722
facsimile signature to be affixed thereto, ceases to be such 12723
officer before such obligations have been delivered, such 12724
obligations may, nevertheless, be issued and delivered as though 12725
the person who had signed the obligations or caused the person's 12726
facsimile signature to be affixed thereto had not ceased to be 12727
such officer. 12728

Any obligations may be executed on behalf of the authority by 12729
an officer who, on the date of execution, is the proper officer 12730
although on the date of such obligations such person was not the 12731
proper officer. 12732

(D) All obligations issued by the authority shall have all 12733
the qualities and incidents of negotiable instruments and may be 12734
issued in coupon or in registered form, or both, as the authority 12735
determines. Provision may be made for the registration of any 12736
obligations with coupons attached thereto as to principal alone or 12737
as to both principal and interest, their exchange for obligations 12738
so registered, and for the conversion or reconversion into 12739
obligations with coupons attached thereto of any obligations 12740
registered as to both principal and interest, and for reasonable 12741
charges for such registration, exchange, conversion, and 12742
reconversion. The authority may sell its obligations in any manner 12743
and for such prices as it determines, except that the authority 12744
shall sell obligations sold at public or private sale in 12745
accordance with section 152.091 of the Revised Code. 12746

(E) The obligations of the authority, principal, interest, 12747
and any proceeds from their sale or transfer, are exempt from all 12748
taxation within this state. 12749

(F) The authority is authorized to issue revenue obligations 12750
and other obligations under Section 2i of Article VIII, Ohio 12751

Constitution, for the purpose of paying the cost of capital 12752
facilities for housing of branches and agencies of state 12753
government, including capital facilities for the purpose of 12754
housing personnel, equipment, or functions, or any combination 12755
thereof that the state agencies are responsible for housing, as 12756
are authorized by Chapter 152. of the Revised Code, and that are 12757
authorized by the general assembly by the appropriation of lease 12758
payments or other moneys for such capital facilities or by any 12759
other act of the general assembly, but not including the 12760
appropriation of moneys for feasibility studies for such capital 12761
facilities. This division does not authorize the authority to 12762
issue obligations pursuant to Section 2i of Article VIII, Ohio 12763
Constitution, to pay the cost of capital facilities for mental 12764
hygiene and retardation, parks and recreation, or state-supported 12765
or state-assisted institutions of higher education. 12766

(G) The authority is authorized to issue revenue obligations 12767
under Section 2i of Article VIII, Ohio Constitution, on behalf of 12768
a community or technical college district and shall cause the net 12769
proceeds thereof, after any deposits of accrued interest for the 12770
payment of bond service charges and after any deposit of all or 12771
such lesser portion as the authority may direct of the premium 12772
received upon the sale of those obligations for the payment of the 12773
bond service charges, to be applied to the cost of community or 12774
technical college capital facilities, provided that the issuance 12775
of such obligations is subject to the execution of a written 12776
agreement in accordance with division (C) of section ~~3333.90~~ 12777
3333.59 of the Revised Code for the withholding and depositing of 12778
funds otherwise due the district, or the college it operates, in 12779
respect of its allocated state share of instruction. 12780

The authority shall provide by resolution for the issuance of 12781
such obligations. The bond service charges and all other payments 12782
required to be made by the trust agreement or indenture securing 12783

the obligations shall be payable solely from available community 12784
or technical college receipts pledged thereto as provided in the 12785
resolution. The available community or technical college receipts 12786
pledged and thereafter received by the authority are immediately 12787
subject to the lien of such pledge without any physical delivery 12788
thereof or further act, and the lien of any such pledge is valid 12789
and binding against all parties having claims of any kind against 12790
the authority, irrespective of whether those parties have notice 12791
thereof, and creates a perfected security interest for all 12792
purposes of Chapter 1309. of the Revised Code and a perfected lien 12793
for purposes of any real property interest, all without the 12794
necessity for separation or delivery of funds or for the filing or 12795
recording of the resolution, trust agreement, indenture, or other 12796
agreement by which such pledge is created or any certificate, 12797
statement, or other document with respect thereto; and the pledge 12798
of such available community or technical college receipts is 12799
effective and the money therefrom and thereof may be applied to 12800
the purposes for which pledged. Every pledge, and every covenant 12801
and agreement made with respect to the pledge, made in the 12802
resolution may therein be extended to the benefit of the owners 12803
and holders of obligations authorized by this division, and to any 12804
trustee therefor, for the further securing of the payment of the 12805
bond service charges, and all or any rights under any agreement or 12806
lease made under this section may be assigned for such purpose. 12807
Obligations may be issued at one time or from time to time, and 12808
each issue shall be dated, shall mature at such time or times as 12809
determined by the authority not exceeding forty years from the 12810
date of issue, and may be redeemable before maturity at the option 12811
of the authority at such price or prices and under such terms and 12812
conditions as are fixed by the authority prior to the issuance of 12813
the obligations. The authority shall determine the form of the 12814
obligations, fix their denominations, establish their interest 12815
rate or rates, which may be a variable rate or rates, or the 12816

maximum interest rate, and establish within or without this state 12817
a place or places of payment of bond service charges. 12818

Sec. 153.692. For every design-build contract, the public 12819
authority planning to contract for design-build services shall 12820
first obtain the services of a criteria architect or engineer by 12821
doing either of the following: 12822

(A) Contracting for the services consistent with sections 12823
153.65 to 153.70 of the Revised Code; 12824

(B) Obtaining the services through an architect or engineer 12825
who is an employee of the public authority and notifying the 12826
~~department of administrative services~~ Ohio facilities construction
commission before the services are performed. 12827
12828

Sec. 154.01. As used in this chapter: 12829

(A) "Commission" means the Ohio public facilities commission 12830
created in section 151.02 of the Revised Code. 12831

(B) "Obligations" means bonds, notes, or other evidences of 12832
obligation, including interest coupons pertaining thereto, issued 12833
pursuant to Chapter 154. of the Revised Code. 12834

(C) "Bond proceedings" means the order or orders, resolution 12835
or resolutions, trust agreement, indenture, lease, and other 12836
agreements, amendments and supplements to the foregoing, or any 12837
combination thereof, authorizing or providing for the terms and 12838
conditions applicable to, or providing for the security of, 12839
obligations issued pursuant to Chapter 154. of the Revised Code, 12840
and the provisions contained in such obligations. 12841

(D) "State agencies" means the state of Ohio and officers, 12842
boards, commissions, departments, divisions, or other units or 12843
agencies of the state. 12844

(E) "Governmental agency" means state agencies, state 12845

supported and assisted institutions of higher education, municipal 12846
corporations, counties, townships, school districts, and any other 12847
political subdivision or special district in this state 12848
established pursuant to law, and, except where otherwise 12849
indicated, also means the United States or any department, 12850
division, or agency thereof, and any agency, commission, or 12851
authority established pursuant to an interstate compact or 12852
agreement. 12853

(F) "Institutions of higher education" and "state supported 12854
or state assisted institutions of higher education" means the 12855
state universities identified in section 3345.011 of the Revised 12856
Code, the northeast Ohio medical university, state universities or 12857
colleges at any time created, community college districts, 12858
university branch districts, and technical college districts at 12859
any time established or operating under Chapter 3354., 3355., or 12860
3357. of the Revised Code, and other institutions for education, 12861
including technical education, beyond the high school, receiving 12862
state support or assistance for their expenses of operation. 12863

(G) "Governing body" means: 12864

(1) In the case of institutions of higher education, the 12865
board of trustees, board of directors, commission, or other body 12866
vested by law with the general management, conduct, and control of 12867
one or more institutions of higher education; 12868

(2) In the case of a county, the board of county 12869
commissioners or other legislative body; in the case of a 12870
municipal corporation, the council or other legislative body; in 12871
the case of a township, the board of township trustees; in the 12872
case of a school district, the board of education; 12873

(3) In the case of any other governmental agency, the 12874
officer, board, commission, authority or other body having the 12875
general management thereof or having jurisdiction or authority in 12876

the particular circumstances. 12877

(H) "Person" means any person, firm, partnership, 12878
association, or corporation. 12879

(I) "Bond service charges" means principal, including 12880
mandatory sinking fund requirements for retirement of obligations, 12881
and interest, and redemption premium, if any, required to be paid 12882
by the state on obligations. If not prohibited by the applicable 12883
bond proceedings, bond service charges may include costs relating 12884
to credit enhancement facilities that are related to and 12885
represent, or are intended to provide a source of payment of or 12886
limitation on, other bond service charges. 12887

(J) "Capital facilities" means buildings, structures, and 12888
other improvements, and equipment, real estate, and interests in 12889
real estate therefor, within the state, and any one, part of, or 12890
combination of the foregoing, to serve the general purposes for 12891
which the issuing authority is authorized to issue obligations 12892
pursuant to Chapter 154. of the Revised Code, including, but not 12893
limited to, drives, roadways, parking facilities, walks, lighting, 12894
machinery, furnishings, utilities, landscaping, wharves, docks, 12895
piers, reservoirs, dams, tunnels, bridges, retaining walls, 12896
riprap, culverts, ditches, channels, watercourses, retention 12897
basins, standpipes and water storage facilities, waste treatment 12898
and disposal facilities, heating, air conditioning and 12899
communications facilities, inns, lodges, cabins, camping sites, 12900
golf courses, boat and bathing facilities, athletic and 12901
recreational facilities, and site improvements. 12902

(K) "Costs of capital facilities" means the costs of 12903
acquiring, constructing, reconstructing, rehabilitating, 12904
remodeling, renovating, enlarging, improving, equipping, or 12905
furnishing capital facilities, and the financing thereof, 12906
including the cost of clearance and preparation of the site and of 12907
any land to be used in connection with capital facilities, the 12908

cost of any indemnity and surety bonds and premiums on insurance, 12909
all related direct administrative expenses and allocable portions 12910
of direct costs of the commission or issuing authority and 12911
department of administrative services, or other designees of the 12912
commission under section 154.17 of the Revised Code, cost of 12913
engineering and architectural services, designs, plans, 12914
specifications, surveys, and estimates of cost, legal fees, fees 12915
and expenses of trustees, depositories, and paying agents for the 12916
obligations, cost of issuance of the obligations and financing 12917
charges and fees and expenses of financial advisers and 12918
consultants in connection therewith, interest on obligations, 12919
including but not limited to, interest from the date of their 12920
issuance to the time when interest is to be covered from sources 12921
other than proceeds of obligations, amounts necessary to establish 12922
reserves as required by the bond proceedings, costs of audits, the 12923
reimbursement of all moneys advanced or applied by or borrowed 12924
from any governmental agency, whether to or by the commission or 12925
others, from whatever source provided, for the payment of any item 12926
or items of cost of the capital facilities, any share of the cost 12927
undertaken by the commission pursuant to arrangements made with 12928
governmental agencies under division (H) of section 154.06 of the 12929
Revised Code, and all other expenses necessary or incident to 12930
planning or determining feasibility or practicability with respect 12931
to capital facilities, and such other expenses as may be necessary 12932
or incident to the acquisition, construction, reconstruction, 12933
rehabilitation, remodeling, renovation, enlargement, improvement, 12934
equipment, and furnishing of capital facilities, the financing 12935
thereof and the placing of the same in use and operation, 12936
including any one, part of, or combination of such classes of 12937
costs and expenses. 12938

(L) "Public service facilities" means inns, lodges, hotels, 12939
cabins, camping sites, scenic trails, picnic sites, restaurants, 12940
commissaries, golf courses, boating and bathing facilities and 12941

other similar facilities in state parks.	12942
(M) "State parks" means:	12943
(1) State reservoirs described and identified in section	12944
1541.06 of the Revised Code;	12945
(2) All lands or interests therein of the state identified as	12946
administered by the division of parks and recreation in the	12947
"inventory of state owned lands administered by the department of	12948
natural resources as of June 1, 1963," as recorded in the journal	12949
of the director, which inventory was prepared by the real estate	12950
section of the department and is supported by maps now on file in	12951
said real estate section;	12952
(3) All lands or interests in lands of the state designated	12953
after June 1, 1963, as state parks in the journal of the director	12954
with the approval of the recreation and resources council.	12955
State parks do not include any lands or interest in lands of	12956
the state administered jointly by two or more divisions of the	12957
department of natural resources. The designation of lands as state	12958
parks under divisions (M)(1) to (3) of this section is conclusive	12959
and such lands shall be under the control of and administered by	12960
the division of parks and recreation. No order or proceeding	12961
designating lands as state parks or park purchase areas is subject	12962
to any appeal or review by any officer, board, commission, or	12963
court.	12964
(N) "Bond service fund" means the applicable fund created for	12965
and pledged to the payment of bond service charges under section	12966
154.20, 154.21, 154.22, or 154.23 of the Revised Code, including	12967
all moneys and investments, and earnings from investments,	12968
credited and to be credited thereto.	12969
(O) "Improvement fund" means the applicable fund created for	12970
the payment of costs of capital facilities under section <u>123.201,</u>	12971
154.20, 154.21, <u>or</u> 154.22, or 3383.09 of the Revised Code,	12972

including all moneys and investments, and earnings from 12973
investments, credited and to be credited thereto. 12974

(P) "Special funds" or "funds" means, except where the 12975
context does not permit, the bond service funds, the improvements 12976
funds, and any other funds for similar or different purposes 12977
created under bond proceedings, including all moneys and 12978
investments, and earnings from investments, credited and to be 12979
credited thereto. 12980

(Q) "Year" unless the context indicates a different meaning 12981
or intent, means a calendar year beginning on the first day of 12982
January and ending on the thirty-first day of December. 12983

(R) "Fiscal year" means the period of twelve months beginning 12984
on the first day of July and ending on the thirtieth day of June. 12985

(S) "Issuing authority" means the treasurer of state or the 12986
officer or employee who by law performs the functions of that 12987
office. 12988

(T) "Credit enhancement facilities" has the same meaning as 12989
in section 133.01 of the Revised Code. 12990

(U) "Ohio cultural facility" and "Ohio sports facility" have 12991
the same meanings as in section ~~3383.01~~ 123.28 of the Revised 12992
Code. 12993

Sec. 154.17. The departments of administrative services, 12994
~~mental health~~ mental health and addiction services, developmental 12995
disabilities, rehabilitation and correction, and natural 12996
resources, the Ohio board of regents, institutions of higher 12997
education, and other state officers and state agencies shall 12998
cooperate with the commission in providing services and 12999
information requested by the commission for purposes of Chapter 13000
154. of the Revised Code, and the commission may make mutually 13001
satisfactory arrangements therefor and may thereunder designate 13002

any governmental agency for the management or performance of 13003
particular functions of the commission, other than the 13004
authorization and issuance of obligations provided for in Chapter 13005
154. of the Revised Code, pursuant to which designation, upon 13006
acceptance thereof by that governmental agency, that function may 13007
be carried out with the full force and effect as if performed by 13008
the commission. Any such designation shall be made only by formal 13009
action or written agreement of the commission. In the management 13010
of capital facilities or performance of other functions with 13011
respect thereto, a governmental agency may exercise all powers 13012
which it has under law with respect to other similar facilities 13013
under its jurisdiction. 13014

Contracts relating to capital facilities shall be made in 13015
accordance with the law pertaining to the governmental agency 13016
designated under authority of this section to perform such 13017
contracting function, and in any other case shall be made in 13018
accordance with Chapter 153. of the Revised Code, for which 13019
purpose the commission shall be considered the owner, provided 13020
that the commission may assign the function of owner to the 13021
department of administrative services or other governmental agency 13022
as it determines. The commission may acquire by assignment from 13023
any governmental agency contracts which are not completed and 13024
which involve acquiring, constructing, reconstructing, 13025
rehabilitating, remodeling, renovating, enlarging, improving, 13026
equipping, or furnishing capital facilities, provided that such 13027
governmental agency has complied with the procedures prescribed by 13028
laws for its letting of such contract. 13029

No contract shall be let or assignment thereof accepted under 13030
this section involving performance in accordance with plans and 13031
specifications until such plans and specifications have been 13032
submitted to and approved by the governmental agency to have 13033
responsibility for the management of the capital facilities 13034

provided for in such plans and specifications, which approval 13035
shall be considered to be given if no approval or disapproval is 13036
communicated in writing to the commission or its designee for such 13037
purpose within sixty days following such submission of plans and 13038
specifications. Approval by such governmental agency of changes in 13039
plans and specifications is not required if the director of 13040
administrative services or the designee of the commission for such 13041
purpose shall certify that such changes do not substantially 13042
change the location, character, or extent of such capital 13043
facilities. 13044

Sec. 154.20. (A) Subject to authorization by the general 13045
assembly under section 154.02 of the Revised Code, the issuing 13046
authority may issue obligations pursuant to this chapter to pay 13047
costs of capital facilities for mental hygiene and retardation, 13048
including housing for mental hygiene and retardation patients. 13049

(B) Any capital facilities for mental hygiene or retardation, 13050
including housing for mental hygiene and retardation patients, may 13051
be leased by the commission to the department of ~~mental health,~~ 13052
mental health and addiction services or the department of 13053
developmental disabilities, ~~or the department of alcohol and drug~~ 13054
~~addiction services,~~ and other agreements may be made by the 13055
commission and any one or more of these departments with respect 13056
to the use or purchase of such capital facilities or, subject to 13057
the approval of the director of the department, the commission may 13058
lease such capital facilities to, and make or provide for other 13059
agreements with respect to the use or purchase thereof with, any 13060
governmental agency having authority under law to operate such 13061
capital facilities, and the director of the department may 13062
sublease such capital facilities to, and make other agreements 13063
with respect to the use or purchase thereof with, any such 13064
governmental agency, which may include provisions for transmittal 13065
to the mental health bond service trust fund created under 13066

division (E) of this section, by such governmental agency or by a 13067
nonprofit corporation providing mental hygiene and retardation 13068
services for or under contract with or the supervision of that 13069
governmental agency, of receipts of that agency or nonprofit 13070
corporation from charges for the treatment or care of mental 13071
hygiene and retardation patients, all upon such terms and 13072
conditions as the parties may agree upon and pursuant to this 13073
chapter, notwithstanding any other provision of law affecting the 13074
leasing, acquisition, or disposition of capital facilities by the 13075
parties. 13076

(C) For purposes of this section, "available receipts" means 13077
all receipts of the state from charges for the treatment or care 13078
of mental hygiene and retardation patients, including support 13079
payments received under Chapter 5121. of the Revised Code and 13080
moneys required to be transmitted to the mental health bond 13081
service trust fund pursuant to subleases and other agreements 13082
between any of the departments and another governmental agency 13083
pursuant to division (B) of this section as the subleases and 13084
other agreements may be further implemented for internal planning, 13085
budgeting, and accounting purposes pursuant to rules adopted by 13086
the director of ~~mental health~~, mental health and addiction 13087
services or director of developmental disabilities, ~~or director of~~ 13088
~~alcohol and drug addiction services~~, any revenues or receipts 13089
derived by the commission from the operation, leasing, or other 13090
disposition of capital facilities financed under this section, the 13091
proceeds of obligations issued under this section and sections 13092
154.11 and 154.12 of the Revised Code, and also means any gifts, 13093
grants, donations, and pledges, and receipts therefrom, available 13094
for the payment of bond service charges on such obligations. The 13095
issuing authority may pledge all, or such portion as that 13096
authority determines, of the available receipts to the payment of 13097
bond service charges on obligations issued under this section and 13098
under sections 154.11 and 154.12 of the Revised Code and for the 13099

establishment and maintenance of any reserves, as provided in the 13100
bond proceedings, and make other provisions therein with respect 13101
to such available receipts as authorized by this chapter, which 13102
provisions shall be controlling notwithstanding any other 13103
provision of law pertaining thereto. 13104

(D) The issuing authority may covenant in the bond 13105
proceedings that the state and state agencies shall, so long as 13106
any obligations issued under this section are outstanding, cause 13107
to be charged and collected charges for the treatment or care of 13108
mental hygiene and retardation patients sufficient in amount to 13109
provide for the payment of bond service charges on such 13110
obligations and for the establishment and maintenance of any 13111
reserves, as provided in the bond proceedings, and such covenants 13112
shall be controlling notwithstanding any other provision of law 13113
pertaining to such charges. 13114

(E) There is hereby created the mental health bond service 13115
trust fund, which shall be in the custody of the treasurer of 13116
state but shall be separate and apart from and not a part of the 13117
state treasury. All moneys received by or on account of the 13118
commission or issuing authority or state agencies and required by 13119
the applicable bond proceedings to be deposited, transferred, or 13120
credited to the fund, and all other moneys transferred or 13121
allocated to or received for the purposes of the fund, shall be 13122
deposited with the treasurer of state and credited to such fund, 13123
subject to applicable provisions of the bond proceedings, but 13124
without necessity for any act of appropriation. The mental health 13125
bond service trust fund is a trust fund and is hereby pledged to 13126
the payment of bond service charges on the obligations issued 13127
pursuant to this section and sections 154.11 and 154.12 of the 13128
Revised Code to the extent provided in the applicable bond 13129
proceedings, and payment thereof from such fund shall be made or 13130
provided for by the treasurer of state in accordance with such 13131

bond proceedings without necessity for any act of appropriation. 13132

(F) There is hereby created in the state treasury the mental 13133
health facilities improvement fund. Subject to the bond 13134
proceedings therefor, all of the proceeds of the sale of 13135
obligations pursuant to this section shall be credited to the 13136
fund, except that any accrued interest shall be credited to the 13137
mental health bond service fund. The mental health facilities 13138
improvement fund may also be comprised of gifts, grants, 13139
appropriated moneys, and other sums and securities received to the 13140
credit of such fund. All investment earnings on the cash balance 13141
in the fund shall be credited to the fund. The fund shall be 13142
applied only to the following purposes: 13143

(1) Paying costs of capital facilities for mental hygiene and 13144
retardation, including housing for mental hygiene and retardation 13145
patients, under the jurisdiction of the department of ~~mental~~ 13146
~~health,~~ mental health and addiction services or department of 13147
developmental disabilities, ~~or department of alcohol and drug~~ 13148
~~addiction services;~~ 13149

(2) Participating in capital facilities for mental hygiene 13150
and retardation, including housing for mental hygiene and 13151
retardation patients, with the federal government, municipal 13152
corporations, counties, or other governmental agencies, or a 13153
nonprofit corporation specifically chartered to provide a mental 13154
health or mental retardation service when such service fulfills a 13155
public purpose, which participation may be by grants or 13156
contributions to them for such capital facilities. Except as 13157
provided in division (G) of this section, the nonprofit 13158
corporation may act in concert with a limited partnership or a 13159
limited liability company eligible to participate in the nonprofit 13160
set-aside described in section 42(h)(5) of the "Internal Revenue 13161
Code of 1986," 100 Stat. 2198, 26 U.S.C. 42, and the Ohio housing 13162
finance agency's housing tax credit program for the purpose of 13163

making use of low-income housing tax credits in support of housing 13164
for mental hygiene and retardation patients. 13165

(G) A nonprofit corporation providing a mental retardation 13166
service must obtain written approval from the director of 13167
developmental disabilities before acting in concert with a limited 13168
partnership or limited liability company as described in division 13169
(F)(2) of this section. However, the director may issue one 13170
blanket approval for all such nonprofit corporations. 13171

(H) This section is to be applied with other applicable 13172
provisions of this chapter. 13173

Sec. 154.22. (A) Subject to authorization by the general 13174
assembly under section 154.02 of the Revised Code, the issuing 13175
authority may authorize and issue obligations pursuant to this 13176
chapter to pay costs of capital facilities for parks and 13177
recreation. 13178

(B) Any capital facilities for parks and recreation may be 13179
leased by the commission to the department of natural resources 13180
and other agreements may be made by the commission and such 13181
department with respect to the use or purchase of such capital 13182
facilities or, subject to the approval of the director of such 13183
department, the commission may lease such capital facilities to, 13184
and make other agreements with respect to their use or purchase 13185
with, any governmental agency having authority under law to 13186
operate such capital facilities, and the director of such 13187
department may sublease such capital facilities to, and make other 13188
agreements with respect to the use or purchase thereof with, any 13189
such governmental agency, or such director may sublease or 13190
contract for the operation of such capital facilities in 13191
accordance with the applicable provisions of sections 1501.09, 13192
1501.091, and 1501.10 of the Revised Code, all upon such terms and 13193
conditions as the parties may agree upon and pursuant to this 13194

chapter, notwithstanding any other provisions of law affecting the 13195
leasing, acquisition, or disposition of capital facilities by such 13196
parties. 13197

(C) For purposes of this section, "available receipts" means 13198
all receipts, including fees, charges, and rentals, derived or to 13199
be derived from state parks and public service facilities in any 13200
state park or parks, any other receipts of state agencies with 13201
respect to parks and recreational facilities, any revenues or 13202
receipts derived by the commission from the operation, leasing, or 13203
other disposition of capital facilities financed under this 13204
section, the proceeds of obligations issued under this section and 13205
sections 154.11 and 154.12 of the Revised Code, and also means any 13206
gifts, grants, donations, and pledges, and receipts thereon, 13207
available for the payment of bond service charges on obligations 13208
issued under this section. The issuing authority may pledge all, 13209
or such portion as it determines, of the available receipts to the 13210
payment of bond service charges on obligations issued under this 13211
section and sections 154.11 and 154.12 of the Revised Code and for 13212
the establishment and maintenance of any reserves, as provided in 13213
the bond proceedings, and make other provisions therein with 13214
respect to such available receipts as authorized by this chapter, 13215
which provisions shall be controlling notwithstanding any other 13216
provision of law pertaining thereto. 13217

(D) The issuing authority may covenant in the bond proceeding 13218
that the state and state agencies shall, so long as any 13219
obligations issued under this section are outstanding, cause to be 13220
charged and collected fees, charges, and rentals for the use of 13221
state parks and public service facilities and other fees and 13222
charges with respect to parks and recreation sufficient in amount 13223
to provide for the payment of bond service charges on such 13224
obligations and for the establishment and maintenance of any 13225
reserves as provided in the bond proceedings, and such covenants 13226

shall be controlling notwithstanding any other provision of law 13227
pertaining to such charges except any provision of law prohibiting 13228
or limiting charges for the use of swimming facilities of state 13229
parks and public service facilities by persons under sixteen years 13230
of age. 13231

(E) There is hereby created the parks and recreation bond 13232
service trust fund, which shall be in the custody of the treasurer 13233
of state but shall be separate and apart from and not a part of 13234
the state treasury. All moneys received by or on account of the 13235
commission or issuing authority or state agencies and required by 13236
the applicable bond proceedings to be deposited, transferred, or 13237
allocated to or received for the purposes of the trust fund shall 13238
be deposited with the treasurer of state and credited to such 13239
fund, subject to applicable provisions of the bond proceedings but 13240
without necessity for any act of appropriation. The trust fund is 13241
hereby pledged to the payment of bond service charges on the 13242
obligations issued pursuant to this section and sections 154.11 13243
and 154.12 of the Revised Code to the extent provided in the 13244
applicable bond proceedings, and payment thereof from such fund 13245
shall be made or provided for by the treasurer of state in 13246
accordance with such bond proceedings without necessity for any 13247
act of appropriation. 13248

(F) There is hereby created in the state treasury the parks 13249
and recreation improvement fund. Subject to the bond proceedings 13250
therefor, all of the proceeds of the sale of obligations issued 13251
pursuant to this section shall be credited to such fund, except 13252
that any accrued interest received shall be credited to the parks 13253
and recreation bond service trust fund. The parks and recreation 13254
improvement fund may also be comprised of gifts, grants, 13255
appropriated moneys, and other sums and securities received to the 13256
credit of such fund. Such fund shall be applied only to the 13257
purpose of paying costs of capital facilities for parks and 13258

recreation under the jurisdiction of the department of natural 13259
resources or for participation in capital facilities for parks and 13260
recreation with the federal government, municipal corporations, 13261
counties, or other governmental agencies, or any one or more of 13262
them, which participation may be by grants or contributions to 13263
them for such capital facilities. All investment earnings on the 13264
cash balance in the fund shall be credited to the fund. 13265

(G) All state parks shall be exclusively under the control 13266
and administration of the division of parks and recreation. With 13267
the approval of the recreation and resources council, the director 13268
of natural resources may by order remove from the classification 13269
as state parks any of the lands or interests therein referred to 13270
in divisions (M)(2) and (3) of section 154.01 of the Revised Code, 13271
subject to the limitations, provisions, and conditions in any 13272
order authorizing state park revenue bonds, in any trust agreement 13273
securing such bonds, or in bond proceedings with respect to 13274
obligations issued pursuant to this section. Lands or interests 13275
therein so removed shall be transferred to other divisions of the 13276
department for administration or may be sold as provided by law. 13277
Proceeds of any sale shall be used or transferred as provided in 13278
the order authorizing state park revenue bonds or in such trust 13279
agreement, or in bond proceedings with respect to obligations 13280
issued pursuant to this section, and if no such provision is made 13281
shall be transferred to the state park fund created by section 13282
1541.22 of the Revised Code. 13283

(H) This section shall be applied with other applicable 13284
provisions of this chapter. 13285

(I) Any instrument by which real property is acquired 13286
pursuant to this section shall identify the agency of the state 13287
that has the use and benefit of the real property as specified in 13288
section 5301.012 of the Revised Code. 13289

Sec. 154.23. (A) Subject to authorization by the general 13290
assembly under section 154.02 of the Revised Code, the issuing 13291
authority may issue obligations pursuant to this chapter to pay 13292
costs of capital facilities for Ohio cultural facilities and Ohio 13293
sports facilities. 13294

(B) The Ohio public facilities commission may lease any 13295
capital facilities for Ohio cultural facilities or Ohio sports 13296
facilities to, and make or provide for other agreements with 13297
respect to the use or purchase of such capital facilities with, 13298
the Ohio ~~cultural~~ facilities construction commission and, with the 13299
Ohio ~~cultural~~ facilities construction commission's approval, any 13300
governmental agency having authority under law to operate such 13301
capital facilities. ~~Any lease or agreement shall be subject to~~ 13302
~~Chapter 3383. of the Revised Code.~~ 13303

(C) For purposes of this section, "available receipts" means 13304
any revenues or receipts derived by the Ohio public facilities 13305
commission from the operation, leasing, or other disposition of 13306
capital facilities financed under this section, the proceeds of 13307
obligations issued under this section and section 154.11 or 154.12 13308
of the Revised Code, and also means any gifts, grants, donations, 13309
and pledges, and receipts thereon, available for the payment of 13310
bond service charges on obligations issued under this section. The 13311
issuing authority may pledge all, or such portion as it 13312
determines, of the available receipts to the payment of bond 13313
service charges on obligations issued under this section and 13314
section 154.11 or 154.12 of the Revised Code and for the 13315
establishment and maintenance of any reserves, as provided in the 13316
bond proceedings, and make other provisions therein with respect 13317
to such available receipts as authorized by this chapter, which 13318
provisions shall be controlling notwithstanding any other 13319
provision of law pertaining thereto. 13320

(D) There is hereby created one or more funds, as determined 13321
by the issuing authority in the bond proceedings, designated as 13322
the "Ohio cultural facilities ~~commission~~ bond service fund" with, 13323
if more than one such fund, such further identifying name as the 13324
issuing authority determines, which shall be in the custody of the 13325
treasurer of state but shall be separate and apart from and not a 13326
part of the state treasury. All money received by or on account of 13327
the issuing authority or the Ohio ~~cultural~~ facilities construction 13328
commission and required by the applicable bond proceedings to be 13329
deposited, transferred, or credited to the Ohio cultural 13330
facilities ~~commission~~ bond service fund, and all other money 13331
transferred or allocated to or received for the purposes of that 13332
fund shall be deposited with the treasurer of state and credited 13333
to the applicable fund, subject to applicable provisions of the 13334
bond proceedings, but without necessity of any act or 13335
appropriation. The Ohio cultural facilities ~~commission~~ bond 13336
service funds are trust funds and are hereby pledged to the 13337
payment of bond service charges on the applicable obligations 13338
issued pursuant to this section and section 154.11 or 154.12 of 13339
the Revised Code to the extent provided in the applicable bond 13340
proceedings, and payment thereof from such funds shall be made or 13341
provided for by the treasurer of state in accordance with the 13342
applicable bond proceedings without necessity for any act or 13343
appropriation. 13344

(E) This section is to be applied with other applicable 13345
provisions of this chapter. 13346

Sec. 154.25. (A) As used in this section: 13347

(1) "Available community or technical college receipts" means 13348
all money received by a community or technical college or 13349
community or technical college district, including income, 13350
revenues, and receipts from the operation, ownership, or control 13351

of facilities, grants, gifts, donations, and pledges and receipts 13352
therefrom, receipts from fees and charges, the allocated state 13353
share of instruction as defined in section ~~3333.90~~ 3333.59 of the 13354
Revised Code, and the proceeds of the sale of obligations, 13355
including proceeds of obligations issued to refund obligations 13356
previously issued, but excluding any special fee, and receipts 13357
therefrom, charged pursuant to division (D) of section 154.21 of 13358
the Revised Code. 13359

(2) "Community or technical college," "college," "community 13360
or technical college district," and "district" have the same 13361
meanings as in section ~~3333.90~~ 3333.59 of the Revised Code. 13362

(3) "Community or technical college capital facilities" means 13363
auxiliary facilities, education facilities, and housing and dining 13364
facilities, as those terms are defined in section 3345.12 of the 13365
Revised Code, to the extent permitted to be financed by the 13366
issuance of obligations under division (A)(2) of section 3357.112 13367
of the Revised Code, that are authorized by sections 3354.121, 13368
3357.112, and 3358.10 of the Revised Code to be financed by 13369
obligations issued by a community or technical college district, 13370
and for which the issuing authority is authorized to issue 13371
obligations pursuant to this section, and includes any one, part 13372
of, or any combination of the foregoing, and further includes site 13373
improvements, utilities, machinery, furnishings, and any separate 13374
or connected buildings, structures, improvements, sites, open 13375
space and green space areas, utilities, or equipment to be used 13376
in, or in connection with the operation or maintenance of, or 13377
supplementing or otherwise related to the services or facilities 13378
to be provided by, such facilities. 13379

(4) "Cost of community or technical college capital 13380
facilities" means the costs of acquiring, constructing, 13381
reconstructing, rehabilitating, remodeling, renovating, enlarging, 13382
improving, equipping, or furnishing community or technical college 13383

capital facilities, and the financing thereof, including the cost 13384
of clearance and preparation of the site and of any land to be 13385
used in connection with community or technical college capital 13386
facilities, the cost of any indemnity and surety bonds and 13387
premiums on insurance, all related direct administrative expenses 13388
and allocable portions of direct costs of the commission and the 13389
issuing authority, community or technical college or community or 13390
technical college district, cost of engineering, architectural 13391
services, design, plans, specifications and surveys, estimates of 13392
cost, legal fees, fees and expenses of trustees, depositories, 13393
bond registrars, and paying agents for obligations, cost of 13394
issuance of obligations and financing costs and fees and expenses 13395
of financial advisers and consultants in connection therewith, 13396
interest on obligations from the date thereof to the time when 13397
interest is to be covered by available receipts or other sources 13398
other than proceeds of those obligations, amounts necessary to 13399
establish reserves as required by the bond proceedings, costs of 13400
audits, the reimbursements of all moneys advanced or applied by or 13401
borrowed from the community or technical college, community or 13402
technical college district, or others, from whatever source 13403
provided, including any temporary advances from state 13404
appropriations, for the payment of any item or items of cost of 13405
community or technical college facilities, and all other expenses 13406
necessary or incident to planning or determining feasibility or 13407
practicability with respect to such facilities, and such other 13408
expenses as may be necessary or incident to the acquisition, 13409
construction, reconstruction, rehabilitation, remodeling, 13410
renovation, enlargement, improvement, equipment, and furnishing of 13411
community or technical college capital facilities, the financing 13412
thereof and the placing of them in use and operation, including 13413
any one, part of, or combination of such classes of costs and 13414
expenses. 13415

(5) "Capital facilities" includes community or technical 13416

college capital facilities. 13417

(6) "Obligations" has the same meaning as in section 154.01 13418
or 3345.12 of the Revised Code, as the context requires. 13419

(B) The issuing authority is authorized to issue revenue 13420
obligations under Section 2i of Article VIII, Ohio Constitution, 13421
on behalf of a community or technical college district and shall 13422
cause the net proceeds thereof, after any deposits of accrued 13423
interest for the payment of bond service charges and after any 13424
deposit of all or such lesser portion as the issuing authority may 13425
direct of the premium received upon the sale of those obligations 13426
for the payment of the bond service charges, to be applied to the 13427
cost of community or technical college capital facilities, 13428
provided that the issuance of such obligations is subject to the 13429
execution of a written agreement in accordance with division (C) 13430
of section ~~3333.90~~ 3333.59 of the Revised Code for the withholding 13431
and depositing of funds otherwise due the district, or the college 13432
it operates, in respect of its allocated state share of 13433
instruction. 13434

(C) The bond service charges and all other payments required 13435
to be made by the trust agreement or indenture securing the 13436
obligations shall be payable solely from available community or 13437
technical college receipts pledged thereto as provided in the 13438
resolution. The available community or technical college receipts 13439
pledged and thereafter received by the commission are immediately 13440
subject to the lien of such pledge without any physical delivery 13441
thereof or further act, and the lien of any such pledge is valid 13442
and binding against all parties having claims of any kind against 13443
the authority, irrespective of whether those parties have notice 13444
thereof, and creates a perfected security interest for all 13445
purposes of Chapter 1309. of the Revised Code and a perfected lien 13446
for purposes of any real property interest, all without the 13447
necessity for separation or delivery of funds or for the filing or 13448

recording of the resolution, trust agreement, indenture, or other 13449
agreement by which such pledge is created or any certificate, 13450
statement, or other document with respect thereto; and the pledge 13451
of such available community or technical college receipts is 13452
effective and the money therefrom and thereof may be applied to 13453
the purposes for which pledged. Every pledge, and every covenant 13454
and agreement made with respect to the pledge, made in the 13455
resolution may therein be extended to the benefit of the owners 13456
and holders of obligations authorized by this section, and to any 13457
trustee therefor, for the further securing of the payment of the 13458
bond service charges, and all or any rights under any agreement or 13459
lease made under this section may be assigned for such purpose. 13460

(D) This section is to be applied with other applicable 13461
provisions of this chapter. 13462

Sec. 156.02. The executive director of ~~administrative~~ 13463
~~services~~ the Ohio facilities construction commission may contract 13464
with an energy or a water services company, architect, 13465
professional engineer, contractor, or other person experienced in 13466
the design and implementation of energy or water conservation 13467
measures for a report containing an analysis and recommendations 13468
pertaining to the implementation of energy or water conservation 13469
measures that result in energy, water, or wastewater cost savings, 13470
operating cost savings, or avoided capital costs for the 13471
institution. The report shall include estimates of all costs of 13472
such installations, including the costs of design, engineering, 13473
installation, maintenance, repairs, and debt service, and 13474
estimates of the energy, water, or wastewater cost savings, 13475
operating cost savings, and avoided capital costs created. 13476

Sec. 156.03. (A) If the executive director of ~~administrative~~ 13477
~~services~~ the Ohio facilities construction commission wishes to 13478
enter into an installment payment contract pursuant to section 13479

156.04 of the Revised Code or any other contract to implement one 13480
or more energy or water saving measures, the executive director 13481
may proceed under Chapter 153. of the Revised Code, or, 13482
alternatively, the executive director may request the controlling 13483
board to exempt the contract from Chapter 153. of the Revised 13484
Code. 13485

If the controlling board by a majority vote approves an 13486
exemption, that chapter shall not apply to the contract and 13487
instead the executive director shall request proposals from at 13488
least three parties for the implementation of the energy or water 13489
saving measures. Prior to providing any interested party a copy of 13490
any such request, the executive director shall advertise, in a 13491
newspaper of general circulation in the county where the contract 13492
is to be performed, and may advertise by electronic means pursuant 13493
to rules adopted by the executive director, the executive 13494
director's intent to request proposals for the implementation of 13495
the energy or water saving measures. The notice shall invite 13496
interested parties to submit proposals for consideration and shall 13497
be published at least thirty days prior to the date for accepting 13498
proposals. 13499

(B) Upon receiving the proposals, the executive director 13500
shall analyze them and, after considering the cost estimates of 13501
each proposal and the availability of funds to pay for each with 13502
current appropriations or by financing the cost of each through an 13503
installment payment contract under section 156.04 of the Revised 13504
Code, may select one or more proposals or reject all proposals. In 13505
selecting proposals, the executive director shall select the one 13506
or more proposals most likely to result in the greatest energy, 13507
water, or wastewater savings, operating costs savings, and avoided 13508
capital costs created. 13509

(C) No contract shall be awarded to implement energy or water 13510
saving measures under this section, unless the executive director 13511

finds that both of the following circumstances exists: 13512

(1) Not less than one-fifteenth of the costs of the contract 13513
shall be paid within two years from the date of purchase; 13514

(2) In the case of a contract for a cogeneration system 13515
described in division (B)(8) of section 156.01 of the Revised 13516
Code, the remaining balance of the cost of the contract shall be 13517
paid within twenty years from the date of purchase, and, in the 13518
case of all other contracts, fifteen years. 13519

Sec. 156.04. (A) In accordance with this section and section 13520
156.03 of the Revised Code, the executive director of 13521
~~administrative services~~ the Ohio facilities construction 13522
commission may enter into an installment payment contract for the 13523
implementation of one or more energy or water saving measures. If 13524
the executive director wishes an installment payment contract to 13525
be exempted from Chapter 153. of the Revised Code, the executive 13526
director shall proceed pursuant to section 156.03 of the Revised 13527
Code. 13528

(B) Any installment payment contract under this section shall 13529
provide that all payments, except payments for repairs and 13530
obligations on termination of the contract prior to its 13531
expiration, are to be a stated percentage of calculated energy, 13532
water, or wastewater cost savings, operating costs, and avoided 13533
capital costs attributable to the one or more measures over a 13534
defined period of time and are to be made only to the extent that 13535
those calculated amounts actually occur. No such contract shall 13536
contain either of the following: 13537

(1) A requirement of any additional capital investment or 13538
contribution of funds, other than funds available from state or 13539
federal grants; 13540

(2) In the case of a contract for a cogeneration system 13541

described in division (B)(8) of section 156.01 of the Revised Code, a payment term longer than twenty years, and, in the case of all other contracts, a payment term longer than fifteen years.

(C) Any installment payment contract entered into under this section shall terminate no later than the last day of the fiscal biennium for which funds have been appropriated to the ~~department of administrative services~~ Ohio facilities construction commission by the general assembly and shall be renewed in each succeeding fiscal biennium in which any balance of the contract remains unpaid, provided that both an appropriation for that succeeding fiscal biennium and the certification required by section 126.07 of the Revised Code are made.

(D) Any installment payment contract entered into under this section shall be eligible for financing provided through the Ohio air quality development authority under Chapter 3706. of the Revised Code.

Sec. 156.05. In accordance with Chapter 119. of the Revised Code, the executive director of ~~administrative services~~ the Ohio facilities construction commission shall adopt, and enforce rules necessary to administer sections 156.01 to 156.04 of the Revised Code. Rules adopted under this section shall establish procedures by which the executive director may authorize in ~~his~~ the executive director's stead the manager of any building owned by the state to enter into contracts authorized under sections 156.01 to 156.04 of the Revised Code.

Sec. 164.27. (A) The clean Ohio conservation fund is hereby created in the state treasury. Seventy-five per cent of the net proceeds of obligations issued and sold by the issuing authority pursuant to sections 151.01 and 151.09 of the Revised Code shall be deposited into the fund. The fund also shall consist of money

credited to it under section 151.50 of the Revised Code. 13572

Investment earnings of the fund shall be credited to the fund and 13573
may be used to pay costs incurred by the Ohio public works 13574
commission in administering sections 164.20 to 164.27 of the 13575
Revised Code. Moneys in the clean Ohio conservation fund shall be 13576
used to make grants to local political subdivisions and nonprofit 13577
organizations for projects that have been approved for grants 13578
under sections 164.20 to 164.27 of the Revised Code. 13579

The clean Ohio conservation fund shall be administered by the 13580
Ohio public works commission. 13581

(B) For the purpose of grants issued under sections 164.20 to 13582
164.27 of the Revised Code, moneys shall be allocated on an annual 13583
basis from the clean Ohio conservation fund to districts 13584
represented by natural resources assistance councils as follows: 13585

(1) Each district shall receive an amount that is equal to 13586
one-fourth of one per cent of the total annual amount allocated to 13587
all districts each year for each county that is represented by the 13588
district. 13589

(2) The remaining moneys shall be allocated to each district 13590
annually on a per capita basis. 13591

(C) A grant that is awarded under sections 164.20 to 164.27 13592
of the Revised Code may provide up to seventy-five per cent of the 13593
estimated cost of a project. Matching funds from a grant recipient 13594
may consist of contributions of money by any person, any local 13595
political subdivision, or the federal government or of 13596
contributions in-kind by such entities through the purchase or 13597
donation of equipment, land, easements, interest in land, labor, 13598
or materials necessary to complete the project. 13599

(D) The director of the Ohio public works commission shall 13600
notify the director of budget and management of the amounts 13601

allocated pursuant to this section, and that information shall be 13602
entered in the state accounting system. The director of budget and 13603
management may establish appropriate line items or other 13604
mechanisms that are needed to track the allocations. 13605

(E) Grants awarded under sections 164.20 to 164.27 of the 13606
Revised Code from the clean Ohio conservation fund shall be used 13607
by a local political subdivision or nonprofit organization only to 13608
pay the costs related to the purposes for which grants may be 13609
issued under section 164.22 of the Revised Code and shall not be 13610
used by a local political subdivision or nonprofit organization to 13611
pay any administrative costs incurred by the local political 13612
subdivision or nonprofit organization. 13613

Sec. 166.02. (A) The general assembly finds that many local 13614
areas throughout the state are experiencing economic stagnation or 13615
decline, and that the economic development programs provided for 13616
in this chapter will constitute deserved, necessary reinvestment 13617
by the state in those areas, materially contribute to their 13618
economic revitalization, and result in improving the economic 13619
welfare of all the people of the state. Accordingly, it is 13620
declared to be the public policy of the state, through the 13621
operations of this chapter and other applicable laws adopted 13622
pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, 13623
and other authority vested in the general assembly, to assist in 13624
and facilitate the establishment or development of eligible 13625
projects or assist and cooperate with any governmental agency in 13626
achieving such purpose. 13627

(B) In furtherance of such public policy and to implement 13628
such purpose, the director of development may: 13629

(1) After consultation with appropriate governmental 13630
agencies, enter into agreements with persons engaged in industry, 13631
commerce, distribution, or research and with governmental agencies 13632

to induce such persons to acquire, construct, reconstruct, 13633
rehabilitate, renovate, enlarge, improve, equip, or furnish, or 13634
otherwise develop, eligible projects and make provision therein 13635
for project facilities and governmental actions, as authorized by 13636
this chapter and other applicable laws, subject to any required 13637
actions by the general assembly or the controlling board and 13638
subject to applicable local government laws and regulations; 13639

(2) Provide for the guarantees and loans as provided for in 13640
sections 166.06 and 166.07 of the Revised Code; 13641

(3) Subject to release of such moneys by the controlling 13642
board, contract for labor and materials needed for, or contract 13643
with others, including governmental agencies, to provide, project 13644
facilities the allowable costs of which are to be paid for or 13645
reimbursed from moneys in the facilities establishment fund, and 13646
contract for the operation of such project facilities; 13647

(4) Subject to release thereof by the controlling board, from 13648
moneys in the facilities establishment fund acquire or contract to 13649
acquire by gift, exchange, or purchase, including the obtaining 13650
and exercise of purchase options, property, and convey or 13651
otherwise dispose of, or provide for the conveyance or disposition 13652
of, property so acquired or contracted to be acquired by sale, 13653
exchange, lease, lease purchase, conditional or installment sale, 13654
transfer, or other disposition, including the grant of an option 13655
to purchase, to any governmental agency or to any other person 13656
without necessity for competitive bidding and upon such terms and 13657
conditions and manner of consideration pursuant to and as the 13658
director determines to be appropriate to satisfy the objectives of 13659
sections 166.01 to 166.11 of the Revised Code; 13660

(5) Retain the services of or employ financial consultants, 13661
appraisers, consulting engineers, superintendents, managers, 13662
construction and accounting experts, attorneys, and employees, 13663
agents, and independent contractors as are necessary in the 13664

director's judgment and fix the compensation for their services; 13665

(6) Receive and accept from any person grants, gifts, and 13666
contributions of money, property, labor, and other things of 13667
value, to be held, used and applied only for the purpose for which 13668
such grants, gifts, and contributions are made; 13669

(7) Enter into appropriate arrangements and agreements with 13670
any governmental agency for the taking or provision by that 13671
governmental agency of any governmental action; 13672

(8) Do all other acts and enter into contracts and execute 13673
all instruments necessary or appropriate to carry out the 13674
provisions of this chapter; 13675

(9) Adopt rules to implement any of the provisions of this 13676
chapter applicable to the director. 13677

(C) The determinations by the director that facilities 13678
constitute eligible projects, that facilities are project 13679
facilities, that costs of such facilities are allowable costs, and 13680
all other determinations relevant thereto or to an action taken or 13681
agreement entered into shall be conclusive for purposes of the 13682
validity and enforceability of rights of parties arising from 13683
actions taken and agreements entered into under this chapter. 13684

(D) Except as otherwise prescribed in this chapter, all 13685
expenses and obligations incurred by the director in carrying out 13686
the director's powers and in exercising the director's duties 13687
under this chapter, shall be payable solely from, as appropriate, 13688
moneys in the facilities establishment fund, the loan guarantee 13689
fund, the innovation Ohio loan guarantee fund, the innovation Ohio 13690
loan fund, the research and development loan fund, the logistics 13691
and distribution infrastructure fund, ~~the logistics and~~ 13692
~~distribution infrastructure taxable bond fund,~~ or moneys 13693
appropriated for such purpose by the general assembly. This 13694
chapter does not authorize the director or the issuing authority 13695

under section 166.08 of the Revised Code to incur bonded 13696
indebtedness of the state or any political subdivision thereof, or 13697
to obligate or pledge moneys raised by taxation for the payment of 13698
any bonds or notes issued or guarantees made pursuant to this 13699
chapter. 13700

(E) Any governmental agency may enter into an agreement with 13701
the director, any other governmental agency, or a person to be 13702
assisted under this chapter, to take or provide for the purposes 13703
of this chapter any governmental action it is authorized to take 13704
or provide, and to undertake on behalf and at the request of the 13705
director any action which the director is authorized to undertake 13706
pursuant to divisions (B)(3), (4), and (5) of this section or 13707
divisions (B)(3), (4), and (5) of section 166.12 of the Revised 13708
Code. Governmental agencies of the state shall cooperate with and 13709
provide assistance to the director of development and the 13710
controlling board in the exercise of their respective functions 13711
under this chapter. 13712

Sec. 166.03. (A) There is hereby created the facilities 13713
establishment fund within the state treasury, consisting of 13714
proceeds from the issuance of obligations as specified under 13715
section 166.08 of the Revised Code; the moneys received by the 13716
state from the sources specified in section 166.09 of the Revised 13717
Code; service charges imposed under sections 166.06 and 166.07 of 13718
the Revised Code; any grants, gifts, or contributions of moneys 13719
received by the director of development services to be used for 13720
loans made under section 166.07 of the Revised Code or for the 13721
payment of the allowable costs of project facilities; and all 13722
other moneys appropriated or transferred to the fund. Moneys in 13723
the loan guarantee fund in excess of the loan guarantee reserve 13724
requirement, but subject to the provisions and requirements of any 13725
guarantee contracts, may be transferred to the facilities 13726
establishment fund by the treasurer of state upon the order of the 13727

director of development services. Moneys received by the state 13728
under Chapter 122. of the Revised Code, to the extent allocable to 13729
the utilization of moneys derived from proceeds of the sale of 13730
obligations pursuant to section 166.08 of the Revised Code, shall 13731
be credited to the facilities establishment fund. All investment 13732
earnings on the cash balance in the fund shall be credited to the 13733
fund. 13734

(B) All moneys appropriated or transferred to the facilities 13735
establishment fund may be released at the request of the director 13736
of development services for payment of allowable costs or the 13737
making of loans under section 166.07 of the Revised Code, for 13738
transfer to the loan guarantee fund established in section 166.06 13739
of the Revised Code, or for use for the purpose of or transfer to 13740
the funds established by sections 122.35, 122.42, 122.54, 122.55, 13741
122.56, 122.561, 122.57, 122.601, and 122.80 of the Revised Code 13742
and, until July 1, 2003, the fund established by section 166.031 13743
of the Revised Code, and, until July 1, 2007, the fund established 13744
by section 122.26 of the Revised Code, but only for such of those 13745
purposes as are within the authorization of Section 13 of Article 13746
VIII, Ohio Constitution, in all cases subject to the approval of 13747
the controlling board. 13748

(C) The ~~department of~~ development services agency, in the 13749
administration of the facilities establishment fund, is encouraged 13750
to utilize and promote the utilization of, to the maximum 13751
practicable extent, the other existing programs, business 13752
incentives, and tax incentives that department is required or 13753
authorized to administer or supervise. 13754

Sec. 166.04. (A) Prior to entering into each agreement to 13755
provide assistance under sections 166.02, 166.06, and 166.07 of 13756
the Revised Code, the director of development services shall 13757
determine whether the assistance will conform to the requirements 13758

of sections 166.01 to 166.11 of the Revised Code. Such 13759
determination, and the facts upon which it is based, shall be set 13760
forth, where required, by the director in submissions made to the 13761
controlling board when the director seeks a release of moneys 13762
under section 166.02 of the Revised Code. An agreement to provide 13763
assistance under sections 166.02, 166.06, and 166.07 of the 13764
Revised Code shall set forth such determination, which shall be 13765
conclusive for purposes of the validity and enforceability of such 13766
agreement and any loan guarantees, loans, or other agreements 13767
entered into pursuant to such agreement to provide assistance. 13768

(B) Whenever a person applies for financial assistance under 13769
sections 166.02, 166.06, and 166.07 of the Revised Code and the 13770
project for which assistance is requested is to relocate 13771
facilities that are currently being operated by the person and 13772
that are located in another county, municipal corporation, or 13773
township, the ~~director~~ person shall provide written notification 13774
of the relocation to the appropriate local governmental bodies ~~and~~ 13775
~~state officials. The~~ Prior to entering into an agreement to 13776
provide the assistance, the director shall verify that such 13777
~~notification shall contain the following information:~~ 13778

~~(1) The name of the person applying for financial assistance;~~ 13779

~~(2) The county, and the municipal corporation or township, in 13780
which the project for which assistance is requested is located;~~ 13781
~~and~~ 13782

~~(3) The county, and the municipal corporation or township, in 13783
which the facility to be replaced is located~~ has been provided. 13784

(C) As used in division (B) of this section: 13785

~~(1),~~ "Appropriate appropriate local governmental bodies" 13786
means: 13787

~~(a)~~ (1) The ~~boards~~ board of county commissioners or 13788
legislative ~~authorities~~ authority of the county in which the 13789

project for which assistance is requested is located and of the	13790
county in which the facility to be replaced is located;	13791
(b)(2) The legislative authority of the municipal corporation	13792
or the board of township trustees of the township in which the	13793
project for which assistance is requested is located; and	13794
(c) The legislative authority of the municipal corporation or	13795
the board of township trustees of the township in which the	13796
facility to be replaced is located.	13797
(2) "State officials" means:	13798
(a) The state representative and state senator in whose	13799
districts the project for which assistance is requested is	13800
located;	13801
(b) The state representative and state senator in whose	13802
districts the facility to be replaced is located.	13803
Sec. 166.08. (A) As used in this chapter:	13804
(1) "Bond proceedings" means the resolution, order, trust	13805
agreement, indenture, lease, and other agreements, amendments and	13806
supplements to the foregoing, or any one or more or combination	13807
thereof, authorizing or providing for the terms and conditions	13808
applicable to, or providing for the security or liquidity of,	13809
obligations issued pursuant to this section, and the provisions	13810
contained in such obligations.	13811
(2) "Bond service charges" means principal, including	13812
mandatory sinking fund requirements for retirement of obligations,	13813
and interest, and redemption premium, if any, required to be paid	13814
by the state on obligations.	13815
(3) "Bond service fund" means the applicable fund and	13816
accounts therein created for and pledged to the payment of bond	13817
service charges, which may be, or may be part of, the economic	13818
development bond service fund created by division (S) of this	13819

section including all moneys and investments, and earnings from 13820
investments, credited and to be credited thereto. 13821

(4) "Issuing authority" means the treasurer of state, or the 13822
officer who by law performs the functions of such officer. 13823

(5) "Obligations" means bonds, notes, or other evidence of 13824
obligation including interest coupons pertaining thereto, issued 13825
pursuant to this section. 13826

(6) "Pledged receipts" means all receipts of the state 13827
representing the gross profit on the sale of spirituous liquor, as 13828
referred to in division (B)(4) of section 4301.10 of the Revised 13829
Code, after paying all costs and expenses of the division of 13830
liquor control and providing an adequate working capital reserve 13831
for the division of liquor control as provided in that division, 13832
but excluding the sum required by the second paragraph of section 13833
4301.12 of the Revised Code, as in effect on May 2, 1980, to be 13834
paid into the state treasury; moneys accruing to the state from 13835
the lease, sale, or other disposition, or use, of project 13836
facilities, and from the repayment, including interest, of loans 13837
made from proceeds received from the sale of obligations; accrued 13838
interest received from the sale of obligations; income from the 13839
investment of the special funds; and any gifts, grants, donations, 13840
and pledges, and receipts therefrom, available for the payment of 13841
bond service charges. 13842

(7) "Special funds" or "funds" means, except where the 13843
context does not permit, the bond service fund, and any other 13844
funds, including reserve funds, created under the bond 13845
proceedings, and the economic development bond service fund 13846
created by division (S) of this section to the extent provided in 13847
the bond proceedings, including all moneys and investments, and 13848
earnings from investment, credited and to be credited thereto. 13849

(B) Subject to the limitations provided in section 166.11 of 13850

the Revised Code, the issuing authority, upon the certification by 13851
the director of development or, with respect to eligible advanced 13852
energy projects, the Ohio air quality development authority to the 13853
issuing authority of the amount of moneys or additional moneys 13854
needed in the facilities establishment fund, the loan guarantee 13855
fund, the innovation Ohio loan fund, the innovation Ohio loan 13856
guarantee fund, the research and development loan fund, the 13857
logistics and distribution infrastructure fund, ~~the logistics and~~ 13858
~~distribution infrastructure taxable bond fund,~~ the advanced energy 13859
research and development fund, or the advanced energy research and 13860
development taxable fund, as applicable, for the purpose of 13861
paying, or making loans for, allowable costs from the facilities 13862
establishment fund, allowable innovation costs from the innovation 13863
Ohio loan fund, allowable costs from the research and development 13864
loan fund, allowable costs from the logistics and distribution 13865
infrastructure fund, ~~allowable costs from the logistics and~~ 13866
~~distribution infrastructure taxable bond fund,~~ allowable costs 13867
from the advanced energy research and development fund, or 13868
allowable costs from the advanced energy research and development 13869
taxable fund, as applicable, or needed for capitalized interest, 13870
for funding reserves, and for paying costs and expenses incurred 13871
in connection with the issuance, carrying, securing, paying, 13872
redeeming, or retirement of the obligations or any obligations 13873
refunded thereby, including payment of costs and expenses relating 13874
to letters of credit, lines of credit, insurance, put agreements, 13875
standby purchase agreements, indexing, marketing, remarketing and 13876
administrative arrangements, interest swap or hedging agreements, 13877
and any other credit enhancement, liquidity, remarketing, renewal, 13878
or refunding arrangements, all of which are authorized by this 13879
section, or providing moneys for the loan guarantee fund or the 13880
innovation Ohio loan guarantee fund, as provided in this chapter 13881
or needed for the purposes of funds established in accordance with 13882
or pursuant to sections 122.35, 122.42, 122.54, 122.55, 122.56, 13883

122.561, 122.57, and 122.80 of the Revised Code which are within 13884
the authorization of Section 13 of Article VIII, Ohio 13885
Constitution, or, with respect to certain eligible advanced energy 13886
projects, Section 2p of Article VIII, Ohio Constitution, shall 13887
issue obligations of the state under this section in the required 13888
amount; provided that such obligations may be issued to satisfy 13889
the covenants in contracts of guarantee made under section 166.06 13890
or 166.15 of the Revised Code, notwithstanding limitations 13891
otherwise applicable to the issuance of obligations under this 13892
section. The proceeds of such obligations, except for the portion 13893
to be deposited in special funds, including reserve funds, as may 13894
be provided in the bond proceedings, shall as provided in the bond 13895
proceedings be deposited by the director of development to the 13896
facilities establishment fund, the loan guarantee fund, the 13897
innovation Ohio loan guarantee fund, the innovation Ohio loan 13898
fund, the research and development loan fund, or the logistics and 13899
distribution infrastructure fund, ~~or the logistics and~~ 13900
~~distribution infrastructure taxable bond fund,~~ or be deposited by 13901
the Ohio air quality development authority to the advanced energy 13902
research and development fund or the advanced energy research and 13903
development taxable fund. Bond proceedings for project financing 13904
obligations may provide that the proceeds derived from the 13905
issuance of such obligations shall be deposited into such fund or 13906
funds provided for in the bond proceedings and, to the extent 13907
provided for in the bond proceedings, such proceeds shall be 13908
deemed to have been deposited into the facilities establishment 13909
fund and transferred to such fund or funds. The issuing authority 13910
may appoint trustees, paying agents, and transfer agents and may 13911
retain the services of financial advisors, accounting experts, and 13912
attorneys, and retain or contract for the services of marketing, 13913
remarketing, indexing, and administrative agents, other 13914
consultants, and independent contractors, including printing 13915
services, as are necessary in the issuing authority's judgment to 13916

carry out this section. The costs of such services are allowable 13917
costs payable from the facilities establishment fund or the 13918
research and development loan fund, allowable innovation costs 13919
payable from the innovation Ohio loan fund, or allowable costs 13920
payable from the logistics and distribution infrastructure fund, 13921
~~the logistics and distribution infrastructure taxable bond fund,~~ 13922
the advanced energy research and development fund, or the advanced 13923
energy research and development taxable fund, as applicable. 13924

(C) The holders or owners of such obligations shall have no 13925
right to have moneys raised by taxation obligated or pledged, and 13926
moneys raised by taxation shall not be obligated or pledged, for 13927
the payment of bond service charges. Such holders or owners shall 13928
have no rights to payment of bond service charges from any moneys 13929
accruing to the state from the lease, sale, or other disposition, 13930
or use, of project facilities, or from payment of the principal of 13931
or interest on loans made, or fees charged for guarantees made, or 13932
from any money or property received by the director, treasurer of 13933
state, or the state under Chapter 122. of the Revised Code, or 13934
from any other use of the proceeds of the sale of the obligations, 13935
and no such moneys may be used for the payment of bond service 13936
charges, except for accrued interest, capitalized interest, and 13937
reserves funded from proceeds received upon the sale of the 13938
obligations and except as otherwise expressly provided in the 13939
applicable bond proceedings pursuant to written directions by the 13940
director. The right of such holders and owners to payment of bond 13941
service charges is limited to all or that portion of the pledged 13942
receipts and those special funds pledged thereto pursuant to the 13943
bond proceedings in accordance with this section, and each such 13944
obligation shall bear on its face a statement to that effect. 13945

(D) Obligations shall be authorized by resolution or order of 13946
the issuing authority and the bond proceedings shall provide for 13947
the purpose thereof and the principal amount or amounts, and shall 13948

provide for or authorize the manner or agency for determining the 13949
principal maturity or maturities, not exceeding twenty-five years 13950
from the date of issuance, the interest rate or rates or the 13951
maximum interest rate, the date of the obligations and the dates 13952
of payment of interest thereon, their denomination, and the 13953
establishment within or without the state of a place or places of 13954
payment of bond service charges. Sections 9.98 to 9.983 of the 13955
Revised Code are applicable to obligations issued under this 13956
section, subject to any applicable limitation under section 166.11 13957
of the Revised Code. The purpose of such obligations may be stated 13958
in the bond proceedings in terms describing the general purpose or 13959
purposes to be served. The bond proceedings also shall provide, 13960
subject to the provisions of any other applicable bond 13961
proceedings, for the pledge of all, or such part as the issuing 13962
authority may determine, of the pledged receipts and the 13963
applicable special fund or funds to the payment of bond service 13964
charges, which pledges may be made either prior or subordinate to 13965
other expenses, claims, or payments, and may be made to secure the 13966
obligations on a parity with obligations theretofore or thereafter 13967
issued, if and to the extent provided in the bond proceedings. The 13968
pledged receipts and special funds so pledged and thereafter 13969
received by the state are immediately subject to the lien of such 13970
pledge without any physical delivery thereof or further act, and 13971
the lien of any such pledges is valid and binding against all 13972
parties having claims of any kind against the state or any 13973
governmental agency of the state, irrespective of whether such 13974
parties have notice thereof, and shall create a perfected security 13975
interest for all purposes of Chapter 1309. of the Revised Code, 13976
without the necessity for separation or delivery of funds or for 13977
the filing or recording of the bond proceedings by which such 13978
pledge is created or any certificate, statement or other document 13979
with respect thereto; and the pledge of such pledged receipts and 13980
special funds is effective and the money therefrom and thereof may 13981

be applied to the purposes for which pledged without necessity for 13982
any act of appropriation. Every pledge, and every covenant and 13983
agreement made with respect thereto, made in the bond proceedings 13984
may therein be extended to the benefit of the owners and holders 13985
of obligations authorized by this section, and to any trustee 13986
therefor, for the further security of the payment of the bond 13987
service charges. 13988

(E) The bond proceedings may contain additional provisions as 13989
to: 13990

(1) The redemption of obligations prior to maturity at the 13991
option of the issuing authority at such price or prices and under 13992
such terms and conditions as are provided in the bond proceedings; 13993

(2) Other terms of the obligations; 13994

(3) Limitations on the issuance of additional obligations; 13995

(4) The terms of any trust agreement or indenture securing 13996
the obligations or under which the same may be issued; 13997

(5) The deposit, investment and application of special funds, 13998
and the safeguarding of moneys on hand or on deposit, without 13999
regard to Chapter 131. or 135. of the Revised Code, but subject to 14000
any special provisions of this chapter, with respect to particular 14001
funds or moneys, provided that any bank or trust company which 14002
acts as depository of any moneys in the special funds may furnish 14003
such indemnifying bonds or may pledge such securities as required 14004
by the issuing authority; 14005

(6) Any or every provision of the bond proceedings being 14006
binding upon such officer, board, commission, authority, agency, 14007
department, or other person or body as may from time to time have 14008
the authority under law to take such actions as may be necessary 14009
to perform all or any part of the duty required by such provision; 14010

(7) Any provision that may be made in a trust agreement or 14011

indenture; 14012

(8) Any other or additional agreements with the holders of 14013
the obligations, or the trustee therefor, relating to the 14014
obligations or the security therefor, including the assignment of 14015
mortgages or other security obtained or to be obtained for loans 14016
under section 122.43, 166.07, or 166.16 of the Revised Code. 14017

(F) The obligations may have the great seal of the state or a 14018
facsimile thereof affixed thereto or printed thereon. The 14019
obligations and any coupons pertaining to obligations shall be 14020
signed or bear the facsimile signature of the issuing authority. 14021
Any obligations or coupons may be executed by the person who, on 14022
the date of execution, is the proper issuing authority although on 14023
the date of such bonds or coupons such person was not the issuing 14024
authority. If the issuing authority whose signature or a facsimile 14025
of whose signature appears on any such obligation or coupon ceases 14026
to be the issuing authority before delivery thereof, such 14027
signature or facsimile is nevertheless valid and sufficient for 14028
all purposes as if the former issuing authority had remained the 14029
issuing authority until such delivery; and if the seal to be 14030
affixed to obligations has been changed after a facsimile of the 14031
seal has been imprinted on such obligations, such facsimile seal 14032
shall continue to be sufficient as to such obligations and 14033
obligations issued in substitution or exchange therefor. 14034

(G) All obligations are negotiable instruments and securities 14035
under Chapter 1308. of the Revised Code, subject to the provisions 14036
of the bond proceedings as to registration. The obligations may be 14037
issued in coupon or in registered form, or both, as the issuing 14038
authority determines. Provision may be made for the registration 14039
of any obligations with coupons attached thereto as to principal 14040
alone or as to both principal and interest, their exchange for 14041
obligations so registered, and for the conversion or reconversion 14042
into obligations with coupons attached thereto of any obligations 14043

registered as to both principal and interest, and for reasonable 14044
charges for such registration, exchange, conversion, and 14045
reconversion. 14046

(H) Obligations may be sold at public sale or at private 14047
sale, as determined in the bond proceedings. 14048

Obligations issued to provide moneys for the loan guarantee 14049
fund or the innovation Ohio loan guarantee fund may, as determined 14050
by the issuing authority, be sold at private sale, and without 14051
publication of a notice of sale. 14052

(I) Pending preparation of definitive obligations, the 14053
issuing authority may issue interim receipts or certificates which 14054
shall be exchanged for such definitive obligations. 14055

(J) In the discretion of the issuing authority, obligations 14056
may be secured additionally by a trust agreement or indenture 14057
between the issuing authority and a corporate trustee which may be 14058
any trust company or bank having a place of business within the 14059
state. Any such agreement or indenture may contain the resolution 14060
or order authorizing the issuance of the obligations, any 14061
provisions that may be contained in any bond proceedings, and 14062
other provisions which are customary or appropriate in an 14063
agreement or indenture of such type, including, but not limited 14064
to: 14065

(1) Maintenance of each pledge, trust agreement, indenture, 14066
or other instrument comprising part of the bond proceedings until 14067
the state has fully paid the bond service charges on the 14068
obligations secured thereby, or provision therefor has been made; 14069

(2) In the event of default in any payments required to be 14070
made by the bond proceedings, or any other agreement of the 14071
issuing authority made as a part of the contract under which the 14072
obligations were issued, enforcement of such payments or agreement 14073
by mandamus, the appointment of a receiver, suit in equity, action 14074

at law, or any combination of the foregoing; 14075

(3) The rights and remedies of the holders of obligations and 14076
of the trustee, and provisions for protecting and enforcing them, 14077
including limitations on rights of individual holders of 14078
obligations; 14079

(4) The replacement of any obligations that become mutilated 14080
or are destroyed, lost, or stolen; 14081

(5) Such other provisions as the trustee and the issuing 14082
authority agree upon, including limitations, conditions, or 14083
qualifications relating to any of the foregoing. 14084

(K) Any holders of obligations or trustees under the bond 14085
proceedings, except to the extent that their rights are restricted 14086
by the bond proceedings, may by any suitable form of legal 14087
proceedings, protect and enforce any rights under the laws of this 14088
state or granted by such bond proceedings. Such rights include the 14089
right to compel the performance of all duties of the issuing 14090
authority, the director of development, the Ohio air quality 14091
development authority, or the division of liquor control required 14092
by this chapter or the bond proceedings; to enjoin unlawful 14093
activities; and in the event of default with respect to the 14094
payment of any bond service charges on any obligations or in the 14095
performance of any covenant or agreement on the part of the 14096
issuing authority, the director of development, the Ohio air 14097
quality development authority, or the division of liquor control 14098
in the bond proceedings, to apply to a court having jurisdiction 14099
of the cause to appoint a receiver to receive and administer the 14100
pledged receipts and special funds, other than those in the 14101
custody of the treasurer of state, which are pledged to the 14102
payment of the bond service charges on such obligations or which 14103
are the subject of the covenant or agreement, with full power to 14104
pay, and to provide for payment of bond service charges on, such 14105
obligations, and with such powers, subject to the direction of the 14106

court, as are accorded receivers in general equity cases, 141107
excluding any power to pledge additional revenues or receipts or 141108
other income or moneys of the issuing authority or the state or 141109
governmental agencies of the state to the payment of such 141110
principal and interest and excluding the power to take possession 141111
of, mortgage, or cause the sale or otherwise dispose of any 141112
project facilities. 141113

Each duty of the issuing authority and the issuing 141114
authority's officers and employees, and of each governmental 141115
agency and its officers, members, or employees, undertaken 141116
pursuant to the bond proceedings or any agreement or lease, 141117
lease-purchase agreement, or loan made under authority of this 141118
chapter, and in every agreement by or with the issuing authority, 141119
is hereby established as a duty of the issuing authority, and of 141120
each such officer, member, or employee having authority to perform 141121
such duty, specifically enjoined by the law resulting from an 141122
office, trust, or station within the meaning of section 2731.01 of 141123
the Revised Code. 141124

The person who is at the time the issuing authority, or the 141125
issuing authority's officers or employees, are not liable in their 141126
personal capacities on any obligations issued by the issuing 141127
authority or any agreements of or with the issuing authority. 141128

(L) The issuing authority may authorize and issue obligations 141129
for the refunding, including funding and retirement, and advance 141130
refunding with or without payment or redemption prior to maturity, 141131
of any obligations previously issued by the issuing authority. 141132
Such obligations may be issued in amounts sufficient for payment 141133
of the principal amount of the prior obligations, any redemption 141134
premiums thereon, principal maturities of any such obligations 141135
maturing prior to the redemption of the remaining obligations on a 141136
parity therewith, interest accrued or to accrue to the maturity 141137
dates or dates of redemption of such obligations, and any 141138

allowable costs including expenses incurred or to be incurred in 14139
connection with such issuance and such refunding, funding, and 14140
retirement. Subject to the bond proceedings therefor, the portion 14141
of proceeds of the sale of obligations issued under this division 14142
to be applied to bond service charges on the prior obligations 14143
shall be credited to an appropriate account held by the trustee 14144
for such prior or new obligations or to the appropriate account in 14145
the bond service fund for such obligations. Obligations authorized 14146
under this division shall be deemed to be issued for those 14147
purposes for which such prior obligations were issued and are 14148
subject to the provisions of this section pertaining to other 14149
obligations, except as otherwise provided in this section; 14150
provided that, unless otherwise authorized by the general 14151
assembly, any limitations imposed by the general assembly pursuant 14152
to this section with respect to bond service charges applicable to 14153
the prior obligations shall be applicable to the obligations 14154
issued under this division to refund, fund, advance refund or 14155
retire such prior obligations. 14156

(M) The authority to issue obligations under this section 14157
includes authority to issue obligations in the form of bond 14158
anticipation notes and to renew the same from time to time by the 14159
issuance of new notes. The holders of such notes or interest 14160
coupons pertaining thereto shall have a right to be paid solely 14161
from the pledged receipts and special funds that may be pledged to 14162
the payment of the bonds anticipated, or from the proceeds of such 14163
bonds or renewal notes, or both, as the issuing authority provides 14164
in the resolution or order authorizing such notes. Such notes may 14165
be additionally secured by covenants of the issuing authority to 14166
the effect that the issuing authority and the state will do such 14167
or all things necessary for the issuance of such bonds or renewal 14168
notes in appropriate amount, and apply the proceeds thereof to the 14169
extent necessary, to make full payment of the principal of and 14170
interest on such notes at the time or times contemplated, as 14171

provided in such resolution or order. For such purpose, the 14172
issuing authority may issue bonds or renewal notes in such 14173
principal amount and upon such terms as may be necessary to 14174
provide funds to pay when required the principal of and interest 14175
on such notes, notwithstanding any limitations prescribed by or 14176
for purposes of this section. Subject to this division, all 14177
provisions for and references to obligations in this section are 14178
applicable to notes authorized under this division. 14179

The issuing authority in the bond proceedings authorizing the 14180
issuance of bond anticipation notes shall set forth for such bonds 14181
an estimated interest rate and a schedule of principal payments 14182
for such bonds and the annual maturity dates thereof, and for 14183
purposes of any limitation on bond service charges prescribed 14184
under division (A) of section 166.11 of the Revised Code, the 14185
amount of bond service charges on such bond anticipation notes is 14186
deemed to be the bond service charges for the bonds anticipated 14187
thereby as set forth in the bond proceedings applicable to such 14188
notes, but this provision does not modify any authority in this 14189
section to pledge receipts and special funds to, and covenant to 14190
issue bonds to fund, the payment of principal of and interest and 14191
any premium on such notes. 14192

(N) Obligations issued under this section are lawful 14193
investments for banks, societies for savings, savings and loan 14194
associations, deposit guarantee associations, trust companies, 14195
trustees, fiduciaries, insurance companies, including domestic for 14196
life and domestic not for life, trustees or other officers having 14197
charge of sinking and bond retirement or other special funds of 14198
political subdivisions and taxing districts of this state, the 14199
commissioners of the sinking fund of the state, the administrator 14200
of workers' compensation, the state teachers retirement system, 14201
the public employees retirement system, the school employees 14202
retirement system, and the Ohio police and fire pension fund, 14203

notwithstanding any other provisions of the Revised Code or rules 14204
adopted pursuant thereto by any governmental agency of the state 14205
with respect to investments by them, and are also acceptable as 14206
security for the deposit of public moneys. 14207

(O) Unless otherwise provided in any applicable bond 14208
proceedings, moneys to the credit of or in the special funds 14209
established by or pursuant to this section may be invested by or 14210
on behalf of the issuing authority only in notes, bonds, or other 14211
obligations of the United States, or of any agency or 14212
instrumentality of the United States, obligations guaranteed as to 14213
principal and interest by the United States, obligations of this 14214
state or any political subdivision of this state, and certificates 14215
of deposit of any national bank located in this state and any 14216
bank, as defined in section 1101.01 of the Revised Code, subject 14217
to inspection by the superintendent of banks. If the law or the 14218
instrument creating a trust pursuant to division (J) of this 14219
section expressly permits investment in direct obligations of the 14220
United States or an agency of the United States, unless expressly 14221
prohibited by the instrument, such moneys also may be invested in 14222
no-front-end-load money market mutual funds consisting exclusively 14223
of obligations of the United States or an agency of the United 14224
States and in repurchase agreements, including those issued by the 14225
fiduciary itself, secured by obligations of the United States or 14226
an agency of the United States; and in common trust funds 14227
established in accordance with section 1111.20 of the Revised Code 14228
and consisting exclusively of any such securities, notwithstanding 14229
division (A)(4) of that section. The income from such investments 14230
shall be credited to such funds as the issuing authority 14231
determines, and such investments may be sold at such times as the 14232
issuing authority determines or authorizes. 14233

(P) Provision may be made in the applicable bond proceedings 14234
for the establishment of separate accounts in the bond service 14235

fund and for the application of such accounts only to the 14236
specified bond service charges on obligations pertinent to such 14237
accounts and bond service fund and for other accounts therein 14238
within the general purposes of such fund. Unless otherwise 14239
provided in any applicable bond proceedings, moneys to the credit 14240
of or in the several special funds established pursuant to this 14241
section shall be disbursed on the order of the treasurer of state, 14242
provided that no such order is required for the payment from the 14243
bond service fund when due of bond service charges on obligations. 14244

(Q) The issuing authority may pledge all, or such portion as 14245
the issuing authority determines, of the pledged receipts to the 14246
payment of bond service charges on obligations issued under this 14247
section, and for the establishment and maintenance of any 14248
reserves, as provided in the bond proceedings, and make other 14249
provisions therein with respect to pledged receipts as authorized 14250
by this chapter, which provisions are controlling notwithstanding 14251
any other provisions of law pertaining thereto. 14252

(R) The issuing authority may covenant in the bond 14253
proceedings, and any such covenants are controlling 14254
notwithstanding any other provision of law, that the state and 14255
applicable officers and governmental agencies of the state, 14256
including the general assembly, so long as any obligations are 14257
outstanding, shall: 14258

(1) Maintain statutory authority for and cause to be charged 14259
and collected wholesale and retail prices for spirituous liquor 14260
sold by the state or its agents so that the pledged receipts are 14261
sufficient in amount to meet bond service charges, and the 14262
establishment and maintenance of any reserves and other 14263
requirements provided for in the bond proceedings, and, as 14264
necessary, to meet covenants contained in contracts of guarantee 14265
made under section 166.06 of the Revised Code; 14266

(2) Take or permit no action, by statute or otherwise, that 14267

would impair the exemption from federal income taxation of the 14268
interest on the obligations. 14269

(S) There is hereby created the economic development bond 14270
service fund, which shall be in the custody of the treasurer of 14271
state but shall be separate and apart from and not a part of the 14272
state treasury. All moneys received by or on account of the 14273
issuing authority or state agencies and required by the applicable 14274
bond proceedings, consistent with this section, to be deposited, 14275
transferred, or credited to a bond service fund or the economic 14276
development bond service fund, and all other moneys transferred or 14277
allocated to or received for the purposes of the fund, shall be 14278
deposited and credited to such fund and to any separate accounts 14279
therein, subject to applicable provisions of the bond proceedings, 14280
but without necessity for any act of appropriation. During the 14281
period beginning with the date of the first issuance of 14282
obligations and continuing during such time as any such 14283
obligations are outstanding, and so long as moneys in the 14284
pertinent bond service funds are insufficient to pay all bond 14285
services charges on such obligations becoming due in each year, a 14286
sufficient amount of the gross profit on the sale of spirituous 14287
liquor included in pledged receipts are committed and shall be 14288
paid to the bond service fund or economic development bond service 14289
fund in each year for the purpose of paying the bond service 14290
charges becoming due in that year without necessity for further 14291
act of appropriation for such purpose and notwithstanding anything 14292
to the contrary in Chapter 4301. of the Revised Code. The economic 14293
development bond service fund is a trust fund and is hereby 14294
pledged to the payment of bond service charges to the extent 14295
provided in the applicable bond proceedings, and payment thereof 14296
from such fund shall be made or provided for by the treasurer of 14297
state in accordance with such bond proceedings without necessity 14298
for any act of appropriation. 14299

(T) The obligations, the transfer thereof, and the income 14300
therefrom, including any profit made on the sale thereof, shall at 14301
all times be free from taxation within the state. 14302

Sec. 166.25. (A) The director of development services, with 14303
the approval of the controlling board and subject to the other 14304
applicable provisions of this chapter, may lend money in the 14305
logistics and distribution infrastructure fund ~~and the logistics~~ 14306
~~and distribution infrastructure taxable bond fund~~ to persons for 14307
the purpose of paying allowable costs of eligible logistics and 14308
distribution projects. 14309

(B) In determining the eligible logistics and distribution 14310
projects to be assisted and the nature, amount, and terms of 14311
assistance to be provided for an eligible logistics and 14312
distribution project, the director shall consult with appropriate 14313
governmental agencies, including the department of transportation 14314
and the Ohio rail development commission. 14315

(C) Any loan made pursuant to this section shall be evidenced 14316
by a loan agreement, which shall contain such terms as the 14317
director determines necessary or appropriate, including 14318
performance measures and reporting requirements. The director may 14319
take actions necessary or appropriate to collect or otherwise deal 14320
with any loan made under this section, including requiring a loan 14321
recipient to repay the amount of the loan plus interest at a rate 14322
of three per cent above the federal short term interest rate or 14323
any other rate determined by the director. 14324

Sec. 169.02. Subject to division (B) of section 169.01 of the 14325
Revised Code, the following constitute unclaimed funds: 14326

(A) Except as provided in division (R) of this section, any 14327
demand, savings, or matured time deposit account, or matured 14328
certificate of deposit, together with any interest or dividend on 14329

it, less any lawful claims, that is held or owed by a holder which 14330
is a financial organization, unclaimed for a period of five years; 14331

(B) Any funds paid toward the purchase of withdrawable shares 14332
or other interest in a financial organization, and any interest or 14333
dividends on them, less any lawful claims, that is held or owed by 14334
a holder which is a financial organization, unclaimed for a period 14335
of five years; 14336

(C) Except as provided in division (A) of section 3903.45 of 14337
the Revised Code, moneys held or owed by a holder, including a 14338
fraternal association, providing life insurance, including annuity 14339
or endowment coverage, unclaimed for three years after becoming 14340
payable as established from the records of such holder under any 14341
life or endowment insurance policy or annuity contract that has 14342
matured or terminated. An insurance policy, the proceeds of which 14343
are payable on the death of the insured, not matured by proof of 14344
death of the insured is deemed matured and the proceeds payable if 14345
such policy was in force when the insured attained the limiting 14346
age under the mortality table on which the reserve is based. 14347

Moneys otherwise payable according to the records of such 14348
holder are deemed payable although the policy or contract has not 14349
been surrendered as required. 14350

(D) Any deposit made to secure payment or any sum paid in 14351
advance for utility services of a public utility and any amount 14352
refundable from rates or charges collected by a public utility for 14353
utility services held or owed by a holder, less any lawful claims, 14354
that has remained unclaimed for one year after the termination of 14355
the services for which the deposit or advance payment was made or 14356
one year from the date the refund was payable, whichever is 14357
earlier; 14358

(E) Except as provided in division (R) of this section, any 14359
certificates, securities as defined in section 1707.01 of the 14360

Revised Code, nonwithdrawable shares, other instruments evidencing 14361
ownership, or rights to them or funds paid toward the purchase of 14362
them, or any dividend, capital credit, profit, distribution, 14363
interest, or payment on principal or other sum, held or owed by a 14364
holder, including funds deposited with a fiscal agent or fiduciary 14365
for payment of them, and instruments representing an ownership 14366
interest, unclaimed for five years. Any underlying share or other 14367
intangible instrument representing an ownership interest in a 14368
business association, in which the issuer has recorded on its 14369
books the issuance of the share but has been unable to deliver the 14370
certificate to the shareholder, constitutes unclaimed funds if 14371
such underlying share is unclaimed for five years. In addition, an 14372
underlying share constitutes unclaimed funds if a dividend, 14373
distribution, or other sum payable as a result of the underlying 14374
share has remained unclaimed by the owner for five years. 14375

This division shall not prejudice the rights of fiscal agents 14376
or fiduciaries for payment to return the items described in this 14377
division to their principals, according to the terms of an agency 14378
or fiduciary agreement, but such a return shall constitute the 14379
principal as the holder of the items and shall not interrupt the 14380
period for computing the time for which the items have remained 14381
unclaimed. 14382

In the case of any such funds accruing and held or owed by a 14383
corporation under division (E) of section 1701.24 of the Revised 14384
Code, such corporation shall comply with this chapter, subject to 14385
the limitation contained in section 1701.34 of the Revised Code. 14386
The period of time for which such funds have gone unclaimed 14387
specified in section 1701.34 of the Revised Code shall be 14388
computed, with respect to dividends or distributions, commencing 14389
as of the dates when such dividends or distributions would have 14390
been payable to the shareholder had such shareholder surrendered 14391
the certificates for cancellation and exchange by the date 14392

specified in the order relating to them. 14393

Capital credits of a cooperative which after January 1, 1972, 14394
have been allocated to members and which by agreement are 14395
expressly required to be paid if claimed after death of the owner 14396
are deemed payable, for the purpose of this chapter, fifteen years 14397
after either the termination of service by the cooperative to the 14398
owner or upon the nonactivity as provided in division (B) of 14399
section 169.01 of the Revised Code, whichever occurs later, 14400
provided that this provision does not apply if the payment is not 14401
mandatory. 14402

(F) Any sum payable on certified checks or other written 14403
instruments certified or issued and representing funds held or 14404
owed by a holder, less any lawful claims, that are unclaimed for 14405
five years from the date payable or from the date of issuance if 14406
payable on demand; except that the unclaimed period for money 14407
orders that are not third party bank checks is seven years, and 14408
the unclaimed period for traveler's checks is fifteen years, from 14409
the date payable or from the date of issuance if payable on 14410
demand. 14411

As used in this division, "written instruments" include, but 14412
are not limited to, certified checks, cashier's checks, bills of 14413
exchange, letters of credit, drafts, money orders, and traveler's 14414
checks. 14415

If there is no address of record for the owner or other 14416
person entitled to the funds, such address is presumed to be the 14417
address where the instrument was certified or issued. 14418

(G) Except as provided in division (R) of this section, all 14419
moneys, rights to moneys, or other intangible property, arising 14420
out of the business of engaging in the purchase or sale of 14421
securities, or otherwise dealing in intangibles, less any lawful 14422
claims, that are held or owed by a holder and are unclaimed for 14423

five years from the date of transaction. 14424

(H) Except as provided in division (A) of section 3903.45 of 14425
the Revised Code, all moneys, rights to moneys, and other 14426
intangible property distributable in the course of dissolution or 14427
liquidation of a holder that are unclaimed for one year after the 14428
date set by the holder for distribution; 14429

(I) All moneys, rights to moneys, or other intangible 14430
property removed from a safe-deposit box or other safekeeping 14431
repository located in this state or removed from a safe-deposit 14432
box or other safekeeping repository of a holder, on which the 14433
lease or rental period has expired, or any amount arising from the 14434
sale of such property, less any lawful claims, that are unclaimed 14435
for three years from the date on which the lease or rental period 14436
expired; 14437

(J) Subject to division (M)(2) of this section, all moneys, 14438
rights to moneys, or other intangible property, and any income or 14439
increment on them, held or owed by a holder which is a fiduciary 14440
for the benefit of another, or a fiduciary or custodian of a 14441
qualified retirement plan or individual retirement arrangement 14442
under section 401 or 408 of the Internal Revenue Code, unclaimed 14443
for three years after the final date for distribution; 14444

(K) All moneys, rights to moneys, or other intangible 14445
property held or owed in this state or held for or owed to an 14446
owner whose last known address is within this state, by the United 14447
States government or any state, as those terms are described in 14448
division (E) of section 169.01 of the Revised Code, unclaimed by 14449
the owner for three years, excluding any property in the control 14450
of any court in a proceeding in which a final adjudication has not 14451
been made; 14452

(L) Amounts payable pursuant to the terms of any policy of 14453
insurance, other than life insurance, or any refund available 14454

under such a policy, held or owed by any holder, unclaimed for 14455
three years from the date payable or distributable; 14456

(M)(1) Subject to division (M)(2) of this section, any funds 14457
constituting rents or lease payments due, any deposit made to 14458
secure payment of rents or leases, or any sum paid in advance for 14459
rents, leases, possible damage to property, unused services, 14460
performance requirements, or any other purpose, held or owed by a 14461
holder unclaimed for one year; 14462

(2) Any escrow funds, security deposits, or other moneys that 14463
are received by a licensed broker in a fiduciary capacity and 14464
that, pursuant to division (A)(26) of section 4735.18 of the 14465
Revised Code, are required to be deposited into and maintained in 14466
a special or trust, noninterest-bearing bank account separate and 14467
distinct from any personal or other account of the licensed 14468
broker, held or owed by the licensed broker unclaimed for two 14469
years. 14470

(N) Any sum greater than fifty dollars payable as wages, any 14471
sum payable as salaries or commissions, any sum payable for 14472
services rendered, funds owed or held as royalties, oil and 14473
mineral proceeds, funds held for or owed to suppliers, and moneys 14474
owed under pension and profit-sharing plans, held or owed by any 14475
holder unclaimed for one year from date payable or distributable, 14476
and all other credits held or owed, or to be refunded to a retail 14477
customer, by any holder unclaimed for three years from date 14478
payable or distributable; 14479

(O) Amounts held in respect of or represented by lay-aways 14480
sold after January 1, 1972, less any lawful claims, when such 14481
lay-aways are unclaimed for three years after the sale of them; 14482

(P) All moneys, rights to moneys, and other intangible 14483
property not otherwise constituted as unclaimed funds by this 14484
section, including any income or increment on them, less any 14485

lawful claims, which are held or owed by any holder, other than a 14486
holder which holds a permit issued pursuant to Chapter 3769. of 14487
the Revised Code, and which have remained unclaimed for three 14488
years after becoming payable or distributable; 14489

(Q) All moneys that arise out of a sale held pursuant to 14490
section 5322.03 of the Revised Code, that are held by a holder for 14491
delivery on demand to the appropriate person pursuant to division 14492
(I) of that section, and that are unclaimed for two years after 14493
the date of the sale. 14494

(R)(1) Any funds that are subject to an agreement between the 14495
holder and owner providing for automatic reinvestment and that 14496
constitute dividends, distributions, or other sums held or owed by 14497
a holder in connection with a security as defined in section 14498
1707.01 of the Revised Code, an ownership interest in an 14499
investment company registered under the "Investment Company Act of 14500
1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a certificate 14501
of deposit, unclaimed for a period of five years. 14502

(2) The five-year period under division (R)(1) of this 14503
section commences from the date a second shareholder notification 14504
or communication mailing to the owner of the funds is returned to 14505
the holder as undeliverable by the United States postal service or 14506
other carrier. The notification or communication mailing by the 14507
holder shall be no less frequent than quarterly. 14508

All moneys in a personal allowance account, as defined by 14509
rules adopted by the medicaid director ~~of job and family services~~, 14510
up to and including the maximum resource limitation, of a medicaid 14511
~~patient~~ recipient who has died after receiving care in a long-term 14512
care facility, and for whom there is no identifiable heir or 14513
sponsor, are not subject to this chapter. 14514

Sec. 173.03. (A) There is hereby created the Ohio advisory 14515
council for the aging, which shall consist of twelve members to be 14516

appointed by the governor with the advice and consent of the 14517
senate. Two ex officio members of the council shall be members of 14518
the house of representatives appointed by the speaker of the house 14519
of representatives and shall be members of two different political 14520
parties. Two ex officio members of the council shall be members of 14521
the senate appointed by the president of the senate and shall be 14522
members of two different political parties. The medicaid director 14523
and directors of ~~mental health~~ mental health and addiction 14524
services, developmental disabilities, health, and job and family 14525
services, or their designees, shall serve as ex officio members of 14526
the council. The council shall carry out its role as defined under 14527
the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C. 3001, 14528
as amended. 14529

At the first meeting of the council, and annually thereafter, 14530
the members shall select one of their members to serve as 14531
chairperson and one of their members to serve as vice-chairperson. 14532

(B) Members of the council shall be appointed for a term of 14533
three years, except that for the first appointment members of the 14534
Ohio commission on aging who were serving on the commission 14535
immediately prior to July 26, 1984, shall become members of the 14536
council for the remainder of their unexpired terms. Thereafter, 14537
appointment to the council shall be for a three-year term by the 14538
governor. Each member shall hold office from the date of 14539
appointment until the end of the term for which the member was 14540
appointed. Any member appointed to fill a vacancy occurring prior 14541
to the expiration of the term for which the member's predecessor 14542
was appointed shall hold office for the remainder of the term. No 14543
member shall continue in office subsequent to the expiration date 14544
of the member's term unless reappointed under the provisions of 14545
this section, and no member shall serve more than three 14546
consecutive terms on the council. 14547

(C) Membership of the council shall represent all areas of 14548

Ohio and shall be as follows: 14549

(1) A majority of members of the council shall have attained 14550
the age of ~~sixty~~ fifty and have a knowledge of and continuing 14551
interest in the affairs and welfare of the older citizens of Ohio. 14552
The fields of business, labor, health, law, and human services 14553
shall be represented in the membership. 14554

(2) No more than seven members shall be of the same political 14555
party. 14556

(D) Any member of the council may be removed from office by 14557
the governor for neglect of duty, misconduct, or malfeasance in 14558
office after being informed in writing of the charges and afforded 14559
an opportunity for a hearing. Two consecutive unexcused absences 14560
from regularly scheduled meetings constitute neglect of duty. 14561

(E) The director of aging may reimburse a member for actual 14562
and necessary traveling and other expenses incurred in the 14563
discharge of official duties. But reimbursement shall be made in 14564
the manner and at rates that do not exceed those prescribed by the 14565
director of budget and management for any officer, member, or 14566
employee of, or consultant to, any state agency. 14567

(F) Council members are not limited as to the number of terms 14568
they may serve. 14569

(G)(1) The department of aging may award grants to or enter 14570
into contracts with a member of the advisory council or an entity 14571
that the member represents if any of the following apply: 14572

(a) The department determines that the member or the entity 14573
the member represents is capable of providing the goods or 14574
services specified under the terms of the grant or contract. 14575

(b) The member has not taken part in any discussion or vote 14576
of the council related to whether the council should recommend 14577
that the department of aging award the grant to or enter into the 14578

contract with the member of the advisory council or the entity 14579
that the member represents. 14580

(2) A member of the advisory council is not in violation of 14581
Chapter 102. or section 2921.42 of the Revised Code with regard to 14582
receiving a grant or entering into a contract under this section 14583
if the conditions of division (G)(1)(a) and (b) of this section 14584
have been met. 14585

Sec. 173.14. As used in sections 173.14 to 173.27 of the 14586
Revised Code: 14587

(A)(1) Except as otherwise provided in division (A)(2) of 14588
this section, "long-term care facility" includes any residential 14589
facility that provides personal care services for more than 14590
twenty-four hours for one or more unrelated adults, including all 14591
of the following: 14592

(a) A "nursing home," "residential care facility," or "home 14593
for the aging" as defined in section 3721.01 of the Revised Code; 14594

(b) A facility authorized to provide extended care services 14595
under Title XVIII of the "Social Security Act," 49 Stat. 620 14596
(1935), 42 U.S.C. 301, as amended, including a long-term acute 14597
care hospital that provides medical and rehabilitative care to 14598
patients who require an average length of stay greater than 14599
twenty-five days and is classified by the centers for medicare and 14600
medicaid services as a long-term care hospital pursuant to 42 14601
C.F.R. 412.23(e); 14602

(c) A county home or district home operated pursuant to 14603
Chapter 5155. of the Revised Code; 14604

(d) A residential facility licensed under section ~~5119.22~~ 14605
5119.34 of the Revised Code that provides accommodations, 14606
supervision, and personal care services for three to sixteen 14607
unrelated adults or accommodations and personal care services for 14608

only one or two adults who are ~~recipients under the~~ receiving 14609
residential state supplement program; 14610

(e) A facility approved by the veterans administration under 14611
section 104(a) of the "Veterans Health Care Amendments of 1983," 14612
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 14613
the placement and care of veterans. 14614

(2) "Long-term care facility" does not include a residential 14615
facility licensed under section 5123.19 of the Revised Code. 14616

(B) "Resident" means a resident of a long-term care facility 14617
and, where appropriate, includes a prospective, previous, or 14618
deceased resident of a long-term care facility. 14619

(C) "Community-based long-term care services" means health 14620
and social services provided to persons in their own homes or in 14621
community care settings, and includes any of the following: 14622

(1) Case management; 14623

(2) Home health care; 14624

(3) Homemaker services; 14625

(4) Chore services; 14626

(5) Respite care; 14627

(6) Adult day care; 14628

(7) Home-delivered meals; 14629

(8) Personal care; 14630

(9) Physical, occupational, and speech therapy; 14631

(10) Transportation; 14632

(11) Any other health and social services provided to persons 14633
that allow them to retain their independence in their own homes or 14634
in community care settings. 14635

(D) "Recipient" means a recipient of community-based 14636

long-term care services and, where appropriate, includes a 14637
prospective, previous, or deceased recipient of community-based 14638
long-term care services. 14639

(E) "Sponsor" means an adult relative, friend, or guardian 14640
who has an interest in or responsibility for the welfare of a 14641
resident or a recipient. 14642

(F) "Personal care services" has the same meaning as in 14643
section 3721.01 of the Revised Code. 14644

(G) "Regional long-term care ombudsperson program" means an 14645
entity, either public or private and nonprofit, designated as a 14646
regional long-term care ombudsperson program by the state 14647
long-term care ombudsperson. 14648

(H) "Representative of the office of the state long-term care 14649
ombudsperson program" means the state long-term care ombudsperson 14650
or a member of the ombudsperson's staff, or a person certified as 14651
a representative of the office under section 173.21 of the Revised 14652
Code. 14653

(I) "Area agency on aging" means an area agency on aging 14654
established under the "Older Americans Act of 1965," 79 Stat. 219, 14655
42 U.S.C.A. 3001, as amended. 14656

Sec. 173.17. (A) The state long-term care ~~ombudsperson~~ 14657
ombudsman shall do all of the following: 14658

(1) Appoint a staff and direct and administer the work of the 14659
staff; 14660

(2) Supervise the nursing home investigative unit established 14661
under division (I) of section 173.01 of the Revised Code; 14662

(3) Oversee the performance and operation of the office of 14663
the state long-term care ~~ombudsperson~~ ombudsman program, including 14664
the operation of regional long-term care ~~ombudsperson~~ ombudsman 14665
programs; 14666

- (4) Establish and maintain a statewide uniform reporting system to collect and analyze information relating to complaints and conditions in long-term care facilities and complaints regarding the provision of community-based long-term care services for the purpose of identifying and resolving significant problems; 14667
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- (5) Provide for public forums to discuss concerns and problems relating to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of residents and recipients of services by providers of long-term care and their representatives, public agencies and entities, and social service agencies. This may include any of the following: conducting public hearings; sponsoring workshops and conferences; holding meetings for the purpose of obtaining information about residents and recipients, discussing and publicizing their needs, and advocating solutions to their problems; and promoting the development of citizen organizations. 14672
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- (6) Encourage, cooperate with, and assist in the development and operation of services to provide current, objective, and verified information about long-term care; 14683
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- (7) Develop and implement, with the assistance of regional programs, a continuing program to publicize, through the media and civic organizations, the office, its purposes, and its methods of operation; 14686
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- (8) Maintain written descriptions of the duties and qualifications of representatives of the office; 14690
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- (9) Evaluate and make known concerns and issues regarding long-term care by doing all of the following: 14692
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- (a) Preparing an annual report containing information and findings regarding the types of problems experienced by residents and recipients and the complaints made by or on behalf of residents and recipients. The report shall include recommendations 14694
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for policy, regulatory, and legislative changes to solve problems, 14698
resolve complaints, and improve the quality of care and life for 14699
residents and recipients and shall be submitted to the governor, 14700
the speaker of the house of representatives, the president of the 14701
senate, the directors of health and of job and family services, 14702
and the commissioner of the administration on aging of the United 14703
States department of health and human services. 14704

(b) Monitoring and analyzing the development and 14705
implementation of federal, state, and local laws, rules, and 14706
policies regarding long-term care services in this state and 14707
recommending to officials changes the office considers appropriate 14708
in these laws, rules, and policies; 14709

(c) Providing information and making recommendations to 14710
public agencies, members of the general assembly, and others 14711
regarding problems and concerns of residents and recipients. 14712

(10) Conduct training for employees and volunteers on 14713
~~ombudsman's~~ ombudsman's staff and for representatives of the 14714
office employed by regional programs; 14715

(11) Monitor the training of representatives of the office 14716
who provide volunteer services to regional programs, and provide 14717
technical assistance to the regional programs in conducting the 14718
training; 14719

(12) Issue certificates attesting to the successful 14720
completion of training and specifying the level of responsibility 14721
for which a representative of the office who has completed 14722
training is qualified; 14723

(13) Register as a residents' rights advocate with the 14724
department of health under division (B) of section 3701.07 of the 14725
Revised Code; 14726

(14) Perform other duties specified by the department of 14727
aging. 14728

(B) The state ~~ombudsperson~~ ombudsman may delegate any of the 14729
~~ombudsperson's~~ ombudsman's authority or duties under sections 14730
173.14 to 173.26 of the Revised Code to any member of the 14731
~~ombudsperson's~~ ombudsman's staff. The state ~~ombudsperson~~ ombudsman 14732
is responsible for any authority or duties the ~~ombudsperson~~ 14733
ombudsman delegates. 14734

Sec. 173.19. (A) The office of the state long-term care 14735
~~ombudsperson~~ ombudsman program, through the state long-term care 14736
~~ombudsperson~~ ombudsman and the regional long-term care 14737
~~ombudsperson~~ ombudsman programs, shall receive, investigate, and 14738
attempt to resolve complaints made by residents, recipients, 14739
sponsors, providers of long-term care, or any person acting on 14740
behalf of a resident or recipient, relating to either of the 14741
following: 14742

(1) The health, safety, welfare, or civil rights of a 14743
resident or recipient or any violation of a resident's rights 14744
described in sections 3721.10 to 3721.17 of the Revised Code; 14745

(2) Any action or inaction or decision by a provider of 14746
long-term care or representative of a provider, a governmental 14747
entity, or a private social service agency that may adversely 14748
affect the health, safety, welfare, or rights of a resident or 14749
recipient. 14750

(B) The department of aging shall adopt rules in accordance 14751
with Chapter 119. of the Revised Code regarding the handling of 14752
complaints received under this section, including procedures for 14753
conducting investigations of complaints. The rules shall include 14754
procedures to ensure that no representative of the office 14755
investigates any complaint involving a provider of long-term care 14756
with which the representative was once employed or associated. 14757

The state ~~ombudsperson~~ ombudsman and regional programs shall 14758
establish procedures for handling complaints consistent with the 14759

department's rules. Complaints shall be dealt with in accordance 14760
with the procedures established under this division. 14761

(C) The office of the state long-term care ~~ombudsperson~~ 14762
ombudsman program may decline to investigate any complaint if it 14763
determines any of the following: 14764

(1) That the complaint is frivolous, vexatious, or not made 14765
in good faith; 14766

(2) That the complaint was made so long after the occurrence 14767
of the incident on which it is based that it is no longer 14768
reasonable to conduct an investigation; 14769

(3) That an adequate investigation cannot be conducted 14770
because of insufficient funds, insufficient staff, lack of staff 14771
expertise, or any other reasonable factor that would result in an 14772
inadequate investigation despite a good faith effort; 14773

(4) That an investigation by the office would create a real 14774
or apparent conflict of interest. 14775

(D) If a regional long-term care ~~ombudsperson~~ ombudsman 14776
program declines to investigate a complaint, it shall refer the 14777
complaint to the state long-term care ~~ombudsperson~~ ombudsman. 14778

(E) Each complaint to be investigated by a regional program 14779
shall be assigned to a representative of the office of the state 14780
long-term care ~~ombudsperson~~ ombudsman program. If the 14781
representative determines that the complaint is valid, the 14782
representative shall assist the parties in attempting to resolve 14783
it. If the representative is unable to resolve it, the 14784
representative shall refer the complaint to the state ~~ombudsperson~~ 14785
ombudsman. 14786

In order to carry out the duties of sections 173.14 to 173.26 14787
of the Revised Code, a representative has the right to private 14788
communication with residents and their sponsors and access to 14789

long-term care facilities, including the right to tour resident 14790
areas unescorted and the right to tour facilities unescorted as 14791
reasonably necessary to the investigation of a complaint. Access 14792
to facilities shall be during reasonable hours or, during 14793
investigation of a complaint, at other times appropriate to the 14794
complaint. 14795

When community-based long-term care services are provided at 14796
a location other than the recipient's home, a representative has 14797
the right to private communication with the recipient and the 14798
recipient's sponsors and access to the community-based long-term 14799
care site, including the right to tour the site unescorted. Access 14800
to the site shall be during reasonable hours or, during the 14801
investigation of a complaint, at other times appropriate to the 14802
complaint. 14803

(F) The state ~~ombuds~~ombudsman shall determine whether 14804
complaints referred to the ~~ombuds~~ombudsman under division 14805
(D) or (E) of this section warrant investigation. The 14806
~~ombuds~~ombudsman's determination in this matter is final. 14807

Sec. 173.20. (A) If consent is given and unless otherwise 14808
prohibited by law, a representative of the office of the state 14809
long-term care ombudsman program shall have access to any records, 14810
including medical records, of a resident or a recipient that are 14811
reasonably necessary for investigation of a complaint. Consent may 14812
be given in any of the following ways: 14813

(1) In writing by the resident or recipient; 14814

(2) Orally by the resident or recipient, witnessed in writing 14815
at the time it is given by one other person, and, if the records 14816
involved are being maintained by a long-term care provider, also 14817
by an employee of the long-term care provider designated under 14818
division (E)(1) of this section; 14819

(3) In writing by the guardian of the resident or recipient;	14820
(4) In writing by the attorney in fact of the resident or recipient, if the resident or recipient has authorized the attorney in fact to give such consent;	14821 14822 14823
(5) In writing by the executor or administrator of the estate of a deceased resident or recipient.	14824 14825
(B) If consent to access to records is not refused by a resident or recipient or his <u>the resident's or recipient's</u> legal representative but cannot be obtained and any of the following circumstances exist, a representative of the office of the state long-term care ombudsman program, on approval of the state long-term care ombudsman, may inspect the records of a resident or a recipient, including medical records, that are reasonably necessary for investigation of a complaint:	14826 14827 14828 14829 14830 14831 14832 14833
(1) The resident or recipient is unable to express written or oral consent and there is no guardian or attorney in fact;	14834 14835
(2) There is a guardian or attorney in fact, but he <u>the guardian or attorney in fact</u> cannot be contacted within three working days;	14836 14837 14838
(3) There is a guardianship or durable power of attorney, but its existence is unknown by the long-term care provider and the representative of the office at the time of the investigation;	14839 14840 14841
(4) There is no executor or administrator of the estate of a deceased resident or recipient.	14842 14843
(C) If a representative of the office of the state long-term care ombudsman program has been refused access to records by a guardian or attorney in fact, but has reasonable cause to believe that the guardian or attorney in fact is not acting in the best interests of the resident or recipient, the representative may, on approval of the state long-term care ombudsman, inspect the	14844 14845 14846 14847 14848 14849

records of the resident or recipient, including medical records, 14850
that are reasonably necessary for investigation of a complaint. 14851

(D) A representative of the office of the state long-term 14852
care ombudsman program shall have access to any records of a 14853
long-term care provider reasonably necessary to an investigation 14854
conducted under this section, including but not limited to: 14855
incident reports, dietary records, policies and procedures of a 14856
facility required to be maintained under section ~~5111.21~~ 5165.06 14857
of the Revised Code, admission agreements, staffing schedules, any 14858
document depicting the actual staffing pattern of the provider, 14859
any financial records that are matters of public record, resident 14860
council and grievance committee minutes, and any waiting list 14861
maintained by a facility in accordance with section ~~5111.31~~ 14862
5165.08 of the Revised Code, or any similar records or lists 14863
maintained by a provider of community-based long-term care 14864
services. Pursuant to division (E)(2) of this section, a 14865
representative shall be permitted to make or obtain copies of any 14866
of these records after giving the long-term care provider 14867
twenty-four hours' notice. A long-term care provider may impose a 14868
charge for providing copies of records under this division that 14869
does not exceed the actual and necessary expense of making the 14870
copies. 14871

The state ombudsman shall take whatever action is necessary 14872
to ensure that any copy of a record made or obtained under this 14873
division is returned to the long-term care provider no later than 14874
three years after the date the investigation for which the copy 14875
was made or obtained is completed. 14876

(E)(1) Each long-term care provider shall designate one or 14877
more of its employees to be responsible for witnessing the giving 14878
of oral consent under division (A) of this section. In the event 14879
that a designated employee is not available when a resident or 14880
recipient attempts to give oral consent, the provider shall 14881

designate another employee to witness the consent. 14882

(2) Each long-term care provider shall designate one or more 14883
of its employees to be responsible for releasing records for 14884
copying to representatives of the office of the long-term care 14885
ombudsman program who request permission to make or obtain copies 14886
of records specified in division (D) of this section. In the event 14887
that a designated employee is not available when a representative 14888
of the office makes the request, the long-term care provider shall 14889
designate another employee to release the records for copying. 14890

(F) A long-term care provider or any employee of such a 14891
provider is immune from civil or criminal liability or action 14892
taken pursuant to a professional disciplinary procedure for the 14893
release or disclosure of records to a representative of the office 14894
pursuant to this section. 14895

(G) A state or local government agency or entity with records 14896
relevant to a complaint or investigation being conducted by a 14897
representative of the office shall provide the representative 14898
access to the records. 14899

(H) The state ombudsman, with the approval of the director of 14900
aging, may issue a subpoena to compel any person ~~he~~ the ombudsman 14901
reasonably believes may be able to provide information to appear 14902
before ~~him~~ the ombudsman or ~~his~~ the ombudsman's designee and give 14903
sworn testimony and to produce documents, books, records, papers, 14904
or other evidence the state ombudsman believes is relevant to the 14905
investigation. On the refusal of a witness to be sworn or to 14906
answer any question put to ~~him~~ the witness, or if a person 14907
disobeys a subpoena, the ombudsman shall apply to the Franklin 14908
county court of common pleas for a contempt order, as in the case 14909
of disobedience of the requirements of a subpoena issued from the 14910
court, or a refusal to testify in the court. 14911

(I) The state ombudsman may petition the court of common 14912

pleas in the county in which a long-term care facility is located 14913
to issue an injunction against any long-term care facility in 14914
violation of sections 3721.10 to 3721.17 of the Revised Code. 14915

(J) Any suspected violation of Chapter 3721. of the Revised 14916
Code discovered during the course of an investigation may be 14917
reported to the department of health. Any suspected criminal 14918
violation discovered during the course of an investigation shall 14919
be reported to the attorney general or other appropriate law 14920
enforcement authorities. 14921

(K) The department of aging shall adopt rules in accordance 14922
with Chapter 119. of the Revised Code for referral by the state 14923
ombudsman and regional long-term care ombudsman programs of 14924
complaints to other public agencies or entities. A public agency 14925
or entity to which a complaint is referred shall keep the state 14926
ombudsman or regional program handling the complaint advised and 14927
notified in writing in a timely manner of the disposition of the 14928
complaint to the extent permitted by law. 14929

Sec. 173.21. (A) The office of the state long-term care 14930
~~ombudsperson~~ ombudsman program, through the state long-term care 14931
~~ombudsperson~~ ombudsman and the regional long-term care 14932
~~ombudsperson~~ ombudsman programs, shall require each representative 14933
of the office to complete a training and certification program in 14934
accordance with this section and to meet the continuing education 14935
requirements established under this section. 14936

(B) The department of aging shall adopt rules under Chapter 14937
119. of the Revised Code specifying the content of training 14938
programs for representatives of the office of the state long-term 14939
care ~~ombudsperson~~ ombudsman program. Training for representatives 14940
other than those who are volunteers providing services through 14941
regional long-term care ~~ombudsperson~~ ombudsman programs shall 14942
include instruction regarding federal, state, and local laws, 14943

rules, and policies on long-term care facilities and 14944
community-based long-term care services; investigative techniques; 14945
and other topics considered relevant by the department and shall 14946
consist of the following: 14947

(1) A minimum of forty clock hours of basic instruction, 14948
which shall be completed before the trainee is permitted to handle 14949
complaints without the supervision of a representative of the 14950
office certified under this section; 14951

(2) An additional sixty clock hours of instruction, which 14952
shall be completed within the first fifteen months of employment; 14953

(3) An internship of twenty clock hours, which shall be 14954
completed within the first twenty-four months of employment, 14955
including instruction in, and observation of, basic nursing care 14956
and long-term care provider operations and procedures. The 14957
internship shall be performed at a site that has been approved as 14958
an internship site by the state long-term care ~~ombudsperson~~ 14959
ombudsman. 14960

(4) One of the following, which shall be completed within the 14961
first twenty-four months of employment: 14962

(a) Observation of a survey conducted by the director of 14963
health to certify a nursing facility to ~~receive funds under~~ 14964
~~sections 5111.20 to 5111.32 of the Revised Code~~ participate in the 14965
medicaid program; 14966

(b) Observation of an inspection conducted by the director of 14967
~~mental health~~ mental health and addiction services to license a 14968
residential facility under section ~~5119.22~~ 5119.34 of the Revised 14969
Code that provides accommodations, supervision, and personal care 14970
services for three to sixteen unrelated adults. 14971

(5) Any other training considered appropriate by the 14972
department. 14973

(C) ~~Persons~~ Any person who for a period of at least six 14974
months prior to June 11, 1990, served as ~~ombudsmen~~ an ombudsman 14975
through the long-term care ~~ombudsperson~~ ombudsman program 14976
established by the department of aging under division (M) of 14977
section 173.01 of the Revised Code shall not be required to 14978
complete a training program. ~~These persons~~ Such a person and 14979
persons who complete a training program shall take an examination 14980
administered by the department of aging. On attainment of a 14981
passing score, the person shall be certified by the department as 14982
a representative of the office. The department shall issue the 14983
person an identification card, which the representative shall show 14984
at the request of any person with whom the representative deals 14985
while performing the representative's duties and which shall be 14986
surrendered at the time the representative separates from the 14987
office. 14988

(D) The state ~~ombudsperson~~ ombudsman and each regional 14989
program shall conduct training programs for volunteers on their 14990
respective staffs in accordance with the rules of the department 14991
of aging adopted under division (B) of this section. Training 14992
programs may be conducted that train volunteers to complete some, 14993
but not all, of the duties of a representative of the office. Each 14994
regional office shall bear the cost of training its 14995
representatives who are volunteers. On completion of a training 14996
program, the representative shall take an examination administered 14997
by the department of aging. On attainment of a passing score, a 14998
volunteer shall be certified by the department as a representative 14999
authorized to perform services specified in the certification. The 15000
department shall issue an identification card, which the 15001
representative shall show at the request of any person with whom 15002
the representative deals while performing the representative's 15003
duties and which shall be surrendered at the time the 15004
representative separates from the office. Except as a supervised 15005
part of a training program, no volunteer shall perform any duty 15006

unless he is certified as a representative having received 15007
appropriate training for that duty. 15008

(E) The state ~~ombudsperson~~ ombudsman shall provide technical 15009
assistance to regional programs conducting training programs for 15010
volunteers and shall monitor the training programs. 15011

(F) Prior to scheduling an observation of a certification 15012
survey or licensing inspection for purposes of division (B)(4) of 15013
this section, the state ~~ombudsperson~~ ombudsman shall obtain 15014
permission to have the survey or inspection observed from both the 15015
director of health and the long-term care facility at which the 15016
survey or inspection is to take place. 15017

(G) The department of aging shall establish continuing 15018
education requirements for representatives of the office. 15019

Sec. 173.23. (A) Representatives of the office of the state 15020
long-term care ~~ombudsperson~~ ombudsman program are immune from 15021
civil or criminal liability for any action taken in the good faith 15022
performance of their official duties under sections 173.14 to 15023
173.26 of the Revised Code. 15024

(B) A person acting in good faith is immune from civil or 15025
criminal liability incident to any of the following: providing 15026
information to the office, participating in registration of a 15027
complaint with the office, participating in investigation of a 15028
complaint by the office, or participating in an administrative or 15029
judicial proceeding resulting from a complaint. 15030

(C) No person shall knowingly register a false complaint with 15031
the office, or knowingly swear or affirm the truth of a false 15032
complaint previously registered, when the statement is made with 15033
purpose to incriminate another. 15034

(D) The attorney general shall provide legal counsel to the 15035
office of the state long-term care ~~ombudsperson~~ ombudsman program 15036

and to the regional long-term care ~~ombudsperson~~ ombudsman 15037
programs. The attorney general shall represent any representative 15038
of the office and any representative of a regional program against 15039
whom any legal action is brought in connection with the 15040
representative's official duties under sections 173.14 to 173.26 15041
of the Revised Code. 15042

Sec. 173.25. The office of the state long-term care 15043
~~ombudsperson~~ ombudsman program shall, in carrying out the 15044
provisions and purposes of sections 173.14 to 173.26 of the 15045
Revised Code, advise, consult, and cooperate with any agency, 15046
program, or other entity related to the purposes of the office. 15047
Any agency, program, or other entity related to the purposes of 15048
the office shall advise, consult, and cooperate with the office. 15049

The office shall attempt to establish effective coordination 15050
with government-sponsored programs that provide legal services to 15051
the elderly and with protective and advocacy programs for 15052
individuals with developmental disabilities, mental retardation, 15053
or mental illness. 15054

Sec. 173.26. (A) Each of the following facilities shall 15055
annually pay to the department of aging six dollars for each bed 15056
~~maintained by the facility for use by a resident~~ was licensed or 15057
otherwise authorized to maintain during any part of the previous 15058
year: 15059

(1) Nursing homes, and residential care facilities, ~~and homes~~ 15060
~~for the aging~~ as defined in section 3721.01 of the Revised Code; 15061

(2) Facilities authorized to provide extended care services 15062
under Title XVIII of the "Social Security Act," 49 Stat. 620 15063
(1935), 42 U.S.C. 301, as amended, including a long-term acute 15064
care hospital that provides medical and rehabilitative care to 15065
patients who require an average length of stay greater than 15066

twenty-five days and is classified by the centers for medicare and 15067
medicaid services as a long-term care hospital pursuant to 42 15068
C.F.R. 412.23(e); 15069

(3) County homes and district homes operated pursuant to 15070
Chapter 5155. of the Revised Code; 15071

(4) Residential facilities licensed under section ~~5119.22~~ 15072
5119.34 of the Revised Code that provide accommodations, 15073
supervision, and personal care services for three to sixteen 15074
unrelated adults; 15075

(5) Facilities approved by the Veterans Administration under 15076
Section 104(a) of the "Veterans Health Care Amendments of 1983," 15077
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 15078
the placement and care of veterans. 15079

The department shall, by rule adopted in accordance with 15080
Chapter 119. of the Revised Code, establish deadlines for payments 15081
required by this section. A facility that fails, within ninety 15082
days after the established deadline, to pay a payment required by 15083
this section shall be assessed at two times the original invoiced 15084
payment. 15085

(B) All money collected under this section shall be deposited 15086
in the state treasury to the credit of the office of the state 15087
long-term care ~~ombuds person~~ ombudsman program fund, which is 15088
hereby created. Money credited to the fund shall be used solely to 15089
pay the costs of operating the regional long-term care 15090
~~ombuds person~~ ombudsman programs. 15091

(C) The state long-term care ~~ombuds person~~ ombudsman and the 15092
regional programs may solicit and receive contributions to support 15093
the operation of the office or a regional program, except that no 15094
contribution shall be solicited or accepted that would interfere 15095
with the independence or objectivity of the office or program. 15096

Sec. 173.27. (A) As used in this section: 15097

(1) "Applicant" means a person who is under final 15098
consideration for employment ~~with the office of the state~~ 15099
~~long-term care ombudsperson program~~ by a responsible party in a 15100
full-time, part-time, or temporary position that involves 15101
providing ~~ombudsperson~~ ombudsman services to residents and 15102
recipients. "Applicant" includes a person who is under final 15103
consideration for employment as the state long-term care 15104
~~ombudsperson~~ ombudsman or the head of a regional long-term care 15105
~~ombudsperson~~ ombudsman program. "Applicant" does not include a 15106
person seeking to provide ~~ombudsperson~~ ombudsman services to 15107
residents and recipients as a volunteer without receiving or 15108
expecting to receive any form of remuneration other than 15109
reimbursement for actual expenses. 15110

(2) "Criminal records check" has the same meaning as in 15111
section 109.572 of the Revised Code. 15112

(3) "Disqualifying offense" means any of the offenses listed 15113
or described in divisions (A)(3)(a) to (e) of section 109.572 of 15114
the Revised Code. 15115

(4) "Employee" means a person employed by ~~the office of the~~ 15116
~~state long-term care ombudsperson program~~ a responsible party in a 15117
full-time, part-time, or temporary position that involves 15118
providing ~~ombudsperson~~ ombudsman services to residents and 15119
recipients. "Employee" includes the person employed as the state 15120
long-term care ~~ombudsperson~~ ombudsman and a person employed as the 15121
head of a regional long-term care ~~ombudsperson~~ ombudsman program. 15122
"Employee" does not include a person who provides ~~ombudsperson~~ 15123
ombudsman services to residents and recipients as a volunteer 15124
without receiving or expecting to receive any form of remuneration 15125
other than reimbursement for actual expenses. 15126

(5) "Responsible ~~entity~~ party" means the following: 15127

(a) In the case of an applicant who is under final 15128
consideration for employment as the state long-term care 15129
~~ombudsperson~~ ombudsman or the person employed as the state 15130
long-term care ~~ombudsperson~~ ombudsman, the director of aging; 15131

(b) In the case of any other applicant who is under final 15132
consideration for employment with the state long-term care 15133
ombudsman program or any other employee of the state long-term 15134
care ombudsman program, the state long-term care ~~ombudsperson~~ or 15135
~~the ombudsperson's designee~~ ombudsman; 15136

(c) In the case of an applicant who is under final 15137
consideration for employment with a regional long-term care 15138
ombudsman program (including as the head of the regional program) 15139
or an employee of a regional long-term care ombudsman program 15140
(including the head of a regional program), the regional long-term 15141
care ombudsman program. 15142

(B) ~~The office of the state long term care ombudsperson~~ 15143
~~program~~ A responsible party may not employ an applicant or 15144
continue to employ an employee in a position that involves 15145
providing ~~ombudsperson~~ ombudsman services to residents and 15146
recipients if any of the following apply: 15147

(1) A review of the databases listed in division (D) of this 15148
section reveals any of the following: 15149

(a) That the applicant or employee is included in one or more 15150
of the databases listed in divisions (D)(1) to (5) of this 15151
section; 15152

(b) That there is in the state nurse aide registry 15153
established under section 3721.32 of the Revised Code a statement 15154
detailing findings by the director of health that the applicant or 15155
employee neglected or abused a long-term care facility or 15156
residential care facility resident or misappropriated property of 15157
such a resident; 15158

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the ~~office~~ responsible party from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) ~~Except as provided~~ Unless the applicant or employee meets standards specified in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) ~~The~~ A responsible entity party or a responsible party's designee shall inform each applicant of both of the following at the time of the applicant's initial application for employment in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the ~~office of the state long term care ombudsperson program~~ responsible party is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records

check of the applicant will be conducted and the applicant is 15190
required to provide a set of the applicant's fingerprint 15191
impressions as part of the criminal records check. 15192

(D) As a condition of any applicant's being employed by ~~the~~ 15193
~~office of the state long term care ombudsperson program a~~ 15194
responsible party in a position that involves providing 15195
~~ombudsperson~~ ombudsman services to residents and recipients, the 15196
responsible ~~entity~~ party or designee shall conduct a database 15197
review of the applicant in accordance with rules adopted under 15198
this section. If rules adopted under this section so require, the 15199
responsible ~~entity~~ party or designee shall conduct a database 15200
review of an employee in accordance with the rules as a condition 15201
of the ~~office's~~ responsible party continuing to employ the 15202
employee in a position that involves providing ~~ombudsperson~~ 15203
ombudsman services to residents and recipients. A database review 15204
shall determine whether the applicant or employee is included in 15205
any of the following: 15206

(1) The excluded parties list system that is maintained by 15207
the United States general services administration pursuant to 15208
subpart 9.4 of the federal acquisition regulation and available at 15209
the federal web site known as the system for award management; 15210

(2) The list of excluded individuals and entities maintained 15211
by the office of inspector general in the United States department 15212
of health and human services pursuant to section 1128 of the 15213
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 15214
amended, and section 1156 of the "Social Security Act," 96 Stat. 15215
388 (1982), 42 U.S.C. 1320c-5, as amended; 15216

(3) The registry of MR/DD employees established under section 15217
5123.52 of the Revised Code; 15218

(4) The internet-based sex offender and child-victim offender 15219
database established under division (A)(11) of section 2950.13 of 15220

the Revised Code; 15221

(5) The internet-based database of inmates established under 15222
section 5120.66 of the Revised Code; 15223

(6) The state nurse aide registry established under section 15224
3721.32 of the Revised Code; 15225

(7) Any other database, if any, specified in rules adopted 15226
under this section. 15227

(E)(1) As a condition of any applicant's being employed by 15228
~~the office of the state long term care ombudsperson program a~~ 15229
responsible party in a position that involves providing 15230
~~ombudsperson ombudsman~~ services to residents and recipients, the 15231
responsible ~~entity~~ party or designee shall request that the 15232
superintendent of the bureau of criminal identification and 15233
investigation conduct a criminal records check of the applicant. 15234
If rules adopted under this section so require, the responsible 15235
~~entity~~ party or designee shall request that the superintendent 15236
conduct a criminal records check of an employee at times specified 15237
in the rules as a condition of the ~~office's~~ responsible party 15238
continuing to employ the employee in a position that involves 15239
providing ~~ombudsperson ombudsman~~ services to residents and 15240
recipients. However, the responsible ~~entity~~ party or designee is 15241
not required to request the criminal records check of the 15242
applicant or employee if the ~~office~~ responsible party is 15243
prohibited by division (B)(1) of this section from employing the 15244
applicant or continuing to employ the employee in a position that 15245
involves providing ~~ombudsperson ombudsman~~ services to residents 15246
and recipients. If an applicant or employee for whom a criminal 15247
records check request is required by this section does not present 15248
proof of having been a resident of this state for the five-year 15249
period immediately prior to the date the criminal records check is 15250
requested or provide evidence that within that five-year period 15251
the superintendent has requested information about the applicant 15252

or employee from the federal bureau of investigation in a criminal 15253
records check, the responsible entity party or designee shall 15254
request that the superintendent obtain information from the 15255
federal bureau of investigation as part of the criminal records 15256
check. Even if an applicant or employee for whom a criminal 15257
records check request is required by this section presents proof 15258
of having been a resident of this state for the five-year period, 15259
the responsible entity party or designee may request that the 15260
superintendent include information from the federal bureau of 15261
investigation in the criminal records check. 15262

(2) ~~The~~ A responsible entity party or designee shall do all 15263
of the following: 15264

(a) Provide to each applicant and employee for whom a 15265
criminal records check request is required by this section a copy 15266
of the form prescribed pursuant to division (C)(1) of section 15267
109.572 of the Revised Code and a standard impression sheet 15268
prescribed pursuant to division (C)(2) of that section; 15269

(b) Obtain the completed form and standard impression sheet 15270
from the applicant or employee; 15271

(c) Forward the completed form and standard impression sheet 15272
to the superintendent. 15273

(3) ~~The office of the state long-term care ombudsperson~~ 15274
~~program~~ A responsible party shall pay to the bureau of criminal 15275
identification and investigation the fee prescribed pursuant to 15276
division (C)(3) of section 109.572 of the Revised Code for each 15277
criminal records check the responsible entity party or the 15278
responsible party's designee requests under this section. The 15279
office responsible party may charge an applicant a fee not 15280
exceeding the amount the office responsible party pays to the 15281
bureau under this section if the responsible entity party or 15282
designee notifies the applicant at the time of initial application 15283

for employment of the amount of the fee. 15284

~~(F)(1) The office of the state long term care ombudsperson~~ 15285
~~program~~ A responsible party may employ conditionally an applicant 15286
for whom a criminal records check is required by this section 15287
prior to obtaining the results of the criminal records check if 15288
both of the office following apply: 15289

(a) The responsible party is not prohibited by division 15290
(B)(1) of this section from employing the applicant in a position 15291
that involves providing ~~ombudsperson~~ ombudsman services to 15292
residents and recipients ~~and the;~~ 15293

(b) The responsible entity party or designee requests the 15294
criminal records check in accordance with division (E) of this 15295
section not later than five business days after the applicant 15296
begins conditional employment. 15297

~~(2) The office of the state long term care ombudsperson~~ 15298
~~program~~ A responsible party shall terminate the employment of an 15299
applicant employed conditionally under division (F)(1) of this 15300
section if the results of the criminal records check, other than 15301
the results of any request for information from the federal bureau 15302
of investigation, are not obtained within the period ending sixty 15303
days after the date the request for the criminal records check is 15304
made. Regardless of when the results of the criminal records check 15305
are obtained, if the results indicate that the applicant has been 15306
convicted of, pleaded guilty to, or been found eligible for 15307
intervention in lieu of conviction for a disqualifying offense, 15308
the ~~office~~ responsible party shall terminate the applicant's 15309
employment unless ~~circumstances~~ the applicant meets standards 15310
specified in rules adopted under this section that permit the 15311
~~office~~ responsible party to employ the applicant ~~exist~~ and the 15312
~~office~~ responsible party chooses to employ the applicant. 15313
Termination of employment under this division shall be considered 15314
just cause for discharge for purposes of division (D)(2) of 15315

section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the ~~office~~ responsible party or designee about the applicant's criminal record.

(G) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The responsible ~~entity~~ party or ~~the responsible entity's representative~~ designee;

(3) ~~If the state long-term care ombudsperson designates the head or other employee of~~ In the case of a criminal records check conducted for an applicant who is under final consideration for employment with a regional long-term care ombudsman ~~ombudsman~~ ombudsman program ~~to request a criminal records check under this section (including as the head of the regional program) or an employee of a regional long-term care ombudsman program (including the head of a regional program), the state long-term care ombudsman or a~~ representative of the office of the state long-term care ~~ombudsman~~ ombudsman program who is responsible for monitoring the regional program's compliance with this section;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program

or a program the department of aging administers. 15346

(H) In a tort or other civil action for damages that is 15347
brought as the result of an injury, death, or loss to person or 15348
property caused by an applicant or employee who ~~the office of the~~ 15349
~~state long term care ombudsperson program~~ a responsible party 15350
employs in a position that involves providing ~~ombudsperson~~ 15351
ombudsman services to residents and recipients, all of the 15352
following shall apply: 15353

(1) If the ~~office~~ responsible party employed the applicant or 15354
employee in good faith and reasonable reliance on the report of a 15355
criminal records check requested under this section, the ~~office~~ 15356
responsible party shall not be found negligent solely because of 15357
its reliance on the report, even if the information in the report 15358
is determined later to have been incomplete or inaccurate. 15359

(2) If the ~~office~~ responsible party employed the applicant in 15360
good faith on a conditional basis pursuant to division (F) of this 15361
section, the ~~office~~ responsible party shall not be found negligent 15362
solely because it employed the applicant prior to receiving the 15363
report of a criminal records check requested under this section. 15364
15365

(3) If the ~~office~~ responsible party in good faith employed 15366
the applicant or employee ~~according to~~ because the ~~personal~~ 15367
~~character~~ applicant or employee meets standards established 15368
specified in rules adopted under this section, the ~~office~~ 15369
responsible party shall not be found negligent solely because the 15370
applicant or employee has been convicted of, pleaded guilty to, or 15371
been found eligible for intervention in lieu of conviction for a 15372
disqualifying offense. 15373

(I) The state long-term care ombudsman may not act as the 15374
director of aging's designee for the purpose of this section. The 15375
head of a regional long-term care ombudsman program may not act as 15376

the regional program's designee for the purpose of this section if 15377
the head is the employee for whom a database review or criminal 15378
records check is being conducted. 15379

(J) The director of aging shall adopt rules in accordance 15380
with Chapter 119. of the Revised Code to implement this section. 15381

(1) The rules may do the following: 15382

(a) Require employees to undergo database reviews and 15383
criminal records checks under this section; 15384

(b) If the rules require employees to undergo database 15385
reviews and criminal records checks under this section, exempt one 15386
or more classes of employees from the requirements; 15387

(c) For the purpose of division (D)(7) of this section, 15388
specify other databases that are to be checked as part of a 15389
database review conducted under this section. 15390

(2) The rules shall specify all of the following: 15391

(a) The procedures for conducting database reviews under this 15392
section; 15393

(b) If the rules require employees to undergo database 15394
reviews and criminal records checks under this section, the times 15395
at which the database reviews and criminal records checks are to 15396
be conducted; 15397

(c) If the rules specify other databases to be checked as 15398
part of the database reviews, the circumstances under which ~~the~~ 15399
~~office of the state long term care ombudsperson program~~ a 15400
responsible party is prohibited from employing an applicant or 15401
continuing to employ an employee who is found by a database review 15402
to be included in one or more of those databases; 15403

(d) ~~Circumstances under which the office of the state~~ 15404
~~long term care ombudsperson program may employ~~ Standards that an 15405
applicant or employee who must meet for a responsible party to be 15406

permitted to employ the applicant or continue to employ the 15407
employee in a position that involves providing ombudsman services 15408
to residents and recipients if the applicant or employee is found 15409
by a criminal records check required by this section to have been 15410
convicted of, pleaded guilty to, or been found eligible for 15411
intervention in lieu of conviction for a disqualifying offense ~~but~~ 15412
~~meets personal character standards.~~ 15413

Sec. 173.28. (A)(1) As used in this division, "incident" 15414
means the occurrence of a violation with respect to a resident or 15415
recipient, as those terms are defined in section 173.14 of the 15416
Revised Code. A violation is a separate incident for each day it 15417
occurs and for each resident who is subject to it. 15418

In lieu of the fine that may be imposed under division (A) of 15419
section 173.99 of the Revised Code, the director of aging may, 15420
under Chapter 119. of the Revised Code, fine a long-term care 15421
provider or other entity, or a person employed by a long-term care 15422
provider or other entity, for a violation of division (C) of 15423
section 173.24 of the Revised Code. The fine shall not exceed one 15424
thousand dollars per incident. 15425

(2) In lieu of the fine that may be imposed under division 15426
(C) of section 173.99 of the Revised Code, the director may, under 15427
Chapter 119. of the Revised Code, fine a long-term care provider 15428
or other entity, or a person employed by a long-term care provider 15429
or other entity, for violating division (E) of section 173.19 of 15430
the Revised Code by denying a representative of the office of the 15431
state long-term care ~~ombuds person~~ ombudsman program the access 15432
required by that division. The fine shall not exceed five hundred 15433
dollars for each day the violation continued. 15434

(B) On request of the director, the attorney general shall 15435
bring and prosecute to judgment a civil action to collect any fine 15436
imposed under division (A)(1) or (2) of this section that remains 15437

unpaid thirty days after the violator's final appeal is exhausted. 15438

(C) All fines collected under this section shall be deposited 15439
into the state treasury to the credit of the state long-term care 15440
~~ombuds person~~ ombudsman program fund created under section 173.26 15441
of the Revised Code. 15442

Sec. ~~173.394~~ 173.38. (A) As used in this section: 15443

(1) "Applicant" means a person who is under final 15444
consideration for employment with a ~~community based long term care~~ 15445
agency responsible party in a full-time, part-time, or temporary 15446
~~direct-care~~ position ~~that involves providing direct care to an~~ 15447
~~individual~~ or is referred to a ~~community based long term care~~ 15448
agency responsible party by an employment service for such a 15449
position. "Applicant" does not include a person ~~who provides~~ 15450
~~direct care to an individual being considered for a direct-care~~ 15451
position as a volunteer ~~without receiving or expecting to receive~~ 15452
~~any form of remuneration other than reimbursement for actual~~ 15453
~~expenses.~~ 15454

(2) "Area agency on aging" has the same meaning as in section 15455
173.14 of the Revised Code. 15456

(3) "Community-based long-term care services" means 15457
community-based long-term care services, as defined in section 15458
173.14 of the Revised Code, that are provided under a program the 15459
department of aging administers. 15460

(4) "Consumer" means an individual who receives 15461
community-based long-term care services. 15462

(5) "Criminal records check" has the same meaning as in 15463
section 109.572 of the Revised Code. 15464

(6) "Direct-care position" means an employment position in 15465
which an employee has either or both of the following: 15466

(i) In-person contact with one or more consumers; 15467

(ii) Access to one or more consumers' personal property or records. 15468
15469

(7) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code. 15470
15471
15472

(8) "Employee" means a person employed by a ~~community-based long-term care agency~~ responsible party in a full-time, part-time, or temporary direct-care position ~~that involves providing direct care to an individual~~ and a person who works in such a position due to being referred to a ~~community-based long-term care agency~~ responsible party by an employment service. "Employee" does not include a person who ~~provides direct care to an individual~~ works in a direct-care position as a volunteer ~~without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.~~ 15473
15474
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(9) "PASSPORT administrative agency" has the same meaning as in section 173.42 of the Revised Code. 15483
15484

(10) "Provider" has the same meaning as in section 173.39 of the Revised Code. 15485
15486

(11) "Responsible party" means the following: 15487

(a) An area agency on aging in the case of either of the following: 15488
15489

(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position; 15490
15491
15492
15493

(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service. 15494
15495
15496
15497

(b) A PASSPORT administrative agency in the case of either of 15498
the following: 15499

(i) A person who is an applicant because the person is under 15500
final consideration for employment with the agency in a full-time, 15501
part-time, or temporary direct-care position or is referred to the 15502
agency by an employment service for such a position; 15503

(ii) A person who is an employee because the person is 15504
employed by the agency in a full-time, part-time, or temporary 15505
direct-care position or works in such a position due to being 15506
referred to the agency by an employment service. 15507

(c) A provider in the case of either of the following: 15508

(i) A person who is an applicant because the person is under 15509
final consideration for employment with the provider in a 15510
full-time, part-time, or temporary direct-care position or is 15511
referred to the provider by an employment service for such a 15512
position; 15513

(ii) A person who is an employee because the person is 15514
employed by the provider in a full-time, part-time, or temporary 15515
direct-care position or works in such a position due to being 15516
referred to the provider by an employment service. 15517

(d) A subcontractor in the case of either of the following: 15518

(i) A person who is an applicant because the person is under 15519
final consideration for employment with the subcontractor in a 15520
full-time, part-time, or temporary direct-care position or is 15521
referred to the subcontractor by an employment service for such a 15522
position; 15523

(ii) A person who is an employee because the person is 15524
employed by the subcontractor in a full-time, part-time, or 15525
temporary direct-care position or works in such a position due to 15526
being referred to the subcontractor by an employment service. 15527

(12) "Subcontractor" has the meaning specified in rules 15528
adopted under this section. 15529

(13) "Volunteer" means a person who serves in a direct-care 15530
position without receiving or expecting to receive any form of 15531
remuneration other than reimbursement for actual expenses. 15532

(14) "Waiver agency" has the same meaning as in section 15533
~~5111.033~~ 5164.342 of the Revised Code. 15534

(B) This section does not apply to any individual who is 15535
subject to a database review or criminal records check under 15536
section 3701.881 of the Revised Code or to any individual who is 15537
subject to a criminal records check under section 3721.121 of the 15538
Revised Code. If a ~~community-based long-term care agency provider~~ 15539
~~or subcontractor~~ also is a waiver agency, the agency provider or 15540
subcontractor may provide for applicants and employees to undergo 15541
database reviews and criminal records checks in accordance with 15542
section ~~5111.033~~ 5164.342 of the Revised Code rather than this 15543
section. 15544

(C) No ~~community-based long-term care agency~~ responsible 15545
party shall employ an applicant or continue to employ an employee 15546
in a direct-care position ~~that involves providing direct care to~~ 15547
~~an individual~~ if any of the following apply: 15548

(1) A review of the databases listed in division (E) of this 15549
section reveals any of the following: 15550

(a) That the applicant or employee is included in one or more 15551
of the databases listed in divisions (E)(1) to (5) of this 15552
section; 15553

(b) That there is in the state nurse aide registry 15554
established under section 3721.32 of the Revised Code a statement 15555
detailing findings by the director of health that the applicant or 15556
employee neglected or abused a long-term care facility or 15557
residential care facility resident or misappropriated property of 15558

such a resident; 15559

(c) That the applicant or employee is included in one or more 15560
of the databases, if any, specified in rules adopted under this 15561
section and the rules prohibit the ~~agency~~ responsible party from 15562
employing an applicant or continuing to employ an employee 15563
included in such a database in a direct-care position ~~that~~ 15564
~~involves providing direct care to an individual.~~ 15565

(2) After the applicant or employee is provided, pursuant to 15566
division (F)(2)(a) of this section, a copy of the form prescribed 15567
pursuant to division (C)(1) of section 109.572 of the Revised Code 15568
and the standard impression sheet prescribed pursuant to division 15569
(C)(2) of that section, the applicant or employee fails to 15570
complete the form or provide the applicant's or employee's 15571
fingerprint impressions on the standard impression sheet. 15572

(3) ~~Except as provided~~ Unless the applicant or employee meets 15573
standards specified in rules adopted under this section, the 15574
applicant or employee is found by a criminal records check 15575
required by this section to have been convicted of, pleaded guilty 15576
to, or been found eligible for intervention in lieu of conviction 15577
for a disqualifying offense. 15578

(D) Except as provided by division (G) of this section, the 15579
chief administrator of a ~~community-based long-term care agency~~ 15580
responsible party shall inform each applicant of both of the 15581
following at the time of the applicant's initial application for 15582
employment or referral to the ~~agency~~ responsible party by an 15583
employment service for a direct-care position ~~that involves~~ 15584
~~providing direct care to an individual:~~ 15585

(1) That a review of the databases listed in division (E) of 15586
this section will be conducted to determine whether the ~~agency~~ 15587
responsible party is prohibited by division (C)(1) of this section 15588
from employing the applicant in the direct-care position; 15589

(2) That, unless the database review reveals that the applicant may not be employed in the direct-care position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(E) As a condition of employing any applicant in a direct-care position ~~that involves providing direct care to an individual~~, the chief administrator of a ~~community based long term care agency~~ responsible party shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a ~~community based long term care agency~~ responsible party shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a direct-care position ~~that involves providing direct care to an individual~~. However, a chief administrator is not required to conduct a database review of an applicant or employee if division (G) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to ~~section 1128~~ of the "Social Security Act," ~~94 Stat. 2619 (1980)~~ sections 1128 and 1156, 42 U.S.C. 1320a-7, ~~as amended~~, and ~~section 1156~~ of the "Social Security Act," ~~96 Stat. 388 (1982)~~, 42 U.S.C. 1320c-5, ~~as amended;~~

(3) The registry of MR/DD employees established under section

5123.52 of the Revised Code; 15622

(4) The internet-based sex offender and child-victim offender 15623
database established under division (A)(11) of section 2950.13 of 15624
the Revised Code; 15625

(5) The internet-based database of inmates established under 15626
section 5120.66 of the Revised Code; 15627

(6) The state nurse aide registry established under section 15628
3721.32 of the Revised Code; 15629

(7) Any other database, if any, specified in rules adopted 15630
under this section. 15631

(F)(1) As a condition of employing any applicant in a 15632
direct-care position ~~that involves providing direct care to an~~ 15633
~~individual~~, the chief administrator of a ~~community based long term~~ 15634
~~care agency~~ responsible party shall request that the 15635
superintendent of the bureau of criminal identification and 15636
investigation conduct a criminal records check of the applicant. 15637
If rules adopted under this section so require, the chief 15638
administrator of a ~~community based long term care agency~~ 15639
responsible party shall request that the superintendent conduct a 15640
criminal records check of an employee at times specified in the 15641
rules as a condition of continuing to employ the employee in a 15642
direct-care position ~~that involves providing direct care to an~~ 15643
~~individual~~. However, the chief administrator is not required to 15644
request the criminal records check of the applicant or employee if 15645
division (G) of this section applies or the ~~agency~~ responsible 15646
party is prohibited by division (C)(1) of this section from 15647
employing the applicant or continuing to employ the employee in a 15648
direct-care position ~~that involves providing direct care to an~~ 15649
~~individual~~. If an applicant or employee for whom a criminal 15650
records check request is required by this section does not present 15651
proof of having been a resident of this state for the five-year 15652

period immediately prior to the date the criminal records check is 15653
requested or provide evidence that within that five-year period 15654
the superintendent has requested information about the applicant 15655
or employee from the federal bureau of investigation in a criminal 15656
records check, the chief administrator shall request that the 15657
superintendent obtain information from the federal bureau of 15658
investigation as part of the criminal records check. Even if an 15659
applicant or employee for whom a criminal records check request is 15660
required by this section presents proof of having been a resident 15661
of this state for the five-year period, the chief administrator 15662
may request that the superintendent include information from the 15663
federal bureau of investigation in the criminal records check. 15664

(2) The chief administrator shall do all of the following: 15665

(a) Provide to each applicant and employee for whom a 15666
criminal records check request is required by this section a copy 15667
of the form prescribed pursuant to division (C)(1) of section 15668
109.572 of the Revised Code and a standard impression sheet 15669
prescribed pursuant to division (C)(2) of that section; 15670

(b) Obtain the completed form and standard impression sheet 15671
from the applicant or employee; 15672

(c) Forward the completed form and standard impression sheet 15673
to the superintendent. 15674

(3) A ~~community based long term care agency~~ responsible party 15675
shall pay to the bureau of criminal identification and 15676
investigation the fee prescribed pursuant to division (C)(3) of 15677
section 109.572 of the Revised Code for each criminal records 15678
check the ~~agency~~ responsible party requests under this section. ~~An~~ 15679
~~agency~~ A responsible party may charge an applicant a fee not 15680
exceeding the amount the ~~agency~~ responsible party pays to the 15681
bureau under this section if both of the following apply: 15682

(a) The ~~agency~~ responsible party notifies the applicant at 15683

the time of initial application for employment of the amount of 15684
the fee and that, unless the fee is paid, the applicant will not 15685
be considered for employment. 15686

(b) The medicaid program ~~established under Chapter 5111. of~~ 15687
~~the Revised Code~~ does not ~~reimburse~~ pay the agency responsible 15688
party for the fee it pays to the bureau under this section. 15689

(G) Divisions (D) to (F) of this section do not apply with 15690
regard to an applicant or employee if the applicant or employee is 15691
referred to a ~~community based long term agency~~ responsible party 15692
by an employment service that supplies full-time, part-time, or 15693
temporary staff for direct-care positions ~~that involve providing~~ 15694
~~direct care to an individual~~ and both of the following apply: 15695

(1) The chief administrator of the agency responsible party 15696
receives from the employment service confirmation that a review of 15697
the databases listed in division (E) of this section was conducted 15698
of the applicant or employee. 15699

(2) The chief administrator of the agency responsible party 15700
receives from the employment service, applicant, or employee a 15701
report of the results of a criminal records check of the applicant 15702
or employee that has been conducted by the superintendent within 15703
the one-year period immediately preceding the following: 15704

(a) In the case of an applicant, the date of the applicant's 15705
referral by the employment service to the agency responsible 15706
party; 15707

(b) In the case of an employee, the date by which the agency 15708
responsible party would otherwise have to request a criminal 15709
records check of the employee under division (F) of this section. 15710

(H)(1) A ~~community based long term care agency~~ responsible 15711
party may employ conditionally an applicant for whom a criminal 15712
records check request is required by this section prior to 15713
obtaining the results of the criminal records check if the agency 15714

responsible party is not prohibited by division (C)(1) of this 15715
section from employing the applicant in a direct-care position 15716
~~that involves providing direct care to an individual~~ and either of 15717
the following applies: 15718

(a) The chief administrator of the agency responsible party 15719
requests the criminal records check in accordance with division 15720
(F) of this section not later than five business days after the 15721
applicant begins conditional employment. 15722

(b) The applicant is referred to the agency responsible party 15723
by an employment service, the employment service or the applicant 15724
provides the chief administrator of the agency responsible party a 15725
letter that is on the letterhead of the employment service, the 15726
letter is dated and signed by a supervisor or another designated 15727
official of the employment service, and the letter states all of 15728
the following: 15729

(i) That the employment service has requested the 15730
superintendent to conduct a criminal records check regarding the 15731
applicant; 15732

(ii) That the requested criminal records check is to include 15733
a determination of whether the applicant has been convicted of, 15734
pleaded guilty to, or been found eligible for intervention in lieu 15735
of conviction for a disqualifying offense; 15736

(iii) That the employment service has not received the 15737
results of the criminal records check as of the date set forth on 15738
the letter; 15739

(iv) That the employment service promptly will send a copy of 15740
the results of the criminal records check to the chief 15741
administrator of the agency responsible party when the employment 15742
service receives the results. 15743

(2) If a ~~community-based long-term care agency~~ responsible 15744
party employs an applicant conditionally pursuant to division 15745

(H)(1)(b) of this section, the employment service, on its receipt 15746
of the results of the criminal records check, promptly shall send 15747
a copy of the results to the chief administrator of the ~~agency~~ 15748
responsible party. 15749

(3) A ~~community based long term care agency~~ responsible party 15750
that employs an applicant conditionally pursuant to division 15751
(H)(1)(a) or (b) of this section shall terminate the applicant's 15752
employment if the results of the criminal records check, other 15753
than the results of any request for information from the federal 15754
bureau of investigation, are not obtained within the period ending 15755
sixty days after the date the request for the criminal records 15756
check is made. Regardless of when the results of the criminal 15757
records check are obtained, if the results indicate that the 15758
applicant has been convicted of, pleaded guilty to, or been found 15759
eligible for intervention in lieu of conviction for a 15760
disqualifying offense, the ~~agency~~ responsible party shall 15761
terminate the applicant's employment unless ~~circumstances~~ the 15762
applicant meets standards specified in rules adopted under this 15763
section that permit the ~~agency~~ responsible party to employ the 15764
applicant ~~exist~~ and the ~~agency~~ responsible party chooses to employ 15765
the applicant. Termination of employment under this division shall 15766
be considered just cause for discharge for purposes of division 15767
(D)(2) of section 4141.29 of the Revised Code if the applicant 15768
makes any attempt to deceive the ~~agency~~ responsible party about 15769
the applicant's criminal record. 15770

(I) The report of any criminal records check conducted 15771
pursuant to a request made under this section is not a public 15772
record for the purposes of section 149.43 of the Revised Code and 15773
shall not be made available to any person other than the 15774
following: 15775

(1) The applicant or employee who is the subject of the 15776
criminal records check or the applicant's or employee's 15777

representative; 15778

(2) The chief administrator of the ~~community based long term~~ 15779
~~care agency~~ responsible party requesting the criminal records 15780
check or the administrator's representative; 15781

(3) The administrator of any other facility, agency, or 15782
program that provides ~~direct care to individuals~~ community-based 15783
long-term care services that is owned or operated by the same 15784
entity that owns or operates the ~~community based long term care~~ 15785
~~agency~~ responsible party that requested the criminal records 15786
check; 15787

(4) The employment service that requested the criminal 15788
records check; 15789

(5) The director of aging or a person authorized by the 15790
director to monitor a ~~community based long term care agency's~~ 15791
responsible party's compliance with this section; 15792

(6) The medicaid director ~~of job and family services~~ and the 15793
staff of the department of ~~job and family services~~ medicaid who 15794
are involved in the administration of the medicaid program if 15795
either of the following apply: 15796

(a) In the case of a criminal records check requested by a 15797
~~community based long term care agency~~ provider or subcontractor, 15798
the ~~agency~~ provider or subcontractor also is a waiver agency; 15799

(b) In the case of a criminal records check requested by an 15800
employment service, the employment service makes the request for 15801
an applicant or employee the employment service refers to a 15802
~~community based long term care agency~~ provider or subcontractor 15803
that also is a waiver agency. 15804

(7) A court, hearing officer, or other necessary individual 15805
involved in a case dealing with any of the following: 15806

(a) A denial of employment of the applicant or employee; 15807

(b) Employment or unemployment benefits of the applicant or 15808
employee; 15809

(c) A civil or criminal action regarding the medicaid program 15810
or a program the department of aging administers. 15811

(J) In a tort or other civil action for damages that is 15812
brought as the result of an injury, death, or loss to person or 15813
property caused by an applicant or employee who a ~~community-based~~ 15814
~~long term care agency~~ responsible party employs in a direct-care 15815
position ~~that involves providing direct care to individuals~~, all 15816
of the following shall apply: 15817

(1) If the ~~agency~~ responsible party employed the applicant or 15818
employee in good faith and reasonable reliance on the report of a 15819
criminal records check requested under this section, the ~~agency~~ 15820
responsible party shall not be found negligent solely because of 15821
its reliance on the report, even if the information in the report 15822
is determined later to have been incomplete or inaccurate. 15823

(2) If the ~~agency~~ responsible party employed the applicant in 15824
good faith on a conditional basis pursuant to division (H) of this 15825
section, the ~~agency~~ responsible party shall not be found negligent 15826
solely because it employed the applicant prior to receiving the 15827
report of a criminal records check requested under this section. 15828
15829

(3) If the ~~agency~~ responsible party in good faith employed 15830
the applicant or employee ~~according to~~ because the ~~personal~~ 15831
~~character~~ applicant or employee meets standards ~~established~~ 15832
specified in rules adopted under this section, the ~~agency~~ 15833
responsible party shall not be found negligent solely because the 15834
applicant or employee has been convicted of, pleaded guilty to, or 15835
been found eligible for intervention in lieu of conviction for a 15836
disqualifying offense. 15837

(K) The director of aging shall adopt rules in accordance 15838

with Chapter 119. of the Revised Code to implement this section. 15839

(1) The rules may do the following: 15840

(a) Require employees to undergo database reviews and 15841
criminal records checks under this section; 15842

(b) If the rules require employees to undergo database 15843
reviews and criminal records checks under this section, exempt one 15844
or more classes of employees from the requirements; 15845

(c) For the purpose of division (E)(7) of this section, 15846
specify other databases that are to be checked as part of a 15847
database review conducted under this section. 15848

(2) The rules shall specify all of the following: 15849

(a) The meaning of the term "subcontractor"; 15850

(b) The procedures for conducting database reviews under this 15851
section; 15852

~~(b)~~(c) If the rules require employees to undergo database 15853
reviews and criminal records checks under this section, the times 15854
at which the database reviews and criminal records checks are to 15855
be conducted; 15856

~~(c)~~(d) If the rules specify other databases to be checked as 15857
part of the database reviews, the circumstances under which a 15858
~~community based long term care agency~~ responsible party is 15859
prohibited from employing an applicant or continuing to employ an 15860
employee who is found by a database review to be included in one 15861
or more of those databases; 15862

~~(d) Circumstances under which a community based long term~~ 15863
~~care agency may employ~~ (e) Standards that an applicant or employee 15864
~~who must meet for a responsible party to be permitted to employ~~ 15865
the applicant or continue to employ the employee in a direct-care 15866
position if the applicant or employee is found by a criminal 15867
records check required by this section to have been convicted of, 15868

pleaded guilty to, or been found eligible for intervention in lieu 15869
of conviction for a disqualifying offense ~~but meets personal~~ 15870
~~character standards.~~ 15871

Sec. 173.39. (A) As used in sections 173.39 to ~~173.394~~ 15872
173.393 of the Revised Code: 15873

(1) "~~Community based long term care agency~~ Provider" means a 15874
person or ~~government~~ governmental entity that provides 15875
community-based long-term care services under a program the 15876
department of aging administers, ~~regardless of whether the person~~ 15877
~~or government entity is certified under section 173.391 or~~ 15878
~~authorized to receive payment for the services from the department~~ 15879
~~under section 173.392 of the Revised Code.~~ "Community based 15880
~~long term care agency~~ Provider" includes a person or ~~government~~ 15881
governmental entity that provides home and community-based 15882
services to older adults through the PASSPORT program ~~created~~ 15883
~~under as defined in section 173.40~~ 173.51 of the Revised Code. 15884

(2) "Community-based long-term care services" has the same 15885
meaning as in section 173.14 of the Revised Code. 15886

(B) Except as provided in section 173.392 of the Revised 15887
Code, the department of aging may not pay a ~~person or government~~ 15888
~~entity~~ provider for providing community-based long-term care 15889
services under a program the department administers unless the 15890
~~person or government entity~~ provider is certified under section 15891
173.391 of the Revised Code and provides the services. 15892

Sec. 173.391. (A) The department of aging or its designee 15893
shall do all of the following in accordance with Chapter 119. of 15894
the Revised Code: 15895

(1) Certify a ~~person or government entity~~ provider to provide 15896
community-based long-term care services under a program the 15897
department administers if the ~~person or government entity~~ provider 15898

satisfies the requirements for certification established by rules 15899
adopted under division (B) of this section and pays the fee, if 15900
any, established by rules adopted under division (G) of this 15901
section; 15902

(2) When required to do so by rules adopted under division 15903
(B) of this section, take one or more of the following 15904
disciplinary actions against a ~~person or government entity~~ 15905
provider certified under division (A)(1) of this section: 15906

(a) Issue a written warning; 15907

(b) Require the submission of a plan of correction or 15908
evidence of compliance with requirements identified by the 15909
department; 15910

(c) Suspend referrals; 15911

(d) Remove clients; 15912

(e) Impose a fiscal sanction such as a civil monetary penalty 15913
or an order that unearned funds be repaid; 15914

(f) Suspend the certification; 15915

(g) Revoke the certification; 15916

(h) Impose another sanction. 15917

(3) Except as provided in division (E) of this section, hold 15918
hearings when there is a dispute between the department or its 15919
designee and a ~~person or government entity~~ provider concerning 15920
actions the department or its designee takes regarding a decision 15921
not to certify the ~~person or government entity~~ provider under 15922
division (A)(1) of this section or a disciplinary action under 15923
divisions (A)(2)(e) to (h) of this section. 15924

(B) The director of aging shall adopt rules in accordance 15925
with Chapter 119. of the Revised Code establishing certification 15926
requirements and standards for determining which type of 15927
disciplinary action to take under division (A)(2) of this section 15928

in individual situations. The rules shall establish procedures for 15929
all of the following: 15930

(1) Ensuring that ~~community-based long-term care agencies~~ 15931
providers comply with section ~~173.394~~ 173.38 of the Revised Code; 15932

(2) Evaluating the services provided by the ~~agencies~~ 15933
providers to ensure that the services are provided in a quality 15934
manner advantageous to the individual receiving the services; 15935

(3) Determining when to take disciplinary action under 15936
division (A)(2) of this section and which disciplinary action to 15937
take; 15938

(4) Determining what constitutes another sanction for 15939
purposes of division (A)(2)(h) of this section. 15940

(C) The procedures established in rules adopted under 15941
division (B)(2) of this section shall require that all of the 15942
following be considered as part of an evaluation described in 15943
division (B)(2) of this section: 15944

(1) The ~~community-based long-term care agency's~~ provider's 15945
experience and financial responsibility; 15946

(2) The ~~agency's~~ provider's ability to comply with standards 15947
for the community-based long-term care services that the ~~agency~~ 15948
provider provides under a program the department administers; 15949

(3) The ~~agency's~~ provider's ability to meet the needs of the 15950
individuals served; 15951

(4) Any other factor the director considers relevant. 15952

(D) The rules adopted under division (B)(3) of this section 15953
shall specify that the reasons disciplinary action may be taken 15954
under division (A)(2) of this section include good cause, 15955
including misfeasance, malfeasance, nonfeasance, confirmed abuse 15956
or neglect, financial irresponsibility, or other conduct the 15957
director determines is injurious, or poses a threat, to the health 15958

or safety of individuals being served. 15959

(E) Subject to division (F) of this section, the department 15960
is not required to hold hearings under division (A)(3) of this 15961
section if any of the following conditions apply: 15962

(1) Rules adopted by the director of aging pursuant to this 15963
chapter require the ~~community-based long-term care agency~~ provider 15964
to be a party to a provider agreement; hold a license, 15965
certificate, or permit; or maintain a certification, any of which 15966
is required or issued by a state or federal government entity 15967
other than the department of aging, and either of the following is 15968
the case: 15969

(a) The provider agreement has not been entered into or the 15970
license, certificate, permit, or certification has not been 15971
obtained or maintained. 15972

(b) The provider agreement, license, certificate, permit, or 15973
certification has been denied, revoked, not renewed, or suspended 15974
or has been otherwise restricted. 15975

(2) The ~~agency's~~ provider's certification under this section 15976
has been denied, suspended, or revoked for any of the following 15977
reasons: 15978

(a) A ~~government~~ governmental entity of this state, other 15979
than the department of aging, has terminated or refused to renew 15980
any of the following held by, or has denied any of the following 15981
sought by, a ~~community-based long-term care agency~~ provider: a 15982
provider agreement, license, certificate, permit, or 15983
certification. Division (E)(2)(a) of this section applies 15984
regardless of whether the ~~agency~~ provider has entered into a 15985
provider agreement in, or holds a license, certificate, permit, or 15986
certification issued by, another state. 15987

(b) The ~~agency~~ provider or a principal owner or manager of 15988
the ~~agency~~ provider who provides direct care has entered a guilty 15989

plea for, or has been convicted of, an offense materially related 15990
to the medicaid program. 15991

(c) The agency provider or a principal owner or manager of 15992
the agency provider who provides direct care has entered a guilty 15993
plea for, been convicted of, or been found eligible for 15994
intervention in lieu of conviction for an offense listed or 15995
described in divisions (A)(3)(a) to (e) of section 109.572 of the 15996
Revised Code, but only if ~~none of the personal character~~ the 15997
provider, principal owner, or manager does not meet standards 15998
~~established~~ specified by the director in rules adopted under 15999
section ~~173.394~~ 173.38 of the Revised Code ~~apply~~. 16000

(d) The United States department of health and human services 16001
has taken adverse action against the agency provider and that 16002
action impacts the ~~agency's~~ provider's participation in the 16003
medicaid program. 16004

(e) The agency provider has failed to enter into or renew a 16005
provider agreement with the PASSPORT administrative agency, as 16006
that term is defined in section 173.42 of the Revised Code, that 16007
administers programs on behalf of the department of aging in the 16008
region of the state in which the agency provider is certified to 16009
provide services. 16010

(f) The agency provider has not billed or otherwise submitted 16011
a claim to the department for payment under the medicaid program 16012
in at least two years. 16013

(g) The agency provider denied or failed to provide the 16014
department or its designee access to the ~~agency's~~ provider's 16015
facilities during the ~~agency's~~ provider's normal business hours 16016
for purposes of conducting an audit or structural compliance 16017
review. 16018

(h) The agency provider has ceased doing business. 16019

(i) The agency provider has voluntarily relinquished its 16020

certification for any reason. 16021

(3) The ~~agency's provider's~~ provider agreement with the 16022
department of ~~job and family services~~ medicaid has been suspended 16023
under division (C) of section ~~5111.031~~ 5164.37 of the Revised 16024
Code. 16025

(4) The ~~agency's provider's~~ provider agreement with the 16026
department of ~~job and family services~~ medicaid is denied or 16027
revoked because the ~~agency~~ provider or its owner, officer, 16028
authorized agent, associate, manager, or employee has been 16029
convicted of an offense that caused the provider agreement to be 16030
suspended under section ~~5111.031~~ 5164.37 of the Revised Code. 16031

(F) If the department does not hold hearings when any 16032
condition described in division (E) of this section applies, the 16033
department may send a notice to the ~~agency~~ provider describing a 16034
decision not to certify the ~~agency~~ provider under division (A)(1) 16035
of this section or the disciplinary action the department proposes 16036
to take under division (A)(2)(e) to (h) of this section. The 16037
notice shall be sent to the ~~agency's provider's~~ address that is on 16038
record with the department and may be sent by regular mail. 16039

(G) The director of aging may adopt rules in accordance with 16040
Chapter 119. of the Revised Code establishing a fee to be charged 16041
by the department of aging or its designee for certification 16042
issued under this section. 16043

All fees collected by the department or its designee under 16044
this section shall be deposited in the state treasury to the 16045
credit of the provider certification fund, which is hereby 16046
created. Money credited to the fund shall be used to pay for 16047
community-based long-term care services, administrative costs 16048
associated with ~~community-based long-term care~~ agency provider 16049
certification under this section, and administrative costs related 16050
to the publication of the Ohio long-term care consumer guide. 16051

Sec. 173.392. (A) The department of aging may pay a ~~person or~~ 16052
~~government entity~~ provider for providing community-based long-term 16053
care services under a program the department administers, even 16054
though the ~~person or government entity~~ provider is not certified 16055
under section 173.391 of the Revised Code, if all of the following 16056
are the case: 16057

(1) The ~~person or government entity~~ provider has a contract 16058
with the department of aging or the department's designee to 16059
provide the services in accordance with the contract or has 16060
received a grant from the department or its designee to provide 16061
the services in accordance with a grant agreement; 16062

(2) The contract or grant agreement includes detailed 16063
conditions of participation for ~~providers of services under a~~ 16064
~~program the department administers~~ the provider and service 16065
standards that the ~~person or government entity~~ provider is 16066
required to satisfy; 16067

(3) The ~~person or government entity~~ provider complies with 16068
the contract or grant agreement; 16069

(4) The contract or grant is not for medicaid-funded 16070
services, other than services provided under the PACE program 16071
administered by the department of aging under section 173.50 of 16072
the Revised Code. 16073

(B) The director of aging shall adopt rules in accordance 16074
with Chapter 119. of the Revised Code governing both of the 16075
following: 16076

(1) Contracts and grant agreements between the department of 16077
aging or its designee and ~~persons and government entities~~ 16078
~~regarding community based long term care services provided under a~~ 16079
~~program the department administers~~ providers; 16080

(2) The department's payment for community-based long-term 16081

care services under this section. 16082

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the Revised Code: 16083
16084

(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging. 16085
16086
16087

(2) "Department of aging-administered medicaid waiver component" means each of the following: 16088
16089

(a) The medicaid-funded component of the PASSPORT program created under section ~~173.40~~ 173.52 of the Revised Code; 16090
16091

(b) The choices program created under section ~~173.403~~ 173.53 of the Revised Code; 16092
16093

(c) The medicaid-funded component of the assisted living program created under section ~~5111.89~~ 173.54 of the Revised Code; 16094
16095

(d) Any other medicaid waiver component, as defined in section ~~5111.85~~ 5166.01 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code. 16096
16097
16098
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16100

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following: 16101
16102
16103

(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component; 16104
16105

(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section ~~5111.02~~ 5164.02 of the Revised Code: 16106
16107
16108
16109

(i) Home health services; 16110

(ii) Private duty nursing services;	16111
(iii) Durable medical equipment;	16112
(iv) Services of a clinical nurse specialist;	16113
(v) Services of a certified nurse practitioner.	16114
(c) Services available to a participant of the PACE program.	16115
(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.	16116 16117 16118 16119
(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.	16120 16121
(6) "Nursing facility" has the same meaning as in section 5111.20 <u>5165.01</u> of the Revised Code.	16122 16123
(7) (6) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.	16124 16125 16126
(8) (7) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.	16127 16128 16129
(9) (8) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.	16130 16131 16132 16133
(10) (9) "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.	16134 16135 16136 16137 16138
(B) The department of aging shall develop a long-term care	16139

consultation program whereby individuals or their representatives 16140
are provided with long-term care consultations and receive through 16141
these professional consultations information about options 16142
available to meet long-term care needs and information about 16143
factors to consider in making long-term care decisions. The 16144
long-term care consultations provided under the program may be 16145
provided at any appropriate time, as permitted or required under 16146
this section and the rules adopted under it, including either 16147
prior to or after the individual who is the subject of a 16148
consultation has been admitted to a nursing facility or granted 16149
assistance in receiving home and community-based services covered 16150
by medicaid components the department of aging administers. 16151

(C) The long-term care consultation program shall be 16152
administered by the department of aging, except that the 16153
department may have the program administered on a regional basis 16154
by one or more program administrators. The department and each 16155
program administrator shall administer the program in such a 16156
manner that all of the following are included: 16157

(1) Coordination and collaboration with respect to all 16158
available funding sources for long-term care services; 16159

(2) Assessments of individuals regarding their long-term care 16160
service needs; 16161

(3) Assessments of individuals regarding their on-going 16162
eligibility for long-term care services; 16163

(4) Procedures for assisting individuals in obtaining access 16164
to, and coordination of, health and supportive services, including 16165
department of aging-administered medicaid waiver components; 16166

(5) Priorities for using available resources efficiently and 16167
effectively. 16168

(D) The program's long-term care consultations shall be 16169
provided by individuals certified by the department under section 16170

173.422 of the Revised Code. 16171

(E) The information provided through a long-term care 16172
consultation shall be appropriate to the individual's needs and 16173
situation and shall address all of the following: 16174

(1) The availability of any long-term care options open to 16175
the individual; 16176

(2) Sources and methods of both public and private payment 16177
for long-term care services; 16178

(3) Factors to consider when choosing among the available 16179
programs, services, and benefits; 16180

(4) Opportunities and methods for maximizing independence and 16181
self-reliance, including support services provided by the 16182
individual's family, friends, and community. 16183

(F) An individual's long-term care consultation may include 16184
an assessment of the individual's functional capabilities. The 16185
consultation may incorporate portions of the determinations 16186
required under sections ~~5111.202, 5119.061~~ 5119.40, ~~and~~ 5123.021, 16187
and 5165.03 of the Revised Code and may be provided concurrently 16188
with the assessment required under section ~~5111.204~~ 173.546 or 16189
5165.04 of the Revised Code. 16190

(G)(1) Unless an exemption specified in division (I) of this 16191
section is applicable, each of the following shall be provided 16192
with a long-term care consultation: 16193

(a) An individual who applies or indicates an intention to 16194
apply for admission to a nursing facility, regardless of the 16195
source of payment to be used for the individual's care in a 16196
nursing facility; 16197

(b) An individual who requests a long-term care consultation; 16198

(c) An individual identified by the department or a program 16199
administrator as being likely to benefit from a long-term care 16200

consultation. 16201

(2) In addition to the individuals specified in division 16202
(G)(1) of this section, a long-term care consultation may be 16203
provided to a nursing facility resident regardless of the source 16204
of payment being used for the resident's care in the nursing 16205
facility. 16206

(H)(1) Except as provided in division (H)(2) or (3) of this 16207
section, a long-term care consultation provided pursuant to 16208
division (G) of this section shall be provided as follows: 16209

(a) If the individual for whom the consultation is being 16210
provided has applied for medicaid and the consultation is being 16211
provided concurrently with the assessment required under section 16212
~~5111.204~~ 5165.04 of the Revised Code, the consultation shall be 16213
completed in accordance with the applicable time frames specified 16214
in that section for providing a level of care determination based 16215
on the assessment. 16216

(b) In all other cases, the consultation shall be provided 16217
not later than five calendar days after the department or program 16218
administrator receives notice of the reason for which the 16219
consultation is to be provided pursuant to division (G) of this 16220
section. 16221

(2) An individual or the individual's representative may 16222
request that a long-term care consultation be provided on a date 16223
that is later than the date required under division (H)(1)(a) or 16224
(b) of this section. 16225

(3) If a long-term care consultation cannot be completed 16226
within the number of days required by division (H)(1) or (2) of 16227
this section, the department or program administrator may do any 16228
of the following: 16229

(a) In the case of an individual specified in division (G)(1) 16230
of this section, exempt the individual from the consultation 16231

pursuant to rules that may be adopted under division (L) of this section; 16232
16233

(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility; 16234
16235
16236

(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable. 16237
16238

(I) An individual is not required to be provided a long-term care consultation under division (G)(1) of this section if any of the following apply: 16239
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16241

(1) The department or program administrator has attempted to provide the consultation, but the individual or the individual's representative refuses to cooperate; 16242
16243
16244

(2) The individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code; 16245
16246
16247

(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, or an independent living arrangement; 16248
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(4) The individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code; 16257
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16259

(5) The individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 16260
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~~5111.22~~ 5165.07, ~~5111.671~~ 5165.511, or ~~5111.672~~ 5165.512 of the Revised Code;

(6) The individual is exempted from the long-term care consultation requirement by the department or the program administrator pursuant to rules that may be adopted under division (L) of this section.

(J) As part of the long-term care consultation program, the department or program administrator shall assist an individual or individual's representative in accessing all sources of care and services that are appropriate for the individual and for which the individual is eligible, including all available home and community-based services covered by medicaid components the department of aging administers. The assistance shall include providing for the conduct of assessments or other evaluations and the development of individualized plans of care or services under section 173.424 of the Revised Code.

(K) No nursing facility for which an operator has a provider agreement under section ~~5111.22~~ 5165.07, ~~5111.671~~ 5165.511, or ~~5111.672~~ 5165.512 of the Revised Code shall admit any individual as a resident, unless the nursing facility has received evidence that a long-term care consultation has been completed for the individual or division (I) of this section is applicable to the individual.

(L) The director of aging may adopt any rules the director considers necessary for the implementation and administration of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and may specify any or all of the following:

(1) Procedures for providing long-term care consultations pursuant to this section;

(2) Information to be provided through long-term care

consultations regarding long-term care services that are available;	16293 16294
(3) Criteria and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;	16295 16296 16297
(4) Criteria for exempting individuals from the long-term care consultation requirement;	16298 16299
(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;	16300 16301 16302 16303
(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation;	16304 16305
(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident with relocation from the facility;	16306 16307 16308
(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;	16309 16310 16311 16312
(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section.	16313 16314
(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules adopted under <u>authorized</u> <u>by section 5111.02 5165.191</u> of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal	16315 16316 16317 16318 16319 16320 16321 16322

law, the department of health, department of ~~job and family~~ 16323
~~services~~ medicaid, or nursing facility holding the data shall 16324
grant access to the data on receipt of the request from the 16325
department of aging or program administrator. 16326

(N)(1) The director of aging, after providing notice and an 16327
opportunity for a hearing, may fine a nursing facility an amount 16328
determined by rules the director shall adopt in accordance with 16329
Chapter 119. of the Revised Code for any of the following reasons: 16330

(a) The nursing facility admits an individual, without 16331
evidence that a long-term care consultation has been provided, as 16332
required by this section; 16333

(b) The nursing facility denies a person attempting to 16334
provide a long-term care consultation access to the facility or a 16335
resident of the facility; 16336

(c) The nursing facility denies the department of aging or 16337
program administrator access to the facility or a resident of the 16338
facility, as the department or administrator considers necessary 16339
to administer the program. 16340

(2) In accordance with section ~~5111.62~~ 5162.66 of the Revised 16341
Code, all fines collected under division (N)(1) of this section 16342
shall be deposited into the state treasury to the credit of the 16343
residents protection fund. 16344

Sec. 173.43. (A) ~~Subject to section 173.433 of the Revised~~ 16345
~~Code, the~~ The department of aging shall enter into an interagency 16346
agreement with the department of ~~job and family services~~ medicaid 16347
under section ~~5111.91~~ 5162.35 of the Revised Code under which the 16348
department of aging is required to establish for each biennium a 16349
unified long-term care budget for home and community-based 16350
services covered by medicaid components the department of aging 16351
administers. The interagency agreement shall require the 16352

department of aging to do all of the following: 16353

(1) Administer the unified long-term care budget in 16354
accordance with sections 173.43 to 173.434 of the Revised Code and 16355
the general assembly's appropriations for home and community-based 16356
services covered by medicaid components the department of aging 16357
administers for the applicable biennium; 16358

(2) Contract with each PASSPORT administrative agency for 16359
assistance in the administration of the unified long-term care 16360
budget; 16361

(3) Provide individuals who are eligible for home and 16362
community-based services covered by medicaid components the 16363
department of aging administers a choice of services that meet the 16364
individuals' needs and improve their quality of life; 16365

(4) Provide a continuum of services that meet the life-long 16366
needs of individuals who are eligible for home and community-based 16367
services covered by medicaid components the department of aging 16368
administers. 16369

(B) The director of budget and management shall create new 16370
appropriation items as necessary for establishment of the unified 16371
long-term care budget. 16372

Sec. 173.431. ~~Subject to section 173.433 of the Revised Code,~~ 16373
~~the~~ The department of aging shall ensure that the unified 16374
long-term care budget established under section 173.43 of the 16375
Revised Code is administered in a manner that provides medicaid 16376
coverage of and expands access to all of the following as 16377
necessary to meet the needs of individuals receiving home and 16378
community-based services covered by medicaid components the 16379
department of aging administers: 16380

(A) To the extent permitted by the medicaid waivers 16381
authorizing department of aging-administered medicaid waiver 16382

components, all of the following medicaid waiver services provided	16383
under department of aging-administered medicaid waiver components:	16384
(1) Personal care services;	16385
(2) Home-delivered meals;	16386
(3) Adult day-care;	16387
(4) Homemaker services;	16388
(5) Emergency response services;	16389
(6) Medical equipment and supplies;	16390
(7) Chore services;	16391
(8) Social work counseling;	16392
(9) Nutritional counseling;	16393
(10) Independent living assistance;	16394
(11) Medical transportation;	16395
(12) Nonmedical transportation;	16396
(13) Home care attendant services;	16397
(14) Assisted living services;	16398
(15) Community transition services;	16399
(16) Enhanced community living services;	16400
(17) All other medicaid waiver services provided under	16401
department of aging-administered medicaid waiver components.	16402
(B) All of the following state medicaid plan services as	16403
specified in rules adopted under section 5111.02 <u>5164.02</u> of the	16404
Revised Code:	16405
(1) Home health services;	16406
(2) Private duty nursing services;	16407
(3) Durable medical equipment;	16408

- (4) Services of a clinical nurse specialist; 16409
- (5) Services of a certified nurse practitioner. 16410
- (C) The services that the PACE program provides. 16411

Sec. 173.432. ~~Subject to section 173.433 of the Revised Code,~~ 16412
~~the~~ The department of aging or its designee shall provide care 16413
management and authorization services with regard to the state 16414
plan services specified in division (B) of section 173.431 of the 16415
Revised Code that are provided to participants of department of 16416
aging-administered medicaid waiver components. The department or 16417
its designee shall ensure that no person providing the care 16418
management and authorization services performs an activity that 16419
may not be performed without a valid certificate or license issued 16420
by an agency of this state unless the person holds the valid 16421
certificate or license. 16422

Sec. 173.434. ~~The director of job and family services shall~~ 16423
~~adopt~~ To the extent authorized by rules under authorized by 16424
section ~~5111.85~~ 5162.021 of the Revised Code ~~to authorize,~~ the 16425
director of aging ~~to~~ shall adopt rules that are needed to 16426
implement sections 173.43 to 173.432 of the Revised Code. The 16427
~~director of aging's~~ rules shall be adopted in accordance with 16428
Chapter 119. of the Revised Code. 16429

Sec. 173.45. As used in this section and in sections 173.46 16430
to 173.49 of the Revised Code: 16431

(A) "Residential facility" means a residential facility 16432
licensed under section ~~5119.22~~ 5119.34 of the Revised Code that 16433
provides accommodations, supervision, and personal care services 16434
for three to sixteen unrelated adults. 16435

(B) "Community-based long-term care services" has the same 16436
meaning as in section 173.14 of the Revised Code. 16437

(C) "Long-term care facility" means a nursing home or residential care facility. 16438
16439

(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 16440
16441

(E) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code. 16442
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Sec. 173.47. (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from long-term care facility residents, their families, or both. A survey that is to include information obtained from nursing facility residents shall include the questions specified in divisions (C)(7)(a) and (b) and (18) and (D)(7)(a) and (b) of section ~~5111.244~~ 5165.25 of the Revised Code. A survey that is to include information obtained from the families of nursing facility residents shall include the questions specified in divisions (C)(8)(a) and (b) and (19) and (D)(8)(a) and (b) of section ~~5111.244~~ 5165.25 of the Revised Code. 16444
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(B) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey. 16457
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Sec. 173.48. (A)(1) The department of aging may charge annual fees to long-term care facilities for the publication of the Ohio long-term care consumer guide. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with division (B) of this section. 16459
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(2) The annual fees charged under this section shall not exceed the following amounts: 16465
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(a) Six hundred fifty dollars for each long-term care 16467

facility that is a nursing home; 16468

(b) Three hundred dollars for each long-term care facility 16469
that is a residential care facility. 16470

(3) Fees paid by a long-term care facility that is a nursing 16471
facility shall be reimbursed through the medicaid program ~~operated~~ 16472
~~under Chapter 5111. of the Revised Code.~~ 16473

(B) There is hereby created in the state treasury the 16474
long-term care consumer guide fund. Money collected from the fees 16475
charged for the publication of the Ohio long-term care consumer 16476
guide under division (A) of this section shall be credited to the 16477
fund. The department shall use money in the fund for costs 16478
associated with publishing the Ohio long-term care consumer guide, 16479
including, but not limited to, costs incurred in conducting or 16480
providing for the conduct of customer satisfaction surveys. 16481

Sec. 173.50. (A) Pursuant to a contract entered into with the 16482
department of ~~job and family services~~ medicaid as an interagency 16483
agreement under section ~~5111.91~~ 5162.35 of the Revised Code, the 16484
department of aging shall carry out the day-to-day administration 16485
of the component of the medicaid program ~~established under Chapter~~ 16486
~~5111. of the Revised Code~~ known as the program of all-inclusive 16487
care for the elderly or PACE. The department of aging shall carry 16488
out its PACE administrative duties in accordance with the 16489
provisions of the interagency agreement and all applicable federal 16490
laws, including the "Social Security Act," ~~79 Stat. 286 (1965)~~ 16491
section 1934, 42 U.S.C. 1396u-4, ~~as amended.~~ 16492

(B) ~~The department~~ To the extent authorized by rules 16493
authorized by section 5162.021 of the Revised Code, the director 16494
of aging may adopt rules in accordance with Chapter 119. of the 16495
Revised Code regarding the PACE program, including rules 16496
establishing priorities for enrolling in the program pursuant to 16497
section 173.501 of the Revised Code. The ~~department's~~ rules are 16498

~~subject to both of the following:~~ 16499

~~(1) The rules shall be authorized by rules adopted by the~~ 16500
~~department of job and family services.~~ 16501

~~(2) The rules shall address only those issues that are not~~ 16502
addressed in rules adopted by the ~~department of job and family~~ 16503
~~services~~ medicaid director for the PACE program. 16504

Sec. 173.501. (A) As used in this section: 16505

"Nursing facility" has the same meaning as in section ~~5111.20~~ 16506
5165.01 of the Revised Code. 16507

"PACE provider" has the same meaning as in the "Social 16508
Security Act," section 1934(a)(3), 42 U.S.C. 1396u-4(a)(3). 16509

(B) The department of aging shall establish a home first 16510
component of the PACE program under which eligible individuals may 16511
be enrolled in the PACE program in accordance with this section. 16512
An individual is eligible for the PACE program's home first 16513
component if both of the following apply: 16514

(1) The individual has been determined to be eligible for the 16515
PACE program. 16516

(2) At least one of the following applies: 16517

(a) The individual has been admitted to a nursing facility. 16518

(b) A physician has determined and documented in writing that 16519
the individual has a medical condition that, unless the individual 16520
is enrolled in home and community-based services such as the PACE 16521
program, will require the individual to be admitted to a nursing 16522
facility within thirty days of the physician's determination. 16523

(c) The individual has been hospitalized and a physician has 16524
determined and documented in writing that, unless the individual 16525
is enrolled in home and community-based services such as the PACE 16526
program, the individual is to be transported directly from the 16527

hospital to a nursing facility and admitted. 16528

(d) Both of the following apply: 16529

(i) The individual is the subject of a report made under 16530
section 5101.61 of the Revised Code regarding abuse, neglect, or 16531
exploitation or such a report referred to a county department of 16532
job and family services under section 5126.31 of the Revised Code 16533
or has made a request to a county department for protective 16534
services as defined in section 5101.60 of the Revised Code. 16535

(ii) A county department of job and family services and an 16536
area agency on aging have jointly documented in writing that, 16537
unless the individual is enrolled in home and community-based 16538
services such as the PACE program, the individual should be 16539
admitted to a nursing facility. 16540

(C) Each month, the department of aging shall identify 16541
individuals who are eligible for the home first component of the 16542
PACE program. When the department identifies such an individual, 16543
the department shall notify the PACE provider serving the area in 16544
which the individual resides. The PACE provider shall determine 16545
whether the PACE program is appropriate for the individual and 16546
whether the individual would rather participate in the PACE 16547
program than continue or begin to reside in a nursing facility. If 16548
the PACE provider determines that the PACE program is appropriate 16549
for the individual and the individual would rather participate in 16550
the PACE program than continue or begin to reside in a nursing 16551
facility, the PACE provider shall so notify the department of 16552
aging. On receipt of the notice from the PACE provider, the 16553
department of aging shall approve the individual's enrollment in 16554
the PACE program in accordance with priorities established in 16555
rules adopted under section 173.50 of the Revised Code. 16556

Sec. 173.51. As used in sections 173.51 to 173.56 of the 16557
Revised Code: 16558

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code. 16559
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"Assisted living program" means the program that consists of a medicaid-funded component created under section 173.54 of the Revised Code and a state-funded component created under section 173.543 of the Revised Code and provides assisted living services to individuals who meet the program's applicable eligibility requirements. 16561
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"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming. 16567
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"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program. 16571
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"Choices program" means the program created under section 173.53 of the Revised Code. 16575
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"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code. 16577
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"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code. 16579
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"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity. 16582
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"Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code. 16587
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"Nursing facility" has the same meaning as in section 5165.01 of the Revised Code. 16589
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"PASSPORT program" means the preadmission screening system providing options and resources today program (PASSPORT) that consists of a medicaid-funded component created under section 173.52 of the Revised Code and a state-funded component created under section 173.522 of the Revised Code and provides home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled and meet the program's applicable eligibility requirements. 16591
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"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the PASSPORT program. 16599
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"Representative" means a person acting on behalf of an applicant for the medicaid-funded component or state-funded component of the assisted living program. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant. 16602
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"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code. 16607
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"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5166.14 of the Revised Code. 16609
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~~Sec. 173.40 173.52. (A) As used in sections 173.40 to 173.402 of the Revised Code:~~ 16612
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~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 16614
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~~"PASSPORT program" means the program created under this section.~~ 16616
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~~"PASSPORT waiver" means the federal medicaid waiver granted~~ 16618

~~by the United States secretary of health and human services that~~ 16619
~~authorizes the medicaid funded component of the PASSPORT program.~~ 16620

~~"Unified long term services and support medicaid waiver~~ 16621
~~component" means the medicaid waiver component authorized by~~ 16622
~~section 5111.864 of the Revised Code.~~ 16623

~~(B) There is hereby created~~ The department of medicaid shall 16624
create the medicaid-funded component of the preadmission screening 16625
~~system providing options and resources today program, or PASSPORT~~ 16626
~~program.~~ The PASSPORT program shall provide home and 16627
~~community based services as an alternative to nursing facility~~ 16628
~~placement for individuals who are aged and disabled and meet the~~ 16629
~~program's applicable eligibility requirements. Subject to division~~ 16630
~~(C) of this section, the program shall have a medicaid funded~~ 16631
~~component and a state funded component.~~ In creating the 16632
medicaid-funded component, the department of medicaid shall 16633
collaborate with the department of aging. 16634

~~(C)(1)(B)~~ (B) Unless the medicaid-funded component of the 16635
PASSPORT program is terminated under division ~~(C)(2)~~ of this 16636
section, all of the following apply: 16637

~~(a)(1)~~ (1) The department of aging shall administer the 16638
medicaid-funded component through a contract entered into with the 16639
department of ~~job and family services~~ medicaid under section 16640
~~5111.91~~ 5162.35 of the Revised Code. 16641

~~(b)(2)~~ (2) The medicaid-funded component shall be operated as a 16642
separate medicaid waiver component. 16643

~~(e)(3)~~ (3) For an individual to be eligible for the 16644
medicaid-funded component, the individual must be a medicaid 16645
recipient and meet the additional eligibility requirements 16646
applicable to the individual established in rules adopted under 16647
division ~~(C)(1)(d)~~ (B)(4) of this section. 16648

~~(d) The director of job and family services shall adopt~~ (4) 16649

~~To the extent authorized by rules under authorization by section 5111.85 5162.021 of the Revised Code and, the director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the medicaid-funded component.~~ 16650
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~~(2)(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services medicaid shall work together to determine whether the medicaid-funded component of the PASSPORT program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the PASSPORT program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.~~ 16654
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~~(D)(1) The department of aging shall administer the state funded component of the PASSPORT program. The state funded component shall not be administered as part of the medicaid program.~~ 16663
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~~(2) For an individual to be eligible for the state funded component, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D)(4) of this section:~~ 16667
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~~(a) The individual must have been enrolled in the state funded component on September 1, 1991, (as the state funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid funded component (or, if the medicaid funded component is terminated under division (C)(2) of this section, the unified long term services and support medicaid waiver component) denied.~~ 16672
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~~(b) The individual must have had the individual's enrollment in the medicaid funded component (or, if the medicaid funded~~ 16679
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~~component is terminated under division (C)(2) of this section, the unified long term services and support medicaid waiver component) terminated and the individual must still need the home and community based services provided under the PASSPORT program to protect the individual's health and safety.~~

~~(c) The individual must have an application for the medicaid funded component (or, if the medicaid funded component is terminated under division (C)(2) of this section, the unified long term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid funded component (or, if the medicaid funded component is terminated under division (C)(2) of this section, the unified long term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid funded component (or, if the medicaid funded component is terminated under division (C)(2) of this section, the unified long term services and support medicaid waiver component).~~

~~(3) An individual who is eligible for the state funded component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component on that basis for not more than ninety days.~~

~~(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section.~~

~~**Sec. 173.401 173.521.** (A) As used in this section:~~

~~"Area agency on aging" has the same meaning as in section~~

~~173.14 of the Revised Code.~~ 16712

~~"Long term care consultation program" means the program the 16713
department of aging is required to develop under section 173.42 of 16714
the Revised Code. 16715~~

~~"Long term care consultation program administrator" or 16716
"administrator" means the department of aging or, if the 16717
department contracts with an area agency on aging or other entity 16718
to administer the long term care consultation program for a 16719
particular area, that agency or entity. 16720~~

~~"Nursing facility" has the same meaning as in section 5111.20 16721
of the Revised Code. 16722~~

~~(B) Subject Unless the medicaid-funded component of the 16723
PASSPORT program is terminated pursuant to division (C)(2) of 16724
section ~~173.40~~ 173.52 of the Revised Code, the department shall 16725
establish a home first component of the PASSPORT program under 16726
which eligible individuals may be enrolled in the medicaid-funded 16727
component of the PASSPORT program in accordance with this section. 16728
An individual is eligible for the PASSPORT program's home first 16729
component if both of the following apply: 16730~~

~~(1) The individual has been determined to be eligible for the 16731
medicaid-funded component of the PASSPORT program. 16732~~

~~(2) At least one of the following applies: 16733~~

~~(a) The individual has been admitted to a nursing facility. 16734~~

~~(b) A physician has determined and documented in writing that 16735
the individual has a medical condition that, unless the individual 16736
is enrolled in home and community-based services such as the 16737
PASSPORT program, will require the individual to be admitted to a 16738
nursing facility within thirty days of the physician's 16739
determination. 16740~~

~~(c) The individual has been hospitalized and a physician has 16741~~

determined and documented in writing that, unless the individual 16742
is enrolled in home and community-based services such as the 16743
PASSPORT program, the individual is to be transported directly 16744
from the hospital to a nursing facility and admitted. 16745

(d) Both of the following apply: 16746

(i) The individual is the subject of a report made under 16747
section 5101.61 of the Revised Code regarding abuse, neglect, or 16748
exploitation or such a report referred to a county department of 16749
job and family services under section 5126.31 of the Revised Code 16750
or has made a request to a county department for protective 16751
services as defined in section 5101.60 of the Revised Code. 16752

(ii) A county department of job and family services and an 16753
area agency on aging have jointly documented in writing that, 16754
unless the individual is enrolled in home and community-based 16755
services such as the PASSPORT program, the individual should be 16756
admitted to a nursing facility. 16757

~~(C)~~(B) Each month, each area agency on aging shall identify 16758
individuals residing in the area that the agency serves who are 16759
eligible for the home first component of the PASSPORT program. 16760
When an area agency on aging identifies such an individual, the 16761
agency shall notify the long-term care consultation program 16762
administrator serving the area in which the individual resides. 16763
The administrator shall determine whether the PASSPORT program is 16764
appropriate for the individual and whether the individual would 16765
rather participate in the PASSPORT program than continue or begin 16766
to reside in a nursing facility. If the administrator determines 16767
that the PASSPORT program is appropriate for the individual and 16768
the individual would rather participate in the PASSPORT program 16769
than continue or begin to reside in a nursing facility, the 16770
administrator shall so notify the department of aging. On receipt 16771
of the notice from the administrator, the department shall approve 16772
the individual's enrollment in the medicaid-funded component of 16773

the PASSPORT program regardless of the unified waiting list 16774
established under section ~~173.404~~ 173.55 of the Revised Code, 16775
unless the enrollment would cause the component to exceed any 16776
limit on the number of individuals who may be enrolled in the 16777
component as set by the United States secretary of health and 16778
human services in the PASSPORT waiver. 16779

Sec. 173.522. (A) The department of aging shall create and 16780
administer the state-funded component of the PASSPORT program. The 16781
state-funded component shall not be administered as part of the 16782
medicaid program. 16783

(B) For an individual to be eligible for the state-funded 16784
component of the PASSPORT program, the individual must meet one of 16785
the following requirements and meet the additional eligibility 16786
requirements applicable to the individual established in rules 16787
adopted under division (D) of this section: 16788

(1) The individual must have been enrolled in the 16789
state-funded component on September 1, 1991, (as the state-funded 16790
component was authorized by uncodified law in effect at that time) 16791
and have had one or more applications for enrollment in the 16792
medicaid-funded component of the PASSPORT program (or, if the 16793
medicaid-funded component is terminated under division (C) of 16794
section 173.52 of the Revised Code, the unified long-term services 16795
and support medicaid waiver component) denied. 16796

(2) The individual must have had the individual's enrollment 16797
in the medicaid-funded component of the PASSPORT program (or, if 16798
the medicaid-funded component is terminated under division (C) of 16799
section 173.52 of the Revised Code, the unified long-term services 16800
and support medicaid waiver component) terminated and the 16801
individual must still need the home and community-based services 16802
provided under the PASSPORT program to protect the individual's 16803
health and safety. 16804

(3) The individual must have an application for the 16805
medicaid-funded component of the PASSPORT program (or, if the 16806
medicaid-funded component is terminated under division (C) of 16807
section 173.52 of the Revised Code, the unified long-term services 16808
and support medicaid waiver component) pending and the department 16809
or the department's designee must have determined that the 16810
individual meets the nonfinancial eligibility requirements of the 16811
medicaid-funded component (or, if the medicaid-funded component is 16812
terminated under division (C) of section 173.52 of the Revised 16813
Code, the unified long-term services and support medicaid waiver 16814
component) and not have reason to doubt that the individual meets 16815
the financial eligibility requirements of the medicaid-funded 16816
component (or, if the medicaid-funded component is terminated 16817
under division (C) of section 173.52 of the Revised Code, the 16818
unified long-term services and support medicaid waiver component). 16819

(C) An individual who is eligible for the state-funded 16820
component of the PASSPORT program because the individual meets the 16821
requirement of division (B)(3) of this section may participate in 16822
the component on that basis for not more than ninety days. 16823

(D) The director of aging shall adopt rules in accordance 16824
with section 111.15 of the Revised Code to implement the 16825
state-funded component of the PASSPORT program. The additional 16826
eligibility requirements established in the rules may vary for the 16827
different groups of individuals specified in divisions (B)(1), 16828
(2), and (3) of this section. 16829

Sec. 173.523. (A) An individual who is an applicant for or 16830
participant or former participant in the state-funded component of 16831
the PASSPORT program may appeal an adverse action taken or 16832
proposed to be taken by the department of aging or an entity 16833
designated by the department concerning participation in or 16834
services provided under the component if the action will result in 16835

<u>any of the following:</u>	16836
<u>(1) Denial of enrollment or continued enrollment in the</u>	16837
<u>component;</u>	16838
<u>(2) Denial of or reduction in the amount of services</u>	16839
<u>requested by or offered to the individual under the component;</u>	16840
<u>(3) Assessment of any patient liability payment pursuant to</u>	16841
<u>rules adopted by the department under this section.</u>	16842
<u>The appeal shall be made in accordance with section 173.56 of</u>	16843
<u>the Revised Code and rules adopted pursuant to that section.</u>	16844
<u>(B) An individual who is an applicant for or participant or</u>	16845
<u>former participant in the state-funded component of the PASSPORT</u>	16846
<u>program may not bring an appeal under this or any other section of</u>	16847
<u>the Revised Code if any of the following is the case:</u>	16848
<u>(1) The individual has voluntarily withdrawn the application</u>	16849
<u>for enrollment in the component;</u>	16850
<u>(2) The individual has voluntarily terminated enrollment in</u>	16851
<u>the component;</u>	16852
<u>(3) The individual agrees with the action being taken or</u>	16853
<u>proposed;</u>	16854
<u>(4) The individual fails to submit a written request for a</u>	16855
<u>hearing to the director of aging within the time specified in the</u>	16856
<u>rules adopted pursuant to section 173.56 of the Revised Code;</u>	16857
<u>(5) The individual has received services under the component</u>	16858
<u>for the maximum time permitted by this section.</u>	16859
Sec. 173.402 <u>173.524</u>. An individual enrolled in the PASSPORT	16860
program may request that home-delivered meals provided to the	16861
individual under the PASSPORT program be kosher. If such a request	16862
is made, the department of aging or the department's designee	16863

shall ensure that each home-delivered meal provided to the 16864
individual under the PASSPORT program is kosher. In complying with 16865
this requirement, the department or department's designee shall 16866
require each entity that provides home-delivered meals to the 16867
individual to provide the individual with meals that meet, as much 16868
as possible, the requirements established in rules adopted under 16869
~~section 173.40~~ sections 173.52 and 173.522 of the Revised Code 16870
governing the home-delivered meal service while complying with 16871
kosher practices for meal preparation and dietary restrictions. 16872

An entity that provides a kosher home-delivered meal to a 16873
PASSPORT program enrollee pursuant to this section shall be 16874
reimbursed for the meal at a rate equal to the rate for 16875
home-delivered meals furnished to PASSPORT program enrollees 16876
requiring a therapeutic diet. 16877

Sec. ~~173.403~~ 173.53. (A) ~~As used in this section:~~ 16878

~~"Choices program" means the program created under this 16879
section.~~ 16880

~~"Medicaid waiver component" has the same meaning as in 16881
section 5111.85 of the Revised Code.~~ 16882

~~"Unified long term services and support medicaid waiver 16883
component" means the medicaid waiver component authorized by 16884
section 5111.864 of the Revised Code.~~ 16885

~~(B) Subject to division (C) of this section, there is hereby 16886
created The department of medicaid shall create the choices 16887
program. In creating the choices program, the department of 16888
medicaid shall collaborate with the department of aging. Subject 16889
to division (B) of this section: 16890~~

~~(1) The choices program shall provide home and 16891
community-based services. ~~The~~ 16892~~

(2) The department of aging shall administer the choices 16893
program through a contract entered into with the department of ~~job~~ 16894
~~and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the 16895
Revised Code. ~~Subject to federal approval, the~~ 16896

(3) The choices program shall be available statewide. 16897

~~(C)~~(B) If the unified long-term services and support medicaid 16898
waiver component is created, the departments of aging and ~~job and~~ 16899
~~family services~~ medicaid shall ~~work together~~ collaborate to 16900
determine whether the choices program should continue to operate 16901
as a separate medicaid waiver component or be terminated. If the 16902
departments determine that the choices program should be 16903
terminated, the program shall cease to exist on a date the 16904
departments shall specify. 16905

(C) If the choices program is terminated pursuant to division 16906
(B) of this section or for another reason, not sooner than six 16907
months before the date on which the program ceases to exist, the 16908
director of aging may do both of the following: 16909

(1) Suspend new enrollments in the choices program; 16910

(2) Transfer participants of the choices program to the 16911
following: 16912

(a) Except as provided in division (C)(2)(b) of this section, 16913
the medicaid-funded component of the PASSPORT program created 16914
under section 173.52 of the Revised Code; 16915

(b) If the medicaid-funded component of the PASSPORT program 16916
is terminated pursuant to division (C) of section 173.52 of the 16917
Revised Code, the unified long-term services and support medicaid 16918
waiver component. 16919

Sec. ~~5111.89~~ 173.54. (A) ~~As used in sections 5111.89 to~~ 16920
~~5111.894 of the Revised Code:~~ 16921

~~"Area agency on aging" has the same meaning as in section~~ 16922

173.14 of the Revised Code.	16923
"Assisted living program" means the program created under this section.	16924
"Assisted living services" means the following home and community based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.	16925
"Assisted living services" means the following home and community based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.	16926
"Assisted living services" means the following home and community based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.	16927
"Assisted living services" means the following home and community based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.	16928
"Assisted living services" means the following home and community based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.	16929
"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid funded component of the assisted living program.	16930
"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid funded component of the assisted living program.	16931
"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid funded component of the assisted living program.	16932
"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid funded component of the assisted living program.	16933
"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.	16934
"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.	16935
"Long term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.	16936
"Long term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.	16937
"Long term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.	16938
"Long term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.	16939
"Long term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.	16940
"Long term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.	16941
"Long term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.	16942
"Long term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.	16943
"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.	16944
"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.	16945
"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	16946
"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	16947
"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.	16948
"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.	16949
"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.	16950
"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.	16951
"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.	16952

~~(B) There is hereby created~~ The department of medicaid shall 16953
create the medicaid-funded component of the assisted living 16954
program. The program shall provide assisted living services to 16955
individuals who meet the program's applicable eligibility 16956
requirements. Subject to division (C) of this section, the program 16957
shall have a medicaid funded component and a state funded 16958
component In creating the medicaid-funded component, the 16959
department of medicaid shall collaborate with the department of 16960
aging. 16961

~~(C)(1)(B)~~ Unless the medicaid-funded component of the 16962
assisted living program is terminated under division (C)~~(2)~~ of 16963
this section, all of the following apply: 16964

~~(a)(1)~~ The department of aging shall administer the 16965
medicaid-funded component through a contract entered into with the 16966
department of ~~job and family services~~ medicaid under section 16967
~~5111.91~~ 5162.35 of the Revised Code. 16968

~~(b)(2)~~ The contract shall include an estimate of the 16969
medicaid-funded component's costs. 16970

~~(c)(3)~~ The medicaid-funded component shall be operated as a 16971
separate medicaid waiver component. 16972

~~(d)(4)~~ The medicaid-funded component may not serve more 16973
individuals than is set by the United States secretary of health 16974
and human services in the assisted living waiver. 16975

~~(e)~~ ~~The director of job and family services may adopt rules~~ 16976
~~under section 5111.85 of the Revised Code regarding the~~ 16977
~~medicaid funded component.~~ 16978

~~(f)~~ The (5) To the extent authorized by rules authorized by 16979
section 5162.021 of the Revised Code, the director of aging may 16980
adopt rules under Chapter 119. of the Revised Code regarding the 16981
medicaid-funded component ~~that the rules adopted by the director~~ 16982
~~of job and family services under division (C)(1)(c) of this~~ 16983

~~section authorize the director of aging to adopt.~~ 16984

~~(2)(C)~~ If the unified long-term services and support medicaid 16985
waiver component is created, the departments of aging and ~~job and~~ 16986
~~family services~~ medicaid shall ~~work together~~ collaborate to 16987
determine whether the medicaid-funded component of the assisted 16988
living program should continue to operate as a separate medicaid 16989
waiver component or be terminated. If the departments determine 16990
that the medicaid-funded component of the assisted living program 16991
should be terminated, the medicaid-funded component shall cease to 16992
exist on a date the departments shall specify. 16993

~~(D) The department of aging shall administer the state funded~~ 16994
~~component of the assisted living program. The state funded~~ 16995
~~component shall not be administered as part of the medicaid~~ 16996
~~program.~~ 16997

~~An individual who is eligible for the state funded component~~ 16998
~~may participate in the component for not more than ninety days.~~ 16999

~~The director of aging shall adopt rules in accordance with~~ 17000
~~section 111.15 of the Revised Code to implement the state funded~~ 17001
~~component.~~ 17002

Sec. ~~5111.891~~ 173.541. To be eligible for the medicaid-funded 17003
component of the assisted living program, an individual must meet 17004
all of the following requirements: 17005

(A) Need an intermediate level of care as determined ~~under~~ 17006
~~rule 5101:3-3-06~~ by an assessment conducted under section 173.546 17007
of the ~~Administrative~~ Revised Code; 17008

(B) While receiving assisted living services under the 17009
medicaid-funded component, reside in a residential care facility 17010
that is authorized by a valid medicaid provider agreement to 17011
participate in the component, including both of the following: 17012

(1) A residential care facility that is owned or operated by 17013

a metropolitan housing authority that has a contract with the 17014
United States department of housing and urban development to 17015
receive an operating subsidy or rental assistance for the 17016
residents of the facility; 17017

(2) A county or district home licensed as a residential care 17018
facility. 17019

(C) Meet all other eligibility requirements for the 17020
medicaid-funded component established in rules adopted pursuant to 17021
~~division (C) of~~ under section ~~5111.89~~ 173.54 of the Revised Code. 17022

Sec. ~~5111.894~~ 173.542. (A) ~~Subject~~ Unless the medicaid-funded 17023
component of the assisted living program is terminated pursuant to 17024
division (C)~~(2)~~ of section ~~5111.89~~ 173.54 of the Revised Code, the 17025
department of aging shall establish a home first component of the 17026
assisted living program under which eligible individuals may be 17027
enrolled in the medicaid-funded component of the assisted living 17028
program in accordance with this section. An individual is eligible 17029
for the assisted living program's home first component if both of 17030
the following apply: 17031

(1) The individual has been determined to be eligible for the 17032
medicaid-funded component of the assisted living program. 17033

(2) At least one of the following applies: 17034

(a) The individual has been admitted to a nursing facility. 17035

(b) A physician has determined and documented in writing that 17036
the individual has a medical condition that, unless the individual 17037
is enrolled in home and community-based services such as the 17038
assisted living program, will require the individual to be 17039
admitted to a nursing facility within thirty days of the 17040
physician's determination. 17041

(c) The individual has been hospitalized and a physician has 17042
determined and documented in writing that, unless the individual 17043

is enrolled in home and community-based services such as the 17044
assisted living program, the individual is to be transported 17045
directly from the hospital to a nursing facility and admitted. 17046

(d) Both of the following apply: 17047

(i) The individual is the subject of a report made under 17048
section 5101.61 of the Revised Code regarding abuse, neglect, or 17049
exploitation or such a report referred to a county department of 17050
job and family services under section 5126.31 of the Revised Code 17051
or has made a request to a county department for protective 17052
services as defined in section 5101.60 of the Revised Code. 17053

(ii) A county department of job and family services and an 17054
area agency on aging have jointly documented in writing that, 17055
unless the individual is enrolled in home and community-based 17056
services such as the assisted living program, the individual 17057
should be admitted to a nursing facility. 17058

(B) Each month, each area agency on aging shall identify 17059
individuals residing in the area that the area agency on aging 17060
serves who are eligible for the home first component of the 17061
assisted living program. When an area agency on aging identifies 17062
such an individual and determines that there is a vacancy in a 17063
residential care facility participating in the medicaid-funded 17064
component of the assisted living program that is acceptable to the 17065
individual, the agency shall notify the long-term care 17066
consultation program administrator serving the area in which the 17067
individual resides. The administrator shall determine whether the 17068
assisted living program is appropriate for the individual and 17069
whether the individual would rather participate in the assisted 17070
living program than continue or begin to reside in a nursing 17071
facility. If the administrator determines that the assisted living 17072
program is appropriate for the individual and the individual would 17073
rather participate in the assisted living program than continue or 17074
begin to reside in a nursing facility, the administrator shall so 17075

notify the department of aging. On receipt of the notice from the 17076
administrator, the department shall approve the individual's 17077
enrollment in the medicaid-funded component of the assisted living 17078
program regardless of the unified waiting list established under 17079
section ~~173.404~~ 173.55 of the Revised Code, unless the enrollment 17080
would cause the component to exceed any limit on the number of 17081
individuals who may participate in the component as set by the 17082
United States secretary of health and human services in the 17083
assisted living waiver. 17084

Sec. 173.543. The department of aging shall create and 17085
administer the state-funded component of the assisted living 17086
program. The state-funded component shall not be administered as 17087
part of the medicaid program. 17088

An individual who is eligible for the state-funded component 17089
may participate in the component for not more than ninety days. 17090

The director of aging shall adopt rules in accordance with 17091
section 111.15 of the Revised Code to implement the state-funded 17092
component. 17093

Sec. ~~5111.892~~ 173.544. To be eligible for the state-funded 17094
component of the assisted living program, an individual must meet 17095
all of the following requirements: 17096

(A) The individual must need an intermediate level of care as 17097
determined ~~under rule 5101:3-3-06~~ by an assessment conducted under 17098
section 173.546 of the Administrative Revised Code. 17099

(B) The individual must have an application for the 17100
medicaid-funded component of the assisted living program (or, if 17101
the medicaid-funded component is terminated under division (C)~~(2)~~ 17102
of section ~~5111.89~~ 173.54 of the Revised Code, the unified 17103
long-term services and support medicaid waiver component) pending 17104
and the department or the department's designee must have 17105

determined that the individual meets the nonfinancial eligibility 17106
requirements of the medicaid-funded component (or, if the 17107
medicaid-funded component is terminated under division (C)~~(2)~~ of 17108
section ~~5111.89~~ 173.54 of the Revised Code, the unified long-term 17109
services and support medicaid waiver component) and not have 17110
reason to doubt that the individual meets the financial 17111
eligibility requirements of the medicaid-funded component (or, if 17112
the medicaid-funded component is terminated under division (C)~~(2)~~ 17113
of section ~~5111.89~~ 173.54 of the Revised Code, the unified 17114
long-term services and support medicaid waiver component). 17115

(C) While receiving assisted living services under the 17116
state-funded component, the individual must reside in a 17117
residential care facility that is authorized by a valid provider 17118
agreement to participate in the component, including both of the 17119
following: 17120

(1) A residential care facility that is owned or operated by 17121
a metropolitan housing authority that has a contract with the 17122
United States department of housing and urban development to 17123
receive an operating subsidy or rental assistance for the 17124
residents of the facility; 17125

(2) A county or district home licensed as a residential care 17126
facility. 17127

(D) The individual must meet all other eligibility 17128
requirements for the state-funded component established in rules 17129
adopted under ~~division (D)~~ of section ~~5111.89~~ 173.54 of the 17130
Revised Code. 17131

Sec. 173.545. (A) An individual who is an applicant for or 17132
participant or former participant in the state-funded component of 17133
the assisted living program may appeal an adverse action taken or 17134
proposed to be taken by the department of aging or an entity 17135
designated by the department concerning participation in or 17136

services provided under the component if the action will result in 17137
any of the following: 17138

(1) Denial of enrollment or continued enrollment in the 17139
component; 17140

(2) Denial of or reduction in the amount of services 17141
requested by or offered to the individual under the component; 17142

(3) Assessment of any patient liability payment pursuant to 17143
rules adopted by the department under this section. 17144

The appeal shall be made in accordance with section 173.56 of 17145
the Revised Code and rules adopted pursuant to that section. 17146

(B) An individual who is an applicant for or participant or 17147
former participant in the state-funded component of the assisted 17148
living program may not bring an appeal under this or any other 17149
section of the Revised Code if any of the following is the case: 17150

(1) The individual has voluntarily withdrawn the application 17151
for enrollment in the component; 17152

(2) The individual has voluntarily terminated enrollment in 17153
the component; 17154

(3) The individual agrees with the action being taken or 17155
proposed; 17156

(4) The individual fails to submit a written request for a 17157
hearing to the director of aging within the time specified in the 17158
rules adopted pursuant to section 173.56 of the Revised Code; 17159

(5) The individual has received services under the component 17160
for the maximum time permitted by this section. 17161

Sec. 173.546. (A) Each applicant for the assisted living 17162
program shall undergo an assessment to determine whether the 17163
applicant needs an intermediate level of care. The department of 17164

medicaid or an agency under contract pursuant to division (C) of this section shall conduct the assessment. The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code. 17165
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(B) An applicant or applicant's representative has the right to appeal an assessment's findings. Section 5160.31 of the Revised Code applies to appeals regarding the medicaid-funded component of the assisted living program. The department or an agency under contract to conduct the assessment shall provide written notice of this right to the applicant or applicant's representative and the residential care facility in which the applicant intends to reside if enrolled in the assisted living program. The notice shall include an explanation of the appeal procedures. The department or agency under contract to conduct the assessment shall represent the state in any appeal of an assessment's findings. 17169
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(C) The department may contract with one or more agencies to perform assessments under this section. A contract shall specify the agency's responsibilities regarding the assessments. 17180
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Sec. ~~5111.893~~ 173.547. A residential care facility providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following: 17183
17184
17185
17186

(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence; 17187
17188
17189

(B) Provide supervision services for those individuals; 17190

(C) Help keep the individuals safe and secure. 17191

Sec. ~~173.404~~ 173.55. (A) As used in this section: 17192

(1) "Department of aging-administered medicaid waiver 17193

component" means each of the following: 17194

(a) The medicaid-funded component of the PASSPORT program 17195
~~created under section 173.40 of the Revised Code;~~ 17196

(b) The choices program ~~created under section 173.403 of the~~ 17197
~~Revised Code;~~ 17198

(c) The medicaid-funded component of the assisted living 17199
program ~~created under section 5111.89 of the Revised Code.~~ 17200

(2) "PACE program" means the component of the medicaid 17201
program the department of aging administers pursuant to section 17202
173.50 of the Revised Code. 17203

(B) If the department of aging determines that there are 17204
insufficient funds to enroll all individuals who have applied and 17205
been determined eligible for department of aging-administered 17206
medicaid waiver components and the PACE program, the department 17207
shall establish a unified waiting list for the components and 17208
program. Only individuals eligible for a department of 17209
aging-administered medicaid waiver component or the PACE program 17210
may be placed on the unified waiting list. An individual who may 17211
be enrolled in a department of aging-administered medicaid waiver 17212
component or the PACE program through a home first component 17213
established under section ~~173.401~~, 173.501, 173.521 or ~~5111.894~~ 17214
173.542 of the Revised Code may be so enrolled without being 17215
placed on the unified waiting list. 17216

Sec. 173.56. (A) The department of aging shall adopt rules in 17217
accordance with section 111.15 of the Revised Code governing 17218
appeals brought under section 173.523 or 173.545 of the Revised 17219
Code. The rules shall require notice and the opportunity for a 17220
hearing. The rules may allow an appeal hearing to be conducted by 17221
telephone and permit the department to record hearings conducted 17222
by telephone. Chapter 119. of the Revised Code applies to a 17223

hearing under section 173.523 or 173.545 of the Revised Code only 17224
to the extent provided in rules the department adopts under this 17225
section. 17226

(B) An appeal shall be commenced by submission of a written 17227
request for a hearing to the director of aging within the time 17228
specified in the rules adopted under this section. The hearing may 17229
be recorded, but neither the recording nor a transcript of the 17230
recording is part of the official record of the proceeding. The 17231
director shall notify the individual bringing the appeal of the 17232
director's decision and of the procedure for appealing the 17233
decision. 17234

(C) The director's decision may be appealed to a court of 17235
common pleas pursuant to section 119.12 of the Revised Code. The 17236
appeal shall be governed by that section except as follows: 17237

(1) The appeal shall be in the court of common pleas of the 17238
county in which the individual who brings the appeal resides or, 17239
if the individual does not reside in this state, to the Franklin 17240
county court of common pleas. 17241

(2) The notice of appeal must be mailed to the department and 17242
filed with the court not later than thirty days after the 17243
department mails notice of the director's decision. For good cause 17244
shown, the court may extend the time for mailing and filing the 17245
notice of appeal, but the time cannot exceed six months from the 17246
date the department mails the notice of the director's decision. 17247

(3) If an individual applies to the court for designation as 17248
an indigent and the court grants the application, the individual 17249
shall not be required to furnish the costs of the appeal. 17250

(4) The department is required to file a transcript of the 17251
testimony of the state hearing with the court only if the court 17252
orders that the transcript be filed. The court shall make such an 17253

order only if it finds that the department and the individual 17254
bringing the appeal are unable to stipulate to the facts of the 17255
case and that the transcript is essential to a determination of 17256
the appeal. The department shall file the transcript not later 17257
than thirty days after such an order is issued. 17258

Sec. 173.60. (A) As used in this section: 17259

(1) "Nursing home" has the same meaning as in section 3721.01 17260
of the Revised Code. 17261

(2) "Person-centered care" means a relationship-based 17262
approach to care that honors and respects the opinions of 17263
individuals receiving care and those working closely with them. 17264

(B) The department of aging shall implement a nursing home 17265
quality initiative to improve person-centered care that nursing 17266
homes provide. The office of the state long-term care ombudsman 17267
program shall assist the department with the initiative. The 17268
initiative shall include quality improvement projects that provide 17269
nursing homes with resources and on-site education promoting 17270
person-centered strategies and positive resident outcomes, as well 17271
as other assistance designed to improve the quality of nursing 17272
home services. 17273

(C) The department shall make available a list of quality 17274
improvement projects offered by the following entities that may be 17275
used by nursing homes in meeting the requirements of section 17276
3721.072 of the Revised Code: 17277

(1) The department; 17278

(2) A quality improvement organization under contract with 17279
the United States secretary of health and human services to carry 17280
out the state functions described in section 1154 of the "Social 17281
Security Act," 42 U.S.C. 1320c-3; 17282

(3) Other state agencies; 17283

<u>(4) The Ohio person-centered care coalition;</u>	17284
<u>(5) Any other academic, research, or health care entity identified by the department.</u>	17285 17286
<u>(D) The department shall consult with representatives of nursing homes when developing the list of quality improvement projects under division (C) of this section and include projects that the department and representatives agree should be on the list.</u>	17287 17288 17289 17290 17291
<u>(E) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.</u>	17292 17293 17294
Sec. 173.99. (A) A long-term care provider, person employed by a long-term care provider, other entity, or employee of such other entity that violates division (C) of section 173.24 of the Revised Code is subject to a fine not to exceed one thousand dollars for each violation.	17295 17296 17297 17298 17299
(B) Whoever violates division (C) of section 173.23 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.	17300 17301 17302
(C) A long-term care provider, other entity, or person employed by a long-term care provider or other entity that violates division (E) of section 173.19 of the Revised Code by denying a representative of the office of the state long-term care ombudsperson <u>ombudsman</u> program the access required by that division is subject to a fine not to exceed five hundred dollars for each violation.	17303 17304 17305 17306 17307 17308 17309
(D) Whoever violates division (C) of section 173.44 of the Revised Code is subject to a fine of one hundred dollars.	17310 17311
Sec. 191.01. As used in this chapter:	17312

(A) "Administrative safeguards," "availability,"	17313
"confidentiality," "integrity," "physical safeguards," and	17314
"technical safeguards" have the same meanings as in 45 C.F.R.	17315
164.304.	17316
(B) "Business associate," "covered entity," "health plan,"	17317
"individually identifiable health information," and "protected	17318
health information" have the same meanings as in 45 C.F.R.	17319
160.103.	17320
(C) "Executive director of the office of health	17321
transformation" or "executive director" means the executive	17322
director of the office of health transformation or the chief	17323
administrative officer of a successor governmental entity	17324
responsible for health system oversight in this state.	17325
(D) "Government program providing public benefits" means any	17326
program administered by a state agency that has been identified,	17327
pursuant to section 191.02 of the Revised Code, by the executive	17328
director of the office of health transformation in consultation	17329
with the individuals specified in that section.	17330
(E) "Office of health transformation" means the office of	17331
health transformation created by executive order 2011-02K.	17332
(F) "Operating protocol" means a protocol adopted by the	17333
executive director of the office of health transformation or the	17334
executive director's designee under division (D) of section 191.06	17335
of the Revised Code.	17336
(G) "Participating agency" means a state agency that	17337
participates in a health transformation initiative as specified in	17338
the one or more operating protocols adopted for the initiative	17339
under division (D) of section 191.06 of the Revised Code.	17340
(H) "Personally identifiable information" means information	17341
that meets both of the following criteria:	17342

(1) It identifies an individual or there is a reasonable basis to believe that it may be used to identify an individual; 17343
17344

(2) It relates to an individual's eligibility for, application for, or receipt of public benefits from a government program providing public benefits. 17345
17346
17347

(I) "State agency" means each of the following: 17348

(1) The department of aging; 17349

(2) ~~The department of alcohol and drug addiction services;~~ 17350

~~(3) The department of development services agency;~~ 17351

~~(4)~~(3) The department of developmental disabilities; 17352

~~(5)~~(4) The department of education; 17353

~~(6)~~(5) The department of health; 17354

~~(7)~~(6) The department of insurance; 17355

~~(8)~~(7) The department of job and family services; 17356

~~(9)~~(8) The department of medicaid; 17357

(9) The department of ~~mental health~~ mental health and addiction services; 17358
17359

(10) The department of rehabilitation and correction; 17360

(11) The department of taxation; 17361

(12) The department of veterans services; 17362

(13) The department of youth services. 17363

(J) "Unsecured" has the same meaning as in 16 C.F.R. 318.2. 17364

Sec. 191.02. The executive director of the office of health transformation, in consultation with all of the following individuals, shall identify each government program administered by a state agency that is to be considered a government program providing public benefits for purposes of section 191.04 of the 17365
17366
17367
17368
17369

Revised Code:	17370
(A) The director of aging;	17371
(B) The director of alcohol and drug addiction services;	17372
(C) The director of development <u>services</u> ;	17373
(D) <u>(C)</u> The director of developmental disabilities;	17374
(E) <u>(D)</u> The director of health;	17375
(F) <u>(E)</u> The director <u>of</u> job and family services;	17376
(G) <u>(F)</u> <u>The director of medicaid;</u>	17377
<u>(G)</u> The director of mental health <u>mental health and addiction</u>	17378
<u>services</u> ;	17379
(H) The director of rehabilitation and correction;	17380
(I) The director of veterans services;	17381
(J) The director of youth services;	17382
(K) The administrator of the rehabilitation services	17383
commission;	17384
(L) The administrator of workers' compensation;	17385
(M) The superintendent of insurance;	17386
(N) The superintendent of public instruction;	17387
(O) The tax commissioner.	17388
Sec. 191.04. (A) In accordance with federal laws governing	17389
the confidentiality of individually identifiable health	17390
information, including the "Health Insurance Portability and	17391
Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021,	17392
42 U.S.C. 1320d et seq., as amended, and regulations promulgated	17393
by the United States department of health and human services to	17394
implement the act, a state agency may exchange protected health	17395
information with another state agency relating to eligibility for	17396

or enrollment in a health plan or relating to participation in a 17397
government program providing public benefits if the exchange of 17398
information is necessary for either or both of the following: 17399

(1) Operating a health plan; 17400

(2) Coordinating, or improving the administration or 17401
management of, the health care-related functions of at least one 17402
government program providing public benefits. 17403

(B) For fiscal ~~year~~ years 2013, 2014, and 2015 only, a state 17404
agency also may exchange personally identifiable information with 17405
another state agency for purposes related to and in support of a 17406
health transformation initiative identified by the executive 17407
director of the office of health transformation pursuant to 17408
division (C) of section 191.06 of the Revised Code. 17409

(C) With respect to a state agency that uses or discloses 17410
personally identifiable information, all of the following 17411
conditions apply: 17412

(1) The state agency shall use or disclose the information 17413
only as permitted or required by state and federal law. In 17414
addition, if the information is obtained during fiscal year 2013 17415
from an exchange of personally identifiable information permitted 17416
under division (B) of this section, the agency shall also use or 17417
disclose the information in accordance with all operating 17418
protocols that apply to the use or disclosure. 17419

(2) If the state agency is a state agency other than the 17420
department of ~~job and family services~~ medicaid and it uses or 17421
discloses protected health information that is related to a 17422
medicaid recipient and obtained from the department of ~~job and~~ 17423
~~family services~~ medicaid or another agency operating a component 17424
of the medicaid program, the state agency shall comply with all 17425
state and federal laws that apply to the department of ~~job and~~ 17426

~~family services~~ medicaid when that department, as the state's 17427
single state agency to supervise the medicaid program ~~as specified~~ 17428
~~in section 5111.01 of the Revised Code~~, uses or discloses 17429
protected health information. 17430

(3) A state agency shall implement administrative, physical, 17431
and technical safeguards for the purpose of protecting the 17432
confidentiality, integrity, and availability of personally 17433
identifiable information the creation, receipt, maintenance, or 17434
transmittal of which is affected or governed by this section. 17435

(4) If a state agency discovers an unauthorized use or 17436
disclosure of unsecured protected health information or unsecured 17437
individually identifiable health information, the state agency 17438
shall, not later than seventy-two hours after the discovery, do 17439
all of the following: 17440

(a) Identify the individuals who are the subject of the 17441
protected health information or individually identifiable health 17442
information; 17443

(b) Report the discovery and the names of all individuals 17444
identified pursuant to division (C)(4)(a) of this section to all 17445
other state agencies and the executive director of the office of 17446
health transformation or the executive director's designee; 17447

(c) Mitigate, to the extent reasonably possible, any 17448
potential adverse effects of the unauthorized use or disclosure. 17449

(5) A state agency shall make available to the executive 17450
director of the office of health transformation or the executive 17451
director's designee, and to any other state or federal 17452
governmental entity required by law to have access on that 17453
entity's request, all internal practices, records, and 17454
documentation relating to personally identifiable information it 17455
receives, uses, or discloses that is affected or governed by this 17456
section. 17457

(6) On termination or expiration of an operating protocol and 17458
if feasible, a state agency shall return or destroy all personally 17459
identifiable information received directly from or received on 17460
behalf of another state agency. If the personally identifiable 17461
information is not returned or destroyed, the state agency 17462
maintaining the information shall extend the protections set forth 17463
in this section for as long as it is maintained. 17464

(7) If a state agency enters into a subcontract or, when 17465
required by 45 C.F.R. 164.502(e)(2), a business associate 17466
agreement, the subcontract or business associate agreement shall 17467
require the subcontractor or business associate to comply with the 17468
terms of this section as if the subcontractor or business 17469
associate were a state agency. 17470

Sec. 191.06. (A) The provisions of this section shall apply 17471
only for fiscal ~~year~~ years 2013, 2014, and 2015. 17472

(B) The executive director of the office of health 17473
transformation or the executive director's designee may facilitate 17474
the coordination of operations and exchange of information between 17475
state agencies. The purpose of the executive director's authority 17476
under this section is to support agency collaboration for health 17477
transformation purposes, including modernization of the medicaid 17478
program, streamlining of health and human services programs in 17479
this state, and improving the quality, continuity, and efficiency 17480
of health care and health care support systems in this state. 17481

(C) In furtherance of the authority of the executive director 17482
of the office of health transformation under division (B) of this 17483
section, the executive director or the executive director's 17484
designee shall identify each health transformation initiative in 17485
this state that involves the participation of two or more state 17486
agencies and that permits or requires an interagency agreement to 17487
be entered into for purposes of specifying each participating 17488

agency's role in coordinating, operating, or funding the 17489
initiative, or facilitating the exchange of data or other 17490
information for the initiative. The executive director shall 17491
publish a list of the identified health transformation initiatives 17492
on the internet web site maintained by the office of health 17493
transformation. 17494

(D) For each health transformation initiative that is 17495
identified under division (C) of this section, the executive 17496
director or the executive director's designee shall, in 17497
consultation with each participating agency, adopt one or more 17498
operating protocols. Notwithstanding any law enacted by the 17499
general assembly or rule adopted by a state agency, the provisions 17500
in a protocol shall supersede any provisions in an interagency 17501
agreement, including an interagency agreement entered into under 17502
section 5101.10 or ~~5111.91~~ 5162.35 of the Revised Code, that 17503
differ from the provisions of the protocol. 17504

(E)(1) An operating protocol adopted under division (D) of 17505
this section shall include both of the following: 17506

(a) All terms necessary to meet the requirements of "other 17507
arrangements" between a covered entity and a business associate 17508
that are referenced in 45 C.F.R. 164.314(a)(2)(ii); 17509

(b) If known, the date on which the protocol will terminate 17510
or expire. 17511

(2) In addition, a protocol may specify the extent to which 17512
each participating agency is responsible and accountable for 17513
completing the tasks necessary for successful completion of the 17514
initiative, including tasks relating to the following components 17515
of the initiative: 17516

(a) Workflow; 17517

(b) Funding; 17518

(c) Exchange of data or other information that is 17519
confidential pursuant to state or federal law. 17520

(F) An operating protocol adopted under division (D) of this 17521
section shall have the same force and effect as an interagency 17522
agreement or data sharing agreement, and each participating agency 17523
shall comply with it. 17524

~~(G) The director of job and family services shall determine 17525
whether a waiver of federal medicaid requirements or a medicaid 17526
state plan amendment is necessary to fulfill the requirements of 17527
this section. If the director determines a waiver or medicaid 17528
state plan amendment is necessary, the director shall apply to the 17529
United States secretary of health and human services for the 17530
waiver or amendment. 17531~~

Sec. 191.061. (A) As used in this section: 17532

(1) "Core competencies" means the minimum standards a direct 17533
care worker must meet when providing direct care services and 17534
engaging in any one or more of the following activities associated 17535
with care for a medicaid recipient: maintaining a clean and safe 17536
environment, ensuring recipient-centered care, promoting the 17537
recipient's development, assisting the recipient with activities 17538
of daily living, communicating with the recipient, completing 17539
administrative tasks, and participating in professional 17540
development activities. 17541

(2) "Direct care services" means health care services, 17542
ancillary services, or services related to or in support of the 17543
provision of health care or ancillary services. 17544

(3) "Direct care worker" means an individual who, for direct 17545
or indirect payment, provides direct care services to a medicaid 17546
recipient in the recipient's home, place of residence, or other 17547
setting as specified in rules adopted under section 5164.02 of the 17548

Revised Code. 17549

(B) Not later than June 30, 2014, the executive director of 17550
the office of health transformation or the executive director's 17551
designee, in consultation with the medicaid director and the 17552
directors of aging, developmental disabilities, health, and mental 17553
health and addiction services, shall execute an operating protocol 17554
in accordance with division (D) of section 191.06 of the Revised 17555
Code documenting the manner in which each of the directors' 17556
departments determine that direct care workers associated with 17557
programs administered by the departments demonstrate core 17558
competencies. The executive director or the executive director's 17559
designee and any one or more of the directors may decide that core 17560
competencies are demonstrated by a direct care worker attaining 17561
certification through the direct care worker certification program 17562
established by the director of health under section 3701.95 of the 17563
Revised Code. A decision to this effect does not preclude a 17564
director from specifying additional requirements a direct care 17565
worker must meet to participate in a program administered by the 17566
director's department. 17567

Sec. 305.23. (A) As used in this section: 17568

(1) "County office" means the offices of the county 17569
commissioner, county auditor, county treasurer, county engineer, 17570
county recorder, county prosecuting attorney, county sheriff, 17571
county coroner, county park district, veterans service commission, 17572
clerk of the juvenile court, clerks of court for all divisions of 17573
the courts of common pleas, including the clerk of the court of 17574
common pleas, clerk of a county-operated municipal court, and 17575
clerk of a county court, and any agency, department, or division 17576
under the authority of, or receiving funding in whole or in part 17577
from, any of those county offices. 17578

(2) "Human resources" means any and all functions relating to 17579

human resource management, including civil service, employee 17580
benefits administration, collective bargaining, labor relations, 17581
risk management, workers' compensation, unemployment compensation, 17582
and any human resource management function required by state or 17583
federal law, but "human resources" does not authorize a board of 17584
county commissioners to adopt a resolution establishing a 17585
centralized human resource service that requires any county office 17586
to conform to any classification and compensation plan, position 17587
descriptions, or organizational structure; to determine the rate 17588
of compensation of any employee appointed by the appointing 17589
authority of a county office or the salary ranges for positions of 17590
a county office within the aggregate limits set in the 17591
appropriation resolution of the board of county commissioners; to 17592
determine the number of or the terms of employment of any employee 17593
appointed by the appointing authority of a county office within 17594
the aggregate limits set in the board's appropriation resolution; 17595
or to exercise powers relating to the hiring, qualifications, 17596
evaluation, suspension, demotion, disciplinary action, layoff, 17597
furloughing, establishment of a modified work-week schedule, or 17598
the termination of any employee appointed by the appointing 17599
authority of any county office. 17600

(B) Subject to division (C) of this section, a board of 17601
county commissioners may adopt a resolution establishing 17602
centralized purchasing, printing, transportation, vehicle 17603
maintenance, human resources, revenue collection, and mail 17604
operation services for a county office. Before adopting a 17605
resolution under this section, the board of county commissioners, 17606
in a written notice, shall inform any other county office that 17607
will be impacted by the resolution of the board's desire to 17608
establish a centralized service or services. The written notice 17609
shall include a statement that provides the rationale and the 17610
estimated savings anticipated for centralizing a service or 17611
services. In addition, the board may request any other county 17612

office to serve as the agent and responsible party for 17613
administering a centralized service or services. That county 17614
office may enter into an agreement with the board of county 17615
commissioners to administer the centralized service or services 17616
under such terms and conditions as are included in the agreement, 17617
but nothing in this section authorizes the board of county 17618
commissioners to require a county office to serve as the agent and 17619
responsible party for administering a centralized service or 17620
services at the board's request. 17621

A resolution establishing a centralized service or services 17622
shall specify all of the following: 17623

(1) The name of the county office that will be the agent and 17624
responsible party for administering a centralized service or 17625
services, and if the agent and responsible party is not the board 17626
of county commissioners, the designation of the county office that 17627
has entered into an agreement under division (B) of this section 17628
with the board to be the agent and responsible party; 17629

(2) Which county offices are required to use the centralized 17630
services; 17631

(3) If not all of the centralized services, which centralized 17632
service each county office must use; 17633

(4) A list of rates and charges the county office shall pay 17634
for the centralized services; 17635

(5) The date upon which each county office specified in the 17636
resolution shall begin using the centralized services. 17637

Not later than ten days after a resolution is adopted under 17638
this section, the clerk of the board of county commissioners shall 17639
send a copy of the resolution to each county office that is 17640
specified in the resolution. 17641

(C) A board of county commissioners shall not adopt a 17642

resolution that establishes a centralized service or services 17643
regarding any of the following: 17644

(1) Purchases made for contract services with moneys from the 17645
special fund designated as "general fund moneys to supplement the 17646
~~equipment~~ technology needs of the county recorder" under section 17647
317.321 of the Revised Code or from the funds that are paid out of 17648
the general fund of the county under sections 325.071 and 325.12 17649
of the Revised Code; 17650

(2) Purchases made with moneys from the real estate 17651
assessment fund established under section 325.31 of the Revised 17652
Code; 17653

(3) Purchases of financial software used by the county 17654
auditor; 17655

(4) The printing of county property tax bills; 17656

(5) The collection of any taxes, assessments, and fees the 17657
county treasurer is required by law to collect; 17658

(6) Purchases of software used by the county recorder. 17659

(D) Nothing in this section authorizes the board of county 17660
commissioners to have control or authority over funds that are 17661
received directly by a county office under another section of the 17662
Revised Code, or to control, or have authority regarding, the 17663
expenditure or use of such funds. 17664

Sec. 307.07. (A) The board of county commissioners, by 17665
resolution, may create an office of economic development, to 17666
develop and promote plans and programs designed to assure that 17667
county resources are efficiently used, economic growth is properly 17668
balanced, and that county economic development is coordinated with 17669
that of the state and other local governments. For this purpose, 17670
the board may appropriate moneys from the county general fund, or, 17671
pursuant to section 307.64 of the Revised Code, moneys derived 17672

from a tax levied pursuant to division (EE) of section 5705.19 of 17673
the Revised Code, for the creation and operation of the office 17674
for, any economic development purpose of the office, and to 17675
provide for the establishment and operation of a program of 17676
economic development, including in support of a county land 17677
reutilization corporation organized under Chapter 1724. of the 17678
Revised Code. The board may hire a director of economic 17679
development, who shall be a member of the unclassified civil 17680
service, and fix the director's compensation; or may do any of the 17681
following: 17682

(1) Enter into an agreement with a county planning commission 17683
within the county, created under section 713.22 of the Revised 17684
Code, or a regional planning commission, created under section 17685
713.21 of the Revised Code, regardless of whether the county is a 17686
member of the commission, to carry out all of the functions and 17687
duties of a director of economic development under division (B) of 17688
this section. Any agreement shall set forth the procedure by which 17689
the county or regional planning commission shall gain the approval 17690
of the board of county commissioners for any actions, functions, 17691
and duties under division (B) of this section. Any agreement may 17692
continue in effect for a period of one to three years and may be 17693
renewed with the consent of all parties. The civil service status 17694
of planning commission staff shall not be affected by any 17695
agreement under this division. 17696

(2) Enter into an agreement with ~~the Ohio cooperative~~ OSU 17697
extension ~~service~~, providing for the use of employees hired by the 17698
Ohio state university under section 3335.36 of the Revised Code to 17699
carry out all of the functions and duties of a director of 17700
economic development under division (B) of this section. Any 17701
agreement shall set forth the procedure by which ~~the Ohio~~ 17702
~~cooperative~~ OSU extension ~~service~~ shall gain the approval of the 17703
board of county commissioners for any actions, functions, and 17704

duties under division (B) of this section. Any agreement may 17705
continue in effect for a period of one to three years and may be 17706
renewed with the consent of all parties. The employment 17707
classification of ~~Ohio cooperative~~ OSU extension ~~service~~ employees 17708
shall not be affected by any agreement under this division. 17709

Any moneys appropriated by the board of county commissioners 17710
to execute an agreement for the provision of services pursuant to 17711
this section by ~~the Ohio cooperative~~ OSU extension ~~service~~ shall 17712
be paid to the Ohio state university to the credit of the ~~Ohio~~ 17713
~~cooperative~~ OSU extension ~~service~~ fund created under section 17714
3335.35 of the Revised Code. 17715

(3) Enter into an agreement with a public or private 17716
nonprofit organization to carry out all of the functions and 17717
duties of a director of economic development under division (B) of 17718
this section. The agreement shall set forth the procedure by which 17719
the nonprofit organization shall gain the approval of the board of 17720
county commissioners for any actions, functions, and duties under 17721
that division. The agreement may continue in effect for a period 17722
of one to three years and may be renewed with the consent of all 17723
parties. The employment classification of the nonprofit 17724
organization's employees shall not be affected by an agreement 17725
under this division. 17726

(B) The director of economic development may: 17727

(1) With the approval of the board, hire such staff and 17728
employ such technical and advisory personnel as the director sees 17729
fit to enable the director to carry out the functions and duties 17730
of the office; 17731

(2) With the approval of the board, contract for services 17732
necessary to enable the director to carry out the functions and 17733
duties of the office; 17734

(3) With the approval of the board, enter into agreements 17735

with federal, state, and local governments and agencies thereof, 17736
and with public, private, or nonprofit organizations to carry out 17737
the functions and duties of the office; 17738

(4) Maintain membership in development organizations; 17739

(5) With the approval of the board, make loans or grants and 17740
provide other forms of financial assistance for the purpose of 17741
economic development, including financial assistance for permanent 17742
public improvements, in compliance with applicable laws of this 17743
state, and fix the rate of interest and charges to be made for 17744
such financial assistance; 17745

(6) With the approval of the board, receive and accept 17746
grants, gifts, and contributions of money, property, labor, and 17747
other things of value, to be held, used, and applied only for the 17748
purpose for which they are made, from individuals, private and 17749
public corporations, the United States government or any agency 17750
thereof, from the state or any agency thereof, or from any 17751
political subdivision or any agency thereof, and may agree to 17752
repay any contribution of money or return any property contributed 17753
or the value thereof in amounts, and on terms and conditions, 17754
excluding the payment of interest, as the director determines, and 17755
may evidence the obligations by written evidence; 17756

(7) Establish with the board any funds that are necessary for 17757
the deposit and disbursement of gifts or contributions of money 17758
accepted for economic development purposes; 17759

(8) With the approval of the board, design, implement, 17760
monitor, oversee, and evaluate economic development plans, 17761
programs, strategies, and policies; 17762

(9) Purchase real property to convey to a county land 17763
reutilization corporation to be used in accordance with its public 17764
purposes; 17765

(10) Perform all acts necessary to fulfill the functions and 17766

duties of the office. 17767

(C) The boards of county commissioners of two or more 17768
counties, by resolution, may create a joint office of economic 17769
development for the purposes set forth in division (A) of this 17770
section. The counties participating in a joint office of economic 17771
development shall enter into an agreement that sets forth the 17772
contribution of funds, services, and property to the joint office 17773
from each participating county; establishes the person, public 17774
agency, or nonprofit organization that shall carry out the 17775
functions and duties of the office; and discloses any other terms 17776
by which the joint office shall operate. 17777

The boards of county commissioners of counties participating 17778
in a joint office of economic development may appropriate moneys 17779
from their respective county general funds, or, pursuant to 17780
section 307.64 of the Revised Code, moneys derived from a tax 17781
levied pursuant to division (EE) of section 5705.19 of the Revised 17782
Code, for the creation and operation of the joint office, for any 17783
economic development purpose of the office, and to provide for the 17784
establishment and operation of a program of economic development. 17785
The participating counties may hire a director of economic 17786
development for the joint office or enter into an agreement with a 17787
public agency or nonprofit organization in a manner set forth in 17788
division (A) of this section to carry out the functions and duties 17789
set forth in division (B) of this section. 17790

Any agreement establishing a joint office of economic 17791
development shall set forth the procedure by which the person, 17792
public agency, or nonprofit organization carrying out the 17793
functions and duties of the office shall gain the approval of the 17794
participating boards of county commissioners for any actions, 17795
functions, and duties under division (B) of this section. 17796

(D) As used in this section, "economic development" has the 17797
same meaning as in section 307.64 of the Revised Code. 17798

Sec. 307.673. This section applies only in a county in which
a tax is levied under section 307.697, 4301.421, 5743.024, or
5743.323 of the Revised Code on ~~the effective date of this~~
~~amendment~~ July 19, 1995.

(A) As used in this section:

(1) "County taxes" means taxes levied by a board of county
commissioners or legislative authority of a charter county under
division (D) of section 307.697, division (B) of section 4301.421,
division (C) of section 5743.024, and section 5743.323 of the
Revised Code.

(2) "Corporation" means a nonprofit corporation organized
under the laws of this state and that includes among the purposes
for which it is incorporated the authority to acquire, construct,
renovate, equip, lease, manage, or operate a sports facility.

(3) "Cooperative agreement" means an agreement entered into
pursuant to this section.

(4) "Cost of a sports facility" means the cost of acquiring,
constructing, renovating, equipping, or improving one or more
sports facilities, including reconstructing, rehabilitating,
remodeling, and enlarging; the cost of equipping and furnishing
such a facility; and all financing costs pertaining thereto,
including the cost of engineering, architectural, and other
professional services, designs, plans, specifications and surveys,
and estimates of costs; the costs of refinancing obligations
issued by, or reimbursement of money advanced by, the parties to
the cooperative agreement or other persons, the proceeds of which
obligations were used to pay the costs of the sports facility; the
cost of tests and inspections; the cost of any indemnity or surety
bonds and premiums on insurance, all related direct and
administrative costs pertaining thereto, fees and expenses of
trustees, depositories, and paying agents for the obligations,

capitalized interest on the obligations, amounts necessary to 17830
establish reserves as required by the obligation proceedings, the 17831
reimbursement of money advanced or applied by the parties to the 17832
cooperative agreement or other persons for the payment of any item 17833
of costs of the sports facility, and all other expenses necessary 17834
or incident to planning or determining the feasibility or 17835
practicability with respect to the sports facility; and any other 17836
such expenses as may be necessary or incident to the acquisition, 17837
construction, reconstruction, rehabilitation, remodeling, 17838
renovation, enlargement, improvement, equipping, and furnishing of 17839
the sports facility, the financing of the sports facility, placing 17840
the sports facility in use and operation, including any one, part 17841
of, or combination of such classes of costs and expenses. 17842

(5) "Financing costs" has the same meaning as in section 17843
133.01 of the Revised Code. 17844

(6) "Obligations" means obligations issued or incurred to pay 17845
the cost of a sports facility, including bonds, notes, 17846
certificates of indebtedness, commercial paper, and other 17847
instruments in writing, anticipatory securities as defined in 17848
section 133.01 of the Revised Code, issued or incurred by an 17849
issuer pursuant to Chapter 133. or 4582. of the Revised Code or 17850
this section, or otherwise, to evidence the issuer's obligation to 17851
repay borrowed money, or to pay interest, by, or to pay at any 17852
future time other money obligations of, the issuer of the 17853
obligations, including obligations of an issuer or lessee to make 17854
payments under an installment sale, lease, lease-purchase, or 17855
similar agreement. 17856

(7) "Owner" means any person that owns or operates a 17857
professional athletic or sports team, that is party to a 17858
cooperative agreement, or that has a lease or other agreement with 17859
a party to a cooperative agreement, and that commits to use the 17860
sports facility that is the subject of the cooperative agreement 17861

for all of the team's home games for the period specified in that agreement. 17862
17863

(8) "Payments," when used with reference to obligations, 17864
means payments of the principal, including any mandatory sinking 17865
fund deposits and mandatory redemption payments, interest and any 17866
redemption premium, and lease rentals, lease-purchase payments and 17867
other amounts payable under obligations in the form of installment 17868
sale, lease, lease-purchase, or similar agreements. 17869

(9) "Person" has the same meaning as defined in section 17870
133.01 of the Revised Code. 17871

(10) "Port authority" means a port authority created under 17872
Chapter 4582. of the Revised Code. 17873

(11) "Sports facility" means a facility, including a stadium, 17874
that is intended to house or provide a site for one or more major 17875
league professional athletic or sports teams or activities, 17876
together with all spectator facilities, parking facilities, 17877
walkways, and auxiliary facilities, real and personal property, 17878
property rights, easements, leasehold estates, and interests that 17879
may be appropriate for, or used in connection with, the operation 17880
of the sports facility. 17881

(B) The board of county commissioners of a county, the 17882
legislative authority of a municipal corporation, a port 17883
authority, a corporation, and an owner, or any combination 17884
thereof, may enter into one or more cooperative agreements under 17885
which the parties enter into one or more of the agreements 17886
described in divisions (B)(1) to (5) of this section. 17887

(1) The board of county commissioners agrees to do one or 17888
more of the following: 17889

(a) Levy a tax under division (D) of section 307.697, 17890
division (B) of section 4301.421, division (C) of section 17891
5743.024, and section 5743.323 of the Revised Code and make 17892

available all or a portion of the revenue from those taxes for the 17893
payment of the cost of the sports facility or to make payments on 17894
obligations; 17895

(b) Issue or incur obligations of the county pursuant to 17896
Chapter 133. of the Revised Code or this section; 17897

(c) Make available all or a portion of the revenue from those 17898
taxes or of the proceeds from the issuance of those obligations to 17899
the municipal corporation, port authority, corporation, or 17900
otherwise for the payment of the cost of a sports facility or the 17901
payment of obligations; 17902

(d) Acquire, construct, renovate, equip, lease to or from 17903
another person, and operate, directly or by a lease or management 17904
contract with another person, one or more sports facilities; 17905

(e) To the extent provided in the cooperative agreement or a 17906
lease with respect to a sports facility, authorize the municipal 17907
corporation, port authority, corporation, or owner to administer 17908
contracts for designing, planning, acquiring, constructing, 17909
renovating, or equipping a sports facility. 17910

(2) The port authority agrees to do one or more of the 17911
following: 17912

(a) Issue or incur obligations of the port authority pursuant 17913
to Chapter 133. or 4582. of the Revised Code or this section; 17914

(b) Make available all or a portion of the proceeds from the 17915
issuance of those obligations to the municipal corporation, 17916
county, or corporation for the payment of the cost of a sports 17917
facility or the payment of obligations; 17918

(c) Acquire, construct, renovate, equip, lease to or from 17919
another person, and operate, directly or by a lease or management 17920
contract with another person, one or more sports facilities; 17921

(d) To the extent provided in the cooperative agreement or a 17922

lease with respect to a sports facility, authorize the municipal 17923
corporation, county, corporation, or owner to administer contracts 17924
for designing, planning, acquiring, constructing, renovating, or 17925
equipping a sports facility. 17926

(3) The legislative authority of the municipal corporation 17927
agrees to do one or more of the following: 17928

(a) Make available the revenue from taxes levied by the 17929
legislative authority for the payment of the cost of a sports 17930
facility or to make payments on obligations; 17931

(b) Issue or incur obligations of the municipal corporation 17932
pursuant to Chapter 133. of the Revised Code or otherwise; 17933

(c) Make available all or a portion of the proceeds from the 17934
issuance of those obligations to the county, port authority, 17935
corporation, or otherwise for the payment of the cost of a sports 17936
facility or the payment of obligations; 17937

(d) Acquire, construct, renovate, equip, lease to or from 17938
another person, and operate, directly or by a lease or management 17939
contract with another person, one or more sports facilities; 17940

(e) To the extent provided in the cooperative agreement or a 17941
lease with respect to a sports facility, authorize the county, 17942
port authority, corporation, or owner to administer contracts for 17943
designing, planning, acquiring, constructing, renovating, or 17944
equipping a sports facility. 17945

(4) The corporation agrees to do one or more of the 17946
following: 17947

(a) Issue or incur obligations; 17948

(b) Make available all or a portion of the proceeds from the 17949
issuance of those obligations to the county, port authority, 17950
municipal corporation, or otherwise for the payment of the cost of 17951
a sports facility or the payment of obligations; 17952

(c) Acquire, construct, renovate, equip, lease to or from 17953
another person, and operate, directly or by a lease or management 17954
contract with another person, one or more sports facilities; 17955

(d) To the extent provided in the cooperative agreement or a 17956
lease with respect to a sports facility, agree that the 17957
corporation will administer contracts for designing, planning, 17958
acquiring, constructing, renovating, or equipping a sports 17959
facility. 17960

(5) The owner agrees to do one or more of the following: 17961

(a) Use the sports facility that is the subject of the 17962
cooperative agreement for all of the home games of the owner's 17963
professional athletic or sports team for a specified period; 17964

(b) Administer contracts for designing, planning, acquiring, 17965
constructing, renovating, or equipping a sports facility. 17966

(C) Any obligations may be secured by a trust agreement 17967
between the issuer of obligations and a corporate trustee that is 17968
a trust company or bank having the powers of a trust company in or 17969
outside this state and authorized to exercise corporate trust 17970
powers in this state. Proceeds from the issuance of any 17971
obligations or the taxes levied and collected by any party to the 17972
cooperative agreement may be deposited with and administered by a 17973
trustee pursuant to the trust agreement. 17974

(D) Any contract for the acquisition, construction, 17975
renovation, or equipping of a sports facility entered into, 17976
assigned, or assumed under this section shall provide that all 17977
laborers and mechanics employed in the acquisition, construction, 17978
renovation, or equipping of the sports facility shall be paid at 17979
the prevailing rates of wages of laborers and mechanics for the 17980
class of work called for, as those wages are determined in 17981
accordance with Chapter 4115. of the Revised Code. 17982

Sec. 307.674. (A) As used in this section:	17983
(1) "Bonds" means:	17984
(a) Revenue bonds of the port authority described in division	17985
(B)(2)(a) of this section;	17986
(b) Securities as defined in division (KK) of section 133.01	17987
of the Revised Code issued by the host municipal corporation,	17988
described in division (B)(3)(a) of this section;	17989
(c) Any bonds issued to refund any of those revenue bonds or	17990
securities.	17991
(2) "Corporation" means a nonprofit corporation that is	17992
organized under the laws of this state and that includes within	17993
the purposes for which it is incorporated the authorization to	17994
lease and operate facilities such as a port authority educational	17995
and cultural performing arts facility.	17996
(3) "Cost," as applied to a port authority educational and	17997
cultural performing arts facility, means the cost of acquiring,	17998
constructing, renovating, rehabilitating, equipping, or improving	17999
the facility, or any combination of those purposes, collectively	18000
referred to in this section as "construction," and the cost of	18001
acquisition of all land, rights of way, property rights,	18002
easements, franchise rights, and interests required for those	18003
purposes, the cost of demolishing or removing any buildings or	18004
structures on land so acquired, including the cost of acquiring	18005
any land to which those buildings or structures may be moved, the	18006
cost of public utility and common carrier relocation or	18007
duplication, the cost of all machinery, furnishings, and	18008
equipment, financing charges, interest prior to and during	18009
construction and for not more than three years after completion of	18010
construction, costs arising under guaranty agreements,	18011
reimbursement agreements, or other credit enhancement agreements	18012

relating to bonds, engineering, expenses of research and 18013
development with respect to such facility, legal expenses, plans, 18014
specifications, surveys, studies, estimates of costs and revenues, 18015
other expenses necessary or incident to determining the 18016
feasibility or practicability of acquiring or constructing the 18017
facility, administrative expense, and other expenses as may be 18018
necessary or incident to that acquisition or construction and the 18019
financing of such acquisition or construction, including, with 18020
respect to the revenue bonds of a port authority, amounts to be 18021
paid into any special funds from the proceeds of those bonds, and 18022
repayments to the port authority, host county, host municipal 18023
corporation, or corporation of any amounts advanced for the 18024
foregoing purposes. 18025

(4) "Debt service charges" means, for any period or payable 18026
at any time, the principal of and interest and any premium due on 18027
bonds for that period or payable at that time whether due at 18028
maturity or upon mandatory redemption, together with any required 18029
deposits to reserves for the payment of principal of and interest 18030
on those bonds, and includes any payments required by the port 18031
authority to satisfy any of its obligations under or arising from 18032
any guaranty agreements, reimbursement agreements, or other credit 18033
enhancement agreements described in division (C) of this section. 18034

(5) "Host county" means the county within the boundaries of 18035
which the port authority educational and cultural performing arts 18036
facility is or will be located. 18037

(6) "Host municipal corporation" means the municipal 18038
corporation within the boundaries of which the port authority 18039
educational and cultural performing arts facility is or will be 18040
located. 18041

(7) "Port authority" means a port authority created pursuant 18042
to section 4582.22 of the Revised Code. 18043

(8) "Port authority educational and cultural performing arts facility" means a facility that consists of a center for music or other performing arts, a theater or other facilities to provide programs of an educational, recreational, or cultural nature, or any combination of those purposes as determined by the parties to the cooperative agreement for which provision is made in division (B) of this section to fulfill the public educational, recreational, and cultural purposes set forth therein, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements, and interests that may be appropriate for, or used in connection with, the operation of the facility.

(B) A host county, a host municipal corporation, and a port authority may enter into a cooperative agreement with a corporation under which, as further provided for in that agreement:

(1) The host county may agree to do any or all of the following:

(a) Levy and collect a tax under division (E) and division (F) of section 5739.09 of the Revised Code for the purposes, and in an amount sufficient for those purposes, described in divisions (B)(1)(b) and (c) of this section;

(b) Pay to the port authority all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be used to pay a portion of the costs of acquiring, constructing, renovating, rehabilitating, equipping, or improving the port authority educational and cultural performing arts facility;

(c) Pledge and pay to the corporation all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be

used to pay a portion of the costs to the corporation of leasing 18075
the port authority educational and cultural performing arts 18076
facility from the port authority. 18077

(2) The port authority may agree to do any or all of the 18078
following: 18079

(a) Issue its revenue bonds pursuant to section 4582.48 of 18080
the Revised Code for the purpose of paying all or a portion of the 18081
costs of the port authority educational and cultural performing 18082
arts facility; 18083

(b) Acquire, construct, renovate, rehabilitate, equip, and 18084
improve the port authority educational and cultural performing 18085
arts facility; 18086

(c) Lease the port authority educational and cultural 18087
performing arts facility to the corporation; 18088

(d) To the extent provided for in the cooperative agreement 18089
or the lease to the corporation, authorize the corporation to 18090
administer on behalf of the port authority the contracts for 18091
acquiring, constructing, renovating, rehabilitating, or equipping 18092
the port authority educational and cultural performing arts 18093
facility; 18094

(e) Use the revenue derived from the lease of the port 18095
authority educational and cultural performing arts facility to the 18096
corporation solely to pay debt service charges on revenue bonds of 18097
the port authority issued pursuant to division (B)(2)(a) of this 18098
section and to pay its obligations under or arising from any 18099
guaranty agreements, reimbursement agreements, or other credit 18100
enhancement agreements provided for in this section. 18101

(3) The host municipal corporation may agree to do either or 18102
both of the following: 18103

(a) Issue its bonds for the purpose of paying all or a 18104

portion of the costs of the port authority educational and 18105
cultural performing arts facility, and pay the proceeds from the 18106
issuance to the port authority for that purpose; 18107

(b) Enter into a guaranty agreement, a reimbursement 18108
agreement, or other credit enhancement agreement with the port 18109
authority to provide a guaranty or other credit enhancement of the 18110
port authority revenue bonds referred to in division (B)(2)(a) of 18111
this section pledging taxes, other than ad valorem property taxes, 18112
or other revenues for the purpose of providing the funds required 18113
to satisfy the host municipal corporation's obligations under that 18114
agreement. 18115

The cooperative agreement may provide that the proceeds of 18116
such securities or of such guaranty agreement, reimbursement 18117
agreement, or other credit enhancement agreement be deposited with 18118
and administered by the trustee pursuant to the trust agreement 18119
authorized in division (C) of this section. 18120

(4) The corporation may agree to do any or all of the 18121
following: 18122

(a) Lease the port authority educational and cultural 18123
performing arts facility from the port authority; 18124

(b) Operate and maintain the port authority educational and 18125
cultural performing arts facility pursuant to the lease; 18126

(c) To the extent provided for in the cooperative agreement 18127
or the lease from the port authority, administer on behalf of the 18128
port authority the contracts for acquiring, constructing, 18129
renovating, rehabilitating, or equipping the port authority 18130
educational and cultural performing arts facility. 18131

(C) The pledge and payments referred to in divisions 18132
(B)(1)(b) and (c) of this section and provided for in the 18133
cooperative agreement shall be for the period stated in the 18134
cooperative agreement but shall not extend longer than the period 18135

necessary to provide for the final retirement of the port 18136
authority revenue bonds referred to in division (B)(2)(a) of this 18137
section, and for the satisfaction by the port authority of any of 18138
its obligations under or arising from any guaranty agreements, 18139
reimbursement agreements, or other credit enhancement agreements 18140
relating to those bonds or to the revenues pledged to them. The 18141
cooperative agreement shall provide for the termination of the 18142
cooperative agreement, including the pledge and payment referred 18143
to in division (B)(1)(c) of this section, if the port authority 18144
revenue bonds referred to in division (B)(2)(a) of this section 18145
have not been issued, sold, and delivered within five years of the 18146
effective date of the cooperative agreement. 18147

The cooperative agreement shall provide that any port 18148
authority revenue bonds shall be secured by a trust agreement 18149
between the port authority and a corporate trustee that is a trust 18150
company or bank having the powers of a trust company within or 18151
outside the state but authorized to exercise trust powers within 18152
the state. The host county may be a party to that trust agreement 18153
for the purpose of better securing the pledge by the host county 18154
of its payment to the corporation pursuant to division (B)(1)(c) 18155
of this section. A tax levied pursuant to section 5739.09 of the 18156
Revised Code for the purposes specified in division (B)(1)(b) or 18157
(c) of this section is not subject to diminution by initiative or 18158
referendum or diminution by statute, unless provision is made for 18159
an adequate substitute reasonably satisfactory to the trustee 18160
under the trust agreement that secures the port authority revenue 18161
bonds. 18162

(D) A pledge of money by a host county under this section 18163
shall not be net indebtedness of the host county for purposes of 18164
section 133.07 of the Revised Code. A guaranty or other credit 18165
enhancement by a host municipal corporation under this section 18166
shall not be net indebtedness of the host municipal corporation 18167

for purposes of section 133.05 of the Revised Code. 18168

(E) If the terms of the cooperative agreement so provide, any 18169
contract for the acquisition, construction, renovation, 18170
rehabilitation, equipping, or improving of a port authority 18171
educational and cultural performing arts facility shall be made in 18172
such manner as is determined by the board of directors of the port 18173
authority, and unless the cooperative agreement provides 18174
otherwise, such a contract is not subject to division (R)(2) of 18175
section 4582.31 of the Revised Code. The port authority may take 18176
the assignment of and assume any contracts for the acquisition, 18177
construction, renovation, rehabilitation, equipping, or improving 18178
of a port authority educational and cultural performing arts 18179
facility that had previously been authorized by any of the host 18180
county, the host municipality, or the corporation. Such contracts 18181
are not subject to division (R)(2) of section 4582.31 of the 18182
Revised Code. 18183

Any contract for the acquisition, construction, renovation, 18184
rehabilitation, equipping, or improving of a port authority 18185
educational and cultural performing arts facility entered into, 18186
assigned, or assumed pursuant to this division shall provide that 18187
all laborers and mechanics employed for the acquisition, 18188
construction, renovation, rehabilitation, equipping, or improving 18189
of that facility shall be paid at the prevailing rates of wages of 18190
laborers and mechanics for the class of work called for by the 18191
port authority educational and cultural performing arts facility, 18192
which wages shall be determined in accordance with the 18193
requirements of Chapter 4115. of the Revised Code for the 18194
determination of prevailing wage rates. 18195

Notwithstanding any provisions to the contrary in section 18196
~~3383.07~~ 123.281 of the Revised Code, construction services and 18197
general building services for a port authority educational and 18198
cultural performing arts facility funded completely or in part 18199

with money appropriated by the state to the Ohio ~~cultural~~ 18200
facilities construction commission may be provided by a port 18201
authority or a corporation that occupies, will occupy, or is 18202
responsible for that facility, as determined by the commission. 18203
The construction services and general building services to be 18204
provided by the port authority or the corporation shall be 18205
specified in an agreement between the commission and the port 18206
authority or corporation. That agreement, or any actions taken 18207
under it, are not subject to Chapters 123. or 153. of the Revised 18208
Code, but are subject to Chapter 4115. of the Revised Code. 18209

Sec. 307.86. Anything to be purchased, leased, leased with an 18210
option or agreement to purchase, or constructed, including, but 18211
not limited to, any product, structure, construction, 18212
reconstruction, improvement, maintenance, repair, or service, 18213
except the services of an accountant, architect, attorney at law, 18214
physician, professional engineer, construction project manager, 18215
consultant, surveyor, or appraiser, by or on behalf of the county 18216
or contracting authority, as defined in section 307.92 of the 18217
Revised Code, at a cost in excess of fifty thousand dollars, 18218
except as otherwise provided in division (D) of section 713.23 and 18219
in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 18220
307.861, 339.05, 340.03, ~~340.033~~, 4115.31 to 4115.35, ~~5119.16~~ 18221
5119.44, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised 18222
Code, shall be obtained through competitive bidding. However, 18223
competitive bidding is not required when any of the following 18224
applies: 18225

(A) The board of county commissioners, by a unanimous vote of 18226
its members, makes a determination that a real and present 18227
emergency exists, and that determination and the reasons for it 18228
are entered in the minutes of the proceedings of the board, when 18229
either of the following applies: 18230

(1) The estimated cost is less than one hundred thousand 18231
dollars. 18232

(2) There is actual physical disaster to structures, radio 18233
communications equipment, or computers. 18234

For purposes of this division, "unanimous vote" means all 18235
three members of a board of county commissioners when all three 18236
members are present, or two members of the board if only two 18237
members, constituting a quorum, are present. 18238

Whenever a contract of purchase, lease, or construction is 18239
exempted from competitive bidding under division (A)(1) of this 18240
section because the estimated cost is less than one hundred 18241
thousand dollars, but the estimated cost is fifty thousand dollars 18242
or more, the county or contracting authority shall solicit 18243
informal estimates from no fewer than three persons who could 18244
perform the contract, before awarding the contract. With regard to 18245
each such contract, the county or contracting authority shall 18246
maintain a record of such estimates, including the name of each 18247
person from whom an estimate is solicited. The county or 18248
contracting authority shall maintain the record for the longer of 18249
at least one year after the contract is awarded or the amount of 18250
time the federal government requires. 18251

(B)(1) The purchase consists of supplies or a replacement or 18252
supplemental part or parts for a product or equipment owned or 18253
leased by the county, and the only source of supply for the 18254
supplies, part, or parts is limited to a single supplier. 18255

(2) The purchase consists of services related to information 18256
technology, such as programming services, that are proprietary or 18257
limited to a single source. 18258

(C) The purchase is from the federal government, the state, 18259
another county or contracting authority of another county, or a 18260
board of education, educational service center, township, or 18261

municipal corporation. 18262

(D) The purchase is made by a county department of job and 18263
family services under section 329.04 of the Revised Code and 18264
consists of family services duties or workforce development 18265
activities or is made by a county board of developmental 18266
disabilities under section 5126.05 of the Revised Code and 18267
consists of program services, such as direct and ancillary client 18268
services, child care, case management services, residential 18269
services, and family resource services. 18270

(E) The purchase consists of criminal justice services, 18271
social services programs, family services, or workforce 18272
development activities by the board of county commissioners from 18273
nonprofit corporations or associations under programs funded by 18274
the federal government or by state grants. 18275

(F) The purchase consists of any form of an insurance policy 18276
or contract authorized to be issued under Title XXXIX of the 18277
Revised Code or any form of health care plan authorized to be 18278
issued under Chapter 1751. of the Revised Code, or any combination 18279
of such policies, contracts, plans, or services that the 18280
contracting authority is authorized to purchase, and the 18281
contracting authority does all of the following: 18282

(1) Determines that compliance with the requirements of this 18283
section would increase, rather than decrease, the cost of the 18284
purchase; 18285

(2) Requests issuers of the policies, contracts, plans, or 18286
services to submit proposals to the contracting authority, in a 18287
form prescribed by the contracting authority, setting forth the 18288
coverage and cost of the policies, contracts, plans, or services 18289
as the contracting authority desires to purchase; 18290

(3) Negotiates with the issuers for the purpose of purchasing 18291
the policies, contracts, plans, or services at the best and lowest 18292

price reasonably possible.	18293
(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government.	18294 18295 18296 18297 18298
(H) Child care services are purchased for provision to county employees.	18299 18300
(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes, and all of the following apply:	18301 18302 18303
(a) The contracting authority is authorized by the Revised Code to lease the property.	18304 18305
(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property.	18306 18307 18308 18309
(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Revised Code.	18310 18311 18312 18313 18314
(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.	18315 18316 18317 18318 18319
(2) The contracting authority may use the services of a real estate appraiser to obtain advice, consultations, or other recommendations regarding the lease of property under this	18320 18321 18322

division. 18323

(J) The purchase is made pursuant to section 5139.34 or 18324
sections 5139.41 to 5139.46 of the Revised Code and is of programs 18325
or services that provide case management, treatment, or prevention 18326
services to any felony or misdemeanor delinquent, unruly youth, 18327
or status offender under the supervision of the juvenile court, 18328
including, but not limited to, community residential care, day 18329
treatment, services to children in their home, or electronic 18330
monitoring. 18331

(K) The purchase is made by a public children services agency 18332
pursuant to section 307.92 or 5153.16 of the Revised Code and 18333
consists of family services, programs, or ancillary services that 18334
provide case management, prevention, or treatment services for 18335
children at risk of being or alleged to be abused, neglected, or 18336
dependent children. 18337

(L) The purchase is to obtain the services of emergency 18338
medical service organizations under a contract made by the board 18339
of county commissioners pursuant to section 307.05 of the Revised 18340
Code with a joint emergency medical services district. 18341

(M) The county contracting authority determines that the use 18342
of competitive sealed proposals would be advantageous to the 18343
county and the contracting authority complies with section 307.862 18344
of the Revised Code. 18345

Any issuer of policies, contracts, plans, or services listed 18346
in division (F) of this section and any prospective lessor under 18347
division (I) of this section may have the issuer's or prospective 18348
lessor's name and address, or the name and address of an agent, 18349
placed on a special notification list to be kept by the 18350
contracting authority, by sending the contracting authority that 18351
name and address. The contracting authority shall send notice to 18352
all persons listed on the special notification list. Notices shall 18353

state the deadline and place for submitting proposals. The 18354
contracting authority shall mail the notices at least six weeks 18355
prior to the deadline set by the contracting authority for 18356
submitting proposals. Every five years the contracting authority 18357
may review this list and remove any person from the list after 18358
mailing the person notification of that action. 18359

Any contracting authority that negotiates a contract under 18360
division (F) of this section shall request proposals and negotiate 18361
with issuers in accordance with that division at least every three 18362
years from the date of the signing of such a contract, unless the 18363
parties agree upon terms for extensions or renewals of the 18364
contract. Such extension or renewal periods shall not exceed six 18365
years from the date the initial contract is signed. 18366

Any real estate appraiser employed pursuant to division (I) 18367
of this section shall disclose any fees or compensation received 18368
from any source in connection with that employment. 18369

Sec. 317.08. (A) Except as provided in divisions (C), (D), 18370
and (E) of this section, the county recorder shall keep six 18371
separate sets of records as follows: 18372

(1) A record of deeds, in which shall be recorded all deeds 18373
and other instruments of writing for the absolute and 18374
unconditional sale or conveyance of lands, tenements, and 18375
hereditaments; all notices as provided in sections 5301.47 to 18376
5301.56 of the Revised Code; all judgments or decrees in actions 18377
brought under section 5303.01 of the Revised Code; all 18378
declarations and bylaws, and all amendments to declarations and 18379
bylaws, as provided in Chapter 5311. of the Revised Code; 18380
affidavits as provided in sections 5301.252 and 5301.56 of the 18381
Revised Code; all certificates as provided in section 5311.17 of 18382
the Revised Code; all articles dedicating archaeological preserves 18383
accepted by the director of the Ohio historical society under 18384

section 149.52 of the Revised Code; all articles dedicating nature preserves accepted by the director of natural resources under section 1517.05 of the Revised Code; all agreements for the registration of lands as archaeological or historic landmarks under section 149.51 or 149.55 of the Revised Code; all conveyances of conservation easements and agricultural easements under section 5301.68 of the Revised Code; all instruments extinguishing agricultural easements under section 901.21 or 5301.691 of the Revised Code or pursuant to terms of such an easement granted to a charitable organization under section 5301.68 of the Revised Code; all instruments or orders described in division (B)(2)(b) of section 5301.56 of the Revised Code; all no further action letters issued under section 122.654 or 3746.11 of the Revised Code; all covenants not to sue issued under section 3746.12 of the Revised Code, including all covenants not to sue issued pursuant to section 122.654 of the Revised Code; any restrictions on the use of property contained in a no further action letter issued under section 122.654 of the Revised Code, any restrictions on the use of property identified pursuant to division (C)(3)(a) of section 3746.10 of the Revised Code, and any restrictions on the use of property contained in a deed or other instrument as provided in division (E) or (F) of section 3737.882 of the Revised Code; any easement executed or granted under section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code; any environmental covenant entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code; all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that describe specific real property; and all agreements entered into under division (A) of section 1506.44 of the Revised Code;	18385 18386 18387 18388 18389 18390 18391 18392 18393 18394 18395 18396 18397 18398 18399 18400 18401 18402 18403 18404 18405 18406 18407 18408 18409 18410 18411 18412 18413 18414
(2) A record of mortgages, in which shall be recorded all of the following:	18415 18416

(a) All mortgages, including amendments, supplements,	18417
modifications, and extensions of mortgages, or other instruments	18418
of writing by which lands, tenements, or hereditaments are or may	18419
be mortgaged or otherwise conditionally sold, conveyed, affected,	18420
or encumbered;	18421
(b) All executory installment contracts for the sale of land	18422
executed after September 29, 1961, that by their terms are not	18423
required to be fully performed by one or more of the parties to	18424
them within one year of the date of the contracts;	18425
(c) All options to purchase real estate, including	18426
supplements, modifications, and amendments of the options, but no	18427
option of that nature shall be recorded if it does not state a	18428
specific day and year of expiration of its validity;	18429
(d) Any tax certificate sold under section 5721.33 of the	18430
Revised Code, or memorandum of it, that is presented for filing of	18431
record.	18432
(3) A record of powers of attorney, including all memoranda	18433
of trust, as described in division (A) of section 5301.255 of the	18434
Revised Code, that do not describe specific real property;	18435
(4) A record of plats, in which shall be recorded all plats	18436
and maps of town lots, of the subdivision of town lots, and of	18437
other divisions or surveys of lands, any center line survey of a	18438
highway located within the county, the plat of which shall be	18439
furnished by the director of transportation or county engineer,	18440
and all drawings and amendments to drawings, as provided in	18441
Chapter 5311. of the Revised Code;	18442
(5) A record of leases, in which shall be recorded all	18443
leases, memoranda of leases, and supplements, modifications, and	18444
amendments of leases and memoranda of leases;	18445
(6) A record of declarations executed pursuant to section	18446
2133.02 of the Revised Code and durable powers of attorney for	18447

health care executed pursuant to section 1337.12 of the Revised Code. 18448
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(B) All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, ~~5111.022~~ 5164.56, and 5311.18 of the Revised Code. 18450
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The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest in the real estate covered by the option only during the period of the validity of the option as stated in the option. 18462
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(C) In lieu of keeping the six separate sets of records required in divisions (A)(1) to (6) of this section and the records required in divisions (D) and (E) of this section, a county recorder may record all the instruments required to be recorded by this section in two separate sets of record books. One set shall be called the "official records" and shall contain the instruments listed in divisions (A)(1), (2), (3), (5), and (6) and (D) and (E) of this section. The second set of records shall contain the instruments listed in division (A)(4) of this section. 18467
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(D) Except as provided in division (C) of this section, the county recorder shall keep a separate set of records containing all corrupt activity lien notices filed with the recorder pursuant to section 2923.36 of the Revised Code and a separate set of 18476
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records containing all medicaid fraud lien notices filed with the 18480
recorder pursuant to section 2933.75 of the Revised Code. 18481

(E)(1) The county recorder shall keep a separate set of 18482
records containing all transfers, conveyances, or assignments of 18483
any type of tangible or intangible personal property or any rights 18484
or interests in that property if and to the extent that any person 18485
wishes to record that personal property transaction and if the 18486
applicable instrument is acknowledged before a notary public. If 18487
the transferor is a natural person, the notice of personal 18488
property transfer shall be recorded in the county in this state in 18489
which the transferor maintains the transferor's principal 18490
residence. If the transferor is not a natural person, the notice 18491
of personal property transfer shall be recorded in the county in 18492
this state in which the transferor maintains its principal place 18493
of business. If the transferor does not maintain a principal 18494
residence or a principal place of business in this state and the 18495
transfer is to a trustee of a legacy trust formed pursuant to 18496
Chapter 5816. of the Revised Code, the notice of personal property 18497
transfer shall be recorded in the county in this state where that 18498
trustee maintains a principal residence or principal place of 18499
business. In all other instances, the notice of personal property 18500
transfer shall be recorded in the county in this state where the 18501
property described in the notice is located. 18502

(2) The records described in division (E)(1) of this section 18503
shall be maintained in or as part of the "official records" under 18504
division (C) of this section. 18505

Sec. 317.32. The county recorder shall charge and collect the 18506
following fees, to include, except as otherwise provided in 18507
division (A)(2) of this section, base fees for the recorder's 18508
services and housing trust fund fees collected pursuant to section 18509
317.36 of the Revised Code: 18510

(A)(1) Except as otherwise provided in division (A)(2) of 18511
this section, for recording and indexing an instrument if the 18512
photocopy or any similar process is employed, a base fee of 18513
fourteen dollars for the first two pages and a housing trust fund 18514
fee of fourteen dollars, and a base fee of four dollars and a 18515
housing trust fund fee of four dollars for each subsequent page, 18516
size eight and one-half inches by fourteen inches, or fraction of 18517
a page, including the caption page, of such instrument; 18518

(2) For recording and indexing an instrument described in 18519
division (E)(1) of section 317.08 of the Revised Code if the 18520
photocopy or any similar process is employed, a fee of 18521
twenty-eight dollars for the first two pages to be deposited into 18522
the county treasury to the credit of the special fund designated 18523
as "general fund moneys to supplement the ~~equipment~~ technology 18524
needs of the county recorder" under section 317.321 of the Revised 18525
Code, and a fee of eight dollars to be deposited in the same 18526
manner for each subsequent page, size eight and one-half inches by 18527
fourteen inches, or fraction of a page, including the caption 18528
page, of that instrument; 18529

(B) For certifying a photocopy from the record previously 18530
recorded, a base fee of one dollar and a housing trust fund fee of 18531
one dollar per page, size eight and one-half inches by fourteen 18532
inches, or fraction of a page; for each certification if the 18533
recorder's seal is required, except as to instruments issued by 18534
the armed forces of the United States, a base fee of fifty cents 18535
and a housing trust fund fee of fifty cents; 18536

(C) For manual or typewritten recording of assignment or 18537
satisfaction of mortgage or lease or any other marginal entry, a 18538
base fee of four dollars and a housing trust fund fee of four 18539
dollars; 18540

(D) For entering any marginal reference by separate recorded 18541
instrument, a base fee of two dollars and a housing trust fund fee 18542

of two dollars for each marginal reference set out in that 18543
instrument, in addition to the fees set forth in division (A)(1) 18544
of this section; 18545

(E) For indexing in the real estate mortgage records, 18546
pursuant to section 1309.519 of the Revised Code, financing 18547
statements covering crops growing or to be grown, timber to be 18548
cut, minerals or the like, including oil and gas, accounts subject 18549
to section 1309.301 of the Revised Code, or fixture filings made 18550
pursuant to section 1309.334 of the Revised Code, a base fee of 18551
two dollars and a housing trust fund fee of two dollars for each 18552
name indexed; 18553

(F) For recording manually any plat not exceeding six lines, 18554
a base fee of two dollars and a housing trust fund fee of two 18555
dollars, and for each additional line, a base fee of ten cents and 18556
a housing trust fund fee of ten cents; 18557

(G) For filing zoning resolutions, including text and maps, 18558
in the office of the recorder as required under sections 303.11 18559
and 519.11 of the Revised Code, a base fee of twenty-five dollars 18560
and a housing trust fund fee of twenty-five dollars, regardless of 18561
the size or length of the resolutions; 18562

(H) For filing zoning amendments, including text and maps, in 18563
the office of the recorder as required under sections 303.12 and 18564
519.12 of the Revised Code, a base fee of ten dollars and a 18565
housing trust fund fee of ten dollars regardless of the size or 18566
length of the amendments; 18567

(I) For photocopying a document, other than at the time of 18568
recording and indexing as provided for in division (A)(1) or (2) 18569
of this section, a base fee of one dollar and a housing trust fund 18570
fee of one dollar per page, size eight and one-half inches by 18571
fourteen inches, or fraction thereof; 18572

(J) For local facsimile transmission of a document, a base 18573

fee of one dollar and a housing trust fund fee of one dollar per 18574
page, size eight and one-half inches by fourteen inches, or 18575
fraction thereof; for long distance facsimile transmission of a 18576
document, a base fee of two dollars and a housing trust fund fee 18577
of two dollars per page, size eight and one-half inches by 18578
fourteen inches, or fraction thereof; 18579

(K) For recording a declaration executed pursuant to section 18580
2133.02 of the Revised Code or a durable power of attorney for 18581
health care executed pursuant to section 1337.12 of the Revised 18582
Code, or both a declaration and a durable power of attorney for 18583
health care, a base fee of at least fourteen dollars but not more 18584
than twenty dollars and a housing trust fund fee of at least 18585
fourteen dollars but not more than twenty dollars. 18586

In any county in which the recorder employs the photostatic 18587
or any similar process for recording maps, plats, or prints the 18588
recorder shall determine, charge, and collect for the recording or 18589
rerecording of any map, plat, or print, a base fee of five cents 18590
and a housing trust fund fee of five cents per square inch, for 18591
each square inch of the map, plat, or print filed for that 18592
recording or rerecording, with a minimum base fee of twenty 18593
dollars and a minimum housing trust fund fee of twenty dollars; 18594
for certifying a copy from the record, a base fee of two cents and 18595
a housing trust fund fee of two cents per square inch of the 18596
record, with a minimum base fee of two dollars and a minimum 18597
housing trust fund fee of two dollars. 18598

The fees provided in this section shall be paid upon the 18599
presentation of the instruments for record or upon the application 18600
for any certified copy of the record, except that the payment of 18601
fees associated with the filing and recording of, or the copying 18602
of, notices of internal revenue tax liens and notices of other 18603
liens in favor of the United States as described in division (A) 18604
of section 317.09 of the Revised Code and certificates of 18605

discharge or release of those liens, shall be governed by section 18606
317.09 of the Revised Code, and the payment of fees for providing 18607
copies of instruments conveying or extinguishing agricultural 18608
easements to the office of farmland preservation in the department 18609
of agriculture under division (H) of section 5301.691 of the 18610
Revised Code shall be governed by that division. 18611

Sec. 317.321. (A) Not later than the first day of October of 18612
~~any~~ each year, the county recorder may submit to the board of 18613
county commissioners a proposal for ~~the~~ funding either or both of 18614
the following: 18615

(1) The acquisition ~~or~~ and maintenance of micrographic ~~or~~ 18616
imaging and other technological equipment ~~or for~~, and associated 18617
expenses and contract services ~~or a proposal to~~ therefor; 18618

(2) To reserve funds for the office's future ~~equipment~~ 18619
technology needs if the county recorder has no immediate plans for 18620
the acquisition of imaging and other technological equipment or 18621
services. ~~Either~~ 18622

(B) The proposal shall be in writing and shall include at 18623
least the following: 18624

(1) A request that an amount not to exceed ~~seven~~ eight 18625
dollars of the ~~fee~~ total base fees or total fees collected for 18626
filing or recording a document for which a fee is charged as 18627
required by division (A)(1) of section 317.32 ~~of the Revised Code~~ 18628
or by section 1309.525 or 5310.15 of the Revised Code, and the 18629
total amount of the fees collected under division (A)(2) of 18630
section 317.32 of the Revised Code, be placed in the county 18631
treasury ~~and~~ to the credit of the special fund designated as 18632
"general fund moneys to supplement the ~~equipment~~ technology needs 18633
of the county recorder" for a period of one year from the date the 18634
proposal is approved; 18635

~~(2) The number of years, not to exceed five, for which the county recorder requests that the amount requested under division (A)(1) of this section be given the designation specified in that division;~~ 18636
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~~(3) An estimate of the total amount of fees that will be generated for filing or recording a document for which a fee is charged as required by division (A)(1) or (2) of section 317.32 of the Revised Code or by section 1309.525 or 5310.15 of the Revised Code;~~ 18640
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~~(4)(3) An estimate of the total amount of fees for filing or recording a document for which a fee is charged as required by division (A)(1) or (2) of section 317.32 of the Revised Code or by section 1309.525 or 5310.15 of the Revised Code that will be credited to the special fund designated as "general fund moneys to supplement the equipment technology needs of the county recorder," if the request submitted under division (A)(1) of this section is approved by the board of county commissioners.~~ 18645
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~~A proposal for the acquisition or maintenance of micrographic or other equipment or for contract services may shall include a description or summary of the micrographic or imaging and other technological equipment, or maintenance of the micrographic or other equipment, that the county recorder proposes to acquire and maintain, and the associated expenses therefor, or the nature of the contract services that the county recorder proposes to utilize, if the proposal is for those purposes. A proposal to reserve funds for the office's future equipment technology needs if the county recorder has no immediate plans for the acquisition of imaging and other technological equipment or services shall explain the general needs of the office for equipment or services, if the proposal is for that purpose.~~ 18653
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~~(B)(C) The board of county commissioners shall receive either the proposal and the clerk shall enter it on the journal. At the~~ 18666
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same time, the board shall establish a date, not sooner than 18668
fifteen or later than thirty days after the ~~board's receipt of~~ 18669
board receives the proposal, on which to meet with the recorder to 18670
review the proposal. 18671

~~(C)(1)(D)~~ Not later than the fifteenth day of December of any 18672
year in which a proposal ~~for the acquisition or maintenance of~~ 18673
~~micrographic or other equipment or for contract services is~~ 18674
submitted under division (A) of this section, the board of county 18675
commissioners shall approve, ~~reject, or modify~~ the proposal ~~and,~~ 18676
if the proposal includes the estimates required by divisions 18677
(B)(2) and (3) of this section. Once the board approves the 18678
proposal, the board shall notify the county recorder of its action 18679
~~on the proposal. If the board rejects or modifies the proposal, it~~ 18680
~~shall make a written finding that the request is for a purpose~~ 18681
~~other than for acquiring, leasing, or otherwise obtaining~~ 18682
~~micrographic or other equipment or contracts for use by the county~~ 18683
~~recorder or that the amount requested for the acquisition or~~ 18684
~~maintenance of micrographic or other equipment or for contract~~ 18685
~~services is excessive as determined by the board. If the board~~ 18686
~~approves the proposal, it and~~ shall request the establishment of a 18687
special fund under section 5705.12 of the Revised Code ~~for any~~ 18688
~~fees~~ designated as "general fund moneys to supplement the 18689
equipment technology needs of the county recorder," in which the 18690
fees shall be deposited." 18691

~~(2)~~ Not later than the fifteenth day of December of any year 18692
in which a proposal to reserve funds for the office's future 18693
equipment needs is submitted under division (A) of this section, 18694
the board of county commissioners shall approve the proposal, 18695
notify the county recorder of its action on the proposal, and 18696
request the establishment of a special fund under section 5705.12 18697
of the Revised Code for any fees designated as "general fund 18698
moneys to supplement the equipment needs of the county recorder." 18699

~~(D)~~(E) The acquisition ~~or~~ and maintenance of ~~micrographic or~~ 18700
imaging and other technological equipment, ~~and the acquisition of~~ 18701
associated expenses and contract services therefor, shall be 18702
specifically governed by sections 307.80 to 307.806, 307.84 to 18703
307.846, 307.86 to 307.92, and 5705.38, and by division (D) of 18704
section 5705.41 of the Revised Code. 18705

(F) Funding provided under this section does not diminish the 18706
duty of the board of county commissioners to provide funding for 18707
the expenses incurred by, and the personnel necessary for, the 18708
county recorder to perform the duties of office set forth in the 18709
Revised Code. 18710

Sec. 317.36. (A) The county recorder shall collect the low- 18711
and moderate-income housing trust fund fee as specified in 18712
sections 317.114, 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 18713
4509.60, ~~5111.022~~ 5164.56, 5310.15, 5719.07, 5727.56, 5733.18, 18714
5733.22, 6101.09, and 6115.09 of the Revised Code. The amount of 18715
any housing trust fund fee the recorder is authorized to collect 18716
is equal to the amount of any base fee the recorder is authorized 18717
to collect for services. The housing trust fund fee shall be 18718
collected in addition to the base fee. 18719

(B) The recorder shall certify the amounts collected as 18720
housing trust fund fees pursuant to division (A) of this section 18721
into the county treasury as housing trust fund fees to be paid to 18722
the treasurer of state pursuant to section 319.63 of the Revised 18723
Code. 18724

Sec. 321.35. Upon demand of the treasurer of state while 18725
holding a school district, county, township, or municipal 18726
corporation obligation purchased under division (G)(1) of section 18727
135.143 of the Revised Code, in making any payment under section 18728
321.31 or 321.34 of the Revised Code, the county auditor shall 18729

withhold funds of the school district, county, township, or 18730
municipal corporation in an amount sufficient to pay debt service 18731
charges on that obligation and any of the fee for the agreement to 18732
purchase that obligation, less any amount deposited for that 18733
purpose under division (D) of section 3317.18 of the Revised Code. 18734
The county auditor shall promptly pay to the treasurer of state 18735
the amount withheld. 18736

Sec. 321.44. (A)(1) A county probation services fund shall be 18737
established in the county treasury of each county. The fund a 18738
county establishes under this division shall contain all moneys 18739
paid to the treasurer of the county under section 2951.021 of the 18740
Revised Code for deposit into the fund. The moneys paid into the 18741
fund shall be deposited by the treasurer of the county into the 18742
appropriate account established under divisions (A)(1)(a) to (d) 18743
of this section. Separate accounts shall be maintained in 18744
accordance with the following criteria in the fund a county 18745
establishes under this division: 18746

(a) If a county department of probation is established in the 18747
county, a separate account shall be maintained in the fund for the 18748
county department of probation. 18749

(b) If the judges of the court of common pleas of the county 18750
have affiliated with the judges of the court of common pleas of 18751
one or more other counties and have established a multicounty 18752
department of probation, a separate account shall be maintained in 18753
the fund for the multicounty department of probation. 18754

(c) If a department of probation is established in a 18755
county-operated municipal court that has jurisdiction within the 18756
county, a separate account shall be maintained in the fund for the 18757
municipal court department of probation. 18758

(d) If a county department of probation has not been 18759
established in the county and if the court of common pleas of the 18760

county, pursuant to section 2301.32 of the Revised Code, has 18761
entered into an agreement with the adult parole authority under 18762
which the court may place defendants under a community control 18763
sanction in charge of the authority, a separate account shall be 18764
maintained in the fund for the court of common pleas. 18765

(2) For any county, if a county department of probation is 18766
established in the county or if a department of probation is 18767
established in a county-operated municipal court that has 18768
jurisdiction within the county, the board of county commissioners 18769
of the county shall appropriate to the county department of 18770
probation or municipal court department of probation all money 18771
that is contained in the department's account in the county 18772
probation services fund established in the county for use only for 18773
specialized staff, purchase of equipment, purchase of services, 18774
reconciliation programs for offenders and victims, other treatment 18775
programs, including ~~alcohol and drug~~ community addiction ~~programs~~ 18776
services providers certified under section ~~3793.06~~ 5119.36 of the 18777
Revised Code, determined to be appropriate by the chief probation 18778
officer of the department of probation, and other similar expenses 18779
related to placing offenders under a community control sanction. 18780

For any county, if the judges of the court of common pleas of 18781
the county have affiliated with the judges of the court of common 18782
pleas of one or more other counties and have established a 18783
multicounty department of probation to serve the counties, the 18784
board of county commissioners of the county shall appropriate and 18785
the county treasurer shall transfer to the multicounty probation 18786
services fund established for the multicounty department of 18787
probation under division (B) of this section all money that is 18788
contained in the multicounty department of probation account in 18789
the county probation services fund established in the county for 18790
use in accordance with that division. 18791

For any county, if a county department of probation has not 18792

been established in the county and if the court of common pleas of 18793
the county, pursuant to section 2301.32 of the Revised Code, has 18794
entered into an agreement with the adult parole authority under 18795
which the court may place defendants under a community control 18796
sanction in charge of the authority, the board of county 18797
commissioners of the county shall appropriate to the court all 18798
money that is contained in the court's account in the county 18799
probation services fund established in the county for use only for 18800
specialized staff, purchase of equipment, purchase of services, 18801
reconciliation programs for offenders and victims, other treatment 18802
and recovery support services, including properly credentialed 18803
treatment and recovery support services program providers or those 18804
certified under section ~~3793.06~~ 5119.36 of the Revised Code, 18805
determined to be appropriate by the authority, and other similar 18806
uses related to placing offenders under a community control 18807
sanction. 18808

(B) If the judges of the courts of common pleas of two or 18809
more counties have established a multicounty department of 18810
probation, a multicounty probation services fund shall be 18811
established in the county treasury of the county whose treasurer, 18812
in accordance with section 2301.27 of the Revised Code, is 18813
designated by the judges of the courts of common pleas as the 18814
treasurer to whom monthly supervision fees are to be appropriated 18815
and transferred under division (A)(2) of this section for deposit 18816
into the fund. The fund shall contain all moneys that are paid to 18817
the treasurer of any member county under section 2951.021 of the 18818
Revised Code for deposit into the county's probation services fund 18819
and that subsequently are appropriated and transferred to the 18820
multicounty probation services fund under division (A)(2) of this 18821
section. The board of county commissioners of the county in which 18822
the multicounty probation services fund is established shall 18823
appropriate the money contained in that fund to the multicounty 18824
department of probation, for use only for specialized staff, 18825

purchase of equipment, purchase of services, reconciliation 18826
programs for offenders and victims, other treatment programs, 18827
including ~~alcohol and drug~~ community addiction ~~programs~~ services 18828
providers certified under section ~~3793.06~~ 5119.36 of the Revised 18829
Code, determined to be appropriate by the chief probation officer, 18830
and for other similar expenses related to placing offenders under 18831
a community control sanction. 18832

(C) Any money in a county or multicounty probation services 18833
fund at the end of a fiscal year shall not revert to the general 18834
fund of the county but shall be retained in the fund. 18835

(D) As used in this section: 18836

(1) "County-operated municipal court" has the same meaning as 18837
in section 1901.03 of the Revised Code. 18838

(2) "Multicounty department of probation" means a probation 18839
department established under section 2301.27 of the Revised Code 18840
to serve more than one county. 18841

(3) "Community control sanction" has the same meaning as in 18842
section 2929.01 of the Revised Code. 18843

Sec. 329.04. (A) The county department of job and family 18844
services shall have, exercise, and perform the following powers 18845
and duties: 18846

(1) Perform any duties assigned by the state department of 18847
job and family services or department of medicaid regarding the 18848
provision of public family services, including the provision of 18849
the following services to prevent or reduce economic or personal 18850
dependency and to strengthen family life: 18851

(a) Services authorized by a Title IV-A program, as defined 18852
in section 5101.80 of the Revised Code; 18853

(b) Social services authorized by Title XX of the "Social 18854
Security Act" and provided for by section 5101.46 or 5101.461 of 18855

the Revised Code; 18856

(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services. 18857
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(d) Duties assigned under section ~~5111.98~~ 5162.031 of the Revised Code. 18865
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(2) Administer disability financial assistance, as required by the state department of job and family services under section 5115.03 of the Revised Code; 18867
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(3) Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board of county commissioners and if otherwise required by state law; 18870
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(4) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities; 18873
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(5) Submit an annual account of its work and expenses to the board of county commissioners and to the state department of job and family services and department of medicaid at the close of each fiscal year; 18876
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(6) Exercise any powers and duties relating to family services duties or workforce development activities imposed upon the county department of job and family services by law, by resolution of the board of county commissioners, or by order of the governor, when authorized by law, to meet emergencies during war or peace; 18880
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(7) ~~Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";~~ 18886
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~~(8) If assigned by the state director of job and family services under section 5101.515 or 5101.525 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II or part III;~~ 18888
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~~(9)~~ Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department; 18892
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~~(10)~~(8) For the purpose of complying with a grant agreement the board of county commissioners enters into under sections 307.98 and 5101.21 of the Revised Code, exercise the powers and perform the duties the grant agreement assigns to the county department; 18900
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~~(11)~~(9) If the county department is designated as the workforce development agency, provide the workforce development activities specified in the contract required by section 330.05 of the Revised Code. 18905
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(B) The powers and duties of a county department of job and family services are, and shall be exercised and performed, under the control and direction of the board of county commissioners. The board may assign to the county department any power or duty of the board regarding family services duties and workforce development activities. If the new power or duty necessitates the state department of job and family services or department of medicaid changing its federal cost allocation plan, the county 18909
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department may not implement the power or duty unless the United States department of health and human services approves the changes.

Sec. 329.051. The county department of job and family services shall make voter registration applications as prescribed by the secretary of state under section 3503.10 of the Revised Code available to persons who are applying for, receiving assistance from, or participating in any of the following:

(A) The disability financial assistance program established under Chapter 5115. of the Revised Code;

(B) ~~The medical assistance medicaid program established under Chapter 5111. of the Revised Code;~~

(C) The Ohio works first program established under Chapter 5107. of the Revised Code;

(D) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.

Sec. 329.06. (A) Except as provided in division (C) of this section and section 6301.08 of the Revised Code, the board of county commissioners shall establish a county family services planning committee. The board shall appoint a member to represent the county department of job and family services; an employee in the classified civil service of the county department of job and family services, if there are any such employees; and a member to represent the public. The board shall appoint other individuals to the committee in such a manner that the committee's membership is broadly representative of the groups of individuals and the public and private entities that have an interest in the family services provided in the county. The board shall make appointments in a manner that reflects the ethnic and racial composition of the county. The following groups and entities may be represented on

the committee:	18947
(1) Consumers of family services;	18948
(2) The public children services agency;	18949
(3) The child support enforcement agency;	18950
(4) The county family and children first council;	18951
(5) Public and private colleges and universities;	18952
(6) Public entities that provide family services, including boards of health, boards of education, the county board of developmental disabilities, and the board of alcohol, drug addiction, and mental health services that serves the county;	18953 18954 18955 18956
(7) Private nonprofit and for-profit entities that provide family services in the county or that advocate for consumers of family services in the county, including entities that provide services to or advocate for victims of domestic violence;	18957 18958 18959 18960
(8) Labor organizations;	18961
(9) Any other group or entity that has an interest in the family services provided in the county, including groups or entities that represent any of the county's business, urban, and rural sectors.	18962 18963 18964 18965
(B) The county family services planning committee shall do all of the following:	18966 18967
(1) Serve as an advisory body to the board of county commissioners with regard to the family services provided in the county, including assistance under Chapters 5107. and 5108. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, and social services provided under section 5101.46 of the Revised Code;	18968 18969 18970 18971 18972 18973
(2) At least once a year, review and analyze the county department of job and family services' implementation of the	18974 18975

programs established under Chapters 5107. and 5108. of the Revised Code. In its review, the committee shall use information available to it to examine all of the following:

(a) Return of assistance groups to participation in either program after ceasing to participate;

(b) Teen pregnancy rates among the programs' participants;

(c) The other types of assistance the programs' participants receive, including medicaid ~~under Chapter 5111. of the Revised Code~~, publicly funded child care under Chapter 5104. of the Revised Code, supplemental nutrition assistance program benefits under section 5101.54 of the Revised Code, and energy assistance under Chapter 5117. of the Revised Code;

(d) Other issues the committee considers appropriate.

The committee shall make recommendations to the board of county commissioners and county department of job and family services regarding the committee's findings.

(3) Conduct public hearings on proposed county profiles for the provision of social services under section 5101.46 of the Revised Code;

(4) At the request of the board, make recommendations and provide assistance regarding the family services provided in the county;

(5) At any other time the committee considers appropriate, consult with the board and make recommendations regarding the family services provided in the county. The committee's recommendations may address the following:

(a) Implementation and administration of family service programs;

(b) Use of federal, state, and local funds available for family service programs;

(c) Establishment of goals to be achieved by family service programs; 19006
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(d) Evaluation of the outcomes of family service programs; 19008

(e) Any other matter the board considers relevant to the provision of family services. 19009
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(C) If there is a committee in existence in a county on October 1, 1997, that the board of county commissioners determines is capable of fulfilling the responsibilities of a county family services planning committee, the board may designate the committee as the county's family services planning committee and the committee shall serve in that capacity. 19011
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Sec. 329.14. (A) An individual whose household income does not exceed two hundred per cent of the federal poverty line is eligible to participate in an individual development account program established by the county department of job and family services of the county in which the individual resides. An eligible individual seeking to be a participant in the program shall enter into an agreement with the fiduciary organization administering the program. The agreement shall specify the terms and conditions of uses of funds deposited, financial documentation required to be maintained by the participant, expectations and responsibilities of the participant, and services to be provided by the fiduciary organization. 19017
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(B) A participant may deposit earned income, as defined in 26 U.S.C. 911(d)(2), as amended, into the account. The fiduciary organization may deposit into the account an amount not exceeding four times the amount deposited by the participant except that a fiduciary organization may not, pursuant to an agreement with an employer, deposit an amount into an account held by a participant who is employed by the employer. An account may have no more than ten thousand dollars in it at any time. 19029
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(C) Notwithstanding eligibility requirements established in 19037
or pursuant to Chapter 5107.7, or 5108.7, ~~or 5111.~~ of the Revised 19038
Code, to the extent permitted by federal statutes and regulations, 19039
money in an individual development account, including interest, is 19040
exempt from consideration in determining whether the participant 19041
or a member of the participant's assistance group is eligible for 19042
assistance under Chapter 5107.7 or 5108.7, ~~or 5111.~~ of the Revised 19043
Code and the amount of assistance the participant or assistance 19044
group is eligible to receive. 19045

(D)(1) Except as provided in division (D)(2) of this section, 19046
an individual development account program participant may use 19047
money in the account only for the following purposes: 19048

(a) Postsecondary educational expenses paid directly from the 19049
account to an eligible education institution or vendor; 19050

(b) Qualified acquisition expenses of a principal residence, 19051
as defined in 26 U.S.C. 1034, as amended, paid directly from the 19052
account to the person or government entity to which the expenses 19053
are due; 19054

(c) Qualified business capitalization expenses made in 19055
accordance with a qualified business plan that has been approved 19056
by a financial institution or by a nonprofit microenterprise 19057
program having demonstrated business expertise and paid directly 19058
from the account to the person to whom the expenses are due. 19059

(2) A fiduciary organization shall permit a participant to 19060
withdraw money deposited by the participant if it is needed to 19061
deal with a personal emergency of the participant or a member of 19062
the participant's family or household. Withdrawal shall result in 19063
the loss of any matching funds in an amount equal to the amount of 19064
the withdrawal. 19065

(3) Regardless of the reason for the withdrawal, a withdrawal 19066
from an individual development account may be made only with the 19067

approval of the fiduciary organization. 19068

Sec. 339.02. (A) As used in this section, "area served by the 19069
hospital" means the geographic area, whether or not included 19070
within the county, from which a county hospital regularly draws 19071
patients. 19072

(B) Unless a board of county hospital trustees for the county 19073
is in existence in accordance with this section, such board shall 19074
be created pursuant to this section after the board of county 19075
commissioners first determines by resolution to establish a county 19076
hospital. Copies of such resolution shall be certified to the 19077
probate judge of the county senior in point of service and to the 19078
judge, other than a probate judge, of the court of common pleas of 19079
the county senior in point of service. The board of county 19080
commissioners together with the probate judge of the county senior 19081
in point of service and the judge of the court of common pleas of 19082
the county senior in point of service shall, within ten days after 19083
such certification, appoint a board of county hospital trustees. 19084

(C) In making appointments to a board of county hospital 19085
trustees, ~~all~~ both of the following apply with respect to the 19086
individuals who may be appointed: 19087

(1) Members shall be electors and representative of the area 19088
served by the hospital, except that not more than two members may 19089
be electors of the area served by the hospital that is outside the 19090
county in which the hospital is located. 19091

(2) ~~In no case shall more than one half of the members be 19092
independents or be members of any one political party.~~ 19093

~~(3)~~ A physician may serve as a member, including a physician 19094
who is authorized to admit and treat patients at the hospital, 19095
except as follows: 19096

(a) Not more than two physicians may serve as members at the 19097

same time; 19098

(b) No physician who is employed by the hospital may serve as 19099
a member. 19100

(D) A board of county hospital trustees shall be composed of 19101
six members, unless the board of county commissioners determines 19102
that the board of trustees can more effectively function with 19103
eight or ten members in which case there may be eight or ten 19104
members, as designated by the board of county commissioners. 19105

(E) With respect to the initial appointment of members to a 19106
board of county hospital trustees, all of the following apply: 19107

(1) When the board is composed of six members, their terms of 19108
office shall be one for one year, one for two years, one for three 19109
years, one for four years, one for five years, and one for six 19110
years from the first Monday of March thereafter. 19111

(2) When the board is composed of eight members, their terms 19112
of office shall be one for one year, one for two years, two for 19113
three years, one for four years, one for five years, and two for 19114
six years from the first Monday of March thereafter. 19115

(3) When the board is composed of ten members, their terms of 19116
office shall be two for one year, one for two years, two for three 19117
years, two for four years, one for five years, and two for six 19118
years from the first Monday of March thereafter. 19119

(F) Except as provided in division (G)(2) of this section, 19120
all of the following apply with respect to vacancies on a board of 19121
county hospital trustees: 19122

(1) Annually, on the first Monday of March, the board of 19123
county commissioners together with the probate judge of the county 19124
senior in point of service and the judge of the court of common 19125
pleas of the county senior in point of service shall appoint or 19126
reappoint for a term of six years a sufficient number of members 19127

to replace those members whose terms have expired. 19128

(2) The appointing authority shall fill a vacancy not later 19129
than six months after the vacancy occurs. If the vacancy remains 19130
unfilled on that date, the remaining members of the board, by 19131
majority vote, shall appoint an individual to fill the vacancy. 19132

(3) The appointing authority may fill a vacancy by seeking 19133
nominations from a selection committee consisting of one county 19134
commissioner designated by the board of county commissioners, the 19135
chair of the board of county hospital trustees, and the county 19136
hospital administrator. If nominations for filling a vacancy are 19137
sought from a selection committee, the committee shall nominate at 19138
least three individuals for the vacancy. The appointing authority 19139
may fill the vacancy by appointing one of the nominated 19140
individuals or by appointing another individual selected by the 19141
appointing authority. 19142

(4) Any member appointed to fill a vacancy occurring prior to 19143
the expiration date of the term for which the member's predecessor 19144
was appointed shall hold office as a member for the remainder of 19145
that term. 19146

(G)(1) The board of county commissioners together with the 19147
probate judge senior in point of service and the judge of the 19148
court of common pleas senior in point of service in any county in 19149
which a board of county hospital trustees has been appointed may 19150
expand the number of members to eight or to ten. When the number 19151
of members is increased to eight, one shall be appointed for a 19152
three-year and one for a six-year term from the first Monday of 19153
March thereafter. When the number of members is increased from six 19154
to ten, the term for additional members shall be: one for one 19155
year, one for three years, one for four years, and one for six 19156
years from the first Monday of March thereafter. When the number 19157
of members is increased from eight to ten, the term for additional 19158
members shall be: one for one year and one for four years from the 19159

first Monday of March thereafter. Thereafter except as provided in 19160
division (G)(2) of this section, upon the expiration of the term 19161
of office of each member, the vacancy shall be filled in the 19162
manner specified in division (F) of this section. 19163

(2) The board of county commissioners together with the 19164
probate judge senior in point of service and the judge of the 19165
court of common pleas senior in point of service may reduce the 19166
number of members of a board of county hospital trustees to eight 19167
or to six. The reduction shall occur on expiration of a member's 19168
term of office, at which time no appointment shall be made. While 19169
the board of county commissioners and the judges are in the 19170
process of reducing the number of members, the board of county 19171
hospital trustees may consist of nine or seven members for one 19172
year. 19173

(H) Any member of a board of county hospital trustees may be 19174
removed from office by the appointing authority for neglect of 19175
duty, misconduct, or malfeasance in office. The member shall be 19176
informed in writing of the charges and afforded an opportunity for 19177
a hearing before the appointing authority. The appointing 19178
authority shall not remove a member from office for political 19179
reasons. 19180

(I) The board of county commissioners may provide members of 19181
a board of county hospital trustees shall a stipend for their 19182
service or require the members to serve without compensation, but, 19183
The members shall be allowed their necessary and reasonable 19184
expenses incurred in the performance of their duties, including 19185
the cost of their participation in any continuing education 19186
programs or developmental programs that the members consider 19187
necessary. Allowable stipends and expenses shall be paid out of 19188
the funds provided for the county hospital. 19189

(J) The persons selected to be members of a board of county 19190
hospital trustees shall forthwith be notified, by mail, of their 19191

appointment. When a board is initially appointed, the notice shall 19192
state a time, not more than ten days later, when such board shall 19193
meet at the county seat of such county to organize. On the date 19194
stated, the board shall meet and organize. 19195

(K) A board of county hospital trustees shall organize by 19196
electing one of its number as chairperson and such other officers 19197
as specified in the board's rules. Four members of a six-member 19198
board constitute a quorum, five members constitute a quorum of an 19199
eight-member board, and six members constitute a quorum of a 19200
ten-member board. 19201

A board of county hospital trustees shall hold meetings at 19202
least ~~once a month~~ quarterly, shall adopt necessary rules of 19203
procedure, and shall keep a record of its proceedings and a strict 19204
account of all its receipts, disbursements, and expenditures. On 19205
completion of the construction and equipping of a county hospital, 19206
the board shall file such account with the board of county 19207
commissioners and make final settlement with the board of county 19208
commissioners for the construction and equipping of the hospital. 19209

Sec. 339.05. (A) A board of county hospital trustees may 19210
adopt, annually, bidding procedures and purchasing or leasing 19211
policies ~~for services~~ provided through a joint purchasing 19212
arrangement sponsored by a nonprofit organization, ~~and~~ for 19213
services, supplies, and equipment, that are routinely used in the 19214
operation of the hospital and that cost in excess of the amount 19215
specified in section 307.86 of the Revised Code as the amount 19216
above which purchases must be competitively bid. If a board of 19217
county hospital trustees adopts those policies and procedures, and 19218
if the board of county commissioners approves them, the board of 19219
county hospital trustees may follow those policies and procedures 19220
in lieu of following the competitive bidding procedures of 19221
sections 307.86 to 307.92 of the Revised Code. 19222

(B) Notwithstanding section 307.86 of the Revised Code, the board of county hospital trustees is exempt from competitive bidding as required under that section if the board, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and either of the following applies:

(1) The estimated cost is less than one hundred thousand dollars.

(2) There is actual physical damage to structures or equipment.

The board shall enter the determination of emergency and the reasons for it in the minutes of its proceedings.

For purposes of this section, a vote is unanimous if all members of a board of county hospital trustees are present, or a lesser number of members of the board if not all members are present, provided that the number of members present constitutes a quorum.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding because the estimated cost is less than one hundred thousand dollars, but the estimated cost is fifty thousand dollars or more, the board shall solicit informal estimates from not fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the board shall maintain a record of the informal estimates, including the name of each person from whom an informal estimate was solicited. The board shall maintain the record for the longer of at least one year after the contract is awarded or an amount of time required by the federal government.

Sec. 339.06. (A) The board of county hospital trustees, upon completion of construction or leasing and equipping of a county hospital, shall assume and continue the operation of the hospital.

(B) The board of county hospital trustees shall have the entire management and control of the county hospital. The board may in writing delegate its management and control of the county hospital to the administrator of the county hospital employed under section 339.07 of the Revised Code. The board shall establish such rules for the hospital's government, management, control, and the admission of persons as are expedient.

(C) The board of county hospital trustees has control of the property of the county hospital, including management and disposal of surplus property other than real estate or an interest in real estate.

(D) With respect to the use of funds by the board of county hospital trustees and its accounting for the use of funds, all of the following apply:

(1) The board of county hospital trustees has control of all funds used in the county hospital's operation, including moneys received from the operation of the hospital, moneys appropriated for its operation by the board of county commissioners, and moneys resulting from special levies submitted by the board of county commissioners as provided for in section 5705.22 of the Revised Code.

(2) Of the funds used in the county hospital's operation, all or part of any amount determined not to be necessary to meet current demands on the hospital may be invested by the board of county hospital trustees or its designee in any classifications of securities and obligations eligible for deposit or investment of county moneys pursuant to section 135.35 of the Revised Code, subject to the approval of the board's written investment policy by the county investment advisory committee established pursuant to section 135.341 of the Revised Code.

(3) Annually, not later than sixty days before the end of the

fiscal year used by the county hospital, the board of county hospital trustees shall submit its proposed budget for the ensuing fiscal year to the board of county commissioners for that board's review. The board of county commissioners shall review and approve the proposed budget by the first day of the fiscal year to which the budget applies. If the board of county commissioners has not approved the budget by the first day of the fiscal year to which the budget applies, the budget is deemed to have been approved by the board on the first day of that fiscal year.

(4) The board of county hospital trustees shall not expend funds received from taxes collected pursuant to any tax levied under section 5705.22 of the Revised Code or the amount appropriated to the county hospital by the board of county commissioners in the annual appropriation measure for the county until its budget for the applicable fiscal year is approved in accordance with division (C)(3) of this section. At any time the amount received from those sources differs from the amount shown in the approved budget, the board of county commissioners may require the board of county hospital trustees to revise the county hospital budget accordingly.

(5) Funds under the control of the board of county hospital trustees may be disbursed by the board, consistent with the approved budget, for the uses and purposes of the county hospital; for the replacement of necessary equipment; for the acquisition, leasing, or construction of permanent improvements to county hospital property; or for making a donation authorized by division (E) of this section. Each disbursement of funds shall be made on a voucher signed by signatories designated and approved by the board of county hospital trustees.

(6) The head of a board of county hospital trustees is not required to file an estimate of contemplated revenue and expenditures for the ensuing fiscal year under section 5705.28 of

the Revised Code unless the board of county commissioners levies a tax for the county hospital, or such a tax is proposed, or the board of county hospital trustees desires that the board of county commissioners make an appropriation to the county hospital for the ensuing fiscal year.

(7) All moneys appropriated by the board of county commissioners or from special levies by the board of county commissioners for the operation of the hospital, when collected shall be paid to the board of county hospital trustees on a warrant of the county auditor and approved by the board of county commissioners.

(8) The board of county hospital trustees shall provide for the conduct of an annual financial audit of the county hospital. Not later than thirty days after it receives the final report of an annual financial audit, the board shall file a copy of the report with the board of county commissioners.

(E) For the public purpose of improving the health, safety, and general welfare of the community, the board of county hospital trustees may donate to a nonprofit entity any of the following:

(1) Moneys and other financial assets determined not to be necessary to meet current demands on the hospital;

(2) Surplus hospital property, including supplies, equipment, office facilities, and other property that is not real estate or an interest in real estate;

(3) Services rendered by the hospital.

(F)(1) For purposes of division (F)(2) of this section:

(a) "Bank" has the same meaning as in section 1101.01 of the Revised Code.

(b) "Savings and loan association" has the same meaning as in section 1151.01 of the Revised Code.

(c) "Savings bank" has the same meaning as in section 1161.01 19346
of the Revised Code. 19347

(2) The board of county hospital trustees may enter into a 19348
contract for a secured line of credit with a bank, savings and 19349
loan association, or savings bank if the contract meets all of the 19350
following requirements: 19351

(a) The term of the contract does not exceed one year, except 19352
that the contract may provide for the automatic renewal of the 19353
contract for up to four additional one-year periods if, on the 19354
date of automatic renewal, the aggregate outstanding draws 19355
remaining unpaid under the secured line of credit do not exceed 19356
fifty per cent of the maximum amount that can be drawn under the 19357
secured line of credit. 19358

(b) The contract provides that the bank, savings and loan 19359
association, or savings bank shall not commence a civil action 19360
against the board of county commissioners, any member of the 19361
board, or the county to recover the principal, interest, or any 19362
charges or other amounts that remain outstanding on the secured 19363
line of credit at the time of any default by the board of county 19364
hospital trustees. 19365

(c) The contract provides that no assets other than those of 19366
the county hospital can be used to secure the line of credit. 19367

(d) The terms and conditions of the contract comply with all 19368
state and federal statutes and rules governing the extension of a 19369
secured line of credit. 19370

(3) Any obligation incurred by a board of county hospital 19371
trustees under division (F)(2) of this section is an obligation of 19372
that board only and not a general obligation of the board of 19373
county commissioners or the county within the meaning of division 19374
(Q) of section 133.01 of the Revised Code. 19375

(4) Notwithstanding anything to the contrary in the Revised 19376

Code, the board of county hospital trustees may secure the line of 19377
credit authorized under division (F)(2) of this section by the 19378
grant of a security interest in any part or all of its tangible 19379
personal property and intangible personal property, including its 19380
deposit accounts, accounts receivable, or both. 19381

(5) No board of county hospital trustees shall at any time 19382
have more than one secured line of credit under division (F)(2) of 19383
this section. 19384

(G) The board of county hospital trustees shall establish a 19385
schedule of charges for all services and treatment rendered by the 19386
county hospital. It may provide for the free treatment in the 19387
hospital of soldiers, sailors, and marines of the county, under 19388
such conditions and rules as it prescribes. 19389

(H) The board of county hospital trustees may designate the 19390
amounts and forms of insurance protection to be provided, and the 19391
board of county commissioners shall assist in obtaining such 19392
protection. The expense of providing the protection shall be paid 19393
from hospital operating funds. 19394

(I) The board of county hospital trustees may authorize a 19395
county hospital and each of its units, hospital board members, 19396
designated hospital employees, and medical staff members to be a 19397
member of and maintain membership in any local, state, or national 19398
group or association organized and operated for the promotion of 19399
the public health and welfare or advancement of the efficiency of 19400
hospital administration and in connection therewith to use tax 19401
funds for the payment of dues and fees and related expenses but 19402
nothing in this section prohibits the board from using receipts 19403
from hospital operation, other than tax funds, for the payment of 19404
such dues and fees. 19405

(J) The following apply to the board of county hospital 19406
trustees in relation to its employees and the employees of the 19407

county hospital: 19408

(1) The board shall adopt the wage and salary schedule for 19409
employees. 19410

(2) The board may employ the hospital's administrator 19411
pursuant to section 339.07 of the Revised Code, and the 19412
administrator may employ individuals for the hospital in 19413
accordance with that section. 19414

(3) The board may employ assistants as necessary to perform 19415
its clerical work, superintend properly the construction of the 19416
county hospital, and pay the hospital's expenses. Such employees 19417
may be paid from funds provided for the county hospital. 19418

(4) The board may hire, by contract or as salaried employees, 19419
such management consultants, accountants, attorneys, engineers, 19420
architects, construction managers, and other professional advisors 19421
as it determines are necessary and desirable to assist in the 19422
management of the programs and operation of the county hospital. 19423
Such professional advisors may be paid from county hospital 19424
operating funds. 19425

(5) Notwithstanding section 325.19 of the Revised Code, the 19426
board may grant to employees any fringe benefits the board 19427
determines to be customary and usual in the nonprofit hospital 19428
field in its community, including, but not limited to: 19429

(a) Additional vacation leave with full pay for full-time 19430
employees, including full-time hourly rate employees, after 19431
service of one year; 19432

(b) Vacation leave and holiday pay for part-time employees on 19433
a pro rata basis; 19434

(c) Leave with full pay due to death in the employee's 19435
immediate family, which shall not be deducted from the employee's 19436
accumulated sick leave; 19437

(d) Premium pay for working on holidays listed in section 325.19 of the Revised Code;	19438 19439
(e) Moving expenses for new employees;	19440
(f) Discounts on hospital supplies and services.	19441
(6) The board may provide holiday leave by observing Martin Luther King day, Washington-Lincoln day, Columbus day, and Veterans' day on days other than those specified in section 1.14 of the Revised Code.	19442 19443 19444 19445
(7) The board may grant to employees the insurance benefits authorized by section 339.16 of the Revised Code.	19446 19447
(8) Notwithstanding section 325.19 of the Revised Code, the board may grant to employees, including hourly rate employees, such personal holidays as the board determines to be customary and usual in the hospital field in its community.	19448 19449 19450 19451
(9) The board may provide employee recognition awards and hold employee recognition dinners.	19452 19453
(10) The board may grant to employees the recruitment and retention benefits specified under division (K) of this section.	19454 19455
(K) Notwithstanding sections 325.191 and 325.20 of the Revised Code, the board of county hospital trustees may provide, without the prior authorization of the board of county commissioners, scholarships for education in the health care professions, tuition reimbursement, and other staff development programs to enhance the skills of health care professionals for the purpose of recruiting or retaining qualified employees.	19456 19457 19458 19459 19460 19461 19462
The board of county hospital trustees may pay reasonable expenses for recruiting or retaining physicians and other appropriate health care practitioners.	19463 19464 19465
(L) The board of county hospital trustees may retain counsel and institute legal action in its own name for the collection of	19466 19467

delinquent accounts. The board may also employ any other lawful 19468
means for the collection of delinquent accounts. 19469

Sec. 339.07. (A) The board of county hospital trustees shall 19470
provide for the administration of the county hospital by directly 19471
employing a hospital administrator or by entering into a contract 19472
for the management of the hospital under which an administrator is 19473
provided. When an administrator is employed directly, the board 19474
shall adopt a job description delineating the administrator's 19475
powers and duties and the board may pay the administrator's salary 19476
and other benefits from funds provided for the hospital. 19477

(B) During the construction and equipping of the hospital, 19478
the administrator shall act in an advisory capacity to the board 19479
of county hospital trustees. After the hospital is completed, the 19480
administrator shall serve as the chief executive officer and shall 19481
carry out the administration of the county hospital according to 19482
the policies set forth by the board and any written delegation. 19483

The administrator shall administer the county hospital, make 19484
reports, and take any other action that the administrator 19485
determines is necessary for the operation of the hospital. 19486

At the end of each fiscal year, the administrator shall 19487
submit to the board a complete financial statement showing the 19488
receipts, revenues, and expenditures in detail for the entire 19489
fiscal year. 19490

The administrator shall ensure that the hospital has such 19491
physicians, nurses, and other employees as are necessary for the 19492
proper care, control, and management of the county hospital and 19493
its patients. The physicians, nurses, and other employees may be 19494
suspended or removed by the administrator at any time the welfare 19495
of the hospital warrants suspension or removal. The administrator 19496
may obtain physicians, nurses, and other employees by direct 19497
employment, entering into contracts, or granting authority to 19498

practice in the hospital. Persons employed directly shall be in 19499
the unclassified civil service, pursuant to section 124.11 of the 19500
Revised Code. 19501

Sec. 340.01. (A) As used in this chapter, "addiction," 19502
"addiction services," "alcohol and drug addiction services," ~~and~~ 19503
"community addiction services provider," "community mental health
services provider," "~~alcohol and drug addiction programs gambling~~ 19505
addiction services," "mental health services," and "mental 19506
illness" have the same meanings as in section ~~3793.01~~ 5119.01 of 19507
the Revised Code. 19508

(B) An alcohol, drug addiction, and mental health service 19509
district shall be established in any county or combination of 19510
counties having a population of at least fifty thousand to provide 19511
~~alcohol and drug~~ addiction services and mental health services. 19512
With the approval of the ~~directors~~ director of ~~mental health and~~ 19513
~~alcohol and drug addiction services~~ mental health and addiction
services, any county or combination of counties having a 19514
population of less than fifty thousand may establish such a 19515
district. Districts comprising more than one county shall be known 19516
as joint-county districts. 19517
19518

The board of county commissioners of any county participating 19519
in a joint-county district may submit a resolution requesting 19520
withdrawal from the district together with a comprehensive plan or 19521
plans that are in compliance with rules adopted by the director of 19522
~~mental health~~ mental health and addiction services under ~~section~~ 19523
~~5119.61~~ section 5119.22 of the Revised Code ~~and rules adopted by~~ 19524
~~the department of alcohol and drug addiction services under~~ 19525
~~section 3793.05 of the Revised Code~~, and that provide for the 19526
equitable adjustment and division of all services, assets, 19527
property, debts, and obligations, if any, of the joint-county 19528
district to the board of alcohol, drug addiction, and mental 19529

health services, to the boards of county commissioners of each 19530
county in the district, and to the directors. No county 19531
participating in a joint-county service district may withdraw from 19532
the district without the consent of the ~~directors~~ director of 19533
~~mental health and alcohol and drug addiction services~~ mental 19534
health and addiction services nor earlier than one year after the 19535
submission of such resolution unless all of the participating 19536
counties agree to an earlier withdrawal. Any county withdrawing 19537
from a joint-county district shall continue to have levied against 19538
its tax list and duplicate any tax levied by the district during 19539
the period in which the county was a member of the district until 19540
such time as the levy expires or is renewed or replaced. 19541

Sec. 340.011. (A) This chapter shall be interpreted to 19542
accomplish all of the following: 19543

(1) Establish a unified system of treatment for mentally ill 19544
persons and persons with addictions; 19545

(2) Establish a community support system available for every 19546
alcohol, drug addiction, and mental health service district; 19547

(3) Protect the personal liberty of mentally ill persons so 19548
that they may be treated in the least restrictive environment; 19549

(4) Encourage the development of high quality, cost 19550
effective, and comprehensive services, including culturally 19551
sensitive services; 19552

(5) Foster the development of comprehensive community mental 19553
health services, based on recognized local needs, especially for 19554
severely mentally disabled children, adolescents, and adults; 19555

(6) Ensure that services provided meet minimum standards 19556
established by the director of ~~mental health or the department of~~ 19557
~~alcohol and drug addiction services~~ mental health and addiction 19558
services; 19559

(7) Promote the delivery of high quality and cost-effective 19560
~~alcohol and drug~~ addiction and mental health services; 19561

(8) Promote the participation of ~~consumers of~~ persons 19562
receiving mental health services and ~~alcohol and drug~~ addiction 19563
services in the planning, delivery, and evaluation of these 19564
services. 19565

(B) Nothing in Chapter 340., ~~3793.7~~, 5119., or 5122. of the 19566
Revised Code shall be construed as requiring a board of county 19567
commissioners to provide resources beyond the total amount set 19568
forth in a ~~community~~ budget and statement of services to be 19569
provided by the alcohol, drug addiction, and mental health ~~plan~~ 19570
services board, as developed and submitted under section ~~340.03~~ 19571
340.08 of the Revised Code, ~~to provide the services listed in~~ 19572
~~section 340.09 of the Revised Code, and nothing in those chapters~~ 19573
~~shall be construed as requiring a board of county commissioners to~~ 19574
~~provide resources beyond the total amount set forth in a plan for~~ 19575
~~alcohol and drug addiction services, prepared and submitted in~~ 19576
~~accordance with sections 340.033 and 3793.05 of the Revised Code,~~ 19577
~~to provide alcohol and drug addiction services.~~ 19578

Sec. 340.02. ~~As used in this section, "mental health~~ 19579
~~professional" means a person who is qualified to work with~~ 19580
~~mentally ill persons, pursuant to standards established by the~~ 19581
~~director of mental health under section 5119.611 of the Revised~~ 19582
~~Code.~~ 19583

(A) For each alcohol, drug addiction, and mental health 19584
service district, there shall be appointed a board of alcohol, 19585
drug addiction, and mental health services consisting of eighteen 19586
members or fourteen members, at the election of the board. Not 19587
later than January 1, 2014, each board of alcohol, drug addiction, 19588
and mental health services shall notify the department of mental 19589
health and addiction services of its election to continue to 19590

operate as an eighteen-member board or to transition to operation 19591
as a fourteen-member board. The election shall be final. Failure 19592
to provide notice of its election to the department on or before 19593
January 1, 2014, shall constitute an election to continue to 19594
operate as an eighteen-member board. If an existing board provides 19595
timely notice of its election to transition to operate as a 19596
fourteen-member board, the number of board members may decline 19597
from eighteen to fourteen by attrition as current members' terms 19598
expire. However, the composition of the board must reflect the 19599
requirements set forth in this section for fourteen-member boards. 19600
~~Nine~~ For all boards, half of the members shall be interested in 19601
mental health ~~programs and facilities~~ services and ~~nine other half~~ 19602
of the members shall be interested in alcohol ~~or~~, drug, or 19603
~~gambling~~ addiction ~~programs~~ services. All members shall be 19604
residents of the service district. The membership shall, as nearly 19605
as possible, reflect the composition of the population of the 19606
service district as to race and sex. 19607

~~The (B)~~ For boards operating as eighteen-member boards, the 19608
director of ~~mental health~~ mental health and addiction services 19609
shall appoint ~~four~~ eight members of the board, ~~the director of~~ 19610
~~alcohol and drug addiction services shall appoint four members,~~ 19611
and the board of county commissioners shall appoint ten members. 19612
For boards operating as fourteen-member boards, the director of 19613
mental health and addiction services shall appoint six members of 19614
the board and the board of county commissioners shall appoint 19615
eight members. In a joint-county district, the county 19616
commissioners of each participating county shall appoint members 19617
in as nearly as possible the same proportion as that county's 19618
population bears to the total population of the district, except 19619
that at least one member shall be appointed from each 19620
participating county. 19621

(C) The director of ~~mental health~~ mental health and addiction 19622

~~services shall ensure that at least one member of the board is a psychiatrist and one member of the board is a mental health professional. If the appointment of a psychiatrist is not possible, as determined under rules adopted by the director, a licensed physician may be appointed in place of the psychiatrist. If the appointment of a licensed physician is not possible, the director of mental health may waive the requirement that the psychiatrist or licensed physician be a resident of the service district and appoint a psychiatrist or licensed physician from a contiguous county. The director of mental health shall ensure that clinician with experience in the delivery of mental health services, at least one member of the board is a person who has received or is receiving mental health services paid for by public funds and, at least one member of the board is a parent or other relative of such a person-~~

~~The director of alcohol and drug addiction services shall ensure that at least one member of the board is a professional in the field of alcohol or drug addiction services and one member of the board is an advocate for persons receiving treatment for alcohol or drug addiction. Of the members appointed by the director of alcohol and drug addiction services, at least one member of the board is a clinician with experience in the delivery of addiction services, at least one ~~shall be~~ member of the board ~~is~~ a person who has received or is receiving ~~services for alcohol or drug~~ addiction services paid for by public funds, and at least one ~~shall be~~ member of the board ~~is~~ a parent or other relative of such a person. A single member who meets both qualifications may fulfill the requirement for a clinician with experience in the delivery of mental health services and a clinician with experience in the delivery of addiction services.~~

~~(D) No member or employee of a board of alcohol, drug addiction, and mental health services shall serve as a member of~~

the board of any ~~agency provider~~ with which the board of alcohol, 19655
drug addiction, and mental health services has entered into a 19656
contract for the provision of services or facilities. No member of 19657
a board of alcohol, drug addiction, and mental health services 19658
shall be an employee of any ~~agency provider~~ with which the board 19659
has entered into a contract for the provision of services or 19660
facilities, ~~unless the board member's employment duties with the~~ 19661
~~agency consist of providing, only outside the district the board~~ 19662
~~serves, services for which the medicaid program pays.~~ No person 19663
shall be an employee of a board and such ~~an agency a provider~~ 19664
unless the board and ~~agency provider~~ both agree in writing. 19665

(E) No person shall serve as a member of the board of 19666
alcohol, drug addiction, and mental health services whose spouse, 19667
child, parent, brother, sister, grandchild, stepparent, stepchild, 19668
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 19669
daughter-in-law, brother-in-law, or sister-in-law serves as a 19670
member of the board of any ~~agency provider~~ with which the board of 19671
alcohol, drug addiction, and mental health services has entered 19672
into a contract for the provision of services or facilities. No 19673
person shall serve as a member or employee of the board whose 19674
spouse, child, parent, brother, sister, stepparent, stepchild, 19675
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 19676
daughter-in-law, brother-in-law, or sister-in-law serves as a 19677
county commissioner of a county or counties in the alcohol, drug 19678
addiction, and mental health service district. 19679

(F) Each year each board member shall attend at least one 19680
inservice training session provided or approved by the department 19681
of ~~mental health or the department of alcohol and drug addiction~~ 19682
~~services~~ mental health and addiction services. ~~Such training~~ 19683
~~sessions shall not be considered to be regularly scheduled~~ 19684
~~meetings of the board.~~ 19685

~~Each~~ (G) For boards operating as eighteen-member boards, each 19686

member shall be appointed for a term of four years, commencing the 19687
first day of July, except that one-third of initial appointments 19688
to a newly established board, and to the extent possible to 19689
expanded boards, shall be for terms of two years, one-third of 19690
initial appointments shall be for terms of three years, and 19691
one-third of initial appointments shall be for terms of four 19692
years. For boards operating as fourteen-member boards, each member 19693
shall be appointed for a term of four years, commencing the first 19694
day of July, except that four of the initial appointments to a 19695
newly established board, and to the extent possible to expanded 19696
boards, shall be for terms of two years, five initial appointments 19697
shall be for terms of three years, and five initial appointments 19698
shall be for terms of four years. No member shall serve more than 19699
two consecutive four-year terms under the same appointing 19700
authority. A member may serve for three consecutive terms under 19701
the same appointing authority only if one of the terms is for less 19702
than two years. A member who has served two consecutive four-year 19703
terms or three consecutive terms totaling less than ten years is 19704
eligible for reappointment by the same appointing authority one 19705
year following the end of the second or third term, respectively. 19706

When a vacancy occurs, appointment for the expired or 19707
unexpired term shall be made in the same manner as an original 19708
appointment. The appointing authority shall be notified by 19709
certified mail of any vacancy and shall fill the vacancy within 19710
sixty days following that notice. 19711

Any member of the board may be removed from office by the 19712
appointing authority for neglect of duty, misconduct, or 19713
malfeasance in office, and shall be removed by the appointing 19714
authority if the member is barred by this section from serving as 19715
a board member. The member shall be informed in writing of the 19716
charges and afforded an opportunity for a hearing. Upon the 19717
absence of a member within one year from either four board 19718

meetings or from two board meetings without prior notice, the 19719
board shall notify the appointing authority, which may vacate the 19720
appointment and appoint another person to complete the member's 19721
term. 19722

Members of the board shall serve without compensation, but 19723
shall be reimbursed for actual and necessary expenses incurred in 19724
the performance of their official duties, as defined by rules of 19725
the ~~departments~~ department of ~~mental health and alcohol and drug~~ 19726
~~addiction services~~ mental health and addiction services. 19727

Sec. 340.021. (A) In an alcohol, drug addiction, and mental 19728
health service district ~~comprised of a county with a population of~~ 19729
~~two hundred fifty thousand or more on October 10, 1989, the board~~ 19730
~~of county commissioners shall, within thirty days of October 10,~~ 19731
~~1989, establish an alcohol and drug addiction services board as~~ 19732
~~the entity responsible for providing alcohol and drug addiction~~ 19733
~~services in the county, unless, prior to that date, the board~~ 19734
~~adopts a resolution providing that the entity responsible for~~ 19735
~~providing the services is a board of alcohol, drug addiction, and~~ 19736
~~mental health services. If where the board of county commissioners~~ 19737
~~establishes has established an alcohol and drug addiction services~~ 19738
board, the community mental health board established under former 19739
section 340.02 of the Revised Code shall serve as the entity 19740
responsible for providing mental health services in the county. A 19741
community mental health board has all the powers, duties, and 19742
obligations of a board of alcohol, drug addiction, and mental 19743
health services with regard to mental health services. An alcohol 19744
and drug addiction services board has all the powers, duties, and 19745
obligations of a board of alcohol, drug addiction, and mental 19746
health services with regard to ~~alcohol and drug~~ addiction 19747
services. Any provision of the Revised Code that refers to a board 19748
of alcohol, drug addiction, and mental health services with regard 19749
to mental health services also refers to a community mental health 19750

board and any provision that refers to a board of alcohol, drug 19751
addiction, and mental health services with regard to alcohol and 19752
drug addiction services also refers to an alcohol and drug 19753
addiction services board. 19754

An alcohol and drug addiction services board shall consist of 19755
eighteen members or fourteen members, six of whom at the election 19756
of the board. Not later than January 1, 2014, each alcohol and 19757
drug addiction services board shall notify the department of 19758
mental health and addiction services of its election to operate as 19759
an eighteen-member board or to operate as a fourteen-member board. 19760
The election shall be final. Failure to provide notice of its 19761
election to the department on or before January 1, 2014, shall 19762
constitute an election to continue to operate as an 19763
eighteen-member board. If an existing board provides timely notice 19764
of its election to operate as a fourteen-member board, the number 19765
of board members may decline from eighteen to fourteen by 19766
attrition as current members' terms expire. However, the 19767
composition of the board must reflect the requirements set forth 19768
in this section and in applicable provisions of section 340.02 of 19769
the Revised Code for fourteen-member boards. For boards operating 19770
as eighteen-member boards, eight members shall be appointed by the 19771
director of alcohol and drug addiction services mental health and 19772
addiction services and twelve of whom ten members shall be 19773
appointed by the board of county commissioners. Of the members 19774
appointed by the The director, one shall be of mental health and 19775
addiction services shall ensure that at least one member of the 19776
board is a person who has received or is receiving services for 19777
alcohol or, drug, or gambling addiction, at least one shall be 19778
member is a parent or relative of such a person, and at least one 19779
shall be member is a professional in the field of alcohol or drug 19780
clinician with experience in the delivery of addiction services, 19781
and one shall be an advocate for persons receiving treatment for 19782
alcohol or drug addiction. The membership of the board shall, as 19783

nearly as possible, reflect the composition of the population of 19784
the service district as to race and sex. Members shall be 19785
residents of the service district and shall be interested in 19786
alcohol ~~and~~, drug, or gambling addiction services. Requirements 19787
for membership, including prohibitions against certain family and 19788
business relationships, and terms of office shall be the same as 19789
those for members of boards of alcohol, drug addiction, and mental 19790
health services. 19791

A community mental health board shall consist of eighteen 19792
members or fourteen members, at the election of the board. Not 19793
later than January 1, 2014, each community mental health board 19794
shall notify the department of mental health and addiction 19795
services of its election to operate as an eighteen-member board or 19796
to operate as a fourteen-member board. The election shall be 19797
final. Failure to provide notice of its election to the department 19798
on or before January 1, 2014, shall constitute an election to 19799
continue to operate as an eighteen-member board. If an existing 19800
board provides timely notice of its election to operate as a 19801
fourteen-member board, the number of board members may decline 19802
from eighteen to fourteen by attrition as current members' terms 19803
expire. However, the composition of the board must reflect the 19804
requirements set forth in this section and in applicable 19805
provisions of section 340.02 of the Revised Code for 19806
fourteen-member boards. For boards operating as eighteen-member 19807
boards, ~~six of whom~~ eight members shall be appointed by the 19808
director of ~~mental health~~ mental health and addiction services and 19809
~~twelve of whom~~ ten members shall be appointed by the board of 19810
county commissioners. ~~Of the members appointed by the~~ The 19811
~~director, one shall be~~ of mental health and addiction services 19812
shall ensure that at least one member of the board is a person who 19813
has received or is receiving mental health services, at least one 19814
~~shall be member is~~ a parent or relative of such a person, and at 19815
least one shall be member is a psychiatrist or a physician, and 19816

~~one shall be a clinician with experience in the delivery of mental health professional services. The membership of the board as nearly as possible shall reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in mental health services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.~~

~~(B) If a board of county commissioners subject to division (A) of this section did not adopt a resolution providing for a board of alcohol, drug addiction, and mental health services, the board of county commissioners may establish such a board in accordance with the following procedures:~~

~~(1) Not later than January 1, 2007, the board of county commissioners shall adopt a resolution expressing its intent to establish a board of alcohol, drug addiction, and mental health services.~~

~~(2) After adopting a resolution under division (B)(1) of this section, the board of county commissioners shall instruct the county's community mental health board and alcohol and drug addiction services board to prepare a report on the feasibility, process, and proposed plan to establish a board of alcohol, drug addiction, and mental health services. The board of county commissioners shall specify the date by which the report must be submitted to the board for its review.~~

~~(3) After reviewing the report prepared under division (B)(2) of this section, the board may adopt a final resolution establishing a board of alcohol, drug addiction, and mental health services. A final resolution establishing such a board shall be adopted not later than July 1, 2007.~~

~~(C)~~(1) If a board of county commissioners subject to division 19848
(A) of this section did not adopt a final resolution providing for 19849
a board of alcohol, drug addiction, and mental health services ~~and~~ 19850
~~did not establish such a board under division (B) of this section~~ 19851
~~on or before July 1, 2007~~, the board of county commissioners may 19852
establish a board of alcohol, drug addiction, and mental health 19853
services on or after the effective date of this amendment. To 19854
establish the board, the board of county commissioners shall adopt 19855
a resolution providing for the board's establishment. The 19856
composition of the board, the procedures for appointing members, 19857
and all other matters related to the board and its members are 19858
subject to section 340.02 of the Revised Code, with the following 19859
exceptions: 19860

(a) For initial appointments to the board, the county's 19861
community mental health board and alcohol and drug addiction 19862
services board shall jointly recommend members of those boards for 19863
reappointment and shall submit the recommendations to the board of 19864
county commissioners, ~~director of mental health~~, and the director 19865
of ~~alcohol and drug addiction services~~ mental health and addiction 19866
services. 19867

(b) To the greatest extent possible, the appointing 19868
authorities shall appoint the initial members from among the 19869
members jointly recommended under division ~~(C)~~(B)(1)(a) of this 19870
section. 19871

(2) If a board of alcohol, drug addiction, and mental health 19872
services is established pursuant to division ~~(C)~~(B)(1) of this 19873
section, the board has the same rights, privileges, immunities, 19874
powers, and duties that were possessed by the county's community 19875
mental health board and alcohol and drug addiction services board. 19876
When the board is established, all property and obligations of the 19877
community mental health board and alcohol and drug addiction 19878
services board shall be transferred to the board of alcohol, drug 19879

addiction, and mental health services. 19880

Sec. 340.03. (A) Subject to rules issued by the director of 19881
~~mental health~~ mental health and addiction services after 19882
consultation with relevant constituencies as required by division 19883
~~(L)(A)(10)~~ of section ~~5119.06~~ 5119.21 of the Revised Code, with 19884
~~regard to mental health services,~~ the board of alcohol, drug 19885
addiction, and mental health services shall: 19886

(1) Serve as the community addiction and mental health 19887
services planning agency for the county or counties under its 19888
jurisdiction, and in so doing it shall: 19889

(a) Evaluate the need for facilities and community addiction 19890
and mental health services; 19891

(b) In cooperation with other local and regional planning and 19892
funding bodies and with relevant ethnic organizations, assess the 19893
community addiction and mental health needs, evaluate strengths 19894
and challenges, and set priorities, ~~and develop plans for the~~ 19895
~~operation of facilities and~~ community addiction and mental health 19896
services, including treatment and prevention. When the board sets 19897
priorities for the operation of addiction services, the board 19898
shall consult with the county commissioners of the counties in the 19899
board's service district regarding the services described in 19900
section 340.15 of the Revised Code and shall give priority to 19901
those services, except that those services shall not have a 19902
priority over services provided to pregnant women under programs 19903
developed in relation to the mandate established in section 19904
5119.17 of the Revised Code; 19905

(c) In accordance with guidelines issued by the director of 19906
~~mental health~~ mental health and addiction services after 19907
consultation with board representatives, annually develop and 19908
submit to the department of ~~mental health~~ mental health and 19909
addiction services a community addiction and mental health 19910

services plan listing community addiction and mental health 19911
services needs, including the needs of all residents of the 19912
district now residing in state mental institutions and severely 19913
mentally disabled adults, children, and adolescents; currently 19914
receiving inpatient services in state-operated hospitals, the 19915
needs of other populations as required by state or federal law or 19916
programs, the needs of all children subject to a determination 19917
made pursuant to section 121.38 of the Revised Code, and all the 19918
priorities for facilities and community addiction and mental 19919
health services that are or will be in operation or provided 19920
during the period for which the plan will be in operation in the 19921
service district to meet such needs effect. 19922

In alcohol, drug addiction, and mental health service 19923
districts that have separate alcohol and drug addiction services 19924
and community mental health boards, the alcohol and drug addiction 19925
services board shall submit a community addiction services plan 19926
and the community mental health board shall submit a community 19927
mental health services plan. Each board shall consult with its 19928
counterpart in developing its plan and address the interaction 19929
between the local addiction services and mental health services 19930
systems and populations with regard to needs and priorities in 19931
developing its plan. 19932

The plan shall include, but not be limited to, a statement of 19933
which of the services listed in section 340.09 of the Revised Code 19934
the board intends to make available. The board must include crisis 19935
intervention services for individuals in an emergency situation in 19936
the plan and explain how the board intends to make such services 19937
available. The plan must also include a statement of the inpatient 19938
and community based services the board proposes that the 19939
department operate, an assessment of the number and types of 19940
residential facilities needed, such other information as the 19941
department requests, and a budget for moneys the board expects to 19942

~~receive.~~ The department shall approve or disapprove the plan, in 19943
whole or in part, according to the criteria developed pursuant to 19944
section ~~5119.61~~ 5119.22 of the Revised Code. ~~The department's~~ 19945
~~statement of approval or disapproval shall specify the inpatient~~ 19946
~~and the community based services that the department will operate~~ 19947
~~for the board.~~ Eligibility for state and federal funding shall be 19948
contingent upon an approved plan or relevant part of a plan. 19949

If a board determines that it is necessary to amend a plan ~~or~~ 19950
~~an allocation request~~ that has been approved under this division 19951
~~(A)(1)(c) of this section~~, the board shall submit a proposed 19952
amendment to the director. The director may approve or disapprove 19953
all or part of the amendment. The director shall inform the board 19954
of the reasons for disapproval of all or part of an amendment and 19955
of the criteria that must be met before the amendment may be 19956
approved. The director shall provide the board an opportunity to 19957
present its case on behalf of the amendment. The director shall 19958
give the board a reasonable time in which to meet the criteria, 19959
and shall offer the board technical assistance to help it meet the 19960
criteria. 19961

The board shall ~~implement~~ operate in accordance with the plan 19962
approved by the department. 19963

(d) Promote, arrange, and implement working agreements with 19964
social agencies, both public and private, and with judicial 19965
agencies. 19966

(2) Investigate, or request another agency to investigate, 19967
any complaint alleging abuse or neglect of any person receiving 19968
services from a community addiction or mental health ~~agency as~~ 19969
~~defined in section 5122.01 of the Revised Code~~ services provider 19970
certified under section 5119.36 of the Revised Code or alleging 19971
abuse or neglect of a ~~person~~ resident receiving addiction services 19972
or with mental illness or severe mental disability residing in a 19973
residential facility licensed under section ~~5119.22~~ 5119.34 of the 19974

Revised Code. If the investigation substantiates the charge of 19975
abuse or neglect, the board shall take whatever action it 19976
determines is necessary to correct the situation, including 19977
notification of the appropriate authorities. Upon request, the 19978
board shall provide information about such investigations to the 19979
department. 19980

(3) For the purpose of section ~~5119.611~~ 5119.36 of the 19981
Revised Code, cooperate with the director of ~~mental health~~ mental 19982
health and addiction services in visiting and evaluating whether 19983
the services of a community addiction or mental health ~~agency~~ 19984
services provider satisfy the certification standards established 19985
by rules adopted under that section; 19986

(4) In accordance with criteria established under division 19987
(E) of section ~~5119.61~~ 5119.22 of the Revised Code, conduct 19988
program audits that review and evaluate the quality, 19989
effectiveness, and efficiency of services provided through its 19990
community addiction and mental health ~~plan~~ contracted services and 19991
submit its findings and recommendations to the department of 19992
~~mental health~~ mental health and addiction services; 19993

(5) In accordance with section ~~5119.22~~ 5119.34 of the Revised 19994
Code, review an application for a residential facility license and 19995
provide to the department of ~~mental health~~ mental health and 19996
addiction services any information about the applicant or facility 19997
that the board would like the department to consider in reviewing 19998
the application; 19999

(6) Audit, in accordance with rules adopted by the auditor of 20000
state pursuant to section 117.20 of the Revised Code, at least 20001
annually all ~~programs and~~ services provided under contract with 20002
the board. In so doing, the board may contract for or employ the 20003
services of private auditors. A copy of the fiscal audit report 20004
shall be provided to the director of ~~mental health~~ mental health 20005
and addiction services, the auditor of state, and the county 20006

auditor of each county in the board's district. 20007

(7) Recruit and promote local financial support for addiction 20008
and mental health ~~programs~~ services from private and public 20009
sources; 20010

(8)(a) Enter into contracts with public and private 20011
facilities for the operation of facility services ~~included in the~~ 20012
~~board's community mental health plan~~ and enter into contracts with 20013
public and private community addiction and mental health ~~agencies~~ 20014
service providers for the provision of community addiction and 20015
mental health services ~~that are listed in section 340.09 of the~~ 20016
~~Revised Code and included in the board's community mental health~~ 20017
~~plan~~. The board may not contract with a residential facility 20018
subject to section 5119.34 of the Revised Code unless the facility 20019
is licensed by the director of mental health and addiction 20020
services and may not contract with a community addiction or mental 20021
health agency services provider to provide community addiction or 20022
mental health services ~~included in the board's community mental~~ 20023
~~health plan~~ unless the services are certified by the director of 20024
~~mental health~~ mental health and addiction services under section 20025
~~5119.611~~ 5119.36 of the Revised Code. Section 307.86 of the 20026
Revised Code does not apply to contracts entered into under this 20027
division. In contracting with a community addiction or mental 20028
health ~~agency~~ services provider, a board shall consider the cost 20029
effectiveness of services provided by that agency provider and the 20030
quality and continuity of care, and may review cost elements, 20031
including salary costs, of the services to be provided. A 20032
utilization review process ~~shall~~ may be established as part of the 20033
contract for services entered into between a board and a community 20034
addiction or mental health ~~agency~~ services provider. The board may 20035
establish this process in a way that is most effective and 20036
efficient in meeting local needs. ~~Until July 1, 2012, a contract~~ 20037
~~with a community mental health agency or facility, as defined in~~ 20038

~~section 5111.023 of the Revised Code, to provide services listed 20039
in division (B) of that section shall provide for the agency or 20040
facility to be paid in accordance with the contract entered into 20041
between the departments of job and family services and mental 20042
health under section 5111.91 of the Revised Code and any rules 20043
adopted under division (A) of section 5119.61 of the Revised Code. 20044~~

If either the board or a facility or community addiction or 20045
mental health ~~agency~~ services provider with which the board 20046
contracts under this division ~~(A)(8)(a) of this section~~ proposes 20047
not to renew the contract or proposes substantial changes in 20048
contract terms, the other party shall be given written notice at 20049
least one hundred twenty days before the expiration date of the 20050
contract. During the first sixty days of this one hundred 20051
twenty-day period, both parties shall attempt to resolve any 20052
dispute through good faith collaboration and negotiation in order 20053
to continue to provide services to persons in need. If the dispute 20054
has not been resolved sixty days before the expiration date of the 20055
contract, either party may notify the department of ~~mental health~~ 20056
mental health and addiction services of the unresolved dispute. 20057
The director may require both parties to submit the dispute to a 20058
third party with the cost to be shared by the board and the 20059
facility or ~~community mental health agency~~ provider. The third 20060
party shall issue to the board, the facility or ~~agency~~ provider, 20061
and the department recommendations on how the dispute may be 20062
resolved twenty days prior to the expiration date of the contract, 20063
unless both parties agree to a time extension. The director shall 20064
adopt rules establishing the procedures of this dispute resolution 20065
process. 20066

(b) With the prior approval of the director of ~~mental health~~ 20067
mental health and addiction services, a board may operate a 20068
facility or provide a community addiction or mental health service 20069
as follows, if there is no other qualified private or public 20070

facility or community addiction or mental health ~~agency~~ services 20071
provider that is immediately available and willing to operate such 20072
a facility or provide the service: 20073

(i) In an emergency situation, any board may operate a 20074
facility or provide a community addiction or mental health service 20075
in order to provide essential services for the duration of the 20076
emergency; 20077

(ii) In a service district with a population of at least one 20078
hundred thousand but less than five hundred thousand, a board may 20079
operate a facility or provide a community addiction or mental 20080
health service for no longer than one year; 20081

(iii) In a service district with a population of less than 20082
one hundred thousand, a board may operate a facility or provide a 20083
community addiction or mental health service for no longer than 20084
one year, except that such a board may operate a facility or 20085
provide a community addiction or mental health service for more 20086
than one year with the prior approval of the director and the 20087
prior approval of the board of county commissioners, or of a 20088
majority of the boards of county commissioners if the district is 20089
a joint-county district. 20090

The director shall not give a board approval to operate a 20091
facility or provide a community addiction or mental health service 20092
under division (A)(8)(b)(ii) or (iii) of this section unless the 20093
director determines that it is not feasible to have the department 20094
operate the facility or provide the service. 20095

The director shall not give a board approval to operate a 20096
facility or provide a community addiction or mental health service 20097
under division (A)(8)(b)(iii) of this section unless the director 20098
determines that the board will provide greater administrative 20099
efficiency and more or better services than would be available if 20100
the board contracted with a private or public facility or 20101

community addiction or mental health agency services provider. 20102

The director shall not give a board approval to operate a 20103
facility previously operated by a person or other government 20104
entity unless the board has established to the director's 20105
satisfaction that the person or other government entity cannot 20106
effectively operate the facility or that the person or other 20107
government entity has requested the board to take over operation 20108
of the facility. The director shall not give a board approval to 20109
provide a community addiction or mental health service previously 20110
provided by a community addiction or mental health agency services 20111
provider unless the board has established to the director's 20112
satisfaction that the agency provider cannot effectively provide 20113
the service or that the agency provider has requested the board 20114
take over providing the service. 20115

The director shall review and evaluate a board's operation of 20116
a facility and provision of community addiction or mental health 20117
service under division (A)(8)(b) of this section. 20118

Nothing in division (A)(8)(b) of this section authorizes a 20119
board to administer or direct the daily operation of any facility 20120
or community addiction or mental health agency services provider, 20121
but a facility or agency provider may contract with a board to 20122
receive administrative services or staff direction from the board 20123
under the direction of the governing body of the facility or 20124
agency provider. 20125

(9) Approve fee schedules and related charges or adopt a unit 20126
cost schedule or other methods of payment for contract services 20127
provided by community addiction or mental health agencies services 20128
providers in accordance with guidelines issued by the department 20129
as necessary to comply with state and federal laws pertaining to 20130
financial assistance; 20131

(10) Submit to the director and the county commissioners of 20132

the county or counties served by the board, and make available to 20133
the public, an annual report of the ~~programs~~ services under the 20134
jurisdiction of the board, including a fiscal accounting; 20135

(11) Establish, to the extent resources are available, a 20136
~~community support system~~ continuum of care, which provides for 20137
prevention, treatment, support, and rehabilitation services and 20138
opportunities. The essential elements of the ~~system~~ continuum 20139
include, but are not limited to, the following components in 20140
accordance with section ~~5119.06~~ 5119.21 of the Revised Code: 20141

(a) To locate persons in need of addiction or mental health 20142
services to inform them of available services and benefits 20143
~~mechanisms~~; 20144

(b) Assistance for ~~clients~~ persons receiving services to 20145
obtain services necessary to meet basic human needs for food, 20146
clothing, shelter, medical care, personal safety, and income; 20147

(c) ~~Mental~~ Addiction and mental health ~~care~~ services, 20148
including, but not limited to, outpatient, residential, partial 20149
hospitalization, and, where appropriate, inpatient care; 20150

(d) Emergency services and crisis intervention; 20151

(e) Assistance for ~~clients~~ persons receiving services to 20152
obtain vocational services and opportunities for jobs; 20153

(f) The provision of services designed to develop social, 20154
community, and personal living skills; 20155

(g) Access to a wide range of housing and the provision of 20156
residential treatment and support; 20157

(h) Support, assistance, consultation, and education for 20158
families, friends, ~~consumers of~~ persons receiving addiction or 20159
mental health services, and others; 20160

(i) Recognition and encouragement of families, friends, 20161
neighborhood networks, especially networks that include racial and 20162

ethnic minorities, churches, community organizations, and 20163
meaningful community employment as natural supports for ~~consumers~~ 20164
~~of persons receiving addiction or~~ mental health services; 20165

(j) Grievance procedures and protection of the rights of 20166
~~consumers of persons receiving addiction or~~ mental health 20167
services; 20168

(k) ~~Case management~~ Community psychiatric supportive 20169
treatment services, which includes continual individualized 20170
assistance and advocacy to ensure that needed services are offered 20171
and procured. 20172

(12) Establish a method for evaluating referrals for 20173
involuntary commitment and affidavits filed pursuant to section 20174
5122.11 of the Revised Code in order to assist the probate 20175
division of the court of common pleas in determining whether there 20176
is probable cause that a respondent is subject to involuntary 20177
hospitalization and what alternative treatment is available and 20178
appropriate, if any; 20179

(13) Designate the treatment ~~program services, agency~~ 20180
provider, or facility, or other placement for each person 20181
involuntarily committed to the board pursuant to Chapter 5122. of 20182
the Revised Code ~~and authorize payment for such treatment~~. The 20183
board shall provide the least restrictive and most appropriate 20184
alternative that is available for any person involuntarily 20185
committed to it and shall assure that the listed services ~~listed~~ 20186
~~in~~ submitted and approved in accordance with division (B) of 20187
section ~~340.09~~ 340.08 of the Revised Code are available to 20188
severely mentally disabled persons residing within its service 20189
district. The board shall establish the procedure for authorizing 20190
payment for services, which may include prior authorization in 20191
appropriate circumstances. The board may provide for services 20192
directly to a severely mentally disabled person when life or 20193
safety is endangered and when no community mental health ~~agency~~ 20194

services provider is available to provide the service. 20195

~~(13) Establish a method for evaluating referrals for 20196
involuntary commitment and affidavits filed pursuant to section 20197
5122.11 of the Revised Code in order to assist the probate 20198
division of the court of common pleas in determining whether there 20199
is probable cause that a respondent is subject to involuntary 20200
hospitalization and what alternative treatment is available and 20201
appropriate, if any;~~ 20202

(14) Ensure that apartments or rooms built, subsidized, 20203
renovated, rented, owned, or leased by the board or a community 20204
addiction or mental health agency services provider have been 20205
approved as meeting minimum fire safety standards and that persons 20206
residing in the rooms or apartments are receiving appropriate and 20207
necessary services, including culturally relevant services, from a 20208
community addiction or mental health agency services provider. 20209
This division does not apply to residential facilities licensed 20210
pursuant to section ~~5119.22~~ 5119.34 of the Revised Code. 20211

(15) Establish a mechanism for obtaining advice and 20212
involvement of ~~consumer recommendation and advice persons~~ 20213
receiving publicly funded addiction or mental health services on 20214
matters pertaining to addiction and mental health services in the 20215
alcohol, drug addiction, and mental health service district; 20216

(16) Perform the duties required by rules adopted under 20217
section ~~5119.61~~ 5119.22 of the Revised Code regarding referrals by 20218
the board or mental health ~~agencies~~ services providers under 20219
contract with the board of individuals with mental illness or 20220
severe mental disability to residential facilities as defined in 20221
division (A)(9)(b)(iii) of section ~~5119.22~~ 5119.34 of the Revised 20222
Code and effective arrangements for ongoing mental health services 20223
for the individuals. The board is accountable in the manner 20224
specified in the rules for ensuring that the ongoing mental health 20225
services are effectively arranged for the individuals. 20226

(B) The board shall establish such rules, operating 20227
procedures, standards, and bylaws, and perform such other duties 20228
as may be necessary or proper to carry out the purposes of this 20229
chapter. 20230

(C) A board of alcohol, drug addiction, and mental health 20231
services may receive by gift, grant, devise, or bequest any 20232
moneys, lands, or property for the benefit of the purposes for 20233
which the board is established, and may hold and apply it 20234
according to the terms of the gift, grant, or bequest. All money 20235
received, including accrued interest, by gift, grant, or bequest 20236
shall be deposited in the treasury of the county, the treasurer of 20237
which is custodian of the alcohol, drug addiction, and mental 20238
health services funds to the credit of the board and shall be 20239
available for use by the board for purposes stated by the donor or 20240
grantor. 20241

(D) No board member or employee of a board of alcohol, drug 20242
addiction, and mental health services shall be liable for injury 20243
or damages caused by any action or inaction taken within the scope 20244
of the board member's official duties or the employee's 20245
employment, whether or not such action or inaction is expressly 20246
authorized by this section, ~~section 340.033~~, or any other section 20247
of the Revised Code, unless such action or inaction constitutes 20248
willful or wanton misconduct. Chapter 2744. of the Revised Code 20249
applies to any action or inaction by a board member or employee of 20250
a board taken within the scope of the board member's official 20251
duties or employee's employment. For the purposes of this 20252
division, the conduct of a board member or employee shall not be 20253
considered willful or wanton misconduct if the board member or 20254
employee acted in good faith and in a manner that the board member 20255
or employee reasonably believed was in or was not opposed to the 20256
best interests of the board and, with respect to any criminal 20257
action or proceeding, had no reasonable cause to believe the 20258

conduct was unlawful. 20259

(E) The meetings held by any committee established by a board 20260
of alcohol, drug addiction, and mental health services shall be 20261
considered to be meetings of a public body subject to section 20262
121.22 of the Revised Code. 20263

Sec. 340.031. A board of alcohol, drug addiction, and mental 20264
health services may: 20265

(A) Inspect any residential facility licensed under section 20266
~~5119.22~~ 5119.34 of the Revised Code and located in its district, 20267
~~pursuant to a contract with the department of mental health;~~ 20268

(B) Acquire, convey, lease, or enter into a contract to 20269
purchase, lease, or sell property for community addiction and 20270
mental health ~~and alcohol and drug addiction~~ services and related 20271
purposes, and enter into loan agreements, including mortgages, for 20272
the acquisition of such property. 20273

Sec. 340.032. The board of alcohol, drug addiction, and 20274
mental health services shall employ a qualified mental health or 20275
~~alcohol or drug~~ addiction services professional with experience in 20276
administration or a professional administrator with experience in 20277
mental health or ~~alcohol or drug~~ addiction services to serve as 20278
executive director of the board and shall prescribe the director's 20279
duties. 20280

The board shall fix the compensation of the executive 20281
director. In addition to such compensation, the director shall be 20282
reimbursed for actual and necessary expenses incurred in the 20283
performance of ~~his~~ the director's official duties. The board, by 20284
majority vote of the full membership, may remove the director for 20285
cause, upon written charges, after an opportunity has been 20286
afforded ~~him~~ the director for a hearing before the board on 20287
request. 20288

The board may delegate to its executive director the authority to act in its behalf in the performance of its administrative duties.

As used in this section, "mental health professional" and "addiction services professional" mean an individual who is qualified to work with mentally ill persons or persons receiving addiction services, pursuant to standards established by the director of mental health and addiction services under Chapter 5119. of the Revised Code.

Sec. 340.04. In addition to such other duties as may be lawfully imposed, the executive director of a board of alcohol, drug addiction, and mental health services shall:

(A) Serve as executive officer of the board and subject to the prior approval of the board for each contract, execute contracts on its behalf;

(B) Supervise services and facilities provided, operated, contracted, or supported by the board to the extent of determining that ~~programs~~ services and facilities are being administered in conformity with this chapter and rules of the director of ~~mental health and the department of alcohol and drug addiction services~~ mental health and addiction services;

(C) Provide consultation to ~~agencies, associations, or individuals~~ addiction and mental health services providers providing services supported by the board;

(D) Recommend to the board the changes necessary to increase the effectiveness of addiction and mental health services ~~and alcohol and drug addiction services~~ and other matters necessary or desirable to carry out this chapter;

(E) Employ and remove from office such employees and consultants in the classified civil service and, subject to the

approval of the board, employ and remove from office such other 20319
employees and consultants as may be necessary for the work of the 20320
board, and fix their compensation and reimbursement within the 20321
limits set by the salary schedule and the budget approved by the 20322
board; 20323

(F) Encourage the development and expansion of preventive, 20324
treatment, rehabilitative, and consultative ~~programs~~ services in 20325
the field of addiction and mental health services with emphasis on 20326
continuity of care; 20327

(G) Prepare for board approval an annual report of the 20328
~~programs services and facilities~~ under the jurisdiction of the 20329
board, including a fiscal accounting of all services; 20330

(H) Conduct such studies as may be necessary and practicable 20331
for the promotion of mental health, promotion of addiction 20332
services, and the prevention of mental illness, emotional 20333
disorders, and addiction ~~to alcohol and drugs~~; 20334

(I) Authorize the county auditor, or in a joint-county 20335
district the county auditor designated as the auditor for the 20336
district, to issue warrants for the payment of board obligations 20337
approved by the board, provided that all payments are in 20338
accordance with the ~~comprehensive community mental health plan~~ 20339
budget submitted pursuant to section 340.08 of the Revised Code, 20340
as approved by the department of ~~mental health, or with the~~ 20341
~~alcohol and drug addiction services plan as approved by the~~ 20342
~~department of alcohol and drug addiction services~~ mental health 20343
and addiction services. 20344

Sec. 340.05. A community addiction or mental health ~~agency~~ 20345
services provider that receives a complaint alleging abuse or 20346
neglect of an individual with mental illness or severe mental 20347
disability, or an individual receiving addiction services, who 20348
resides in a residential facility as defined in division (A)(9)(b) 20349

of section ~~5119.22~~ 5119.34 of the Revised Code shall report the 20350
complaint to the board of alcohol, drug addiction, and mental 20351
health services serving the alcohol, drug addiction, and mental 20352
health service district in which the residential facility is 20353
located. A board of alcohol, drug addiction, and mental health 20354
services that receives such a complaint or a report from a 20355
community addiction or mental health ~~agency~~ services provider of 20356
such a complaint shall report the complaint to the director of 20357
~~mental health~~ mental health and addiction services for the purpose 20358
of the director conducting an investigation under section ~~5119.22~~ 20359
5119.34 of the Revised Code. The board may enter the facility with 20360
or without the director and, if the health and safety of a 20361
resident is in immediate danger, take any necessary action to 20362
protect the resident. The board's action shall not violate any 20363
resident's rights specified in rules adopted by the department of 20364
~~mental health~~ mental health and addiction services under section 20365
~~5119.22~~ 5119.34 of the Revised Code. The board shall immediately 20366
report to the director regarding the board's actions under this 20367
section. 20368

Sec. 340.07. The board of county commissioners of any county 20369
participating in an alcohol, drug addiction, and mental health 20370
service district or joint-county district, upon receipt from the 20371
board of alcohol, drug addition, and mental health services of a 20372
resolution so requesting, may appropriate money to such board for 20373
the operation, lease, acquisition, construction, renovation, and 20374
maintenance of addiction or mental health services, ~~programs,~~ 20375
providers and facilities ~~for mentally ill and emotionally~~ 20376
~~disturbed persons~~ in accordance with the comprehensive community 20377
addiction and mental health ~~plan or for alcohol and drug addiction~~ 20378
~~programs in accordance with the alcohol and drug addiction~~ 20379
~~services plan~~ services budget approved by the department of mental 20380
health and addiction services pursuant to section 340.08 of the 20381

Revised Code. 20382

Sec. 340.08. In accordance with rules or guidelines issued by 20383
the director of mental health and addiction services, each board 20384
of alcohol, drug addiction, and mental health services shall do 20385
all of the following: 20386

(A) Submit to the department a report of receipts and 20387
expenditures for all federal, state, and local moneys the board 20388
expects to receive; 20389

(1) The report shall identify funds the board and public 20390
children services agencies in the board's service district have 20391
available to fund jointly the services described in section 340.15 20392
of the Revised Code. 20393

(2) The board's proposed budget for expenditures of state and 20394
federal funds distributed to the board by the department shall be 20395
deemed an application for funds, and the department shall approve 20396
or disapprove the budget for these expenditures. The department 20397
shall inform the board of the reasons for disapproval of the 20398
budget for the expenditure of state and federal funds and of the 20399
criteria that must be met before the budget may be approved. The 20400
director shall provide the board an opportunity to present its 20401
case on behalf of the submitted budget. The director shall give 20402
the board a reasonable time in which to meet the criteria and 20403
shall offer the board technical assistance to help it meet the 20404
criteria. 20405

If a board determines that it is necessary to amend a budget 20406
that has been approved under this section, the board shall submit 20407
a proposed amendment to the director. The director may approve or 20408
disapprove all or part of the amendment. The director shall inform 20409
the board of the reasons for disapproval of all or part of the 20410
amendment and of the criteria that must be met before the 20411
amendment may be approved. The director shall provide the board an 20412

opportunity to present its case on behalf of the amendment. The 20413
director shall give the board a reasonable time in which to meet 20414
the criteria and shall offer the board technical assistance to 20415
help it meet the criteria. 20416

(3) The director of mental health and addiction services, in 20417
whole or in part, may withhold funds otherwise to be allocated to 20418
a board of alcohol, drug addiction, and mental health services 20419
under Chapter 5119. of the Revised Code if the board's use of 20420
state and federal funds fails to comply with the approved budget, 20421
as it may be amended with the approval of the department. 20422

(B) Submit to the department a statement identifying the 20423
services described in section 340.09 of the Revised Code the board 20424
intends to make available. The board shall include crisis 20425
intervention services for individuals in emergency situations and 20426
services required pursuant to section 340.15 of the Revised Code, 20427
and the board shall explain the manner in which the board intends 20428
to make such services available. The list of services shall be 20429
compatible with the budget submitted pursuant to division (A) of 20430
this section. The department shall approve or disapprove the 20431
proposed listing of services to be made available. The department 20432
shall inform the board of the reasons for disapproval of the 20433
listing of proposed services and of the criteria that must be met 20434
before listing of proposed services may be approved. The director 20435
shall provide the board an opportunity to present its case on 20436
behalf of the submitted listing of proposed services. The director 20437
shall give the board a reasonable time in which to meet the 20438
criteria and shall offer the board technical assistance to help it 20439
meet the criteria. 20440

(C) Enter into a continuity of care agreement with the state 20441
institution operated by the department of mental health and 20442
addiction services and designated as the institution serving the 20443
district encompassing the board's service district. The continuity 20444

of care agreement shall outline the department's and the board's 20445
responsibilities to plan for and coordinate with each other to 20446
address the needs of board residents who are patients in the 20447
institution, with an emphasis on managing appropriate hospital bed 20448
day use and discharge planning. 20449

(D) In conjunction with the department of mental health and 20450
addiction services, operate a coordinated system for tracking and 20451
monitoring persons found not guilty by reason of insanity and 20452
committed pursuant to section 2945.40 of the Revised Code who have 20453
been granted a conditional release and persons found incompetent 20454
to stand trial and committed pursuant to section 2945.39 of the 20455
Revised Code who have been granted a conditional release. The 20456
system shall do all of the following: 20457

(1) Centralize responsibility for the tracking of those 20458
persons; 20459

(2) Provide for uniformity in monitoring those persons; 20460

(3) Provide a mechanism to allow prompt rehospitalization, 20461
reinstitutionalization, or detention when a violation of the 20462
conditional release or decompensation occurs. 20463

(E) Submit to the department a report summarizing complaints 20464
and grievances received by the board concerning the rights of 20465
persons seeking or receiving services, investigations of 20466
complaints and grievances, and outcomes of the investigations. 20467

(F) Provide to the department information to be submitted to 20468
the community addiction and mental health information system or 20469
systems established by the department under Chapter 5119. of the 20470
Revised Code. 20471

(G) Annually, and upon any change in membership, submit to 20472
the department a list of all current members of the board of 20473
alcohol, drug addiction, and mental health services, including the 20474
appointing authority for each member, and the member's specific 20475

qualification for appointment pursuant to section 340.02 or 20476
340.021 of the Revised Code, if applicable. 20477

(H) Submit to the department other information as is 20478
reasonably required for purposes of the department's operations, 20479
service evaluation, reporting activities, research, system 20480
administration, and oversight. 20481

Sec. 340.09. (A) The department of ~~mental health~~ mental 20482
health and addiction services shall provide assistance to any 20483
county for the operation of boards of alcohol, drug addiction, and 20484
mental health services ~~and~~, the provision of ~~the following~~ 20485
services approved by the department within the continuum of care, 20486
and the provision of approved support functions from funds 20487
appropriated for that purpose by the general assembly~~;~~. 20488

~~(A) Outpatient;~~ 20489

(B) Categories in the continuum of care may include all of 20490
the following: 20491

(1) Inpatient; 20492

~~(C) Partial hospitalization~~ (2) Residential; 20493

~~(D) Rehabilitation~~ (3) Outpatient treatment; 20494

~~(E)~~ (4) Intensive and other supports; 20495

(5) Recovery support; 20496

(6) Prevention and wellness management. 20497

(C) Support functions may include all of the following: 20498

(1) Consultation; 20499

~~(F) Mental health education and other preventive services;~~ 20500

~~(G) Emergency;~~ 20501

~~(H) Crisis intervention;~~ 20502

(I) (2) Research;	20503
(J) (3) Administrative;	20504
(K) (4) Referral and information;	20505
(L) Residential;	20506
(M) (5) Training;	20507
(N) Substance abuse;	20508
(O) (6) Service and program evaluation;	20509
(P) Community support system;	20510
(Q) Case management;	20511
(R) Residential housing;	20512
(S) Other services approved by the board and the director of mental health.	20513 20514
Sec. 340.091. Each board of alcohol, drug addiction, and	20515
mental health services shall contract with a community mental	20516
health agency <u>services provider</u> under division (A) (7) (8)(a) of	20517
section 340.03 of the Revised Code for the agency <u>provider</u> to do	20518
all of the following in accordance with rules adopted under	20519
section 5119.61 <u>5119.22</u> of the Revised Code for an individual	20520
referred to the agency <u>provider</u> under division (D)(2) of section	20521
5119.69 <u>5119.41</u> of the Revised Code:	20522
(A) Assess the individual and, if the agency <u>provider</u>	20523
determines that the environment in which the individual will be	20524
living while receiving residential state supplement payments is	20525
appropriate for the individual's needs, issue a recommendation to	20526
the referring residential state supplement administrative agency	20527
that the referring agency should conclude that the living	20528
environment is appropriate when it makes its determination	20529
regarding the appropriateness of the environment;	20530

(B) Provide ongoing monitoring to ensure that listed services 20531
~~provided under~~ submitted and approved under division (B) of 20532
section ~~340.09~~ 340.08 of the Revised Code are available to the 20533
individual; 20534

(C) Provide discharge planning to ensure the individual's 20535
earliest possible transition to a less restrictive environment. 20536

Sec. 340.10. The county auditor or, in a joint-county 20537
alcohol, drug addiction, and mental health service district, the 20538
auditor of the county, the treasurer of which has been designated 20539
in the agreement between the counties of the district as custodian 20540
of the community addiction and mental health services funds ~~and~~ 20541
~~alcohol and drug addiction services funds~~, is hereby designated as 20542
the auditor and fiscal officer of an alcohol, drug addiction, and 20543
mental health service district or joint-county district. State 20544
funds allocated for the support of a service district shall be 20545
paid to the county treasurer or, in a joint-county district, to 20546
the treasurer of that county designated in the agreement as 20547
custodian of the community addiction and mental health services 20548
funds and authorized to make payments from such funds on order of 20549
the county auditor and on recommendation of the board of alcohol, 20550
drug addiction, and mental health services, or the executive 20551
director of the board when authorized by the board. The auditor 20552
shall submit to the board a detailed monthly statement of all 20553
receipts, disbursements, and ending balances for the community 20554
addiction and mental health services funds. 20555

Sec. 340.11. A board of alcohol, drug addiction, and mental 20556
health services may procure a policy or policies of insurance 20557
insuring board members or employees of the board or ~~agencies~~ 20558
providers with which the board contracts against liability arising 20559
from the performance of their official duties. If the liability 20560
insurance is unavailable or the amount a board has procured or is 20561

able to procure is insufficient to cover the amount of a claim, 20562
the board may indemnify a board member or employee as follows: 20563

(A) For any action or inaction in the capacity of board 20564
member or employee or at the request of the board, whether or not 20565
the action or inaction is expressly authorized by this or any 20566
other section of the Revised Code, if both of the following apply: 20567

(1) The board member or employee acted in good faith and in a 20568
manner that the board member or employee reasonably believed was 20569
in or was not opposed to the best interests of the board; ~~and~~ 20570

(2) With respect to any criminal action or proceeding, the 20571
board member or employee had no reason to believe the board 20572
member's or employee's conduct was unlawful. 20573

(B) Against any expenses, including attorneys' fees, the 20574
board member or employee actually and reasonably incurs as a 20575
result of a suit or other proceeding involving the defense of any 20576
action or inaction in the capacity of board member or employee or 20577
at the request of the board, or in defense of any claim, issue, or 20578
matter raised in connection with the defense of such an action or 20579
inaction, to the extent that the board member or employee is 20580
successful on the merits or otherwise. 20581

Sec. 340.12. No board of alcohol, drug addiction, and mental 20582
health services or any ~~agency, corporation, or association~~ 20583
addiction or mental health services provider under contract with 20584
such a board shall discriminate in the provision of services under 20585
its authority, in employment, or contract on the basis of race, 20586
color, religion, sex, ~~ereed~~ age, ancestry, national origin, 20587
disability, ~~or national origin~~ sexual orientation, military 20588
status, or genetic information. 20589

Each board, ~~and~~ each community addiction or mental health 20590
~~agency, and each alcohol and drug addiction program~~ services 20591

provider shall have a written affirmative action program. The 20592
affirmative action program shall include goals for the employment 20593
and effective utilization of, including contracts with, members of 20594
economically disadvantaged groups as defined in division (E)(1) of 20595
section 122.71 of the Revised Code in percentages reflecting as 20596
nearly as possible the composition of the alcohol, drug addiction, 20597
and mental health service district served by the board. Each 20598
board, ~~agency,~~ and ~~program~~ provider shall file a description of 20599
the affirmative action program and a progress report on its 20600
implementation with the department of ~~mental health or the~~ 20601
~~department of alcohol and drug addiction services~~ mental health 20602
and addiction services. 20603

Sec. 340.13. (A) As used in this section, ~~"minority:~~ 20604

(1) "Minority business enterprise" has the same meaning as in 20605
~~division (E)(1) of~~ section 122.71 of the Revised Code. 20606

(2) "EDGE business enterprise" has the same meaning as in 20607
section 123.152 of the Revised Code. 20608

(B) Any minority business enterprise that desires to bid on a 20609
contract under division (C) ~~or (D)~~ of this section shall first 20610
apply to the equal employment opportunity coordinator in the 20611
department of administrative services for certification as a 20612
minority business enterprise. Any EDGE business enterprise that 20613
desires to bid on a contract under division (D) of this section 20614
shall first apply to the equal employment opportunity coordinator 20615
of the department of administrative services for certification as 20616
an EDGE business enterprise. The coordinator shall approve the 20617
application of any minority business enterprise or EDGE business 20618
enterprise that complies with the rules adopted under section 20619
122.71 or 123.152 of the Revised Code, respectively. The 20620
coordinator shall prepare and maintain a list of minority business 20621
enterprises and EDGE business enterprises certified under ~~this~~ 20622

~~section~~ those sections. 20623

(C) From the contracts to be awarded for the purchases of 20624
equipment, materials, supplies, or services, other than contracts 20625
entered into under section 340.03 ~~or 340.033~~ of the Revised Code, 20626
each board of alcohol, drug addiction, and mental health services 20627
shall select a number of contracts with an aggregate value of 20628
approximately fifteen per cent of the total estimated value of 20629
contracts to be awarded in the current fiscal year. The board 20630
shall set aside the contracts so selected for bidding by minority 20631
business enterprises only. The bidding procedures for such 20632
contracts shall be the same as for all other contracts awarded 20633
under section 307.86 of the Revised Code, except that only 20634
minority business enterprises certified and listed ~~under~~ pursuant 20635
to division (B) of this section shall be qualified to submit bids. 20636

(D) To the extent that a board is authorized to enter into 20637
contracts for construction, the board shall ~~set aside a number of~~ 20638
~~contracts~~ strive to attain a yearly contract dollar procurement 20639
goal the aggregate value of which equals approximately five per 20640
cent of the aggregate value of construction contracts for the 20641
current fiscal year for ~~bidding by minority~~ EDGE business 20642
enterprises only. ~~The bidding procedures for the contracts set~~ 20643
~~aside for minority business enterprises shall be the same as for~~ 20644
~~all other contracts awarded by the board, except that only~~ 20645
~~minority business enterprises certified and listed under division~~ 20646
~~(B) of this section shall be qualified to submit bids.~~ 20647

(E)(1) In the case of contracts set aside under ~~divisions~~ 20648
division (C) ~~and (D)~~ of this section, if no bid is submitted by a 20649
minority business enterprise, the contract shall be awarded 20650
according to normal bidding procedures. The board shall from time 20651
to time set aside such additional contracts as are necessary to 20652
replace those contracts previously set aside on which no minority 20653
business enterprise bid. 20654

(2) If a board, after having made a good faith effort, is unable to comply with the goal of procurement for contracting with EDGE business enterprises pursuant to division (D) of this section, the board may apply in writing, on a form prescribed by the department of administrative services, to the director of mental health and addiction services for a waiver or modification of the goal. 20655
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(F) This section does not preclude any minority business enterprise or EDGE business enterprise from bidding on any other contract not specifically set aside for minority business enterprises or subject to procurement goals for EDGE business enterprises. 20662
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(G) Within ninety days after the beginning of each fiscal year, each board shall file a report with the department of ~~mental health~~ mental health and addiction services that shows for that fiscal year the name of each minority business enterprise and EDGE business enterprise with which the board entered into a contract, the value and type of each such contract, the total value of contracts awarded under divisions (C) and (D) of this section, the total value of contracts awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.03 of the Revised Code, and the total value of contracts entered into for construction. 20667
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(H) Any person who intentionally misrepresents ~~himself~~ self as owning, controlling, operating, or participating in a minority business enterprise or an EDGE business enterprise for the purpose of obtaining contracts or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Revised Code. 20678
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Sec. 340.15. (A) A public children services agency that identifies a child by a risk assessment conducted pursuant to 20684
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section 5153.16 of the Revised Code as being at imminent risk of 20686
being abused or neglected because of an addiction of a parent, 20687
guardian, or custodian of the child to a drug of abuse or alcohol 20688
shall refer the child's addicted parent, guardian, or custodian 20689
and, if the agency determines that the child needs alcohol or 20690
other drug addiction services, the child to ~~an alcohol and drug a~~ 20691
community addiction program services provider certified by the 20692
department of ~~alcohol and drug addiction services~~ mental health 20693
and addiction services under section ~~3793.06~~ 5119.36 of the 20694
Revised Code. A public children services agency that is sent a 20695
court order issued pursuant to division (B) of section 2151.3514 20696
of the Revised Code shall refer the addicted parent or other 20697
caregiver of the child identified in the court order to ~~an alcohol~~ 20698
~~and drug a~~ community addiction program services provider certified 20699
by the department of ~~alcohol and drug addiction services~~ mental 20700
health and addiction services under section ~~3793.06~~ 5119.36 of the 20701
Revised Code. On receipt of a referral under this division and to 20702
the extent funding identified under division (A)(1) of section 20703
~~340.033~~ 340.08 of the Revised Code is available, the ~~program~~ 20704
provider shall provide the following services to the addicted 20705
parent, guardian, custodian, or caregiver and child in need of 20706
~~alcohol or other drug~~ addiction services: 20707

(1) If it is determined pursuant to an initial screening to 20708
be needed, assessment and appropriate treatment; 20709

(2) Documentation of progress in accordance with a treatment 20710
plan developed for the addicted parent, guardian, custodian, 20711
caregiver, or child; 20712

(3) If the referral is based on a court order issued pursuant 20713
to division (B) of section 2151.3514 of the Revised Code and the 20714
order requires the specified parent or other caregiver of the 20715
child to submit to alcohol or other drug testing during, after, or 20716
both during and after, treatment, testing in accordance with the 20717

court order. 20718

(B) The services described in division (A) of this section 20719
shall have a priority as provided in the ~~alcohol and drug~~ 20720
addiction and mental health services plan and budget established 20721
pursuant to ~~section 340.033~~ sections 340.03 and 340.08 of the 20722
Revised Code. Once a referral has been received pursuant to this 20723
section, the public children services agency and the ~~alcohol or~~ 20724
~~drug~~ addiction program services provider shall, in accordance with 20725
42 C.F.R. Part 2, share with each other any information concerning 20726
the persons and services described in that division that the 20727
agency and program provider determine are necessary to share. If 20728
the referral is based on a court order issued pursuant to division 20729
(B) of section 2151.3514 of the Revised Code, the results and 20730
recommendations of the ~~alcohol and drug~~ addiction program services 20731
provider also shall be provided and used as described in division 20732
(D) of that section. Information obtained or maintained by the 20733
agency or program provider pursuant to this section that could 20734
enable the identification of any person described in division (A) 20735
of this section is not a public record subject to inspection or 20736
copying under section 149.43 of the Revised Code. 20737

Sec. 340.16. ~~Not later than ninety days after September 5,~~ 20738
~~2001, the~~ The department of ~~mental health~~ mental health and 20739
addiction services and the department of ~~job and family services~~ 20740
medicaid shall adopt rules that establish requirements and 20741
procedures for prior notification and service coordination between 20742
public children services agencies and boards of alcohol, drug 20743
addiction, and mental health services when a public children 20744
services agency refers a child in its custody to a board for 20745
services funded by the board. The rules shall be adopted in 20746
accordance with Chapter 119. of the Revised Code. 20747

~~The department of mental health and department of job and~~ 20748

~~family services shall collaborate in formulating a plan that 20749
delineates the funding responsibilities of public children 20750
services agencies and boards of alcohol, drug addiction, and 20751
mental health services for services provided under section 20752
5111.023 of the Revised Code to children in the custody of public 20753
children services agencies. The departments shall complete the 20754
plan not later than ninety days after September 5, 2001. 20755~~

Sec. 341.192. (A) As used in this section: 20756

(1) "Jail" means a county jail, or a multicounty, 20757
municipal-county, or multicounty-municipal correctional center. 20758

~~(2) "Medical assistance program" has the same meaning as in 20759
section 2913.40 of the Revised Code. 20760~~

~~(3) "Medical provider" means a physician, hospital, 20761
laboratory, pharmacy, or other health care provider that is not 20762
employed by or under contract to a county, municipal corporation, 20763
township, the department of youth services, or the department of 20764
rehabilitation and correction to provide medical services to 20765
persons confined in a jail or state correctional institution, or 20766
is in the custody of a law enforcement officer. 20767~~

~~(4)(3) "Necessary care" means medical care of a nonelective 20768
nature that cannot be postponed until after the period of 20769
confinement of a person who is confined in a jail or state 20770
correctional institution, or is in the custody of a law 20771
enforcement officer without endangering the life or health of the 20772
person. 20773~~

(B) If a physician employed by or under contract to a county, 20774
municipal corporation, township, the department of youth services, 20775
or the department of rehabilitation and correction to provide 20776
medical services to persons confined in a jail or state 20777
correctional institution determines that a person who is confined 20778

in the jail or state correctional institution or who is in the 20779
custody of a law enforcement officer prior to the person's 20780
confinement in a jail or state correctional institution requires 20781
necessary care that the physician cannot provide, the necessary 20782
care shall be provided by a medical provider. The county, 20783
municipal corporation, township, the department of youth services, 20784
or the department of rehabilitation and correction shall pay a 20785
medical provider for necessary care an amount not exceeding the 20786
authorized reimbursement rate for the same service established by 20787
the department of ~~job and family services~~ medicaid under the 20788
~~medical assistance~~ medicaid program. 20789

Sec. 351.021. (A) The resolution of the county commissioners 20790
creating a convention facilities authority, or any amendment or 20791
supplement to that resolution, may authorize the authority to levy 20792
one or both of the excise taxes authorized by division (B) of this 20793
section to pay the cost of one or more facilities; to pay 20794
principal, interest, and premium on convention facilities 20795
authority tax anticipation bonds issued to pay those costs; to pay 20796
the operating costs of the authority; to pay operating and 20797
maintenance costs of those facilities; and to pay the costs of 20798
administering the excise tax. 20799

(B) The board of directors of a convention facilities 20800
authority that has been authorized pursuant to resolution adopted, 20801
amended, or supplemented by the board of county commissioners 20802
pursuant to division (A) of this section may levy, by resolution 20803
adopted on or before December 31, 1988, either or both of the 20804
following: 20805

(1) Within the territory of the authority, an additional 20806
excise tax not to exceed four per cent on each transaction. The 20807
excise tax authorized by division (B)(1) of this section shall be 20808
in addition to any excise tax levied pursuant to section 5739.08 20809

or 5739.09 of the Revised Code, or division (B)(2) of this section. 20810
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(2) Within that portion of any municipal corporation that is located within the territory of the authority or within the boundaries of any township that is located within the territory of the authority, which municipal corporation or township is levying any portion of the excise tax authorized by division (A) of section 5739.08 of the Revised Code, and with the approval, by ordinance or resolution, of the legislative authority of that municipal corporation or township, an additional excise tax not to exceed nine-tenths of one per cent on each transaction. The excise tax authorized by division (B)(2) of this section may be levied only if, on the effective date of the levy specified in the resolution making the levy, the amount being levied pursuant to division (A) of section 5739.08 of the Revised Code by each municipal corporation or township in which the tax authorized by division (B)(2) of this section will be levied, when added to the amount levied under division (B)(2) of this section, does not exceed three per cent on each transaction. The excise tax authorized by division (B)(2) of this section shall be in addition to any excise tax that is levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(1) of this section. 20812
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(C)(1) The board of directors of a convention facilities authority that is located in an eligible Appalachian county; that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section; and that is not levying a tax under division (B)(1) or (2) of this section may levy within the territory of the authority, by resolution adopted on or before December 31, 2005, an additional excise tax not to exceed three per cent on each transaction. The excise tax authorized under division (C)(1) of this section shall be in addition to any excise 20832
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tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code. 20842
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As used in division (C)(1) of this section, "eligible Appalachian county" means a county in this state designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 4, 40 U.S.C. App. 403, and having a population less than eighty thousand according to the most recent federal decennial census. 20844
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(2) Division ~~(B)~~(C)(2) of this section applies only to a convention facilities authority located in a county with a population, according to the 2000 federal decennial census, of at least one hundred thirty-five thousand and not more than one hundred fifty thousand and containing entirely within its boundaries the territory of a municipal corporation with a population according to that census of more than fifty thousand. The board of directors of such a convention facilities authority, by resolution adopted on or before November 1, 2009, may levy within the territory of the authority an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests at a rate not to exceed three per cent on such transactions for the same purposes for which a tax may be levied under division (B) of this section. The resolution may be adopted only if the board of county commissioners of the county, by resolution, authorizes the levy of the tax. The resolution of the board of county commissioners is subject to referendum as prescribed by sections 305.31 to 305.41 of the Revised Code. If, pursuant to those procedures, a referendum is to be held, the board's resolution does not take effect until approved by a majority of electors voting on the question. The convention facilities authority may adopt the resolution authorized by division (C)(2) of this section before the election, but the authority's resolution shall not take effect if the board of 20850
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commissioners' resolution is not approved at the election. A tax 20874
levied under division (C)(2) of this section is in addition to any 20875
tax levied under section 5739.09 of the Revised Code. 20876

(D) The authority shall provide for the administration and 20877
allocation of an excise tax levied pursuant to division (B) or (C) 20878
of this section. All receipts arising from those excise taxes 20879
shall be expended for the purposes provided in, and in accordance 20880
with this section and section 351.141 of the Revised Code. An 20881
excise tax levied under division (B) or (C) of this section shall 20882
remain in effect at the rate at which it is levied for at least 20883
the duration of the period for which the receipts from the tax 20884
have been anticipated and pledged pursuant to section 351.141 of 20885
the Revised Code. 20886

(E) Except as provided in division (B)(2) of this section, 20887
the levy of an excise tax on each transaction pursuant to sections 20888
5739.08 and 5739.09 of the Revised Code does not prevent a 20889
convention facilities authority from levying an excise tax 20890
pursuant to division (B) or (C) of this section. 20891

(F) A convention facilities authority located in a county 20892
with a population of less than two hundred fifty thousand 20893
according to the 2010 federal decennial census that levies a tax 20894
under division (B) of this section may amend the resolution 20895
levying the tax to allocate a portion of the revenue from the tax 20896
for support of tourism-related sites or facilities and programs 20897
operated by the county or a municipal corporation within the 20898
county in which the authority is located or for the purpose of 20899
leasing lands for county fairs, erecting buildings for county fair 20900
purposes, making improvements on a county fairground, or for any 20901
purpose connected with the use of a county fairground or with the 20902
management thereof by the county in which the authority is 20903
located. The revenue allocated by the authority for such purposes 20904
in a calendar year shall not exceed fifteen per cent of the total 20905

revenue from the tax in the preceding calendar year. 20906

Sec. 511.261. If a township park district enters into an 20907
agreement for the sale or lease of mineral rights regarding a park 20908
within the district, any royalties or other moneys resulting from 20909
the sale or lease shall be deposited into a special fund that the 20910
board of park commissioners shall establish under division (F) of 20911
section 5705.09 of the Revised Code. The fund shall be used 20912
exclusively for maintenance of parks within the district and for 20913
the acquisition of new park lands. 20914

Sec. 517.271. Notwithstanding section 517.22 of the Revised 20915
Code, the company, association, or religious society that most 20916
recently owned and operated a cemetery currently owned by a board 20917
of township trustees may petition the probate court of the county 20918
in which the cemetery is located to transfer the ownership of the 20919
cemetery to the petitioner. 20920

If the court determines that the petitioner has met all of 20921
the following conditions, the court shall transfer the ownership 20922
of the cemetery to the petitioner and shall order the board to 20923
give the petitioner all necessary records and documents concerning 20924
the cemetery, including records of the board's sale of any lots 20925
pursuant to section 517.07 of the Revised Code: 20926

(A) The petitioner has the financial resources necessary to 20927
operate and maintain the cemetery; 20928

(B) The petitioner is in compliance with all applicable laws 20929
and administrative rules concerning the owners and operators of 20930
cemeteries, including registration under section 4767.02 of the 20931
Revised Code; and 20932

(C) The petitioner owes no delinquent taxes. 20933

Sec. 715.691. (A) As used in this section: 20934

(1) "Contracting party" means a municipal corporation that 20935
has entered into a joint economic development zone contract or any 20936
party succeeding to the municipal corporation, or a township that 20937
entered into a joint economic development zone contract with a 20938
municipal corporation. 20939

(2) "Zone" means a joint economic development zone designated 20940
under this section. 20941

(B) This section provides alternative procedures and 20942
requirements for creating and operating a joint economic 20943
development zone to those set forth in section 715.69 of the 20944
Revised Code. This section applies only if one of the contracting 20945
parties to the zone does not levy a municipal income tax under 20946
Chapter 718. of the Revised Code. A municipal corporation that 20947
does not levy a municipal income tax may enter into an agreement 20948
to create and operate a joint economic development zone under this 20949
section or under section 715.69 of the Revised Code. 20950

Two or more municipal corporations or one or more townships 20951
and one or more municipal corporations may enter into a contract 20952
whereby they agree to share in the costs of improvements for an 20953
area or areas located in one or more of the contracting parties 20954
that they designate as a joint economic development zone for the 20955
purpose of facilitating new or expanded growth for commercial or 20956
economic development in the state. The contract and zone shall 20957
meet the requirements of divisions (B) to (J) of this section. 20958

(C) The contract shall set forth each contracting party's 20959
contribution to the joint economic development zone. The 20960
contributions may be in any form that the contracting parties 20961
agree to, and may include, but are not limited to, the provision 20962
of services, money, or equipment. The contract may be amended, 20963
renewed, or terminated with the consent of the contracting 20964
parties. The contract shall continue in existence throughout the 20965
term it specifies and shall be binding on the contracting parties 20966

and on any entities succeeding to the contracting parties. 20967

(D) Before the legislative authority of any of the 20968
contracting parties enacts an ordinance or resolution approving a 20969
contract to designate a joint economic development zone, the 20970
legislative authority of each of the contracting parties shall 20971
hold a public hearing concerning the contract and zone. Each 20972
legislative authority shall provide at least thirty days' public 20973
notice of the time and place of the public hearing in a newspaper 20974
of general circulation in the municipal corporation or township. 20975
During the thirty-day period prior to the public hearing, all of 20976
the following documents shall be available for public inspection 20977
in the office of the clerk of the legislative authority of a 20978
municipal corporation that is a contracting party and in the 20979
office of the fiscal officer of a township that is a contracting 20980
party: 20981

(1) A copy of the contract designating the zone; 20982

(2) A description of the area or areas to be included in the 20983
zone, including a map in sufficient detail to denote the specific 20984
boundaries of the area or areas; 20985

(3) An economic development plan for the zone that includes a 20986
schedule for the provision of any new, expanded, or additional 20987
services, facilities, or improvements. 20988

A public hearing held under division (D) of this section 20989
shall allow for public comment and recommendations on the contract 20990
and zone. The contracting parties may include in the contract any 20991
of those recommendations prior to approval of the contract. 20992

(E) After the public hearings required under division (D) of 20993
this section have been held, each contracting party may enact an 20994
ordinance or resolution approving the contract to designate a 20995
joint economic development zone. After each contracting party has 20996
enacted an ordinance or resolution, the clerk of the legislative 20997

authority of a municipal corporation that is a contracting party 20998
and the fiscal officer of a township that is a contracting party 20999
shall file with the board of elections of each county within which 21000
a contracting party is located a copy of the ordinance or 21001
resolution approving the contract and shall direct the board of 21002
elections to submit the ordinance or resolution to the electors of 21003
the contracting party on the day of the next general, primary, or 21004
special election occurring at least ninety days after the 21005
ordinance or resolution is filed with the board of elections. If 21006
any of the contracting parties is a township, however, then only 21007
the township or townships shall submit the resolution to the 21008
electors. 21009

(F)(1) If a vote is required to approve a municipal 21010
corporation as a contracting party to a joint economic development 21011
zone under this section, the ballot shall be in the following 21012
form: 21013

"Shall the ordinance of the legislative authority of the 21014
(city or village) of (name of contracting party) approving the 21015
contract with (name of each other contracting party) for the 21016
designation of a joint economic development zone be approved? 21017

	FOR THE ORDINANCE AND CONTRACT	
	AGAINST THE ORDINANCE AND CONTRACT	"

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(2) If a vote is required to approve a township as a 21022
contracting party to a joint economic development zone under this 21023
section, the ballot shall be in the following form: 21024

"Shall the resolution of the board of township trustees of 21025
the township of (name of contracting party) approving the contract 21026
with (name of each other contracting party) for the designation of 21027
a joint economic development zone be approved? 21028

	FOR THE RESOLUTION AND CONTRACT	
	AGAINST THE RESOLUTION AND CONTRACT	"

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If a majority of the electors of each contracting party voting on the issue vote for the ordinance or resolution and contract, the ordinance or resolution shall become effective immediately and the contract shall go into effect immediately or in accordance with its terms.

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(G)(1) A board of directors shall govern each joint economic development zone created under section 715.691 of the Revised Code. The members of the board shall be appointed as provided in the contract. Each of the contracting parties shall appoint three members to the board. Terms for each member shall be for two years, each term ending on the same day of the month of the year as did the term that it succeeds. A member may be reappointed to the board.

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(2) Membership on the board is not the holding of a public office or employment within the meaning of any section of the Revised Code or any charter provision prohibiting the holding of other public office or employment. Membership on the board is not a direct or indirect interest in a contract or expenditure of money by a municipal corporation, township, county, or other political subdivision with which a member may be affiliated. Notwithstanding any provision of law or a charter to the contrary, no member of the board shall forfeit or be disqualified from holding any public office or employment by reason of membership on the board.

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(3) The board is a public body for the purposes of section 121.22 of the Revised Code. Chapter 2744. of the Revised Code applies to the board and the zone.

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(H) The contract may grant to the board of directors 21060
appointed under division (G) of this section the power to adopt a 21061
resolution to levy an income tax within the zone. The income tax 21062
shall be used for the purposes of the zone and for the purposes of 21063
the contracting ~~municipal corporations~~ parties pursuant to the 21064
contract. The income tax may be levied in the zone based on income 21065
earned by persons working within the zone and on the net profits 21066
of businesses located in the zone. The income tax is subject to 21067
Chapter 718. of the Revised Code, except that a vote shall be 21068
required by the electors residing in the zone to approve the rate 21069
of income tax unless a majority of the electors residing within 21070
the zone, as determined by the total number of votes cast in the 21071
zone for the office of governor at the most recent general 21072
election for that office, submit a petition to the board 21073
requesting that the election provided for in division (H)(1) of 21074
this section not be held. If no electors reside within the zone, 21075
then division (H)(3) of this section applies. The rate of the 21076
income tax shall be no higher than the highest rate being levied 21077
by a municipal corporation that is a party to the contract. 21078

(1) The board of directors may levy an income tax at a rate 21079
that is not higher than the highest rate being levied by a 21080
municipal corporation that is a party to the contract, provided 21081
that the rate of the income tax is first submitted to and approved 21082
by the electors of the zone at the succeeding regular or primary 21083
election, or a special election called by the board, occurring 21084
subsequent to ninety days after a certified copy of the resolution 21085
levying the income tax and calling for the election is filed with 21086
the board of elections. If the voters approve the levy of the 21087
income tax, the income tax shall be in force for the full period 21088
of the contract establishing the zone. No election shall be held 21089
under this section if a majority of the electors residing within 21090
the zone, determined as specified in division (H) of this section, 21091
submit a petition to that effect to the board of directors. Any 21092

increase in the rate of an income tax by the board of directors 21093
shall be approved by a vote of the electors of the zone and shall 21094
be in force for the remaining period of the contract establishing 21095
the zone. 21096

(2) Whenever a zone is located in the territory of more than 21097
one contracting party, a majority vote of the electors in each of 21098
the several portions of the territory of the contracting parties 21099
constituting the zone approving the levy of the tax is required 21100
before it may be imposed under division (H) of this section. 21101

(3) If no electors reside in the zone, no election for the 21102
approval or rejection of an income tax shall be held under this 21103
section, provided that where no electors reside in the zone, the 21104
rate of the income tax shall be no higher than the highest rate 21105
being levied by a municipal corporation that is a party to the 21106
contract. 21107

(4) The board of directors of a zone levying an income tax 21108
shall enter into an agreement with one of the municipal 21109
corporations that is a party to the contract to administer, 21110
collect, and enforce the income tax on behalf of the zone. 21111

(5) The board of directors of a zone shall publish or post 21112
public notice within the zone of any resolution adopted levying an 21113
income tax in the same manner required of municipal corporations 21114
under sections 731.21 and 731.25 of the Revised Code. 21115

(I)(1) If for any reason a contracting party reverts to or 21116
has its boundaries changed so that it is classified as a township 21117
that is the entity succeeding to that contracting party, the 21118
township is considered to be a municipal corporation for the 21119
purposes of the contract for the full period of the contract 21120
establishing the joint economic development zone, except that if 21121
that contracting party is administering, collecting, and enforcing 21122
the income tax on behalf of the district as provided in division 21123

(H)(4) of this section, the contract shall be amended to allow one 21124
of the other contracting parties to administer, collect, and 21125
enforce that tax. 21126

(2) Notwithstanding any other section of the Revised Code, if 21127
there is any change in the boundaries of a township so that a 21128
municipal corporation once located within the township is no 21129
longer so located, the township shall remain in existence even 21130
though its remaining unincorporated area contains less than 21131
twenty-two square miles, if the township has been or becomes a 21132
party to a contract creating a joint economic development zone 21133
under this section or the contract creating that joint economic 21134
development zone under this section is terminated or repudiated 21135
for any reason by any party or person. The township shall continue 21136
its existing status in all respects, including having the same 21137
form of government and the same elected board of trustees as its 21138
governing body. The township shall continue to receive all of its 21139
tax levies and sources of income as a township in accordance with 21140
any section of the Revised Code, whether the levies and sources of 21141
income generate millage within the ten-mill limitation or in 21142
excess of the ten-mill limitation. The name of the township may be 21143
changed to the name of the contracting party appearing in the 21144
contract creating a joint economic development zone under this 21145
section, so long as the name does not conflict with any other name 21146
in the state that has been certified by the secretary of state. 21147
The township shall have all of the powers set out in sections 21148
715.79, 715.80, and 715.81 of the Revised Code. 21149

(J) If, after creating and operating a joint economic 21150
development zone under this section, a contracting party that did 21151
not levy a municipal income tax under Chapter 718. of the Revised 21152
Code levies such a tax, the tax shall not apply to the zone for 21153
the full period of the contract establishing the zone, if the 21154
board of directors of the zone has levied an income tax as 21155

provided in division (H) of this section. 21156

Sec. 731.091. (A) The legislative authority of a village may, 21157
by the adoption of an ordinance or resolution to eliminate 21158
staggered terms of office, determine that all members of the 21159
legislative authority shall be elected at the same municipal 21160
election as provided for in this section. 21161

(B) At the regular municipal election occurring not less than 21162
ninety days after the certification of the ordinance or resolution 21163
to the board of elections eliminating staggered terms of office, 21164
the following apply: 21165

(1) If there are six members of the legislative authority, 21166
~~three~~ the number of members eligible for election at that regular 21167
municipal election shall be elected ~~at the next regular municipal~~ 21168
~~election for~~ to two-year nonstaggered terms, and all members of 21169
the legislative authority shall be elected to four-year 21170
nonstaggered terms at all following municipal elections. 21171

(2) If there are five members of the legislative authority, 21172
~~three~~ a number of members that is one less than the number of 21173
members that would otherwise be eligible for election at that 21174
regular municipal election but for the first-time implementation 21175
of the new membership of five, or, in the case of a village that 21176
has previously reduced its number of members to five, then the 21177
number of members eligible for election at that regular municipal 21178
election shall be elected ~~at the next municipal election for~~ to 21179
two-year nonstaggered terms, and all members shall be elected to 21180
four-year nonstaggered terms at all following municipal elections. 21181

Sec. 737.41. (A) The legislative authority of a municipal 21182
corporation in which is established a municipal court, other than 21183
a county-operated municipal court, that has a department of 21184
probation shall establish in the municipal treasury a municipal 21185

probation services fund. The fund shall contain all moneys paid to 21186
the treasurer of the municipal corporation under section 2951.021 21187
of the Revised Code for deposit into the fund. The treasurer of 21188
the municipal corporation shall disburse the money contained in 21189
the fund at the request of the municipal court department of 21190
probation, for use only by that department for specialized staff, 21191
purchase of equipment, purchase of services, reconciliation 21192
programs for offenders and victims, other treatment programs, 21193
including ~~alcohol and drug~~ community addiction ~~programs~~ services 21194
providers certified under section ~~3793.06~~ 5119.36 of the Revised 21195
Code, determined to be appropriate by the chief probation officer, 21196
and other similar expenses related to placing offenders under a 21197
community control sanction. 21198

(B) Any money in a municipal probation services fund at the 21199
end of a fiscal year shall not revert to the treasury of the 21200
municipal corporation but shall be retained in the fund. 21201

(C) As used in this section: 21202

(1) "County-operated municipal court" has the same meaning as 21203
in section 1901.03 of the Revised Code. 21204

(2) "Community control sanction" has the same meaning as in 21205
section 2929.01 of the Revised Code. 21206

Sec. 742.14. (A) The board of trustees of the Ohio police and 21207
fire pension fund shall have prepared triennially by or under the 21208
supervision of an actuary an actuarial valuation of the pension 21209
assets, liabilities, and funding requirements of the Ohio police 21210
and fire pension fund as established pursuant to sections 742.01 21211
to 742.61 of the Revised Code. The actuary shall complete the 21212
valuation in accordance with actuarial standards of practice 21213
promulgated by the actuarial standards board of the American 21214
academy of actuaries and prepare a report of the valuation. The 21215
report shall include all of the following: 21216

(1) A summary of the benefit provisions evaluated;	21217
(2) A summary of the census data and financial information used in the valuation;	21218 21219
(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members of the fund contributing to the pension fund;	21220 21221 21222 21223 21224
(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;	21225 21226 21227
(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last triennial actuarial valuation;	21228 21229 21230
(6) A statement of whether employee and employer contributions to the pension fund are expected to be sufficient to satisfy the funding objectives established by the board.	21231 21232 21233
The first triennial report shall be made not later than November 1, 2013, to the Ohio retirement study council, <u>the director of budget and management</u> , and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation <u>immediately upon its availability</u> and thereafter triennially, not later than the first day of November.	21234 21235 21236 21237 21238 21239 21240
(B) At such times as the board determines, and at least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members of the fund and of other system retirants, as defined in section 742.26 of the Revised Code, who are members of a police department or a fire department to update the actuarial assumptions used in the	21241 21242 21243 21244 21245 21246 21247

actuarial valuation required by division (A) of this section. The 21248
actuary shall prepare a report of the actuarial investigation. The 21249
report shall be prepared and any recommended changes in actuarial 21250
assumptions shall be made in accordance with the actuarial 21251
standards of practice promulgated by the actuarial standards board 21252
of the American academy of actuaries. The report shall include all 21253
of the following: 21254

(1) A summary of relevant decrement and economic assumption 21255
experience observed over the period of the investigation; 21256

(2) Recommended changes in actuarial assumptions to be used 21257
in subsequent actuarial valuations required by division (A) of 21258
this section; 21259

(3) A measurement of the financial effect of the recommended 21260
changes in actuarial assumptions; 21261

(4) If the investigation required by this division includes 21262
the investigation required by division (E) of this section, a 21263
report of the result of that investigation. 21264

The board shall submit the report to the Ohio retirement 21265
study council and the standing committees of the house of 21266
representatives and the senate with primary responsibility for 21267
retirement legislation not later than the first day of November 21268
following the last fiscal year of the period the report covers. 21269

(C) The board shall have prepared by or under the supervision 21270
of an actuary an actuarial analysis of any introduced legislation 21271
expected to have a measurable financial impact on the pension 21272
fund. The actuarial analysis shall be completed in accordance with 21273
the actuarial standards of practice promulgated by the actuarial 21274
standards board of the American academy of actuaries. The actuary 21275
shall prepare a report of the actuarial analysis, which shall 21276
include all of the following: 21277

(1) A summary of the statutory changes that are being 21278

evaluated;	21279
(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	21280 21281
(3) A description of the participant group or groups included in the report;	21282 21283
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members of the fund over a period not to exceed thirty years;	21284 21285 21286 21287 21288 21289 21290
(5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.	21291 21292 21293 21294
Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.	21295 21296 21297 21298 21299 21300
(D) The board shall have prepared triennially a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 742.45 of the Revised Code. The first triennial report shall be made as of December 31, 2013, and the thirty-first day of December triennially thereafter. The report shall include the following:	21301 21302 21303 21304 21305 21306
(1) A description of the statutory authority for the benefits provided;	21307 21308

(2) A summary of the benefits;	21309
(3) A summary of the eligibility requirements for the benefits;	21310 21311
(4) A statement of the number of participants eligible for the benefits;	21312 21313
(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;	21314 21315
(6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;	21316 21317
(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;	21318 21319 21320 21321 21322
(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;	21323 21324 21325 21326
(9) A description of any significant changes that affect the comparability of the report required under this division;	21327 21328
(10) A statement of the amount paid under division (B) of section 742.45 of the Revised Code.	21329 21330
The board shall submit the report to the Ohio retirement study council, <u>the director of budget and management</u> , and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation <u>immediately upon its availability and</u> not later than the thirtieth day of June following the year for which the report was made.	21331 21332 21333 21334 21335 21336
(E) At least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an	21337 21338

actuarial investigation of the deferred retirement option plan 21339
established under section 742.43 of the Revised Code. The 21340
investigation shall include an examination of the financial 21341
impact, if any, on the fund of offering the plan to members. 21342

The actuary shall prepare a report of the actuarial 21343
investigation. The report shall include a determination of whether 21344
the plan, as established or modified, has a negative financial 21345
impact on the fund and, if so, recommendations on how to modify 21346
the plan to eliminate the negative financial impact. If the 21347
actuarial report indicates that the plan has a negative financial 21348
impact on the fund, the board may modify the plan or cease to 21349
allow members who have not already done so to elect to participate 21350
in the plan. The firefighter and police officers employers' 21351
contributions shall not be increased to offset any negative 21352
financial impact of the plan. 21353

If the board ceases to allow members to elect to participate 21354
in the plan, the rights and obligations of members who have 21355
already elected to participate shall not be altered. 21356

The board may include the actuarial investigation required 21357
under this division as part of the actuarial investigation 21358
required under division (B) of this section. If the report of the 21359
actuarial investigation required by this division is not included 21360
in the report required by division (B) of this section, the board 21361
shall submit the report required by this division to the Ohio 21362
retirement study council and the standing committees of the house 21363
of representatives and the senate with primary responsibility for 21364
retirement legislation not later than the first day of November 21365
following the last fiscal year of the period the report covers. 21366

Sec. 755.06. (A) The board of park commissioners shall have 21367
the expenditures of all moneys appropriated by the legislative 21368
authority of the city or received from any other source for the 21369

purchase, acquisition, improvement, maintenance, equipment, or 21370
enjoyment of all property mentioned in section 755.05 of the 21371
Revised Code, but no liability shall be incurred or expenditure 21372
made unless the money required therefor is in the treasury to the 21373
credit of the park fund and not appropriated for any other 21374
purpose. 21375

(B) Notwithstanding division (A) of this section, if the 21376
legislative authority of a municipal corporation enters into an 21377
agreement for the sale or lease of mineral rights regarding lands 21378
that the board of park commissioners manages or controls, any 21379
royalties or other moneys resulting from the sale or lease shall 21380
be deposited into a special fund that the legislative authority 21381
shall establish under division (F) of section 5705.09 of the 21382
Revised Code. The board of park commissioners shall use the fund 21383
exclusively for maintenance of lands that the board manages or 21384
controls and for the acquisition of new park lands. 21385

Sec. 901.21. (A) As used in this section and section 901.22 21386
of the Revised Code: 21387

(1) "Agricultural easement" has the same meaning as in 21388
section 5301.67 of the Revised Code. 21389

(2) "Agriculture" means those activities occurring on land 21390
devoted exclusively to agricultural use, as defined in section 21391
5713.30 of the Revised Code, or on land that constitutes a 21392
homestead. 21393

(3) "Homestead" means the portion of a farm on which is 21394
located a dwelling house, yard, or outbuildings such as a barn or 21395
garage. 21396

(B) The director of agriculture may acquire real property 21397
used predominantly in agriculture and agricultural easements by 21398
gift, devise, or bequest if, at the time an easement is granted, 21399

such an easement is on land that is valued for purposes of real 21400
property taxation at its current value for agricultural use under 21401
section 5713.31 of the Revised Code or that constitutes a 21402
homestead. Any terms may be included in an agricultural easement 21403
so acquired that are necessary or appropriate to preserve on 21404
behalf of the grantor of the easement the favorable tax 21405
consequences of the gift, devise, or bequest under the "Internal 21406
Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 21407
The director, by any such means or by purchase or lease, may 21408
acquire, or acquire the use of, stationary personal property or 21409
equipment that is located on land acquired in fee by the director 21410
under this section and that is necessary or appropriate for the 21411
use of the land predominantly in agriculture. 21412

(C) The director may include, in an agricultural easement 21413
acquired under division (B) of this section, a provision to 21414
preserve a unique natural or physical feature on the land so long 21415
as the use of the land remains predominantly agricultural. 21416

(D) The director may do all things necessary or appropriate 21417
to retain the use of real property acquired in fee under division 21418
(B) of this section predominantly in agriculture, including, 21419
without limitation, performing any of the activities described in 21420
division (A)(1) or (2) of section 5713.30 of the Revised Code or 21421
entering into contracts to lease or rent the real property so 21422
acquired to persons or governmental entities that will use the 21423
land predominantly in agriculture. 21424

~~(D)~~(E)(1) When the director considers it to be necessary or 21425
appropriate, the director may sell real property acquired in fee, 21426
and stationary personal property or equipment acquired by gift, 21427
devise, bequest, or purchase, under division (B) of this section 21428
on such terms as the director considers to be advantageous to this 21429
state. 21430

(2) An agricultural easement acquired under division (B) of 21431

this section may be extinguished under the circumstances 21432
prescribed, and in accordance with the terms and conditions set 21433
forth, in the instrument conveying the agricultural easement. 21434

~~(E)~~(F) There is hereby created in the state treasury the 21435
agricultural easement purchase fund. The fund shall consist of the 21436
proceeds received from the sale of real and personal property 21437
under division ~~(D)~~(E) of this section; moneys received due to the 21438
extinguishment of agricultural easements acquired by the director 21439
under division (B) of this section or section 5301.691 of the 21440
Revised Code; moneys received due to the extinguishment of 21441
agricultural easements purchased with the assistance of matching 21442
grants made under section 901.22 of the Revised Code; gifts, 21443
bequests, devises, and contributions received by the director for 21444
the purpose of acquiring agricultural easements; and grants 21445
received from public or private sources for the purpose of 21446
purchasing agricultural easements. The fund shall be administered 21447
by the director, and moneys in the fund shall be used by the 21448
director exclusively to purchase agricultural easements under 21449
division (A) of section 5301.691 of the Revised Code and provide 21450
matching grants under section 901.22 of the Revised Code to 21451
municipal corporations, counties, townships, soil and water 21452
conservation districts established under Chapter 1515. of the 21453
Revised Code, and charitable organizations described in division 21454
(B) of section 5301.69 of the Revised Code for the purchase of 21455
agricultural easements. Money in the fund shall be used only to 21456
purchase agricultural easements on land that is valued for 21457
purposes of real property taxation at its current value for 21458
agricultural use under section 5713.31 of the Revised Code or that 21459
constitutes a homestead when the easement is purchased. 21460

~~(F)~~(G) There is hereby created in the state treasury the 21461
clean Ohio agricultural easement fund. Twelve and one-half per 21462
cent of net proceeds of obligations issued and sold pursuant to 21463

sections 151.01 and 151.09 of the Revised Code shall be deposited 21464
into the fund. The fund also shall consist of money credited to it 21465
under section 151.50 of the Revised Code. The fund shall be used 21466
by the director for the purposes of this section, section 901.22 21467
of the Revised Code, and the provisions of sections 5301.67 to 21468
5301.70 of the Revised Code governing agricultural easements. 21469
Investment earnings of the fund shall be credited to the fund and 21470
may be used to pay costs incurred by the director in administering 21471
those sections and provisions. 21472

~~(G)~~(H) The term of an agricultural easement purchased wholly 21473
or in part with money from the clean Ohio agricultural easement 21474
fund or the agricultural easement purchase fund shall be perpetual 21475
and shall run with the land. 21476

Sec. 901.22. (A) The director of agriculture, in accordance 21477
with Chapter 119. of the Revised Code, shall adopt rules that do 21478
all of the following: 21479

(1) Establish procedures and eligibility criteria for making 21480
matching grants to municipal corporations, counties, townships, 21481
soil and water conservation districts established under Chapter 21482
1515. of the Revised Code, and charitable organizations described 21483
in division (B) of section 5301.69 of the Revised Code for the 21484
purchase of agricultural easements. With respect to agricultural 21485
easements that are purchased or proposed to be purchased with such 21486
matching grants that consist in whole or in part of moneys from 21487
the clean Ohio agricultural easement fund created in section 21488
901.21 of the Revised Code, the rules shall establish all of the 21489
following: 21490

(a) Procedures for all of the following: 21491

(i) Soliciting and accepting applications for matching 21492
grants; 21493

(ii) Participation by local governments and by the public in the process of making matching grants to charitable organizations;	21494 21495
(iii) Notifying local governments, charitable organizations, and organizations that represent the interests of farmers of the ranking system established in rules adopted under division (A)(1)(b) of this section.	21496 21497 21498 21499
(b) A ranking system for applications for the matching grants that is based on the soil type, proximity of the land or other land that is conducive to agriculture as defined by rules adopted under this section and that is the subject of an application to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, farm stewardship, development pressure, and, if applicable, a local comprehensive land use plan involved with a proposed agricultural easement. The rules shall require that preference be given to proposed agricultural easements that involve the greatest proportion of all of the following:	21500 21501 21502 21503 21504 21505 21506 21507 21508 21509 21510 21511 21512
(i) Prime soils, unique or locally important soils, microclimates, or similar features;	21513 21514
(ii) Land that is adjacent to or that is in close proximity to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, by agricultural easement or otherwise, so that a buffer would exist between the land involving the proposed agricultural easement and areas that have been developed or likely will be developed for purposes other than agriculture;	21515 21516 21517 21518 21519 21520 21521 21522
(iii) The use of best management practices, including federally or state approved conservation plans, and a history of	21523 21524

substantial compliance with applicable federal and state laws;	21525
(iv) Development pressure that is imminent, but not a result of current location in the direct path of urban development;	21526
(v) Areas identified for agricultural protection in local comprehensive land use plans.	21528
(c) Any other criteria that the director determines are necessary for selecting applications for matching grants;	21530
(d) Requirements regarding the information that must be included in the annual monitoring report that must be prepared for an agricultural easement under division (E)(2) of section 5301.691 of the Revised Code, procedures for submitting a copy of the report to the office of farmland preservation in the department of agriculture, and requirements and procedures governing corrective actions that may be necessary to enforce the terms of the agricultural easement.	21531
(2) Establish provisions that shall be included in the instrument conveying to a municipal corporation, county, township, soil and water conservation district, or charitable organization any agricultural easement purchased with matching grant funds provided by the director under this section, including, without limitation, all of the following provisions:	21532
(a) A provision stating that an easement so purchased may be extinguished only if an unexpected change in the conditions of or surrounding the land that is subject to the easement makes impossible or impractical the continued use of the land for the purposes described in the easement, or if the requirements of the easement are extinguished by judicial proceedings;	21533
(b) A provision requiring that, upon the sale, exchange, or involuntary conversion of the land subject to the easement, the holder of the easement shall be paid an amount of money that is at least equal to the proportionate value of the easement compared to	21534
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the total value of the land at the time the easement was acquired; 21556

(c) A provision requiring that, upon receipt of the portion 21557
of the proceeds of a sale, exchange, or involuntary conversion 21558
described in division (A)(2)(b) of this section, the municipal 21559
corporation, county, township, soil and water conservation 21560
district, or charitable organization remit to the director an 21561
amount of money equal to the percentage of the cost of purchasing 21562
the easement it received as a matching grant under this section. 21563

Moneys received by the director pursuant to rules adopted 21564
under division (A)(2)(c) of this section shall be credited to the 21565
agricultural easement purchase fund created in section 901.21 of 21566
the Revised Code. 21567

(3) Establish a provision that provides a charitable 21568
organization, municipal corporation, township, county, or soil and 21569
water conservation district with the option of purchasing 21570
agricultural easements either in installments or with a lump sum 21571
payment. The rules shall include a requirement that a charitable 21572
organization, municipal corporation, township, county, or soil and 21573
water conservation district negotiate with the seller of the 21574
agricultural easement concerning any installment payment terms, 21575
including the dates and amounts of payments and the interest rate 21576
on the outstanding balance. The rules also shall require the 21577
director to approve any method of payment that is undertaken in 21578
accordance with the rules adopted under division (A)(3) of this 21579
section. 21580

(4) Establish any other requirements that the director 21581
considers to be necessary or appropriate to implement or 21582
administer a program to make matching grants under this section 21583
and monitor those grants. 21584

(B) The director may develop guidelines regarding the 21585
acquisition of agricultural easements by the department of 21586

agriculture and the provisions of instruments conveying those 21587
easements. The director may make the guidelines available to 21588
public and private entities authorized to acquire and hold 21589
agricultural easements. 21590

(C) The director may provide technical assistance in 21591
developing a program for the acquisition and monitoring of 21592
agricultural easements to public and private entities authorized 21593
to hold agricultural easements. The technical assistance may 21594
include, without limitation, reviewing and providing advisory 21595
recommendations regarding draft instruments conveying agricultural 21596
easements. 21597

(D)(1) The director may make matching grants from the 21598
agricultural easement purchase fund and the clean Ohio 21599
agricultural easement fund to municipal corporations, counties, 21600
townships, soil and water conservation districts, and charitable 21601
organizations to assist those political subdivisions and 21602
charitable organizations in purchasing agricultural easements. 21603
Application for a matching grant shall be made on forms prescribed 21604
and provided by the director. The matching grants shall be made in 21605
compliance with the criteria and procedures established in rules 21606
adopted under this section. Instruments conveying agricultural 21607
easements purchased with matching grant funds provided under this 21608
section, at a minimum, shall include the mandatory provisions set 21609
forth in those rules. 21610

Matching grants made under this division using moneys from 21611
the clean Ohio agricultural easement fund created in section 21612
901.21 of the Revised Code may provide up to seventy-five per cent 21613
of the value of an agricultural easement as determined by a 21614
general real estate appraiser who is certified under Chapter 4763. 21615
of the Revised Code or as determined through a points-based 21616
appraisal system established under division (D)(2) of this 21617
section. Not less than twenty-five per cent of the value of the 21618

agricultural easement shall be provided by the recipient of the 21619
matching grant or donated by the person who is transferring the 21620
easement to the grant recipient. The amount of such a matching 21621
grant used for the purchase of a single agricultural easement 21622
shall not exceed one million dollars. 21623

(2) The director shall establish a points-based appraisal 21624
system for the purposes of division (D)(1) of this section. The 21625
director may include any or all of the following factors in the 21626
system: 21627

(a) Whether the applicable county auditor has determined that 21628
the land is land that is devoted exclusively to agriculture for 21629
the purposes of sections 5713.30 to 5713.38 of the Revised Code; 21630

(b) Changes in land values following the completion of the 21631
applicable county auditor's reappraisal or triennial update; 21632

(c) Soil types and productivity; 21633

(d) Proximity of the land to land that is already subject to 21634
an agricultural easement, conservation easement created under 21635
sections 5301.67 to 5301.70 of the Revised Code, or similar 21636
land-use limitation; 21637

(e) Proximity of the land to water and sewer lines, road 21638
interchanges, and nonagricultural development; 21639

(f) Parcel size and roadway frontage of the land; 21640

(g) Existence of an agreement entered into under division (D) 21641
of section 1515.08 of the Revised Code or of an operation and 21642
management plan developed under division (A) of section 1511.021 21643
of the Revised Code; 21644

(h) Existence of a comprehensive plan that is adopted under 21645
section 303.02 or 519.02 of the Revised Code or that is adopted by 21646
the planning commission of a municipal corporation under section 21647
713.06 of the Revised Code; 21648

(i) Any other factors that the director determines are necessary for inclusion in the system. 21649
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(E) An agricultural easement acquired as a result of a matching grant awarded under division (D) of this section may include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural. 21651
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(F) For any agricultural easement purchased with a matching grant that consists in whole or in part of moneys from the clean Ohio agricultural easement fund, the director shall be named as a grantee on the instrument conveying the easement, as shall the municipal corporation, county, township, soil and water conservation district, or charitable organization that receives the grant. 21656
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~~(F)~~(G)(1) The director shall monitor and evaluate the effectiveness and efficiency of the agricultural easement program as a farmland preservation tool. On or before July 1, 1999, and the first day of July of each year thereafter, the director shall prepare and submit a report to the chairpersons of the standing committees of the senate and the house of representatives that consider legislation regarding agriculture. The report shall consider and address the following criteria to determine the program's effectiveness: 21663
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(a) The number of agricultural easements purchased during the preceding year; 21672
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(b) The location of those easements; 21674

(c) The number of acres of land preserved for agricultural use; 21675
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(d) The amount of money used by a municipal corporation, township, county, or soil and water conservation district from any fund to purchase the agricultural easements; 21677
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(e) The number of state matching grants given to purchase the agricultural easements;	21680 21681
(f) The amount of state matching grant moneys used to purchase the agricultural easements.	21682 21683
(2) The report also shall consider and include, at a minimum, the following information for each county to determine the program's efficiency:	21684 21685 21686
(a) The total number of acres in the county;	21687
(b) The total number of acres in current agricultural use;	21688
(c) The total number of acres preserved for agricultural use in the preceding year;	21689 21690
(d) The average cost, per acre, of land preserved for agricultural use in the preceding year.	21691 21692
Sec. 901.23. (A) There is hereby created the farmland preservation advisory board consisting of twelve voting members appointed by the director of agriculture as follows:	21693 21694 21695
(1) One member who is a county commissioner or a representative of a statewide organization that represents county commissioners;	21696 21697 21698
(2) One member who is a township trustee or a representative of a statewide organization that represents township trustees;	21699 21700
(3) One representative of the Ohio state university;	21701
(4) One representative of a national nonprofit organization dedicated to the preservation of farmland;	21702 21703
(5) One representative each of development, environmental, planning, and soil and water conservation interests;	21704 21705
(6) One farmer from each of the state's four quadrants.	21706
Terms of office shall be staggered and shall be for three	21707

years, with each term ending on the same day of the same month as 21708
did the term that it succeeds. Each member shall hold office from 21709
the date of appointment until the end of the term for which the 21710
member was appointed, except that the term of any member who is a 21711
county commissioner or township trustee shall end when the member 21712
ceases to serve as a county commissioner or township trustee. 21713

Members may be reappointed. Vacancies shall be filled in the 21714
manner provided for original appointments. Any member appointed to 21715
fill a vacancy occurring prior to the expiration date of the term 21716
for which the member was appointed shall serve for the remainder 21717
of that term. A member shall continue to serve subsequent to the 21718
expiration date of the member's term until the member's successor 21719
takes office or until a period of sixty days has elapsed, 21720
whichever occurs first. Members shall serve at the pleasure of the 21721
director. 21722

The executive director of the office of farmland preservation 21723
in the department of agriculture or another employee of the 21724
department who is designated by the director shall serve as the 21725
nonvoting chairperson of the board. The director annually shall 21726
designate one member of the board to serve as its 21727
vice-chairperson. The board may adopt bylaws governing its 21728
operation and shall meet at a time when the director, or the 21729
director's designee, considers it appropriate in order for the 21730
board to provide advice as required under division (B) of this 21731
section. 21732

(B) The board shall provide advice to the director regarding 21733
all of the following: 21734

(1) The design and implementation of an agricultural easement 21735
purchase program; 21736

(2) The selection of applications that will be awarded 21737
matching grants under division (D) of section 901.22 of the 21738

Revised Code for the purchase of agricultural easements; 21739

(3) The design and implementation of any other statewide 21740
farmland protection measures that the director considers 21741
appropriate. 21742

(C) Serving as a member of the board does not constitute 21743
holding a public office or position of employment under the laws 21744
of this state and does not constitute grounds for removal of 21745
public officers or employees from their offices or positions of 21746
employment. 21747

(D) A board member shall be reimbursed for actual and 21748
necessary expenses incurred in the discharge of duties as a board 21749
member. 21750

Sec. 903.11. (A) The director of agriculture may enter into 21751
contracts or agreements to carry out the purposes of this chapter 21752
with any public or private person, including ~~the Ohio state~~ 21753
~~university~~ OSU extension ~~service~~, the natural resources 21754
conservation service in the United States department of 21755
agriculture, the environmental protection agency, the division of 21756
soil and water resources in the department of natural resources, 21757
and soil and water conservation districts established under 21758
Chapter 1515. of the Revised Code. However, the director shall not 21759
enter into a contract or agreement with a private person for the 21760
review of applications for permits to install, permits to operate, 21761
NPDES permits, or review compliance certificates that are issued 21762
under this chapter or for the inspection of a facility regulated 21763
under this chapter or with any person for the issuance of any of 21764
those permits or certificates or for the enforcement of this 21765
chapter and rules adopted under it. 21766

(B) The director may administer grants and loans using moneys 21767
from the federal government and other sources, public or private, 21768
for carrying out any of the director's functions. Nothing in this 21769

chapter shall be construed to limit the eligibility of owners or 21770
operators of animal feeding facilities or other agricultural 21771
enterprises to receive moneys from the water pollution control 21772
loan fund established under section 6111.036 of the Revised Code 21773
and the nonpoint source pollution management fund established 21774
under section 6111.037 of the Revised Code. 21775

The director of agriculture shall provide the director of 21776
environmental protection with written recommendations for 21777
providing financial assistance from those funds to agricultural 21778
enterprises. The director of environmental protection shall 21779
consider the recommendations in developing priorities for 21780
providing financial assistance from the funds. 21781

Sec. 903.99. (A) Whoever violates division (A)(2) of section 21782
903.02 or division (A)(2) of section 903.03 of the Revised Code is 21783
guilty of a misdemeanor of the third degree on a first offense, a 21784
misdemeanor of the second degree on a second offense, and a 21785
misdemeanor of the first degree on a third or subsequent offense. 21786
Each ten-day period that the offense continues constitutes a 21787
separate offense. 21788

(B) Whoever violates the terms and conditions of a permit to 21789
install issued under section 903.02 of the Revised Code or of a 21790
permit to operate issued under section 903.03 of the Revised Code, ~~7~~ 21791
~~division (B)(1), (C)(1), or (M)(1) or (2) of section 903.08 of the~~ 21792
~~Revised Code, or the NPDES provisions of a permit to operate shall~~ 21793
be fined not more than twenty-five thousand dollars. Each day of 21794
violation constitutes a separate offense. 21795

(C) Whoever negligently violates division (B)(1), (C)(1), 21796
(K), or (M)(1) or (2) of section 903.08 of the Revised Code or the 21797
NPDES provisions of a permit to operate shall be fined not more 21798
than ten thousand dollars or imprisoned for not more than ninety 21799
days, or both. Each day of violation constitutes a separate 21800

offense. For purposes of this division, notwithstanding division (D) of section 2901.22 of the Revised Code, a person acts negligently when, because of a lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(D) Whoever recklessly violates division (B)(1), (C)(1), (K), or (M)(1) or (2) of section 903.08 of the Revised Code or the NPDES provisions of a permit to operate shall be fined not more than ten thousand dollars or imprisoned for not more than one year, or both. Each day of violation constitutes a separate offense.

(E) Whoever knowingly violates division ~~(K)~~(B)(1), (C)(1), (K), or (M)(1) or (2) of section 903.08 of the Revised Code or the NPDES provisions of a permit to operate shall be fined not more than twenty-five thousand dollars or imprisoned for not more than three years, or both. Each day of violation constitutes a separate offense.

Sec. 905.06. The director of agriculture shall:

(A) Gather information on the performance of various agricultural additives, including distributors' and manufacturers' claims, the results of investigation or research on additives, and the conditions when they are useful, and make the information available to the public;

(B) Provide and distribute, in cooperation with ~~the~~ agricultural OSU extension ~~service~~, information on the use of agricultural additives;

(C) Provide for the prompt and thorough investigation of

written complaints received concerning agricultural additives. 21831

Sec. 909.15. All moneys from registration fees and from fines 21832
imposed and recovered under sections 909.01 to 909.18 of the 21833
Revised Code, shall be paid to the director of agriculture, who 21834
shall deposit such moneys in the state treasury to the credit of 21835
the general revenue plant pest program fund created in section 21836
927.54 of the Revised Code. 21837

Sec. 924.06. (A) ~~Within ninety days after he has approved a~~ 21838
~~proposed amendment to an agricultural commodity marketing program~~ 21839
~~established before April 10, 1985, the director of agriculture~~ 21840
~~shall determine by a referendum whether the eligible producers~~ 21841
~~favor the proposed amendment to the program. Any proposed~~ 21842
~~amendment to a marketing program established before April 10,~~ 21843
~~1985, is favored by the producers of the agricultural commodity~~ 21844
~~which would be affected by the proposed amendment if either of the~~ 21845
~~following occurs:~~ 21846

~~(1) Sixty six and two thirds per cent or more, by number, of~~ 21847
~~the producers who vote in the referendum, vote in favor of the~~ 21848
~~amendment, and represent a majority of the volume of the affected~~ 21849
~~commodity that was produced in the preceding marketing year by all~~ 21850
~~producers who voted in the referendum;~~ 21851

~~(2) A majority of the producers who vote in the referendum,~~ 21852
~~vote in favor of the amendment and represent sixty six and~~ 21853
~~two thirds per cent, or more, of the volume of the affected~~ 21854
~~commodity that was produced in the preceding marketing year by all~~ 21855
~~the producers who voted in the referendum.~~ 21856

~~(B) Within ninety days after he has approved~~ approving an 21857
agricultural commodity marketing program proposed on or after 21858
April 10, 1985 the effective date of this amendment, or a proposed 21859
amendment to ~~such a~~ an agricultural commodity marketing program, 21860

the director of agriculture shall determine by a referendum 21861
whether the eligible producers favor the proposed marketing 21862
program or amendment. Any such marketing program or amendment to 21863
~~such~~ a marketing program is favored by the producers of the 21864
agricultural commodity that would be affected by the proposed 21865
program or amendment if a majority of the producers who vote in 21866
the referendum vote in favor of the program or amendment. 21867

~~(C)~~(B) If the producers who vote in any referendum held 21868
pursuant to this section do not favor a proposed marketing 21869
program, or proposed amendment to a program, the director shall 21870
hold no additional referendum on that proposed program or proposed 21871
amendment during the ten months following the close of the 21872
referendum at which the producers did not favor that proposed 21873
program or amendment. 21874

~~(D)~~(C) In any referendum held pursuant to this section, each 21875
eligible producer of the ~~Ohio~~ agricultural commodity ~~which~~ that 21876
would be affected by the proposed marketing program, or amendment 21877
to a program, is entitled to one vote. 21878

~~(E)~~(D) In any referendum held on an agricultural commodity 21879
marketing program, or a proposed amendment to such a program, 21880
votes may be cast in person or by mailing a ballot to a polling 21881
place designated by the director. The director shall establish a 21882
three-day period during which eligible producers may vote in 21883
person during normal business hours at polling places designated 21884
by the director. The director or other appropriate person shall 21885
send a mail-in ballot by ordinary first-class mail to any eligible 21886
producer who requests one by calling the toll-free telephone 21887
number or sending in the ballot request form provided for in 21888
division ~~(F)~~(E) of this section, by calling one of the polling 21889
places designated by the director, or by any additional method 21890
that the director or operating committee may provide. No ballot 21891
returned by mail shall be valid if it is postmarked later than the 21892

third day of the election period established by the director. 21893

~~(F)~~(E) For any referendum held on an agricultural commodity 21894
marketing program, or a proposed amendment to such a program, the 21895
director or operating committee shall cause a ballot request form 21896
to be published at least thirty days before the beginning of the 21897
election period established under division ~~(F)~~(D) of this section 21898
in at least two appropriate periodicals designated by the 21899
director, and shall make the form available for reproduction to 21900
any interested group or association. The director shall provide a 21901
toll-free telephone number that producers may call to request a 21902
ballot. 21903

Sec. 927.54. The plant pest program fund is hereby created in 21904
the state treasury. The fund shall consist of money credited to it 21905
under section 909.15 of the Revised Code and under this chapter 21906
and any rules adopted under it. The director of agriculture shall 21907
use money in the fund to administer this chapter and Chapter 909. 21908
of the Revised Code. 21909

The director shall keep accurate records of all receipts into 21910
and disbursements from the fund and shall prepare, and provide 21911
upon request, an annual report classifying the receipts and 21912
disbursements that pertain to plant pests. 21913

Sec. 955.201. (A) As used in this section and in section 21914
955.202 of the Revised Code, "Ohio pet fund" means a nonprofit 21915
corporation organized by that name under Chapter 1702. of the 21916
Revised Code that consists of humane societies, veterinarians, 21917
animal shelters, companion animal breeders, dog wardens, or 21918
similar individuals and entities. 21919

(B) The Ohio pet fund shall do all of the following: 21920

(1) Establish eligibility criteria for organizations that may 21921
receive financial assistance from the Ohio pet fund. Those 21922

organizations may include any of the following: 21923

(a) An animal shelter as defined in section 4729.01 of the 21924
Revised Code; 21925

(b) A local nonprofit veterinary association that operates a 21926
program for the sterilization of dogs and cats; 21927

(c) A charitable organization that is exempt from federal 21928
income taxation under subsection 501(c)(3) of the Internal Revenue 21929
Code and a purpose of which is to support programs for the 21930
sterilization of dogs and cats and educational programs concerning 21931
the proper veterinary care of those animals. 21932

(2) Establish procedures for applying for financial 21933
assistance from the Ohio pet fund. Application procedures shall 21934
require eligible organizations to submit detailed proposals that 21935
outline the intended uses of the moneys sought. 21936

(3) Establish eligibility criteria for sterilization and 21937
educational programs for which moneys from the Ohio pet fund may 21938
be used and, consistent with division (C) of this section, 21939
establish eligibility criteria for individuals who seek 21940
sterilization for their dogs and cats from eligible organizations; 21941

(4) Establish procedures for the disbursement of moneys the 21942
Ohio pet fund receives from license plate contributions pursuant 21943
to division (C) of section 4503.551 of the Revised Code; 21944

(5) Advertise or otherwise provide notification of the 21945
availability of financial assistance from the Ohio pet fund for 21946
eligible organizations; 21947

(6) Design markings to be inscribed on "pets" license plates 21948
under section 4503.551 of the Revised Code. 21949

(C)(1) The owner of a dog or cat is eligible for dog or cat 21950
sterilization services from an eligible organization when those 21951
services are subsidized in whole or in part by money from the Ohio 21952

pet fund if any of the following applies:	21953
(a) The income of the owner's family does not exceed one hundred fifty per cent of the federal poverty guideline.	21954 21955
(b) The owner, or any member of the owner's family who resides with the owner, is a recipient or beneficiary of one of the following government assistance programs:	21956 21957 21958
(i) Low-income housing assistance under the "United States Housing Act of 1937," 42 U.S.C.A. 1437f, as amended, known as the federal section 8 housing program;	21959 21960 21961
(ii) The Ohio works first program established by Chapter 5107. of the Revised Code;	21962 21963
(iii) Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance <u>The medicaid</u> program or medicaid, provided by the department of job and family services under Chapter 5111. of the Revised Code;	21964 21965 21966 21967 21968
(iv) A program or law administered by the United States department of veterans' affairs or veterans' administration for any service-connected disability;	21969 21970 21971
(v) The supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), administered by the department of job and family services under section 5101.54 of the Revised Code;	21972 21973 21974 21975
(vi) The "special supplemental nutrition program for women, infants, and children" established under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended, administered by the department of health under section 3701.132 of the Revised Code;	21976 21977 21978 21979 21980
(vii) Supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as	21981 21982

amended;	21983
(viii) Social security disability insurance benefits provided under Title II of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401, as amended.	21984 21985 21986
(c) The owner of the dog or cat submits to the eligible organization operating the sterilization program either of the following:	21987 21988 21989
(i) A certificate of adoption showing that the dog or cat was adopted from a licensed animal shelter, a municipal, county, or regional pound, or a holding and impoundment facility that contracts with a municipal corporation;	21990 21991 21992 21993
(ii) A certificate of adoption showing that the dog or cat was adopted through a nonprofit corporation operating an animal adoption referral service whose holding facility, if any, is licensed in accordance with state law or a municipal ordinance.	21994 21995 21996 21997
(2) The Ohio pet fund shall determine the type of documentary evidence that must be presented by the owner of a dog or cat to show that the income of the owner's family does not exceed one hundred fifty per cent of the federal poverty guideline or that the owner is eligible under division (C)(1)(b) of this section.	21998 21999 22000 22001 22002
(D) As used in division (C) of this section, "federal poverty guideline" means the official poverty guideline as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	22003 22004 22005 22006 22007 22008 22009
Sec. 956.07. (A) A person who is applying for a license to operate a high volume breeder or to act as or perform the functions of a dog retailer under section 956.04 or 956.05 of the	22010 22011 22012

Revised Code, as applicable, shall include with the application 22013
for a license a nonrefundable license application fee. For the 22014
purpose of calculating the application fee for a high volume 22015
breeder, the sale of one dog from a litter constitutes the sale of 22016
a litter. The application fees are as follows: 22017

(1) For a high volume breeder: 22018

(a) One hundred fifty dollars if the high volume breeder 22019
annually sells at least nine, but not more than fifteen litters; 22020

(b) Two hundred fifty dollars if the high volume breeder 22021
annually sells at least sixteen, but not more than twenty-five 22022
litters; 22023

(c) Three hundred fifty dollars if the high volume breeder 22024
annually sells at least twenty-six, but not more than thirty-five 22025
litters; 22026

(d) Five hundred dollars if the high volume breeder annually 22027
sells at least thirty-six, but not more than forty-five litters; 22028

(e) Seven hundred fifty dollars if the high volume breeder 22029
annually sells forty-six or more litters. 22030

(2) For a dog retailer, five hundred dollars. 22031

(B) Money collected by the director of agriculture from each 22032
application fee submitted under this section shall be ~~transmitted~~ 22033
~~by the director to the treasurer of~~ deposited in the state 22034
treasury to be credited to the credit of the high volume breeder 22035
kennel control license fund created in section 956.18 of the 22036
Revised Code. The ~~treasurer of state shall transfer to the county~~ 22037
~~auditor of the county in which a high volume breeder is located or~~ 22038
~~will be located~~ director shall use fifty dollars of the 22039
application fee submitted by ~~the~~ a high volume breeder under this 22040
section or an amount equal to the fee charged ~~in that county~~ for 22041
the registration of a kennel under section 955.14 of the Revised 22042

Code in the county in which the high volume breeder is located or 22043
will be located, whichever is greater, to reimburse that county. 22044
The county auditor shall deposit the transferred money into that 22045
county's dog and kennel fund created under section 955.20 of the 22046
Revised Code. 22047

Sec. 956.18. (A) All money collected by the director of 22048
agriculture from license fees under section ~~956.08~~ 956.07 and 22049
civil penalties assessed under section 956.13 of the Revised Code 22050
shall be deposited in the state treasury to the credit of the high 22051
volume breeder kennel control license fund, which is hereby 22052
created. The fund shall also consist of money appropriated to it. 22053

(B) No money may be released from the fund without 22054
controlling board approval. The director shall request the 22055
controlling board to release money in an amount not to exceed two 22056
million five hundred thousand dollars per biennium. 22057

(C) The director shall use the money in the fund for the 22058
purpose of administering this chapter and rules adopted under it. 22059

Sec. 991.03. (A) The Ohio expositions commission shall: 22060

(1) Conduct at least one fair or exposition annually; 22061

(2) Maintain and manage property held by the state for the 22062
purpose of conducting fairs, expositions, and exhibits; 22063

(3) As provided in section 109.122 of the Revised Code, 22064
provide notice of or copies of any proposed entertainment or 22065
sponsorship contracts to the attorney general. 22066

(B) The commission may: 22067

(1) Conduct such additional fairs, expositions, or 22068
exhibitions as the commission determines are in the general public 22069
interest; 22070

(2) Accept on behalf of the state conveyances of property for 22071

the purposes of conducting fairs, expositions, and exhibits, 22072
subject to any terms and conditions agreed to by the commission 22073
and approved by the controlling board; 22074

(3) Accept gifts, devises, and bequests of money, lands, and 22075
other property and apply the money, lands, or other property 22076
according to the terms of the gift, devise, or bequest. A 22077
political subdivision as authorized by law may make gifts and 22078
devises to the commission, and the commission shall apply such a 22079
gift or devise according to the terms of the gift or devise. All 22080
gifts and bequests of money accepted under this division shall be 22081
deposited into the state treasury to the credit of the Ohio 22082
expositions support fund. 22083

(4) Enter into contracts that the commission considers 22084
necessary or worthwhile in the conduct of its purposes, provided 22085
that contracts made for a term exceeding two years, other than 22086
those described in division (B)(4) of this section, shall be 22087
subject to the approval of the controlling board and provided that 22088
the attorney general, pursuant to the attorney general's authority 22089
under section 109.122 of the Revised Code, has not disapproved the 22090
proposed contract; 22091

~~(4)~~(5) Enter into contracts for the mutual exchange of goods 22092
or services; 22093

~~(5)~~(6) Sell or convey all or a portion of the property, land, 22094
or buildings under its management subject to the approval of the 22095
legislature; 22096

~~(6)~~(7) Grant leases on all or any part of the property, land, 22097
or buildings under the management of the commission to private or 22098
public organizations, which appear to be in the best interests of 22099
the state, with the approval of the controlling board and director 22100
of administrative services, subject to the following conditions: 22101

(a) The lessees shall make or construct improvements on such 22102

lands or buildings at no cost to the commission or to the state, 22103
subject to prior approval by the director of administrative 22104
services of detailed plans and specifications of such 22105
improvements. 22106

(b) No person, firm, or corporation shall cause a lien to be 22107
filed against any funds or property of the state or of the 22108
commission as a result of a lessee's activities pursuant to 22109
division (B)~~(6)~~(7)(a) of this section. 22110

(c) Leases shall be entered into subject to the sale of such 22111
property, lands, or buildings during the term of the lease. 22112

(d) No leases shall be made which interfere with a fair, 22113
exposition, or exhibition on such lands. 22114

~~(7)~~(8) Encumber appropriations for the entire amount of a 22115
contract at the time the contract is made, even though the 22116
contract will not be performed in the fiscal year for which the 22117
appropriations were made. 22118

~~(8)~~(9) Implement a credit card payment program permitting 22119
payment by means of a credit card of any fees, charges, and 22120
rentals associated with conducting fairs, expositions, and 22121
exhibits. The commission may open an account outside the state 22122
treasury in a financial institution for the purpose of depositing 22123
credit card receipts. By the end of the business day following the 22124
deposit of the receipts, the financial institution shall make 22125
available to the commission funds in the amount of the receipts. 22126
The commission shall then pay these funds into the state treasury 22127
to the credit of the Ohio expositions fund. 22128

The commission shall adopt rules as necessary to carry out 22129
the purposes of division (B)~~(8)~~(9) of this section. The rules 22130
shall include standards for determining eligible financial 22131
institutions and the manner in which funds shall be made available 22132
and shall be consistent with the standards contained in sections 22133

135.03, 135.18, and 135.181 of the Revised Code. 22134

The commission shall not adopt or enforce any rules which 22135
will prohibit livestock exhibited at the Ohio state fair from 22136
participating in county and independent fairs in the state. 22137

Sec. 991.04. There is hereby established in the state 22138
treasury the Ohio expositions fund. ~~All~~ Except for gifts and 22139
bequests of money accepted under division (B)(3) of section 991.03 22140
of the Revised Code, all moneys collected by the Ohio expositions 22141
commission pursuant to sections 991.01 to 991.07 of the Revised 22142
Code and any income generated from the investment of those moneys 22143
shall be paid into the fund and may be used to defray the costs of 22144
administration and carrying out the purposes of sections 991.01 to 22145
991.07 of the Revised Code. 22146

With the approval of the director of budget and management, 22147
provisions may be made for a cash fund to be established on the 22148
state fairgrounds during the period of activities related to the 22149
holding of the annual state fair. The purpose of such fund is to 22150
provide for payment of premiums and entertainers and for immediate 22151
payment of small amounts for obligations, including ticket 22152
refunds, of such nature as to require immediate payment. 22153

The expositions commission shall cause to be kept an accurate 22154
record of all transactions, contracts, and proceedings. The 22155
director of budget and management shall prescribe a system of 22156
accounting and reporting. Such system shall include methods and 22157
forms showing the sources from which all revenues of the 22158
expositions commission are received, the amount collected from 22159
each source, and the amount expended for each purpose. 22160

Sec. 991.041. There is in the state treasury the Ohio 22161
expositions support fund. All gifts and bequests of money accepted 22162
under division (B)(3) of section 991.03 of the Revised Code shall 22163

be deposited into the state treasury to the credit of the fund. 22164
Investment earnings of the fund shall be deposited into the fund. 22165
The Ohio expositions commission may use the fund, consistent with 22166
the terms of the gift or bequest, to defray the cost of 22167
administration and of carrying out the purposes of sections 991.01 22168
to 991.07 of the Revised Code. 22169

Sec. 991.06. Annually on or before the thirtieth day of 22170
September the Ohio expositions commission, through its general 22171
manager, shall prepare and file with the auditor of state a 22172
statement showing the total amount received from each source of 22173
revenue, the total amount disbursed for each class of 22174
expenditures, and the aggregate of all receipts and expenditures 22175
of the commission. This statement shall also include a summary of 22176
each contract for the mutual exchange of goods or services entered 22177
into by the commission under ~~division (B)(4)~~ of section 991.03 of 22178
the Revised Code. Upon receipt of such statement, the auditor of 22179
state shall have it verified and make a report of ~~his~~ the auditor 22180
of state's findings thereon to the governor. 22181

Assistant auditors of state shall conduct an audit of 22182
activities of the annual Ohio state fair on the Ohio exposition 22183
center during the period when the fair is in progress. 22184

The cost of such audit shall be included in the annual 22185
expenses of the Ohio expositions commission. 22186

Sec. 1321.46. (A) ~~If more than four hundred persons are~~ 22187
~~licensed under sections 1321.35 to 1321.48 of the Revised Code at~~ 22188
~~any point after September 1, 2009~~ Not later than ninety days after 22189
the effective date of this amendment, the superintendent of 22190
financial institutions shall develop and make a statewide common 22191
database, as implemented by the superintendent, accessible at all 22192
times to persons licensed or registered under sections 1321.01 to 22193

1321.19, 1321.35 to 1321.48, 1321.51 to 1321.60, or 4712.01 to 22194
4712.14 of the Revised Code and to the superintendent through an 22195
internet connection. ~~Licenses~~ 22196

(1) Licensees under sections 1321.35 to 1321.48 of the 22197
Revised Code shall use the database to determine if a ~~borrower~~ 22198
consumer is eligible for a loan. Licensees shall submit the 22199
required data in a format as the superintendent prescribes by 22200
rule, and verify eligibility before entering into each loan 22201
transaction. 22202

(2) Licensees or registrants under sections 1321.01 to 22203
1321.19, 1321.51 to 1321.60, or 4712.01 to 4712.14 of the Revised 22204
Code shall, with respect to any loan or brokered extension of 22205
credit that is in an amount less than one thousand five hundred 22206
dollars and has a duration of less than sixty days, submit the 22207
required data in a format as the superintendent prescribes by 22208
rule. 22209

~~(B) If a statewide common database is developed pursuant to~~ 22210
~~division (A) of this section, the~~ The superintendent shall adopt 22211
rules to administer and enforce this section and to ensure that 22212
the database is used ~~by licensees~~ in accordance with this section, 22213
including: 22214

(1) A rule requiring that data are retained in the database 22215
only as required to ensure ~~licensee~~ compliance with this section; 22216

(2) A rule requiring that identifying ~~borrower~~ consumer 22217
information is deleted from the database on a regular and routine 22218
basis, twelve months after the transaction is closed; 22219

(3) A rule authorizing the archiving of deleted data, should 22220
the superintendent determine that archiving is necessary for the 22221
enforcement of this section; 22222

(4) A rule prohibiting the database from ranking the credit 22223

worthiness of a ~~borrower~~ consumer and limiting the database so 22224
that, with respect to licensees under sections 1321.35 to 1321.48 22225
of the Revised Code, it may only be used to determine a ~~borrower's~~ 22226
consumer's eligibility or ineligibility for a loan based on the 22227
provisions of this chapter; 22228

(5) A rule requiring that data collected pursuant to this 22229
section be used only as prescribed in this section and for no 22230
other purpose; 22231

(6) A rule authorizing the database operator to impose a per 22232
transaction fee to be paid by the licensee or registrant for data 22233
required to be submitted; 22234

(7) A rule prohibiting the database operator from including, 22235
in the database, the social security number of any ~~borrower~~ 22236
consumer. 22237

(C) The database operator, whether the superintendent or a 22238
third party selected by the superintendent pursuant to Chapter 22239
125. of the Revised Code, shall do all of the following: 22240

(1) Establish and maintain a process for responding to 22241
transaction verification requests due to technical difficulties 22242
with the database that prevent the licensee or registrant from 22243
accessing the database through the internet; 22244

(2) Provide accurate and secure receipt, transmission, and 22245
storage of ~~borrower~~ consumer data; 22246

(3) Designate a transaction as closed within one business day 22247
of receiving notification from a licensee or registrant; 22248

(4) Take all reasonable measures to ensure the 22249
confidentiality of the database and to prevent identity theft. 22250

(D) A licensee under sections 1321.35 to 1321.48 of the 22251
Revised Code may rely on the information contained in the database 22252
as accurate and is not subject to any administrative penalty or 22253

civil liability as a result of relying on inaccurate information 22254
contained in the database. 22255

(E) With respect to the database prescribed in division (A) 22256
of this section, any information submitted for incorporation into 22257
the database, information in the database itself, or archived 22258
information as maintained by the superintendent pursuant to this 22259
section is not a public record under section 149.43 of the Revised 22260
Code. 22261

(F) If approved by the superintendent, the database operator 22262
may impose a per transaction fee for the actual costs of entering, 22263
accessing, and maintaining data in the database. The fee shall be 22264
payable to the database operator in a manner prescribed by the 22265
superintendent. ~~A licensee may not charge a customer all or part~~ 22266
~~of the fee.~~ 22267

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the 22268
Revised Code: 22269

(A) "Adult" means a person who is eighteen years of age or 22270
older. 22271

(B) "Attending physician" means the physician to whom a 22272
principal or the family of a principal has assigned primary 22273
responsibility for the treatment or care of the principal or, if 22274
the responsibility has not been assigned, the physician who has 22275
accepted that responsibility. 22276

(C) "Comfort care" means any of the following: 22277

(1) Nutrition when administered to diminish the pain or 22278
discomfort of a principal, but not to postpone death; 22279

(2) Hydration when administered to diminish the pain or 22280
discomfort of a principal, but not to postpone death; 22281

(3) Any other medical or nursing procedure, treatment, 22282
intervention, or other measure that is taken to diminish the pain 22283

or discomfort of a principal, but not to postpone death.	22284
(D) "Consulting physician" means a physician who, in	22285
conjunction with the attending physician of a principal, makes one	22286
or more determinations that are required to be made by the	22287
attending physician, or to be made by the attending physician and	22288
one other physician, by an applicable provision of sections	22289
1337.11 to 1337.17 of the Revised Code, to a reasonable degree of	22290
medical certainty and in accordance with reasonable medical	22291
standards.	22292
(E) "Declaration for mental health treatment" has the same	22293
meaning as in section 2135.01 of the Revised Code.	22294
(F) "Guardian" means a person appointed by a probate court	22295
pursuant to Chapter 2111. of the Revised Code to have the care and	22296
management of the person of an incompetent.	22297
(G) "Health care" means any care, treatment, service, or	22298
procedure to maintain, diagnose, or treat an individual's physical	22299
or mental condition or physical or mental health.	22300
(H) "Health care decision" means informed consent, refusal to	22301
give informed consent, or withdrawal of informed consent to health	22302
care.	22303
(I) "Health care facility" means any of the following:	22304
(1) A hospital;	22305
(2) A hospice care program, pediatric respite care program,	22306
or other institution that specializes in comfort care of patients	22307
in a terminal condition or in a permanently unconscious state;	22308
(3) A nursing home;	22309
(4) A home health agency;	22310
(5) An intermediate care facility for the mentally retarded;	22311
(6) A regulated community mental health organization.	22312

(J) "Health care personnel" means physicians, nurses, 22313
physician assistants, emergency medical technicians-basic, 22314
emergency medical technicians-intermediate, emergency medical 22315
technicians-paramedic, medical technicians, dietitians, other 22316
authorized persons acting under the direction of an attending 22317
physician, and administrators of health care facilities. 22318

(K) "Home health agency" has the same meaning as in section 22319
3701.881 of the Revised Code. 22320

(L) "Hospice care program" and "pediatric respite care 22321
program" have the same meanings as in section 3712.01 of the 22322
Revised Code. 22323

(M) "Hospital" has the same meanings as in sections 3701.01, 22324
3727.01, and 5122.01 of the Revised Code. 22325

(N) "Hydration" means fluids that are artificially or 22326
technologically administered. 22327

(O) "Incompetent" has the same meaning as in section 2111.01 22328
of the Revised Code. 22329

(P) "Intermediate care facility for the mentally retarded" 22330
has the same meaning as in section ~~5111.20~~ 5124.01 of the Revised 22331
Code. 22332

(Q) "Life-sustaining treatment" means any medical procedure, 22333
treatment, intervention, or other measure that, when administered 22334
to a principal, will serve principally to prolong the process of 22335
dying. 22336

(R) "Medical claim" has the same meaning as in section 22337
2305.113 of the Revised Code. 22338

(S) "Mental health treatment" has the same meaning as in 22339
section 2135.01 of the Revised Code. 22340

(T) "Nursing home" has the same meaning as in section 3721.01 22341
of the Revised Code. 22342

(U) "Nutrition" means sustenance that is artificially or technologically administered.	22343 22344
(V) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following:	22345 22346 22347 22348 22349 22350
(1) Irreversible unawareness of one's being and environment.	22351
(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.	22352 22353
(W) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.	22354 22355 22356 22357
(X) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	22358 22359 22360
(Y) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	22361 22362
(Z) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.	22363 22364 22365 22366
(AA) "Regulated community mental health organization" means a residential facility as defined and licensed under section 5119.22 <u>5119.34</u> of the Revised Code or a community mental health agency <u>services provider</u> as defined in section 5122.01 of the Revised Code.	22367 22368 22369 22370 22371
(BB) "Terminal condition" means an irreversible, incurable,	22372

and untreatable condition caused by disease, illness, or injury 22373
from which, to a reasonable degree of medical certainty as 22374
determined in accordance with reasonable medical standards by a 22375
principal's attending physician and one other physician who has 22376
examined the principal, both of the following apply: 22377

(1) There can be no recovery. 22378

(2) Death is likely to occur within a relatively short time 22379
if life-sustaining treatment is not administered. 22380

(CC) "Tort action" means a civil action for damages for 22381
injury, death, or loss to person or property, other than a civil 22382
action for damages for a breach of contract or another agreement 22383
between persons. 22384

Sec. 1347.08. (A) Every state or local agency that maintains 22385
a personal information system, upon the request and the proper 22386
identification of any person who is the subject of personal 22387
information in the system, shall: 22388

(1) Inform the person of the existence of any personal 22389
information in the system of which the person is the subject; 22390

(2) Except as provided in divisions (C) and (E)(2) of this 22391
section, permit the person, the person's legal guardian, or an 22392
attorney who presents a signed written authorization made by the 22393
person, to inspect all personal information in the system of which 22394
the person is the subject; 22395

(3) Inform the person about the types of uses made of the 22396
personal information, including the identity of any users usually 22397
granted access to the system. 22398

(B) Any person who wishes to exercise a right provided by 22399
this section may be accompanied by another individual of the 22400
person's choice. 22401

(C)(1) A state or local agency, upon request, shall disclose 22402

medical, psychiatric, or psychological information to a person who 22403
is the subject of the information or to the person's legal 22404
guardian, unless a physician, psychiatrist, or psychologist 22405
determines for the agency that the disclosure of the information 22406
is likely to have an adverse effect on the person, in which case 22407
the information shall be released to a physician, psychiatrist, or 22408
psychologist who is designated by the person or by the person's 22409
legal guardian. 22410

(2) Upon the signed written request of either a licensed 22411
attorney at law or a licensed physician designated by the inmate, 22412
together with the signed written request of an inmate of a 22413
correctional institution under the administration of the 22414
department of rehabilitation and correction, the department shall 22415
disclose medical information to the designated attorney or 22416
physician as provided in division (C) of section 5120.21 of the 22417
Revised Code. 22418

(D) If an individual who is authorized to inspect personal 22419
information that is maintained in a personal information system 22420
requests the state or local agency that maintains the system to 22421
provide a copy of any personal information that the individual is 22422
authorized to inspect, the agency shall provide a copy of the 22423
personal information to the individual. Each state and local 22424
agency may establish reasonable fees for the service of copying, 22425
upon request, personal information that is maintained by the 22426
agency. 22427

(E)(1) This section regulates access to personal information 22428
that is maintained in a personal information system by persons who 22429
are the subject of the information, but does not limit the 22430
authority of any person, including a person who is the subject of 22431
personal information maintained in a personal information system, 22432
to inspect or have copied, pursuant to section 149.43 of the 22433
Revised Code, a public record as defined in that section. 22434

(2) This section does not provide a person who is the subject of personal information maintained in a personal information system, the person's legal guardian, or an attorney authorized by the person, with a right to inspect or have copied, or require an agency that maintains a personal information system to permit the inspection of or to copy, a confidential law enforcement investigatory record or trial preparation record, as defined in divisions (A)(2) and (4) of section 149.43 of the Revised Code.

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

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(1) The contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

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(2) Information contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

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(3) Papers, records, and books that pertain to an adoption and that are subject to inspection in accordance with section 3107.17 of the Revised Code;

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(4) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

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(5) Records that identify an individual described in division (A)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;

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(6) Files and records that have been expunged under division (D)(1) or (2) of section 3721.23 of the Revised Code;

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(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend

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to identify such an individual; 22465

(8) Records that identify an individual described in division 22466
(A)(1) of section ~~5111.61~~ 5165.88 of the Revised Code, or that 22467
would tend to identify such an individual; 22468

(9) Test materials, examinations, or evaluation tools used in 22469
an examination for licensure as a nursing home administrator that 22470
the board of ~~examiners~~ executives of ~~nursing home administrators~~ 22471
long-term services and supports administers under section 4751.04 22472
of the Revised Code or contracts under that section with a private 22473
or government entity to administer; 22474

(10) Information contained in a database established and 22475
maintained pursuant to section 5101.13 of the Revised Code. 22476

Sec. 1501.011. (A) ~~The~~ Except as provided in divisions (B), 22477
(C), and (D) of this section, the Ohio facilities construction 22478
commission shall supervise the design and construction of, and 22479
make contracts for the construction, reconstruction, improvement, 22480
enlargement, alteration, repair, or decoration of, any projects or 22481
improvements for the department of natural resources ~~has the~~ 22482
~~following powers in addition to its other powers: to prepare, or~~ 22483
~~contract to be prepared, surveys, general and detailed plans,~~ 22484
~~specifications, bills of materials, and estimates of cost for, to~~ 22485
~~enter into contracts for, and to supervise the performance of~~ 22486
~~labor, the furnishing of materials, or the construction, repair,~~ 22487
~~or maintenance of any projects, improvements, or buildings, on~~ 22488
~~lands and waters under the control of the department, as that~~ may 22489
be authorized by legislative appropriations or any other funds 22490
available therefor, the estimated cost of which amounts to two 22491
hundred thousand dollars or more or the amount determined pursuant 22492
to section 153.53 of the Revised Code or more. 22493

(B) ~~Except as provided in division (E) of this section, the~~ 22494
~~director of natural resources shall publish notice in a newspaper~~ 22495

~~of general circulation in the region where the activity for which~~ 22496
~~bids are submitted is to occur and in any other newspapers that~~ 22497
~~the director determines are appropriate, at least once each week~~ 22498
~~for four consecutive weeks, the last publication to be at least~~ 22499
~~eight days preceding the day for opening bids, seeking proposals~~ 22500
~~on each contract for the performance of labor, the furnishing of~~ 22501
~~materials, or the construction, repair, or maintenance of~~ 22502
~~projects, improvements, or buildings, as necessary for compliance~~ 22503
~~with provisions of the act to make appropriations for capital~~ 22504
~~improvements or the act to make general appropriations, and the~~ 22505
~~director may also advertise in such trade journals as will afford~~ 22506
~~adequate information to the public of the terms of the contract~~ 22507
~~and the nature of the work to be performed, together with the time~~ 22508
~~of the letting and place and manner of receiving proposals, and~~ 22509
~~the places where plans and specifications are on file. A proposal~~ 22510
~~is invalid and shall not be considered by the department unless~~ 22511
~~the form for proposals specified by the department is used without~~ 22512
~~change, alteration, or addition The department of natural~~ 22513
~~resources shall administer the construction of improvements under~~ 22514
~~an agreement with the supervisors of a soil and water conservation~~ 22515
~~district pursuant to division (I) of section 1515.08 of the~~ 22516
~~Revised Code.~~ 22517

(C) ~~Each bidder for a contract for the performance of labor,~~ 22518
~~the furnishing of materials, or the maintenance, construction,~~ 22519
~~demolition, alteration, repair, or reconstruction of an~~ 22520
~~improvement shall meet the requirements of section 153.54 of the~~ 22521
~~Revised Code. The director may require each bidder to furnish~~ 22522
~~under oath, upon such printed forms as the director may prescribe,~~ 22523
~~detailed information with respect to the bidder's financial~~ 22524
~~resources, equipment, past performance record, organization~~ 22525
~~personnel, and experience, together with such other information as~~ 22526
~~the director considers necessary.~~ 22527

~~(D) The director shall award the contract to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. The award shall be made within a reasonable time after the date on which the bids were opened, and the successful bidder shall enter into a contract within ten days from the date the successful bidder is notified that the contract has been awarded, or within any longer period that the director considers necessary. Nothing in this section shall preclude the rejection of any bid the acceptance of which is not in the best interests of the state. No contract shall be entered into until the bureau of workers' compensation has certified that the corporation, partnership, or person awarded the contract has complied with Chapter 4123. of the Revised Code and until, if the bidder awarded the contract is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, and until, if the bidder so awarded the contract is a person or partnership nonresident of this state, the person or partnership has filed with the secretary of state a power of attorney designating the secretary of state as its agency for the purpose of accepting service of process.~~

~~(E) With respect to the director's entering into a contract for the performance of labor, the furnishing of materials, or the construction, repair, or maintenance of any projects, improvements, or buildings on lands and waters under the control of the department, both of the following apply:~~

~~(1) The director is not required to advertise for and receive bids if the total estimated cost of the contract is less than twenty five thousand dollars.~~

~~(2) The director is not required to advertise for bids, regardless of the cost of the contract, if the (1) The department of natural resources shall supervise the design and construction of, and make contracts for the construction, reconstruction,~~

<u>improvement, enlargement, alteration, repair, or decoration of,</u>	22560
<u>any of the following activities, projects, or improvements:</u>	22561
<u>(a) Dam repairs administered by the division of engineering</u>	22562
<u>under Chapter 1507. of the Revised Code;</u>	22563
<u>(b) Projects or improvements administered by the division of</u>	22564
<u>watercraft and funded through the waterways safety fund</u>	22565
<u>established in section 1547.75 of the Revised Code;</u>	22566
<u>(c) Projects or improvements administered by the division of</u>	22567
<u>wildlife under Chapter 1531. or 1533. of the Revised Code;</u>	22568
<u>(d) Activities conducted by the department pursuant to</u>	22569
<u>section 5511.05 of the Revised Code in order to maintain the</u>	22570
<u>department's roadway inventory.</u>	22571
<u>(2) If a contract to be let under division (C)(1) of this</u>	22572
<u>section involves an exigency that concerns the public health,</u>	22573
<u>safety, or welfare or addresses an emergency situation in which</u>	22574
<u>timeliness is crucial in preventing the cost of the contract from</u>	22575
<u>increasing significantly. Regarding such a contract, the director</u>	22576
<u>may solicit bids by sending a letter to a minimum of three</u>	22577
<u>contractors in the region where the contract is to be let or by</u>	22578
<u>any other means that the director considers appropriate.</u>	22579
(F) The director may insert in any contract awarded under	22580
this section a clause providing for value engineering change	22581
proposals, under which a contractor who has been awarded a	22582
contract may propose a change in the plans and specifications of	22583
the project that saves the department time or money on the project	22584
without impairing any of the essential functions and	22585
characteristics of the project such as service life, reliability,	22586
economy of operation, ease of maintenance, safety, and necessary	22587
standardized features. If the director adopts the value	22588
engineering proposal, the savings from the proposal shall be	22589
divided between the department and the contractor according to	22590

~~guidelines established by the director, provided that the contractor shall receive at least fifty per cent of the savings from the proposal. The adoption of a value engineering proposal does not invalidate the award of the contract or require the director to rebid the project.~~ 22591
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~~(G) When in the opinion of the department the work under any contract made under this section or any law of the state is neglected by the contractor, the work completed is deficient in quality or materials, or the work is not prosecuted with the diligence and force specified or intended in the contract, the department may require the contractor to provide, at no additional expense to the department, any additional labor and materials that are necessary to complete the improvements at the level of quality and within the time of performance specified in the contract. Procedures concerning such a requirement together with its format shall be specified in the contract. If the contractor fails to comply with the requirement within the period specified in the contract, the department may take action to complete the work through other means, up to and including termination of the contract.~~ 22596
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~~(H) When an exigency occurs or there is immediate danger of an exigency that would materially impair the successful bidding, construction, or completion of a project, improvement, or building, the director may revise related plans and specifications as necessary to address the exigency through the issuance of an addendum prior to the opening of bids or, in accordance with procedures established in section 153.62 of the Revised Code, through the issuance of a change order after the contract has been awarded, pursuant to the declaration of a public exigency, the department may award the contract without competitive bidding or selection as otherwise required by Chapter 153. of the Revised Code.~~ 22611
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(D) The executive director of the Ohio facilities 22623
construction commission may authorize the department of natural 22624
resources to administer any other project or improvement, the 22625
estimated cost of which, including design fees, construction, 22626
equipment, and contingency amounts, is not more than one million 22627
five hundred thousand dollars. 22628

Sec. 1501.45. (A) As used in this section: 22629

(1) "Forfeiture laws" means provisions that are established 22630
in Title XXIX of the Revised Code and that govern the forfeiture 22631
and disposition of certain property that is seized pursuant to a 22632
law enforcement investigation. 22633

(2) "Law enforcement division" means the division of 22634
forestry, the division of natural areas and preserves, the 22635
division of wildlife, the division of parks and recreation, or the 22636
division of watercraft in the department of natural resources. 22637

(3) "Law enforcement fund" means a fund created in this 22638
section. 22639

(B) Except as otherwise provided in this section and 22640
notwithstanding any provision of the Revised Code that is not in 22641
Title XV of the Revised Code to the contrary, the forfeiture laws 22642
apply to a law enforcement division that substantially conducts an 22643
investigation that results in the ordered forfeiture of property 22644
and also apply to the involved forfeiture of property, and the law 22645
enforcement division shall comply with those forfeiture laws. 22646
Accordingly, the portion of the forfeiture laws that authorizes 22647
certain proceeds from forfeited property to be distributed to the 22648
law enforcement agency that substantially conducted the 22649
investigation that resulted in the seizure of the subsequently 22650
forfeited property apply to the law enforcement divisions except 22651
as provided in division (C)(2)(a) of this section. If a law 22652
enforcement division is eligible to receive such proceeds, the 22653

proceeds shall be deposited into the state treasury to the credit 22654
of the applicable law enforcement fund. 22655

(C)(1) There are hereby created in the state treasury ~~the~~ 22656
~~division of forestry law enforcement fund, the division of natural~~ 22657
~~areas and preserves law enforcement fund,~~ the division of wildlife 22658
law enforcement fund, the division of parks and recreation law 22659
enforcement fund, and the division of watercraft law enforcement 22660
fund. ~~The~~ 22661

(2) ~~The~~ funds shall consist of proceeds from forfeited 22662
property that are deposited ~~in accordance with this section.~~ The 22663
as follows: 22664

(a) Proceeds from forfeited property resulting from an 22665
investigation conducted by the division of forestry, the division 22666
of natural areas and preserves, or the division of parks and 22667
recreation shall be deposited in the division of parks and 22668
recreation law enforcement fund. 22669

(b) Proceeds from forfeited property resulting from an 22670
investigation conducted by the division of wildlife shall be 22671
deposited in the division of wildlife law enforcement fund. 22672

(c) Proceeds from forfeited property resulting from an 22673
investigation conducted by the division of watercraft shall be 22674
deposited in the division of watercraft law enforcement fund. 22675

(3) ~~The~~ funds shall be used ~~by the applicable law enforcement~~ 22676
~~division~~ for law enforcement purposes specified in the forfeiture 22677
laws; ~~however,~~ as follows: 22678

(a) Money in the division of parks and recreation law 22679
enforcement fund shall be used by the division of parks and 22680
recreation. 22681

(b) Money in the division of wildlife law enforcement fund 22682
shall be used by the division of wildlife. 22683

<u>(c) Money in the division of watercraft law enforcement fund</u>	22684
<u>shall be used by the division of watercraft.</u>	22685
<u>(4) A law enforcement division shall not use such funds <u>its</u></u>	22686
<u>fund</u> to pay the salaries of its employees or to provide for any	22687
other remuneration of personnel.	22688
(D) If the forfeiture laws conflict with any provisions that	22689
govern forfeitures and that are established in another section of	22690
Title XV of the Revised Code, the provisions established in the	22691
other section of Title XV apply.	22692
Sec. 1509.01. As used in this chapter:	22693
(A) "Well" means any borehole, whether drilled or bored,	22694
within the state for production, extraction, or injection of any	22695
gas or liquid mineral, excluding potable water to be used as such,	22696
but including natural or artificial brines and oil field waters.	22697
(B) "Oil" means crude petroleum oil and all other	22698
hydrocarbons, regardless of gravity, that are produced in liquid	22699
form by ordinary production methods, but does not include	22700
hydrocarbons that were originally in a gaseous phase in the	22701
reservoir.	22702
(C) "Gas" means all natural gas and all other fluid	22703
hydrocarbons that are not oil, including condensate <u>in a gaseous</u>	22704
<u>state at standard temperature and pressure.</u>	22705
(D) "Condensate" means liquid hydrocarbons separated at or	22706
near the well pad or along the gas production or gathering system	22707
prior to gas processing.	22708
(E) "Pool" means an underground reservoir containing a common	22709
accumulation of oil or gas, or both, but does not include a gas	22710
storage reservoir. Each zone of a geological structure that is	22711
completely separated from any other zone in the same structure may	22712
contain a separate pool.	22713

(F) "Field" means the general area underlaid by one or more pools.	22714 22715
(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.	22716 22717 22718
(H) "Waste" includes all of the following:	22719
(1) Physical waste, as that term generally is understood in the oil and gas industry;	22720 22721
(2) Inefficient, excessive, or improper use, or the unnecessary dissipation, of reservoir energy;	22722 22723
(3) Inefficient storing of oil or gas;	22724
(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;	22725 22726 22727 22728 22729 22730
(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.	22731 22732
(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.	22733 22734 22735 22736 22737
(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.	22738 22739
(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except	22740 22741 22742 22743

that a person ceases to be an owner with respect to a well when 22744
the well has been plugged in accordance with applicable rules 22745
adopted and orders issued under this chapter. "Owner" does not 22746
include a person who obtains a lease of the mineral rights for oil 22747
and gas on a parcel of land if the person does not attempt to 22748
produce or produce oil or gas from a well or obtain a permit under 22749
this chapter for a well or if the entire interest of a well is 22750
transferred to the person in accordance with division (B) of 22751
section 1509.31 of the Revised Code. 22752

(L) "Royalty interest" means the fee holder's share in the 22753
production from a well. 22754

(M) "Discovery well" means the first well capable of 22755
producing oil or gas in commercial quantities from a pool. 22756

(N) "Prepared clay" means a clay that is plastic and is 22757
thoroughly saturated with fresh water to a weight and consistency 22758
great enough to settle through saltwater in the well in which it 22759
is to be used, except as otherwise approved by the chief of the 22760
division of oil and gas resources management. 22761

(O) "Rock sediment" means the combined cutting and residue 22762
from drilling sedimentary rocks and formation. 22763

(P) "Excavations and workings," "mine," and "pillar" have the 22764
same meanings as in section 1561.01 of the Revised Code. 22765

(Q) "Coal bearing township" means a township designated as 22766
such by the chief of the division of mineral resources management 22767
under section 1561.06 of the Revised Code. 22768

(R) "Gas storage reservoir" means a continuous area of a 22769
subterranean porous sand or rock stratum or strata into which gas 22770
is or may be injected for the purpose of storing it therein and 22771
removing it therefrom and includes a gas storage reservoir as 22772
defined in section 1571.01 of the Revised Code. 22773

(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts.

(T) "Person" includes any political subdivision, department, agency, or instrumentality of this state; the United States and any department, agency, or instrumentality thereof; and any legal entity defined as a person under section 1.59 of the Revised Code.

(U) "Brine" means all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well.

(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(W) "Exempt Mississippian well" means a well that meets all of the following criteria:

(1) Was drilled and completed before January 1, 1980;

(2) Is located in an unglaciated part of the state;

(3) Was completed in a reservoir no deeper than the Mississippian Big Injun sandstone in areas underlain by Pennsylvanian or Permian stratigraphy, or the Mississippian Berea sandstone in areas directly underlain by Permian stratigraphy;

(4) Is used primarily to provide oil or gas for domestic use.	22804
(X) "Exempt domestic well" means a well that meets all of the following criteria:	22805
	22806
(1) Is owned by the owner of the surface estate of the tract on which the well is located;	22807
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(2) Is used primarily to provide gas for the owner's domestic use;	22809
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(3) Is located more than two hundred feet horizontal distance from any inhabited private dwelling house other than an inhabited private dwelling house located on the tract on which the well is located;	22811
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(4) Is located more than two hundred feet horizontal distance from any public building that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public.	22815
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(Y) "Urbanized area" means an area where a well or production facilities of a well are located within a municipal corporation or within a township that has an unincorporated population of more than five thousand in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities.	22819
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(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations.	22825
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(AA) "Production operation" means all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access road	22828
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construction, well drilling, well completion, well stimulation, 22834
well site activities, reclamation, and plugging. "Production 22835
operation" also includes all of the following: 22836

(1) The piping, equipment, and facilities used for the 22837
production and preparation of hydrocarbon gas or liquids for 22838
transportation or delivery; 22839

(2) The processes of extraction and recovery, lifting, 22840
stabilization, treatment, separation, production processing, 22841
storage, waste disposal, and measurement of hydrocarbon gas and 22842
liquids, including related equipment and facilities; 22843

(3) The processes and related equipment and facilities 22844
associated with production compression, gas lift, gas injection, 22845
fuel gas supply, well drilling, well stimulation, and well 22846
completion activities, including dikes, pits, and earthen and 22847
other impoundments used for the temporary storage of fluids and 22848
waste substances associated with well drilling, well stimulation, 22849
and well completion activities. 22850

(BB) "Annular overpressurization" means the accumulation of 22851
fluids within an annulus with sufficient pressure to allow 22852
migration of annular fluids into underground sources of drinking 22853
water. 22854

(CC) "Idle and orphaned well" means a well for which a bond 22855
has been forfeited or an abandoned well for which no money is 22856
available to plug the well in accordance with this chapter and 22857
rules adopted under it. 22858

(DD) "Temporarily inactive well" means a well that has been 22859
granted temporary inactive status under section 1509.062 of the 22860
Revised Code. 22861

(EE) "Material and substantial violation" means any of the 22862
following: 22863

(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;	22864 22865
(2) Failure to obtain, maintain, update, or submit proof of insurance coverage that is required under this chapter;	22866 22867
(3) Failure to obtain, maintain, update, or submit proof of a surety bond that is required under this chapter;	22868 22869
(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well;	22870 22871 22872 22873 22874
(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;	22875 22876
(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;	22877 22878 22879
(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code;	22880 22881
(8) Failure to submit a report, test result, fee, or document that is required in this chapter or rules adopted under it.	22882 22883
(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code.	22884 22885
(GG) "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and the well is stimulated.	22886 22887 22888 22889
(HH) "Well pad" means the area that is cleared or prepared for the drilling of one or more horizontal wells.	22890 22891
<u>(II) "British thermal unit" means the measure of heat energy required to raise the temperature of one pound of water by one</u>	22892 22893

degree fahrenheit at a specified temperature. 22894

Sec. 1509.02. There is hereby created in the department of 22895
natural resources the division of oil and gas resources 22896
management, which shall be administered by the chief of the 22897
division of oil and gas resources management. The division has 22898
sole and exclusive authority to regulate the permitting, location, 22899
and spacing of oil and gas wells and production operations within 22900
the state, excepting only those activities regulated under federal 22901
laws for which oversight has been delegated to the environmental 22902
protection agency and activities regulated under sections 6111.02 22903
to ~~6111.029~~ 6111.028 of the Revised Code. The regulation of oil 22904
and gas activities is a matter of general statewide interest that 22905
requires uniform statewide regulation, and this chapter and rules 22906
adopted under it constitute a comprehensive plan with respect to 22907
all aspects of the locating, drilling, well stimulation, 22908
completing, and operating of oil and gas wells within this state, 22909
including site construction and restoration, permitting related to 22910
those activities, and the disposal of wastes from those wells. In 22911
order to assist the division in the furtherance of its sole and 22912
exclusive authority as established in this section, the chief may 22913
enter into cooperative agreements with other state agencies for 22914
advice and consultation, including visitations at the surface 22915
location of a well on behalf of the division. Such cooperative 22916
agreements do not confer on other state agencies any authority to 22917
administer or enforce this chapter and rules adopted under it. In 22918
addition, such cooperative agreements shall not be construed to 22919
dilute or diminish the division's sole and exclusive authority as 22920
established in this section. Nothing in this section affects the 22921
authority granted to the director of transportation and local 22922
authorities in section 723.01 or 4513.34 of the Revised Code, 22923
provided that the authority granted under those sections shall not 22924
be exercised in a manner that discriminates against, unfairly 22925

impedes, or obstructs oil and gas activities and operations 22926
regulated under this chapter. 22927

The chief shall not hold any other public office, nor shall 22928
the chief be engaged in any occupation or business that might 22929
interfere with or be inconsistent with the duties as chief. 22930

All moneys collected by the chief pursuant to sections 22931
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.222, 22932
1509.28, 1509.34, and 1509.50 of the Revised Code, ninety per cent 22933
of moneys received by the treasurer of state from the tax levied 22934
in divisions (A)(5) and (6) of section 5749.02 of the Revised 22935
Code, all civil penalties paid under section 1509.33 of the 22936
Revised Code, and, notwithstanding any section of the Revised Code 22937
relating to the distribution or crediting of fines for violations 22938
of the Revised Code, all fines imposed under divisions (A) and (B) 22939
of section 1509.99 of the Revised Code and fines imposed under 22940
divisions (C) and (D) of section 1509.99 of the Revised Code for 22941
all violations prosecuted by the attorney general and for 22942
violations prosecuted by prosecuting attorneys that do not involve 22943
the transportation of brine by vehicle shall be deposited into the 22944
state treasury to the credit of the oil and gas well fund, which 22945
is hereby created. Fines imposed under divisions (C) and (D) of 22946
section 1509.99 of the Revised Code for violations prosecuted by 22947
prosecuting attorneys that involve the transportation of brine by 22948
vehicle and penalties associated with a compliance agreement 22949
entered into pursuant to this chapter shall be paid to the county 22950
treasury of the county where the violation occurred. 22951

The fund shall be used solely and exclusively for the 22952
purposes enumerated in division (B) of section 1509.071 of the 22953
Revised Code, for the expenses of the division associated with the 22954
administration of this chapter and Chapter 1571. of the Revised 22955
Code and rules adopted under them, and for expenses that are 22956
critical and necessary for the protection of human health and 22957

safety and the environment related to oil and gas production in 22958
this state. The expenses of the division in excess of the moneys 22959
available in the fund shall be paid from general revenue fund 22960
appropriations to the department. 22961

Sec. 1509.062. (A)(1) The owner of a well that has not been 22962
completed, a well that has not produced within one year after 22963
completion, ~~or~~ an existing well that is not a horizontal well and 22964
that has no reported production for two consecutive reporting 22965
periods as reported in accordance with section 1509.11 of the 22966
Revised Code, or an existing horizontal well that has no reported 22967
production for eight consecutive reporting periods as reported in 22968
accordance with section 1509.11 of the Revised Code shall plug the 22969
well in accordance with section 1509.12 of the Revised Code, 22970
obtain temporary inactive well status for the well in accordance 22971
with this section, or perform another activity regarding the well 22972
that is approved by the chief of the division of oil and gas 22973
resources management. 22974

(2) If a well has a reported annual production that is less 22975
than one hundred thousand cubic feet of natural gas or fifteen 22976
barrels of crude oil, or a combination thereof, the chief may 22977
require the owner of the well to submit an application for 22978
temporary inactive well status under this section for the well. 22979

(B) In order for the owner of a well to submit an application 22980
for temporary inactive well status for the well under this 22981
division, the owner and the well shall be in compliance with this 22982
chapter and rules adopted under it, any terms and conditions of 22983
the permit for the well, and applicable orders issued by the 22984
chief. An application for temporary inactive status for a well 22985
shall be submitted to the chief on a form prescribed and provided 22986
by the chief and shall contain all of the following: 22987

(1) The owner's name and address and, if the owner is a 22988

corporation, the name and address of the corporation's statutory agent; 22989
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(2) The signature of the owner or of the owner's authorized agent. When an authorized agent signs an application, the application shall be accompanied by a certified copy of the appointment as such agent. 22991
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(3) The permit number assigned to the well. If the well has not been assigned a permit number, the chief shall assign a permit number to the well. 22995
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(4) A map, on a scale not smaller than four hundred feet to the inch, that shows the location of the well and the tank battery, that includes the latitude and longitude of the well, and that contains all other data that are required by the chief; 22998
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(5) A demonstration that the well is of future utility and that the applicant has a viable plan to utilize the well within a reasonable period of time; 23002
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(6) A demonstration that the well poses no threat to the health or safety of persons, property, or the environment; 23005
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(7) Any other relevant information that the chief prescribes by rule. 23007
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The chief may waive any of the requirements established in divisions (B)(1) to (6) of this section if the division of oil and gas resources management possesses a current copy of the information or document that is required in the applicable division. 23009
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(C) Upon receipt of an application for temporary inactive well status, the chief shall review the application and shall either deny the application by issuing an order or approve the application. The chief shall approve the application only if the chief determines that the well that is the subject of the 23014
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application poses no threat to the health or safety of persons, 23019
property, or the environment. If the chief approves the 23020
application, the chief shall notify the applicant of the chief's 23021
approval. Upon receipt of the chief's approval, the owner shall 23022
shut in the well and empty all liquids and gases from all storage 23023
tanks, pipelines, and other equipment associated with the well. In 23024
addition, the owner shall maintain the well, other equipment 23025
associated with the well, and the surface location of the well in 23026
a manner that prevents hazards to the health and safety of people 23027
and the environment. The owner shall inspect the well at least 23028
every six months and submit to the chief within fourteen days 23029
after the inspection a record of inspection on a form prescribed 23030
and provided by the chief. 23031

(D) Not later than thirty days prior to the expiration of 23032
temporary inactive well status or a renewal of temporary inactive 23033
well status approved by the chief for a well, the owner of the 23034
well may submit to the chief an application for renewal of the 23035
temporary inactive well status on a form prescribed and provided 23036
by the chief. The application shall include a detailed plan that 23037
describes the ultimate disposition of the well, the time frames 23038
for that disposition, and any other information that the chief 23039
determines is necessary. The chief shall either deny an 23040
application by order or approve the application. If the chief 23041
approves the application, the chief shall notify the owner of the 23042
well of the chief's approval. 23043

(E) An application for temporary inactive well status shall 23044
be accompanied by a nonrefundable fee of one hundred dollars. An 23045
application for a renewal of temporary inactive well status shall 23046
be accompanied by a nonrefundable fee of two hundred fifty dollars 23047
for the first renewal and five hundred dollars for each subsequent 23048
renewal. 23049

(F) After a third renewal, the chief may require an owner to 23050

provide a surety bond in an amount not to exceed ten thousand 23051
dollars for each of the owner's wells that has been approved by 23052
the chief for temporary inactive well status. 23053

(G) Temporary inactive well status approved by the chief 23054
expires one year after the date of approval of the application for 23055
temporary inactive well status or production from the well 23056
commences, whichever occurs sooner. In addition, a renewal of a 23057
temporary inactive well status expires one year after the 23058
expiration date of the initial temporary inactive well status or 23059
one year after the expiration date of the previous renewal of the 23060
temporary inactive well status, as applicable, or production from 23061
the well commences, whichever occurs sooner. 23062

(H) The owner of a well that has been approved by the chief 23063
for temporary inactive well status may commence production from 23064
the well at any time. Not later than sixty days after the 23065
commencement of production from such a well, the owner shall 23066
notify the chief of the commencement of production. 23067

(I) This chapter and rules adopted under it, any terms and 23068
conditions of the permit for a well, and applicable orders issued 23069
by the chief apply to a well that has been approved by the chief 23070
for temporary inactive well status or renewal of that status. 23071

Sec. 1509.10. (A) Any person drilling within the state shall, 23072
within sixty days after the completion of drilling operations to 23073
the proposed total depth or after a determination that a well is a 23074
dry or lost hole, file with the division of oil and gas resources 23075
management all wireline electric logs and an accurate well 23076
completion record on a form that is prescribed by the chief of the 23077
division of oil and gas resources management that designates: 23078

(1) The purpose for which the well was drilled; 23079
23080

(2) The character, depth, and thickness of geological units encountered, including coal seams, mineral beds, associated fluids such as fresh water, brine, and crude oil, natural gas, and sour gas, if such seams, beds, fluids, or gases are known;	23081 23082 23083 23084
(3) The dates on which drilling operations were commenced and completed;	23085 23086
(4) The types of drilling tools used and the name of the person that drilled the well;	23087 23088
(5) The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, all other data relating to cementing in the annular space behind such casing or tubing, and data indicating completion as a dry, gas, oil, combination oil and gas, brine injection, or artificial brine well or a stratigraphic test;	23089 23090 23091 23092 23093 23094 23095
(6) The number of perforations in the casing and the intervals of the perforations;	23096 23097
(7) The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well, the total depth of the well, and the deepest geological unit that was penetrated in the drilling of the well;	23098 23099 23100 23101 23102
(8) If applicable, the type, volume, and concentration of acid, and the date on which acid was used in acidizing the well;	23103 23104
(9)(a) If applicable, the trade name and the total amount of all products, fluids, and substances, and the supplier of each product, fluid, or substance, not including cement and its constituents and lost circulation materials, intentionally added to facilitate the drilling of any portion of the well until the surface casing is set and properly sealed. The owner shall identify each additive used and provide a brief description of the	23105 23106 23107 23108 23109 23110 23111

purpose for which the additive is used. In addition, the owner 23112
shall include a list of all chemicals, not including any 23113
information that is designated as a trade secret pursuant to 23114
division (I)(1) of this section, intentionally added to all 23115
products, fluids, or substances and include each chemical's 23116
corresponding chemical abstracts service number and the maximum 23117
concentration of each chemical. The owner shall obtain the 23118
chemical information, not including any information that is 23119
designated as a trade secret pursuant to division (I)(1) of this 23120
section, from the company that drilled the well, provided service 23121
at the well, or supplied the chemicals. If the company that 23122
drilled the well, provided service at the well, or supplied the 23123
chemicals provides incomplete or inaccurate chemical information, 23124
the owner shall make reasonable efforts to obtain the required 23125
information from the company or supplier. 23126

(b) For purposes of division (A)(9)(a) of this section, if 23127
recycled fluid was used, the total volume of recycled fluid and 23128
the well that is the source of the recycled fluid or the 23129
centralized facility that is the source of the recycled fluid. 23130

(10)(a) If applicable, the type and volume of fluid, not 23131
including cement and its constituents or information that is 23132
designated as a trade secret pursuant to division (I)(1) of this 23133
section, used to stimulate the reservoir of the well, the 23134
reservoir breakdown pressure, the method used for the containment 23135
of fluids recovered from the fracturing of the well, the methods 23136
used for the containment of fluids when pulled from the wellbore 23137
from swabbing the well, the average pumping rate of the well, and 23138
the name of the person that performed the well stimulation. In 23139
addition, the owner shall include a copy of the log from the 23140
stimulation of the well, a copy of the invoice for each of the 23141
procedures and methods described in division (A)(10) of this 23142
section that were used on a well, and a copy of the pumping 23143

pressure and rate graphs. However, the owner may redact from the 23144
copy of each invoice that is required to be included under 23145
division (A)(10) of this section the costs of and charges for the 23146
procedures and methods described in division (A)(10) of this 23147
section that were used on a well. 23148

(b) If applicable, the trade name and the total volume of all 23149
products, fluids, and substances, and the supplier of each 23150
product, fluid, or substance used to stimulate the well. The owner 23151
shall identify each additive used, provide a brief description of 23152
the purpose for which the additive is used, and include the 23153
maximum concentration of the additive used. In addition, the owner 23154
shall include a list of all chemicals, not including any 23155
information that is designated as a trade secret pursuant to 23156
division (I)(1) of this section, intentionally added to all 23157
products, fluids, or substances and include each chemical's 23158
corresponding chemical abstracts service number and the maximum 23159
concentration of each chemical. The owner shall obtain the 23160
chemical information, not including any information that is 23161
designated as a trade secret pursuant to division (I)(1) of this 23162
section, from the company that stimulated the well or supplied the 23163
chemicals. If the company that stimulated the well or supplied the 23164
chemicals provides incomplete or inaccurate chemical information, 23165
the owner shall make reasonable efforts to obtain the required 23166
information from the company or supplier. 23167

(c) For purposes of division (A)(10)(b) of this section, if 23168
recycled fluid was used, the total volume of recycled fluid and 23169
the well that is the source of the recycled fluid or the 23170
centralized facility that is the source of the recycled fluid. 23171

(11) The name of the company that performed the logging of 23172
the well and the types of wireline electric logs performed on the 23173
well. 23174

The well completion record shall be submitted in duplicate. 23175

The first copy shall be retained as a permanent record in the files of the division, and the second copy shall be transmitted by the chief to the division of geological survey.

(B)(1) Not later than sixty days after the completion of the drilling operations to the proposed total depth, the owner shall file all wireline electric logs with the division of oil and gas resources management and the chief shall transmit such logs electronically, if available, to the division of geological survey. Such logs may be retained by the owner for a period of not more than six months, or such additional time as may be granted by the chief in writing, after the completion of the well substantially to the depth shown in the application required by section 1509.06 of the Revised Code.

(2) If a well is not completed within sixty days after the completion of drilling operations, the owner shall file with the division of oil and gas resources management a supplemental well completion record that includes all of the information required under this section within sixty days after the completion of the well.

(3) After a well is initially completed and stimulated and until the well is plugged, the owner shall report, on a form prescribed by the chief, all materials placed into the formation to refracture, restimulate, or newly complete the well. The owner shall submit the information within sixty days after completing the refracturing, restimulation, or new completion. In addition, the owner shall report the information required in divisions (A)(10)(a) to (c) of this section, as applicable, in a manner consistent with the requirements established in this section.

(C) Upon request in writing by the chief of the division of geological survey prior to the beginning of drilling of the well, the person drilling the well shall make available a complete set of cuttings accurately identified as to depth.

(D) The form of the well completion record required by this section shall be one that has been prescribed by the chief of the division of oil and gas resources management and the chief of the division of geological survey. The filing of a log as required by this section fulfills the requirement of filing a log with the chief of the division of geological survey in section 1505.04 of the Revised Code.

(E) If a material listed or designated under division (A)(9) or (10) or (B)(3) of this section is a material for which the division of oil and gas resources management does not have a material safety data sheet, the owner shall provide a copy of the material safety data sheet for the material to the chief.

(F) An owner shall submit to the chief the information that is required in divisions (A)(10)(b) and (c) and (B)(3) of this section consistent with the requirements established in this section using one of the following methods:

(1) On a form prescribed by the chief;

(2) Through the chemical disclosure registry that is maintained by the ground water protection council and the interstate oil and gas compact commission;

(3) Any other means approved by the chief.

(G) The chief shall post on the division's web site each material safety data sheet obtained under division (E) of this section. In addition, the chief shall make available through the division's web site the chemical information that is required by divisions (A)(9) and (10) and (B)(3) of this section.

(H)(1) If a medical professional, in order to assist in the diagnosis or treatment of an individual who was affected by an incident associated with the production operations of a well, requests the exact chemical composition of each product, fluid, or substance and of each chemical component in a product, fluid, or

substance that is designated as a trade secret pursuant to 23239
division (I) of this section, the person claiming the trade secret 23240
protection pursuant to that division shall provide to the medical 23241
professional the exact chemical composition of the product, fluid, 23242
or substance and of the chemical component in a product, fluid, or 23243
substance that is requested. 23244

(2) A medical professional who receives information pursuant 23245
to division (H)(1) of this section shall keep the information 23246
confidential and shall not disclose the information for any 23247
purpose that is not related to the diagnosis or treatment of an 23248
individual who was affected by an incident associated with the 23249
production operations of a well. Nothing in division (H)(2) of 23250
this section precludes a medical professional from making any 23251
report required by law or professional ethical standards. 23252

(I)(1) The owner of a well who is required to submit a well 23253
completion record under division (A) of this section or a report 23254
under division (B)(3) of this section or a person that provides 23255
information to the owner as described in and for purposes of 23256
division (A)(9) or (10) or (B)(3) of this section may designate 23257
without disclosing on a form prescribed by the chief and withhold 23258
from disclosure to the chief the identity, amount, concentration, 23259
or purpose of a product, fluid, or substance or of a chemical 23260
component in a product, fluid, or substance as a trade secret. The 23261
owner or person may pursue enforcement of any rights or remedies 23262
established in sections 1333.61 to 1333.69 of the Revised Code for 23263
misappropriation, as defined in section 1333.61 of the Revised 23264
Code, with respect to the identity, amount, concentration, or 23265
purpose of a product, fluid, or substance or a chemical component 23266
in a product, fluid, or substance designated as a trade secret 23267
pursuant to division (I)(1) of this section. The division shall 23268
not disclose information regarding the identity, amount, 23269
concentration, or purpose of any product, fluid, or substance or 23270

of any chemical component in a product, fluid, or substance 23271
designated as a trade secret pursuant to division (I)(1) of this 23272
section. 23273

(2) A property owner, an adjacent property owner, or any 23274
person or agency of this state having an interest that is or may 23275
be adversely affected by a product, fluid, or substance or by a 23276
chemical component in a product, fluid, or substance may commence 23277
a civil action in the court of common pleas of Franklin county 23278
against an owner or person described in division (I)(1) of this 23279
section challenging the owner's or person's claim to entitlement 23280
to trade secret protection for the specific identity, amount, 23281
concentration, or purpose of a product, fluid, or substance or of 23282
a chemical component in a product, fluid, or substance pursuant to 23283
division (I)(1) of this section. A person who commences a civil 23284
action pursuant to division (I)(2) of this section shall provide 23285
notice to the chief in a manner prescribed by the chief. In the 23286
civil action, the court shall conduct an in camera review of 23287
information submitted by an owner or person described in division 23288
(I)(1) of this section to determine if the identity, amount, 23289
concentration, or purpose of a product, fluid, or substance or of 23290
a chemical component in a product, fluid, or substance pursuant to 23291
division (I)(1) of this section is entitled to trade secret 23292
protection. 23293

(J)(1) Except for any information that is designated as a 23294
trade secret pursuant to division (I)(1) of this section and 23295
except as provided in division (J)(2) of this section, the owner 23296
of a well shall maintain records of all chemicals placed in a well 23297
for a period of not less than two years after the date on which 23298
each such chemical was placed in the well. The chief may inspect 23299
the records at any time concerning any such chemical. 23300

(2) An owner or person who has designated the identity, 23301
amount, concentration, or purpose of a product, fluid, or 23302

substance or of a chemical component in a product, fluid, or 23303
substance as a trade secret pursuant to division (I)(1) of this 23304
section shall maintain the records for such a product, fluid, or 23305
substance or for a chemical component in a product, fluid, or 23306
substance for a period of not less than two years after the date 23307
on which each such product, fluid, or substance or each such 23308
chemical component in a product, fluid, or substance was placed in 23309
the well. Upon the request of the chief, the owner or person, as 23310
applicable, shall disclose the records to the chief if the 23311
information is necessary to respond to a spill, release, or 23312
investigation. However, the chief shall not disclose the 23313
information that is designated as a trade secret. 23314

(K)(1) For purposes of correcting inaccuracies and 23315
incompleteness in chemical information required by divisions 23316
(A)(9) and (10) and (B)(3) of this section, an owner shall be 23317
considered in substantial compliance if the owner has made 23318
reasonable efforts to obtain the required information from the 23319
supplier. 23320

(2) For purposes of reporting under this section, an owner is 23321
not required to report chemicals that occur incidentally or in 23322
trace amounts. 23323

(L) As used in this section, the term "material safety data 23324
sheet" shall conform to any revision of or change in the term by 23325
the occupational safety and health administration in the United 23326
States department of labor. 23327

Sec. 1509.11. (A)(1) The owner of any well, ~~including~~ except 23328
a horizontal well, that is producing or capable of producing oil 23329
or gas shall file with the chief of the division of oil and gas 23330
resources management, on or before the thirty-first day of March, 23331
a statement of production of oil, gas, and brine for the last 23332
preceding calendar year in such form as the chief may prescribe. 23333

An owner that has more than one hundred such wells in this state 23334
shall submit electronically the statement of production in a 23335
format that is approved by the chief. The chief shall include on 23336
the form, at the minimum, a request for the submittal of the 23337
information that a person who is regulated under this chapter is 23338
required to submit under the "Emergency Planning and Community 23339
Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and 23340
regulations adopted under it, and that the division of oil and gas
resources management does not obtain through other reporting 23341
mechanisms. 23342
23343

(2) The owner of any horizontal well that is producing or 23344
capable of producing oil or gas shall file with the chief, on or 23345
before the fifteenth day of the month following the close of each 23346
calendar quarter, a statement of production of oil, gas, 23347
condensate, and brine for the preceding calendar quarter in a form 23348
that the chief prescribes. In addition, the statement of 23349
production shall include the api gravity of the oil according to 23350
the standards for determining density of oil as established by the 23351
American petroleum institute in the *Manual of Petroleum* 23352
Measurement Standards and the British thermal unit measurement of 23353
the gas. An owner that has more than one hundred horizontal wells 23354
in this state shall submit electronically the statement of 23355
production in a format that is approved by the chief. The chief 23356
shall include on the form, at a minimum, a request for the 23357
submittal of the information that a person who is regulated under 23358
this chapter is required to submit under the "Emergency Planning 23359
and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 23360
U.S.C. 11001, and regulations adopted under it, and that the 23361
division does not obtain through other reporting mechanisms. 23362

(B) The chief shall not disclose information received from 23363
the department of taxation under division (C)(12) of section 23364
5703.21 of the Revised Code until the related statement of 23365

production required by division (A) of this section is filed with 23366
the chief. 23367

Sec. 1509.50. (A) An oil and gas regulatory cost recovery 23368
assessment is hereby imposed by this section on an owner. An owner 23369
shall pay the assessment in the same manner as a severer who is 23370
required to file a return under section 5749.06 of the Revised 23371
Code. However, an owner may designate a severer who shall pay the 23372
owner's assessment on behalf of the owner on the return that the 23373
severer is required to file under that section. If a severer so 23374
pays an owner's assessment, the severer may recoup from the owner 23375
the amount of the assessment. Except for an exempt domestic well, 23376
the assessment imposed shall be in addition to the taxes levied on 23377
the severance of oil and gas under section 5749.02 of the Revised 23378
Code. 23379

(B)(1) Except for an exempt domestic well, the oil and gas 23380
regulatory cost recovery assessment shall be calculated on a 23381
quarterly basis and shall be one of the following: 23382

(a) If the sum of ten cents per barrel of oil for all of the 23383
wells of the owner, one-half of one cent per one thousand cubic 23384
feet of natural gas for all of the wells of the owner, and the 23385
amount of the severance tax levied on each severer for all of the 23386
wells of the owner under divisions (A)(5) and (6) of section 23387
5749.02 of the Revised Code, as applicable, is greater than the 23388
sum of fifteen dollars for each well owned by the owner, the 23389
amount of the assessment is the sum of ten cents per barrel of oil 23390
for all of the wells of the owner and one-half of one cent per one 23391
thousand cubic feet of natural gas for all of the wells of the 23392
owner. 23393

(b) If the sum of ten cents per barrel of oil for all of the 23394
wells of the owner, one-half of one cent per one thousand cubic 23395
feet of natural gas for all of the wells of the owner, and the 23396

amount of the severance tax levied on each severer for all of the wells of the owner under divisions (A)(5) and (6) of section 5749.02 of the Revised Code, as applicable, is less than the sum of fifteen dollars for each well owned by the owner, the amount of the assessment is the sum of fifteen dollars for each well owned by the owner less the amount of the tax levied on each severer for all of the wells of the owner under divisions (A)(5) and (6) of section 5749.02 of the Revised Code, as applicable.

(2) The oil and gas regulatory cost recovery assessment for a well that becomes an exempt domestic well on and after June 30, 2010, shall be sixty dollars to be paid to the division of oil and gas resources management on the first day of July of each year.

(C) All money collected pursuant to this section shall be ~~deposited in the state treasury to the credit of~~ credited to the severance tax receipts fund. After the director of budget and management transfers money from the severance tax receipts fund as required in division (H) of section 5749.06 of the Revised Code, money in the severance tax receipts fund from amounts collected pursuant to this section shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code.

(D) Except for purposes of revenue distribution as specified in division (B) of section 5749.02 of the Revised Code, the oil and gas regulatory cost recovery assessment imposed by this section shall be treated the same and equivalent for all purposes as the taxes levied on the severance of oil and gas under that section. However, the assessment imposed by this section is not a tax under Chapter 5749. of the Revised Code.

Sec. 1509.73. (A)(1) Beginning on ~~the effective date of this section~~ September 30, 2011, and ending on the effective date of the rules adopted under section 1509.74 of the Revised Code, a state agency, in consultation with the oil and gas leasing

commission, may lease a formation within a parcel of land that is 23428
owned or controlled by the state agency for the exploration for 23429
and development and production of oil or natural gas. The state 23430
agency shall establish bid fees, signing fees, rentals, and at 23431
least a one-eighth landowner royalty. On and after the effective 23432
date of the rules adopted under section 1509.74 of the Revised 23433
Code, a formation within a parcel of land that is owned or 23434
controlled by a state agency may be leased for the exploration for 23435
and development and production of oil or natural gas only in 23436
accordance with divisions (A)(2) to (H) of this section and those 23437
rules. 23438

(2) Not earlier than two hundred seventy days after ~~the~~ 23439
~~effective date of this section~~ September 30, 2011, a person that 23440
is an owner and that is interested in leasing a formation within a 23441
parcel of land that is owned or controlled by a state agency for 23442
the exploration for and the development and production of oil or 23443
natural gas may submit to the oil and gas leasing commission a 23444
nomination that identifies the parcel of land. A person submitting 23445
a nomination shall submit it in the manner and form established in 23446
rules adopted under section 1509.74 of the Revised Code and shall 23447
include with the nomination both of the following: 23448

(a) The information required by those rules; 23449

(b) The nomination fee established in those rules. 23450

(B)(1) Not less than thirty days, but not more than one 23451
hundred twenty days following the receipt of a nomination of a 23452
parcel of land, the commission shall conduct a meeting for the 23453
purpose of determining whether to approve or disapprove the 23454
nomination for the purpose of leasing a formation within the 23455
parcel of land that is identified in the nomination. The 23456
commission also shall review the nomination of the parcel of land 23457
and determine if the parcel of land has been classified under 23458

section 1509.72 of the Revised Code. If the parcel of land that is the subject of the nomination has not been classified, the commission immediately shall send a copy of the nomination to the state agency that owns or controls the parcel that is the subject of the nomination. Not later than fifteen days after receipt of a copy of the nomination, the state agency shall classify the parcel of land as a class 1, class 2, class 3, or class 4 property and submit the classification to the commission. On receipt of the state agency's classification of the parcel of land, the commission shall provide the department of natural resources the information necessary for the department to comply with divisions (C) and (D) of section 1509.72 of the Revised Code.

After a parcel of land that is the subject of a nomination has been classified under section 1509.72 of the Revised Code or division (B)(1) of this section, as applicable, the commission shall approve or disapprove the nomination. In making its decision to approve or disapprove the nomination of the parcel of land, the commission shall consider all of the following:

(a) The economic benefits, including the potential income from an oil or natural gas operation, that would result if the lease of a formation that is the subject of the nomination were approved;

(b) Whether the proposed oil or gas operation is compatible with the current uses of the parcel of land that is the subject of the nomination;

(c) The environmental impact that would result if the lease of a formation that is the subject of the nomination were approved;

(d) Any potential adverse geological impact that would result if the lease of a formation that is the subject of the nomination were approved;

(e) Any potential impact to visitors or users of a parcel of land that is the subject of the nomination;	23490 23491
(f) Any potential impact to the operations or equipment of a state agency that is a state university or college if the lease of a formation within a parcel of land owned or controlled by the university or college that is the subject of the nomination were executed;	23492 23493 23494 23495 23496
(g) Any objections to the nomination submitted to the commission by the state agency that owns or controls the land on which the proposed oil or natural gas operation would take place;	23497 23498 23499
(h) Any comments or objections to the nomination submitted to the commission by residents of this state or other users of the parcel of land that is the subject of the nomination;	23500 23501 23502
(i) Any other factors that the commission establishes in rules adopted under section 1509.74 of the Revised Code.	23503 23504
(2) The commission shall disapprove a nomination of a parcel of land that is a class 3 property. The commission shall send notice of the disapproval by certified mail to the person that submitted the nomination.	23505 23506 23507 23508
(3) Prior to making its decision to approve or disapprove a nomination, the commission shall notify the state agency that owns or controls the land on which the oil or gas operation would take place.	23509 23510 23511 23512
(4) The commission shall approve or disapprove a nomination not later than two calendar quarters following the receipt of the nomination. Notice of the decision of the commission shall be sent by certified mail to the person that submitted the nomination.	23513 23514 23515 23516
(5) If the commission approves a nomination, the commission shall notify the state agency that owns or controls the parcel of land that is the subject of a nomination of the commission's	23517 23518 23519

approval of the nomination. The notification shall request the 23520
state agency to submit to the commission special terms and 23521
conditions that will apply to the lease of a formation within the 23522
parcel of land because of specific conditions related to the 23523
parcel of land. The state agency shall submit the special terms 23524
and conditions not later than sixty days after receipt of a notice 23525
from the commission. 23526

(6) If the commission approves a nomination for a parcel of 23527
land that is a class 1 property, the commission shall offer for 23528
lease each formation that is within the parcel of land. If the 23529
commission approves a nomination for a parcel of land that is a 23530
class 2 or class 4 property, the commission shall not offer for 23531
lease any formation that is within the parcel of land unless the 23532
state agency that owns or controls the parcel of land notifies the 23533
commission that a formation or formations that are within the 23534
parcel of land may be offered for lease. 23535

(C) Each calendar quarter, the commission shall proceed to 23536
advertise for bids for a lease for a formation within a parcel of 23537
land that was the subject of a nomination approved during the 23538
previous calendar quarter that is a class 1 property or that is a 23539
class 2 or class 4 property for which the commission has received 23540
notice from the state agency that owns or controls the parcel of 23541
land under division (B)(6) of this section that a formation or 23542
formations that are within the parcel of land may be offered for 23543
lease. The advertisement shall be provided to the department of 23544
natural resources, and the department shall publish the 23545
advertisement on its web site for a period of time established by 23546
the commission. The advertisement shall include all of the 23547
following: 23548

(1) The procedure for the submission of a bid to enter into a 23549
lease for a formation within a parcel of land; 23550

(2) A statement that a standard lease form that is consistent 23551

with the practices of the oil and natural gas industries will be 23552
used for the lease of a formation within the parcel of land; 23553

(3) A copy of the standard lease form that will be used for 23554
the lease of a formation within the parcel of land; 23555

(4) Special terms and conditions, if applicable, that apply 23556
to the lease because of specific conditions related to the parcel 23557
of land; 23558

(5) The amount of the bid fee that is required to be 23559
submitted with a bid; 23560

(6) Any other information that the commission considers 23561
pertinent to the advertisement for bids. 23562

(D) A person submitting a bid to enter into a lease under 23563
this section shall pay a bid fee established in rules adopted 23564
under section 1509.74 of the Revised Code. 23565

(E) In order to encourage the submission of bids and the 23566
responsible and reasonable development of the state's natural 23567
resources, the information that is contained in a bid submitted to 23568
the commission under this section shall be confidential and shall 23569
not be disclosed before a person is selected under division (F) of 23570
this section unless the commission determines otherwise. 23571

(F) The commission shall establish a deadline for the 23572
submission of bids for each lease regarding a particular parcel of 23573
land and shall notify the department of the deadline. The 23574
department shall post the deadline for the submission of bids for 23575
each lease on the department's web site. A person shall submit a 23576
bid in accordance with the procedures and requirements established 23577
by the commission in rules adopted under section 1509.74 of the 23578
Revised Code. 23579

The commission shall select the person who submits the 23580
highest and best bid for each formation within that parcel of 23581

land, taking into account the financial responsibility of the 23582
prospective lessee and the ability of the prospective lessee to 23583
perform its obligations under the lease. After the commission 23584
selects a person, the commission shall notify the applicable state 23585
agency and send the person's bid to the agency. The state agency 23586
shall enter into a lease with the person selected by the 23587
commission. 23588

(G)(1) Except as otherwise provided in ~~division~~ divisions 23589
(G)(2) and (3) of this section, all money received by a state 23590
agency from signing fees, rentals, and royalty payments for leases 23591
entered into under this section shall be paid by the state agency 23592
into the state treasury to the credit of the state land royalty 23593
fund created in section 131.50 of the Revised Code. 23594

(2) Money received by a state agency from signing fees, 23595
rentals, and royalty payments for leases entered into under this 23596
section on land owned or controlled by the division of forestry, 23597
or wildlife, or parks and recreation in the department of natural 23598
resources shall be deposited into one of the following funds, as 23599
applicable: 23600

(a) The forestry mineral royalties fund created in section 23601
1503.012 of the Revised Code if the lease pertains to land owned 23602
or controlled by the division of forestry; 23603

(b) The wildlife habitat fund created in section 1531.33 of 23604
the Revised Code if the lease pertains to land owned or controlled 23605
by the division of wildlife; 23606

~~(c) The parks mineral royalties fund created in section 23607
1541.26 of the Revised Code if the lease pertains to land owned or 23608
controlled by the division of parks and recreation. 23609~~

(3) Money received by a state agency from signing fees, 23610
rentals, and royalty payments for leases entered into under this 23611
section on land owned or controlled by the division of parks and 23612

recreation in the department of natural resources shall be 23613
deposited in the state treasury and credited as follows: 23614

(a) Fifty per cent of the money shall be credited to the 23615
parks mineral royalties fund created in section 1541.26 of the 23616
Revised Code. 23617

(b) Fifty per cent of the money shall be credited to the 23618
clean Ohio distribution fund created in section 151.50 of the 23619
Revised Code. 23620

(H) All money received from nomination fees and bid fees 23621
shall be paid into the state treasury to the credit of the oil and 23622
gas leasing commission administration fund created in section 23623
1509.75 of the Revised Code. 23624

(I) Notwithstanding any other provision of this section to 23625
the contrary, a nature preserve as defined in section 1517.01 of 23626
the Revised Code that is owned or controlled by a state agency 23627
shall not be nominated or leased under this section for the 23628
purpose of exploring for and developing and producing oil and 23629
natural gas resources. 23630

Sec. 1511.02. The chief of the division of soil and water 23631
resources, subject to the approval of the director of natural 23632
resources, shall do all of the following: 23633

(A) Provide administrative leadership to local soil and water 23634
conservation districts in planning, budgeting, staffing, and 23635
administering district programs and the training of district 23636
supervisors and personnel in their duties, responsibilities, and 23637
authorities as prescribed in this chapter and Chapter 1515. of the 23638
Revised Code; 23639

(B) Administer this chapter and Chapter 1515. of the Revised 23640
Code pertaining to state responsibilities and provide staff 23641
assistance to the Ohio soil and water conservation commission in 23642

exercising its statutory responsibilities; 23643

(C) Assist in expediting state responsibilities for watershed 23644
development and other natural resource conservation works of 23645
improvement; 23646

(D) Coordinate the development and implementation of 23647
cooperative programs and working agreements between local soil and 23648
water conservation districts and divisions or sections of the 23649
department of natural resources, or other agencies of local, 23650
state, and federal government; 23651

(E) Subject to the approval of the Ohio soil and water 23652
conservation commission, adopt, amend, or rescind rules pursuant 23653
to Chapter 119. of the Revised Code. Rules adopted pursuant to 23654
this section: 23655

(1) Shall establish technically feasible and economically 23656
reasonable standards to achieve a level of management and 23657
conservation practices in farming or silvicultural operations that 23658
will abate wind or water erosion of the soil or abate the 23659
degradation of the waters of the state by animal waste or by soil 23660
sediment including substances attached thereto, and establish 23661
criteria for determination of the acceptability of such management 23662
and conservation practices; 23663

(2) Shall establish technically feasible and economically 23664
reasonable standards to achieve a level of management and 23665
conservation practices that will abate wind or water erosion of 23666
the soil or abate the degradation of the waters of the state by 23667
soil sediment in conjunction with land grading, excavating, 23668
filling, or other soil-disturbing activities on land used or being 23669
developed for nonfarm commercial, industrial, residential, or 23670
other nonfarm purposes, and establish criteria for determination 23671
of the acceptability of such management and conservation 23672
practices. The standards shall be designed to implement applicable 23673

areawide waste treatment management plans prepared under section 23674
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 23675
(1972), 33 U.S.C.A. 1288, as amended. The standards and criteria 23676
shall not apply in any municipal corporation or county that adopts 23677
ordinances or rules pertaining to sediment control, nor to lands 23678
being used in a strip mine operation as defined in section 1513.01 23679
of the Revised Code, nor to lands being used in a surface mining 23680
operation as defined in section 1514.01 of the Revised Code. 23681

(3) May recommend criteria and procedures for the approval of 23682
urban sediment pollution abatement plans and issuance of permits 23683
prior to any grading, excavating, filling, or other whole or 23684
partial disturbance of five or more contiguous acres of land owned 23685
by one person or operated as one development unit and require 23686
implementation of such a plan. Areas of less than five contiguous 23687
acres are not exempt from compliance with other provisions of this 23688
chapter and rules adopted under them. 23689

(4) Shall establish procedures for administration of rules 23690
for agricultural pollution abatement and urban sediment pollution 23691
abatement and for enforcement of rules for agricultural pollution 23692
abatement; 23693

(5) Shall specify the pollution abatement practices eligible 23694
for state cost sharing and determine the conditions for 23695
eligibility, the construction standards and specifications, the 23696
useful life, the maintenance requirements, and the limits of cost 23697
sharing for those practices. Eligible practices shall be limited 23698
to practices that address agricultural or silvicultural operations 23699
and that require expenditures that are likely to exceed the 23700
economic returns to the owner or operator and that abate soil 23701
erosion or degradation of the waters of the state by animal waste 23702
or soil sediment including pollutants attached thereto. 23703

(6) Shall establish procedures for administering grants to 23704
owners or operators of agricultural land or concentrated animal 23705

feeding operations for the implementation of operation and 23706
management plans; 23707

(7) Shall establish procedures for administering grants to 23708
soil and water conservation districts for urban sediment pollution 23709
abatement programs, specify the types of projects eligible for 23710
grants, establish limits on the availability of grants, and 23711
establish requirements governing the execution of projects to 23712
encourage the reduction of erosion and sedimentation associated 23713
with soil-disturbing activities; 23714

(8) Shall do all of the following with regard to composting 23715
conducted in conjunction with agricultural operations: 23716

(a) Provide for the distribution of educational material 23717
concerning composting to the offices of ~~the Ohio cooperative~~ OSU 23718
extension ~~service~~ for the purposes of section 1511.022 of the 23719
Revised Code; 23720

(b) Establish methods, techniques, or practices for 23721
composting dead animals, or particular types of dead animals, that 23722
are to be used at such operations, as the chief considers to be 23723
necessary or appropriate; 23724

(c) Establish requirements and procedures governing the 23725
review and approval or disapproval of composting plans by the 23726
supervisors of soil and water conservation districts under 23727
division (Q) of section 1515.08 of the Revised Code. 23728

(9) Shall be adopted, amended, or rescinded after the chief 23729
does all of the following: 23730

(a) Mails notice to each statewide organization that the 23731
chief determines represents persons or local governmental agencies 23732
who would be affected by the proposed rule, amendment thereto, or 23733
rescission thereof at least thirty-five days before any public 23734
hearing thereon; 23735

(b) Mails a copy of each proposed rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request;

(c) Consults with appropriate state and local governmental agencies or their representatives, including statewide organizations of local governmental officials, industrial representatives, and other interested persons;

(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.

(10) Shall not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted pursuant to this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

(11) Insofar as the rules relate to urban sediment pollution, shall not be applicable in a municipal corporation or county that adopts ordinances or rules for urban sediment control, except that a municipal corporation or county that adopts such ordinances or rules may receive moneys for urban sediment control that are disbursed by the board of supervisors of the applicable soil and water conservation district under division (N) of section 1515.08 of the Revised Code. The rules shall not exempt any person from compliance with municipal ordinances enacted pursuant to Section 3 of Article XVIII, Ohio Constitution.

(F) Cost share with landowners on practices established

pursuant to division (E)(5) of this section as moneys are 23767
appropriated and available for that purpose. Any practice for 23768
which cost share is provided shall be maintained for its useful 23769
life. Failure to maintain a cost share practice for its useful 23770
life shall subject the landowner to full repayment to the 23771
division. 23772

(G) Issue orders requiring compliance with any rule adopted 23773
under division (E)(1) of this section or with section 1511.022 of 23774
the Revised Code. Before the chief issues an order, the chief 23775
shall afford each person allegedly liable an adjudication hearing 23776
under Chapter 119. of the Revised Code. The chief may require in 23777
an order that a person who has caused agricultural pollution by 23778
failure to comply with the standards established under division 23779
(E)(1) of this section operate under an operation and management 23780
plan approved by the chief under this section. The chief shall 23781
require in an order that a person who has failed to comply with 23782
division (A) of section 1511.022 of the Revised Code prepare a 23783
composting plan in accordance with rules adopted under division 23784
(E)(10)(c) of this section and operate in accordance with that 23785
plan or that a person who has failed to operate in accordance with 23786
such a plan begin to operate in accordance with it. Each order 23787
shall be issued in writing and contain a finding by the chief of 23788
the facts upon which the order is based and the standard that is 23789
not being met. 23790

(H) Employ field assistants and such other employees as are 23791
necessary for the performance of the work prescribed by Chapter 23792
1515. of the Revised Code, for performance of work of the 23793
division, and as agreed to under working agreements or contractual 23794
arrangements with local soil and water conservation districts, 23795
prescribe their duties, and fix their compensation in accordance 23796
with such schedules as are provided by law for the compensation of 23797
state employees. 23798

All employees of the division, unless specifically exempted 23799
by law, shall be employed subject to the classified civil service 23800
laws in force at the time of employment. 23801

(I) In connection with new or relocated projects involving 23802
highways, underground cables, pipelines, railroads, and other 23803
improvements affecting soil and water resources, including surface 23804
and subsurface drainage: 23805

(1) Provide engineering service as is mutually agreeable to 23806
the Ohio soil and water conservation commission and the director 23807
to aid in the design and installation of soil and water 23808
conservation practices as a necessary component of such projects; 23809

(2) Maintain close liaison between the owners of lands on 23810
which the projects are executed, local soil and water conservation 23811
districts, and authorities responsible for such projects; 23812

(3) Review plans for such projects to ensure their compliance 23813
with standards developed under division (E) of this section in 23814
cooperation with the department of transportation or with any 23815
other interested agency that is engaged in soil or water 23816
conservation projects in the state in order to minimize adverse 23817
impacts on soil and water resources adjacent to or otherwise 23818
affected by these projects; 23819

(4) Recommend measures to retard erosion and protect soil and 23820
water resources through the installation of water impoundment or 23821
other soil and water conservation practices; 23822

(5) Cooperate with other agencies and subdivisions of the 23823
state to protect the agricultural status of rural lands adjacent 23824
to such projects and control adverse impacts on soil and water 23825
resources. 23826

(J) Collect, analyze, inventory, and interpret all available 23827
information pertaining to the origin, distribution, extent, use, 23828
and conservation of the soil resources of the state; 23829

(K) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;

(L) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be upon such terms as are mutually agreeable to the districts and the department of natural resources.

(M) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and land management activities;

(N) When necessary for the purposes of this chapter or Chapter 1515. of the Revised Code, develop or approve operation and management plans.

This section does not restrict the excrement of domestic or farm animals defecated on land outside a concentrated animal feeding operation or runoff therefrom into the waters of the state.

Sec. 1511.022. (A) Any person who owns or operates an agricultural operation, or owns the animals raised by the owner or operator of an agricultural operation, and who wishes to conduct composting of dead animals resulting from the agricultural operation shall do both of the following:

(1) Participate in an educational course concerning composting conducted by ~~the Ohio cooperative~~ OSU extension service and obtain a certificate of completion for the course;

(2) Use the appropriate method, technique, or practice of

composting established in rules adopted under division (E)(8) of 23860
section 1511.02 of the Revised Code. 23861

(B) Any person who fails to comply with division (A) of this 23862
section shall prepare and operate under a composting plan in 23863
accordance with an order issued by the chief of the division of 23864
soil and water resources under division (G) of section 1511.02 of 23865
the Revised Code. If the person's proposed composting plan is 23866
disapproved by the board of supervisors of the appropriate soil 23867
and water conservation district under division (Q)(3) of section 23868
1515.08 of the Revised Code, the person may appeal the plan 23869
disapproval to the chief, who shall afford the person a hearing. 23870
Following the hearing, the chief shall uphold the plan disapproval 23871
or reverse it. If the chief reverses the disapproval, the plan 23872
shall be deemed approved. 23873

Sec. 1519.05. (A) As used in this section, "local political 23874
subdivision" and "nonprofit organization" have the same meanings 23875
as in section 164.20 of the Revised Code. 23876

(B) There is hereby created in the state treasury the clean 23877
Ohio trail fund. Twelve and one-half per cent of the net proceeds 23878
of obligations issued and sold pursuant to sections 151.01 and 23879
151.09 of the Revised Code shall be deposited into the fund. The 23880
fund also shall consist of money credited to it under section 23881
151.50 of the Revised Code. 23882

Investment earnings of the fund shall be credited to the fund 23883
and may be used to pay costs incurred by the director of natural 23884
resources in administering this section. 23885

Money in the clean Ohio trail fund shall not be used for the 23886
appropriation of land, rights, rights-of-way, franchises, 23887
easements, or other property through the exercise of the right of 23888
eminent domain. 23889

The director shall use moneys in the fund exclusively to 23890
provide matching grants to nonprofit organizations and to local 23891
political subdivisions for the purposes of purchasing land or 23892
interests in land for recreational trails and for the construction 23893
of such trails. A matching grant may provide up to seventy-five 23894
per cent of the cost of a recreational trail project, and the 23895
recipient of the matching grant shall provide not less than 23896
twenty-five per cent of that cost. 23897

(C) The director shall establish policies for the purposes of 23898
this section. The policies shall establish all of the following: 23899

(1) Procedures for providing matching grants to nonprofit 23900
organizations and local political subdivisions for the purposes of 23901
purchasing land or interests in land for recreational trails and 23902
for the construction of such trails, including, without 23903
limitation, procedures for both of the following: 23904

(a) Developing a grant application form and soliciting, 23905
accepting, and approving grant applications; 23906

(b) Participation by nonprofit organizations and local 23907
political subdivisions in the application process. 23908

(2) A requirement that an application for a matching grant 23909
for a recreational trail project include a copy of a resolution 23910
supporting the project from each county in which the proposed 23911
project is to be conducted and whichever of the following is 23912
applicable: 23913

(a) If the proposed project is to be conducted wholly within 23914
the geographical boundaries of one township, a copy of a 23915
resolution supporting the project from the township; 23916

(b) If the proposed project is to be conducted wholly within 23917
the geographical boundaries of one municipal corporation, a copy 23918
of a resolution supporting the project from the municipal 23919
corporation; 23920

(c) If the proposed project is to be conducted in more than one, but fewer than five townships or municipal corporations, a copy of a resolution supporting the project from at least one-half of the total number of townships and municipal corporations in which the proposed project is to be conducted;

(d) If the proposed project is to be conducted in five or more municipal corporations, a copy of a resolution supporting the project from at least three-fifths of the total number of townships and municipal corporations in which the proposed project is to be conducted.

(3) Eligibility criteria that must be satisfied by an applicant in order to receive a matching grant and that emphasize the following:

(a) Synchronization with the statewide trail plan;

(b) Complete regional systems and links to the statewide trail system;

(c) A combination of funds from various state agencies;

(d) The provision of links in urban areas that support commuter access and show economic impact on local communities;

(e) The linkage of population centers with public outdoor recreation areas and facilities;

(f) The purchase of rail lines that are linked to the statewide trail plan;

(g) The preservation of natural corridors.

(4) Items of value, such as in-kind contributions of land, easements or other interests in land, labor, or materials, that may be considered as contributing toward the percentage of the cost of a recreational trails project that must be provided by a matching grant recipient.

Sec. 1531.06. (A) The chief of the division of wildlife, with 23950
the approval of the director of natural resources, may acquire by 23951
gift, lease, purchase, or otherwise lands or surface rights upon 23952
lands and waters or surface rights upon waters for wild animals, 23953
fish or game management, preservation, propagation, and 23954
protection, outdoor and nature activities, public fishing and 23955
hunting grounds, and flora and fauna preservation. The chief, with 23956
the approval of the director, may receive by grant, devise, 23957
bequest, donation, or assignment evidences of indebtedness, the 23958
proceeds of which are to be used for the purchase of such lands or 23959
surface rights upon lands and waters or surface rights upon 23960
waters. 23961

(B)(1) The chief shall adopt rules for the protection of 23962
state-owned or leased lands and waters and property under the 23963
control of the division of wildlife against wrongful use or 23964
occupancy that will ensure the carrying out of the intent of this 23965
section, protect those lands, waters, and property from 23966
depredations, and preserve them from molestation, spoilation, 23967
destruction, or any improper use or occupancy thereof, including 23968
rules with respect to recreational activities and for the 23969
government and use of such lands, waters, and property. 23970

(2) The chief may adopt rules benefiting wild animals, fish 23971
or game management, preservation, propagation, and protection, 23972
outdoor and nature activities, public fishing and hunting grounds, 23973
and flora and fauna preservation, and regulating the taking and 23974
possession of wild animals on any lands or waters owned or leased 23975
or under the division's supervision and control and, for a 23976
specified period of years, may prohibit or recall the taking and 23977
possession of any wild animal on any portion of such lands or 23978
waters. The division clearly shall define and mark the boundaries 23979
of the lands and waters owned or leased or under its supervision 23980
and control upon which the taking of any wild animal is 23981

prohibited. 23982

(C) The chief, with the approval of the director, may acquire 23983
by gift, lease, or purchase land for the purpose of establishing 23984
state fish hatcheries and game farms and may erect on it buildings 23985
or structures that are necessary. 23986

The title to or lease of such lands and waters shall be taken 23987
by the chief in the name of the state. The lease or purchase price 23988
of all such lands and waters may be paid from hunting and trapping 23989
and fishing licenses and any other funds. 23990

(D) To provide more public recreation, stream and lake 23991
agreements for public fishing only may be obtained under rules 23992
adopted by the chief. 23993

(E) The chief, with the approval of the director, may 23994
establish user fees for the use of special public facilities or 23995
participation in special activities on lands and waters 23996
administered by the division. The special facilities and 23997
activities may include hunting or fishing on special designated 23998
public lands and waters intensively managed or stocked with 23999
artificially propagated game birds or fish, field trial 24000
facilities, wildlife nature centers, firearm ranges, boat mooring 24001
facilities, camping sites, and other similar special facilities 24002
and activities. The chief shall determine whether the user fees 24003
are refundable and shall ensure that that information is provided 24004
at the time the user fees are paid. 24005

(F) The chief, with the approval of the director, may enter 24006
into lease agreements for rental of concessions or other special 24007
projects situated on state-owned or leased lands or waters or 24008
other property under the division's control. The chief shall set 24009
and collect the fees for concession rentals or other special 24010
projects; regulate through contracts between the division and 24011
concessionaires the sale of tangible objects at concessions or 24012

other special projects; and keep a record of all such fee payments 24013
showing the amount received, from whom received, and for what 24014
purpose the fee was collected. 24015

(G) The chief may sell or donate conservation-related items 24016
or items that promote wildlife conservation, including, but not 24017
limited to, stamps, pins, badges, books, bulletins, maps, 24018
publications, calendars, and any other educational article or 24019
artifact pertaining to wild animals; sell confiscated or forfeited 24020
items; and sell surplus structures and equipment, and timber or 24021
crops from lands owned, administered, leased, or controlled by the 24022
division. The chief, with the approval of the director, also may 24023
engage in campaigns and special events that promote wildlife 24024
conservation by selling or donating wildlife-related materials, 24025
memberships, and other items of promotional value. 24026

(H) The chief may sell, lease, or transfer minerals or 24027
mineral rights, with the approval of the director, when the chief 24028
and the director determine it to be in the best interest of the 24029
state. Upon approval of the director, the chief may make, execute, 24030
and deliver contracts, including leases, to mine, drill, or 24031
excavate iron ore, stone, coal, salt, and other minerals, other 24032
than oil or gas, upon and under lands owned by the state and 24033
administered by the division to any person who complies with the 24034
terms of such a contract. No such contract shall be valid for more 24035
than fifty years from its effective date. Consideration for 24036
minerals and mineral rights shall be by rental or royalty basis as 24037
prescribed by the chief and payable as prescribed by contract. 24038
Moneys collected under this division shall be paid into the state 24039
treasury to the credit of the wildlife habitat fund created in 24040
section 1531.33 of the Revised Code. Contracts entered into under 24041
this division also may provide for consideration for minerals or 24042
mineral rights in the form of acquisition of lands as provided 24043
under divisions (A) and (C) of this section. 24044

(I) All moneys received under divisions (E), (F), and (G) of this section shall be paid into the state treasury to the credit of a fund that shall be used for the purposes outlined in section 1533.15 of the Revised Code and for the management of other wild animals for their ecological and nonconsumptive recreational value or benefit.

(J) The chief, with the approval of the director, may barter or sell wild animals to other states, state or federal agencies, and conservation or zoological organizations. Moneys received from the sale of wild animals shall be deposited into the ~~wild animal~~ wildlife fund created in section ~~1531.34~~ 1531.17 of the Revised Code.

(K) The chief shall adopt rules establishing standards and guidelines for the administration of contraceptive chemicals to noncaptive wild animals. The rules may specify chemical delivery methods and devices and monitoring requirements.

The chief shall establish criteria for the issuance of and shall issue permits for the administration of contraceptive chemicals to noncaptive wild animals. No person shall administer contraceptive chemicals to noncaptive wild animals without a permit issued by the chief.

(L) All fees set by the chief under this section shall be approved by the wildlife council.

(M) Information contained in the wildlife diversity database that is established pursuant to division (B)(2) of this section and section 1531.25 of the Revised Code may be made available to any individual or public or private agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1531.25 of the Revised

Code and of features that are included in the wildlife diversity 24076
database is not subject to section 149.43 of the Revised Code if 24077
the chief determines that the release of the information could be 24078
detrimental to the conservation of a species or feature. 24079

Sec. 1531.17. All fines, penalties, and forfeitures arising 24080
from prosecutions, convictions, confiscations, or otherwise under 24081
this chapter and Chapters 1517. and 1533. of the Revised Code, 24082
unless otherwise directed by the director of natural resources, 24083
shall be paid by the officer by whom collected to the director and 24084
by ~~him~~ the director paid into the state treasury to the credit of 24085
the wildlife fund, which is hereby created, for the use of the 24086
division of wildlife. All moneys received from the sale of wild 24087
animals under division (J) of section 1531.06 shall be paid into 24088
the state treasury to the credit of the wildlife fund for the use 24089
of the division. All moneys collected as license fees on nets in 24090
the Lake Erie fishing district shall be paid by the director into 24091
the state treasury to the credit of the wildlife fund for use only 24092
in the betterment and the propagation of fish therein or in 24093
otherwise propagating fish in such district. All investment 24094
earnings of the fund shall be credited to the fund. The wildlife 24095
fund shall not be used for compensation of personnel employed by 24096
other divisions of the department of natural resources who are 24097
assigned to law enforcement duties in aid of the division of 24098
wildlife or for compensation of division of wildlife personnel for 24099
activities related to the instruction of personnel of other 24100
divisions. 24101

Sec. 1545.071. ~~The following applies until the department of 24102
administrative services implements for park districts the health 24103
care plans under section 9.901 of the Revised Code. If those plans 24104
do not include or address any benefits listed in this section, the 24105
following provisions continue in effect for those benefits. 24106~~

The board of park commissioners of any park district may 24107
procure and pay all or any part of the cost of group insurance 24108
policies that may provide benefits for hospitalization, surgical 24109
care, major medical care, disability, dental care, eye care, 24110
medical care, hearing aids, or prescription drugs, or sickness and 24111
accident insurance or a combination of any of the foregoing types 24112
of insurance or coverage for park district officers and employees 24113
and their immediate dependents issued by an insurance company duly 24114
authorized to do business in this state. 24115

The board may procure and pay all or any part of the cost of 24116
group life insurance to insure the lives of park district 24117
employees. 24118

The board also may contract for group health care services 24119
with health insuring corporations holding a certificate of 24120
authority under Chapter 1751. of the Revised Code provided that 24121
each officer or employee is permitted to: 24122

(A) Choose between a plan offered by an insurance company and 24123
a plan offered by a health insuring corporation and provided 24124
further that the officer or employee pays any amount by which the 24125
cost of the plan chosen by the officer or employee exceeds the 24126
cost of the plan offered by the board under this section; 24127

(B) Change the choice made under division (A) of this section 24128
at a time each year as determined in advance by the board. 24129

Any appointed member of the board of park commissioners and 24130
the spouse and dependent children of the member may be covered, at 24131
the option and expense of the member, as a noncompensated employee 24132
of the park district under any benefit plan described in division 24133
(A) of this section. The member shall pay to the park district the 24134
amount certified to it by the benefit provider as the provider's 24135
charge for the coverage the member has chosen under division (A) 24136
of this section. Payments for coverage shall be made, in advance, 24137

in a manner prescribed by the board. The member's exercise of an 24138
option to be covered under this section shall be in writing, 24139
announced at a regular public meeting of the board, and recorded 24140
as a public record in the minutes of the board. 24141

The board may provide the benefits authorized in this section 24142
by contributing to a health and welfare trust fund administered 24143
through or in conjunction with a collective bargaining 24144
representative of the park district employees. 24145

The board may provide the benefits described in this section 24146
through an individual self-insurance program or a joint 24147
self-insurance program as provided in section 9.833 of the Revised 24148
Code. 24149

Sec. 1545.23. If a park district enters into an agreement for 24150
the sale or lease of mineral rights regarding a park within the 24151
district, any royalties or other moneys resulting from the sale or 24152
lease shall be deposited into a special fund that the board of 24153
park commissioners shall create. The fund shall be used 24154
exclusively for maintenance of parks within the district and for 24155
the acquisition of new park lands. 24156

Sec. 1547.99. (A) Whoever violates section 1547.91 of the 24157
Revised Code is guilty of a felony of the fourth degree. 24158

(B) Whoever violates division (F) of section 1547.08, section 24159
1547.10, division (I) of section 1547.111, section 1547.13, or 24160
section 1547.66 of the Revised Code is guilty of a misdemeanor of 24161
the first degree. 24162

(C) Whoever violates a provision of this chapter or a rule 24163
adopted thereunder, for which no penalty is otherwise provided, is 24164
guilty of a minor misdemeanor. 24165

(D) Whoever violates section 1547.07, 1547.132, or 1547.12 of 24166
the Revised Code without causing injury to persons or damage to 24167

property is guilty of a misdemeanor of the fourth degree. 24168

(E) Whoever violates section 1547.07, 1547.132, or 1547.12 of 24169
the Revised Code causing injury to persons or damage to property 24170
is guilty of a misdemeanor of the third degree. 24171

(F) Whoever violates division (N) of section 1547.54, 24172
division (G) of section 1547.30, or section 1547.131, 1547.25, 24173
1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 24174
of the Revised Code or a rule adopted under division (A)(2) of 24175
section 1547.52 of the Revised Code is guilty of a misdemeanor of 24176
the fourth degree. 24177

(G) Whoever violates section 1547.11 of the Revised Code is 24178
guilty of a misdemeanor of the first degree and shall be punished 24179
as provided in division (G)(1), (2), or (3) of this section. 24180

(1) Except as otherwise provided in division (G)(2) or (3) of 24181
this section, the court shall sentence the offender to a jail term 24182
of three consecutive days and may sentence the offender pursuant 24183
to section 2929.24 of the Revised Code to a longer jail term. In 24184
addition, the court shall impose upon the offender a fine of not 24185
less than one hundred fifty nor more than one thousand dollars. 24186

The court may suspend the execution of the mandatory jail 24187
term of three consecutive days that it is required to impose by 24188
division (G)(1) of this section if the court, in lieu of the 24189
suspended jail term, places the offender under a community control 24190
sanction pursuant to section 2929.25 of the Revised Code and 24191
requires the offender to attend, for three consecutive days, a 24192
drivers' intervention program that is certified pursuant to 24193
section ~~3793.10~~ 5119.38 of the Revised Code. The court also may 24194
suspend the execution of any part of the mandatory jail term of 24195
three consecutive days that it is required to impose by division 24196
(G)(1) of this section if the court places the offender under a 24197
community control sanction pursuant to section 2929.25 of the 24198

Revised Code for part of the three consecutive days; requires the 24199
offender to attend, for that part of the three consecutive days, a 24200
drivers' intervention program that is certified pursuant to 24201
section ~~3793.10~~ 5119.38 of the Revised Code; and sentences the 24202
offender to a jail term equal to the remainder of the three 24203
consecutive days that the offender does not spend attending the 24204
drivers' intervention program. The court may require the offender, 24205
as a condition of community control, to attend and satisfactorily 24206
complete any treatment or education programs, in addition to the 24207
required attendance at a drivers' intervention program, that the 24208
operators of the drivers' intervention program determine that the 24209
offender should attend and to report periodically to the court on 24210
the offender's progress in the programs. The court also may impose 24211
any other conditions of community control on the offender that it 24212
considers necessary. 24213

(2) If, within six years of the offense, the offender has 24214
been convicted of or pleaded guilty to one violation of section 24215
1547.11 of the Revised Code or one other equivalent offense, the 24216
court shall sentence the offender to a jail term of ten 24217
consecutive days and may sentence the offender pursuant to section 24218
2929.24 of the Revised Code to a longer jail term. In addition, 24219
the court shall impose upon the offender a fine of not less than 24220
one hundred fifty nor more than one thousand dollars. 24221

In addition to any other sentence that it imposes upon the 24222
offender, the court may require the offender to attend a drivers' 24223
intervention program that is certified pursuant to section ~~3793.10~~ 24224
5119.38 of the Revised Code. 24225

(3) If, within six years of the offense, the offender has 24226
been convicted of or pleaded guilty to more than one violation or 24227
offense identified in division (G)(2) of this section, the court 24228
shall sentence the offender to a jail term of thirty consecutive 24229
days and may sentence the offender to a longer jail term of not 24230

more than one year. In addition, the court shall impose upon the 24231
offender a fine of not less than one hundred fifty nor more than 24232
one thousand dollars. 24233

In addition to any other sentence that it imposes upon the 24234
offender, the court may require the offender to attend a drivers' 24235
intervention program that is certified pursuant to section ~~3793.10~~ 24236
5119.38 of the Revised Code. 24237

(4) Upon a showing that serving a jail term would seriously 24238
affect the ability of an offender sentenced pursuant to division 24239
(G)(1), (2), or (3) of this section to continue the offender's 24240
employment, the court may authorize that the offender be granted 24241
work release after the offender has served the mandatory jail term 24242
of three, ten, or thirty consecutive days that the court is 24243
required by division (G)(1), (2), or (3) of this section to 24244
impose. No court shall authorize work release during the mandatory 24245
jail term of three, ten, or thirty consecutive days that the court 24246
is required by division (G)(1), (2), or (3) of this section to 24247
impose. The duration of the work release shall not exceed the time 24248
necessary each day for the offender to commute to and from the 24249
place of employment and the place in which the jail term is served 24250
and the time actually spent under employment. 24251

(5) Notwithstanding any section of the Revised Code that 24252
authorizes the suspension of the imposition or execution of a 24253
sentence or the placement of an offender in any treatment program 24254
in lieu of being imprisoned or serving a jail term, no court shall 24255
suspend the mandatory jail term of ten or thirty consecutive days 24256
required to be imposed by division (G)(2) or (3) of this section 24257
or place an offender who is sentenced pursuant to division (G)(2) 24258
or (3) of this section in any treatment program in lieu of being 24259
imprisoned or serving a jail term until after the offender has 24260
served the mandatory jail term of ten or thirty consecutive days 24261
required to be imposed pursuant to division (G)(2) or (3) of this 24262

section. Notwithstanding any section of the Revised Code that 24263
authorizes the suspension of the imposition or execution of a 24264
sentence or the placement of an offender in any treatment program 24265
in lieu of being imprisoned or serving a jail term, no court, 24266
except as specifically authorized by division (G)(1) of this 24267
section, shall suspend the mandatory jail term of three 24268
consecutive days required to be imposed by division (G)(1) of this 24269
section or place an offender who is sentenced pursuant to division 24270
(G)(1) of this section in any treatment program in lieu of 24271
imprisonment until after the offender has served the mandatory 24272
jail term of three consecutive days required to be imposed 24273
pursuant to division (G)(1) of this section. 24274

(6) As used in division (G) of this section: 24275

(a) "Equivalent offense" has the same meaning as in section 24276
4511.181 of the Revised Code. 24277

(b) "Jail term" and "mandatory jail term" have the same 24278
meanings as in section 2929.01 of the Revised Code. 24279

(H) Whoever violates section 1547.304 of the Revised Code is 24280
guilty of a misdemeanor of the fourth degree and also shall be 24281
assessed any costs incurred by the state or a county, township, 24282
municipal corporation, or other political subdivision in disposing 24283
of an abandoned junk vessel or outboard motor, less any money 24284
accruing to the state, county, township, municipal corporation, or 24285
other political subdivision from that disposal. 24286

(I) Whoever violates division (B) or (C) of section 1547.49 24287
of the Revised Code is guilty of a minor misdemeanor. 24288

(J) Whoever violates section 1547.31 of the Revised Code is 24289
guilty of a misdemeanor of the fourth degree on a first offense. 24290
On each subsequent offense, the person is guilty of a misdemeanor 24291
of the third degree. 24292

(K) Whoever violates section 1547.05 or 1547.051 of the 24293

Revised Code is guilty of a misdemeanor of the fourth degree if 24294
the violation is not related to a collision, injury to a person, 24295
or damage to property and a misdemeanor of the third degree if the 24296
violation is related to a collision, injury to a person, or damage 24297
to property. 24298

(L) The sentencing court, in addition to the penalty provided 24299
under this section for a violation of this chapter or a rule 24300
adopted under it that involves a powercraft powered by more than 24301
ten horsepower and that, in the opinion of the court, involves a 24302
threat to the safety of persons or property, shall order the 24303
offender to complete successfully a boating course approved by the 24304
national association of state boating law administrators before 24305
the offender is allowed to operate a powercraft powered by more 24306
than ten horsepower on the waters in this state. Violation of a 24307
court order entered under this division is punishable as contempt 24308
under Chapter 2705. of the Revised Code. 24309

Sec. 1551.33. (A) The director of development services shall 24310
appoint and fix the compensation of the director of the Ohio coal 24311
development office. The director shall serve at the pleasure of 24312
the director of development services. 24313

(B) The director of the office shall do all of the following: 24314

(1) Biennially prepare and maintain the Ohio coal development 24315
agenda required under section 1551.34 of the Revised Code; 24316

(2) Propose and support policies for the office consistent 24317
with the Ohio coal development agenda and develop means to 24318
implement the agenda; 24319

(3) Initiate, undertake, and support projects to carry out 24320
the office's purposes and ensure that the projects are consistent 24321
with and meet the selection criteria established by the Ohio coal 24322
development agenda; 24323

(4) Actively encourage joint participation in and, when 24324
feasible, joint funding of the office's projects with governmental 24325
agencies, electric utilities, universities and colleges, other 24326
public or private interests, or any other person; 24327

(5) Establish a table of organization for and employ such 24328
employees and agents as are necessary for the administration and 24329
operation of the office. Any such employees shall be in the 24330
unclassified service and shall serve at the pleasure of the 24331
director of development services. 24332

(6) ~~Appoint specified members of and convene~~ Convene the 24333
technical advisory committee established under section 1551.35 of 24334
the Revised Code; 24335

(7) Review, with the assistance of the technical advisory 24336
committee, proposed coal research and development projects as 24337
defined in section 1555.01 of the Revised Code, and coal 24338
development projects, submitted to the office by public utilities 24339
for the purpose of section 4905.304 of the Revised Code. If the 24340
director and the advisory committee determine that any such 24341
facility or project has as its purpose the enhanced use of Ohio 24342
coal in an environmentally acceptable, cost effective manner, 24343
promotes energy conservation, is cost effective, and is 24344
environmentally sound, the director shall submit to the public 24345
utilities commission a report recommending that the commission 24346
allow the recovery of costs associated with the facility or 24347
project under section 4905.304 of the Revised Code and including 24348
the reasons for the recommendation. 24349

(8) Establish such policies, procedures, and guidelines as 24350
are necessary to achieve the office's purposes. 24351

(C) With the approval of the director of development 24352
services, the director of the office may exercise any of the 24353
powers and duties that the director of development services 24354

considers appropriate or desirable to achieve the office's 24355
purposes, including, but not limited to, the powers and duties 24356
enumerated in sections 1551.11, 1551.12, and 1551.15 of the 24357
Revised Code. 24358

Additionally, the director of the office may make loans to 24359
governmental agencies or persons for projects to carry out the 24360
office's purposes. Fees, charges, rates of interest, times of 24361
payment of interest and principal, and other terms, conditions, 24362
and provisions of the loans shall be such as the director of the 24363
office determines to be appropriate and in furtherance of the 24364
purposes for which the loans are made. The mortgage lien securing 24365
any moneys lent by the director of the office may be subordinate 24366
to the mortgage lien securing any moneys lent or invested by a 24367
financial institution, but shall be superior to that securing any 24368
moneys lent or expended by any other person. The moneys used in 24369
making the loans shall be disbursed upon order of the director of 24370
the office. 24371

Sec. 1551.35. (A) There is hereby established a technical 24372
advisory committee to assist the director of the Ohio coal 24373
development office in achieving the office's purposes. The 24374
director of development services shall appoint to the committee 24375
one member of the public utilities commission and one 24376
representative each of coal production companies, the united mine 24377
workers of America, electric utilities, manufacturers that use 24378
Ohio coal, and environmental organizations, as well as two people 24379
with a background in coal research and development technology, one 24380
of whom is employed at the time of the member's appointment by a 24381
state university, as defined in section 3345.011 of the Revised 24382
Code. In addition, the committee shall include four legislative 24383
members. The speaker and minority leader of the house of 24384
representatives each shall appoint one member of the house of 24385
representatives, and the president and minority leader of the 24386

senate each shall appoint one member of the senate, to the 24387
committee. The director of environmental protection shall serve on 24388
the committee as an ex officio member. Any member of the committee 24389
may designate in writing a substitute to serve in the member's 24390
absence on the committee. The director of environmental protection 24391
may designate in writing the chief of the air pollution control 24392
division of the agency to represent the agency. Members shall 24393
serve on the committee at the pleasure of their appointing 24394
authority. Members of the committee appointed by the director of 24395
~~the office~~ development services and, notwithstanding section 24396
101.26 of the Revised Code, legislative members of the committee, 24397
when engaged in their official duties as members of the committee, 24398
shall be compensated on a per diem basis in accordance with 24399
division (J) of section 124.15 of the Revised Code, except that 24400
the member of the public utilities commission and, while employed 24401
by a state university, the member with a background in coal 24402
research, shall not be so compensated. Members shall receive their 24403
actual and necessary expenses incurred in the performance of their 24404
duties. 24405

(B) The technical advisory committee shall review and make 24406
recommendations concerning the Ohio coal development agenda 24407
required under section 1551.34 of the Revised Code, project 24408
proposals, research and development projects submitted to the 24409
office by public utilities for the purpose of section 4905.304 of 24410
the Revised Code, proposals for grants, loans, and loan guarantees 24411
for purposes of sections 1555.01 to 1555.06 of the Revised Code, 24412
and such other topics as the director of the office considers 24413
appropriate. 24414

(C) The technical advisory committee may hold an executive 24415
session at any regular or special meeting for the purpose of 24416
considering research and development project proposals or 24417
applications for assistance submitted to the Ohio coal development 24418

office under section 1551.33, or sections 1555.01 to 1555.06, of 24419
the Revised Code, to the extent that the proposals or applications 24420
consist of trade secrets or other proprietary information. 24421

Any materials or data submitted to, made available to, or 24422
received by the ~~department of development~~ services agency or the 24423
director of the Ohio coal development office in connection with 24424
agreements for assistance entered into under this chapter or 24425
Chapter 1555. of the Revised Code, or any information taken from 24426
those materials or data for any purpose, to the extent that the 24427
materials or data consist of trade secrets or other proprietary 24428
information, are not public records for the purposes of section 24429
149.43 of the Revised Code. 24430

As used in this division, "trade secrets" has the same 24431
meaning as in section 1333.61 of the Revised Code. 24432

Sec. 1555.15. There is hereby created in the state treasury 24433
the coal research and development fund. Moneys obtained for coal 24434
research and development projects from federal grants or loans, 24435
private grants, and other sources, and moneys paid into the fund 24436
pursuant to section 151.07 or 1555.08 of the Revised Code, shall 24437
be expended for the purpose of making grants and making or 24438
guaranteeing loans for coal research and development projects that 24439
will encourage the use of Ohio coal, to any individual, 24440
association, or corporation doing business in this state, or to 24441
any educational or scientific institution located in this state as 24442
provided for in Section 15 of Article VIII, Ohio Constitution and 24443
section 1555.08 of the Revised Code, when appropriated for such 24444
purposes by the general assembly. All investment earnings on the 24445
cash balance in the fund shall be credited to the fund. 24446

The director of budget and management shall establish and 24447
maintain records or accounts for or within the coal research and 24448
development fund in such manner as to show the amounts credited to 24449

such fund pursuant to section 1555.08 of the Revised Code and that 24450
the amounts so credited have been expended for the purposes set 24451
forth in Section 15 of Article VIII, Ohio Constitution, and 24452
section 151.07 of the Revised Code. The director of budget and 24453
management may otherwise manage the fund to comply with any 24454
requirements established by federal grants or loans, private 24455
grants, or moneys from other sources. 24456

Sec. 1711.07. The board of directors of a county or 24457
independent agricultural society shall consist of at least eight 24458
members. An employee of the ~~Ohio state university~~ OSU extension 24459
~~service~~ and the county school superintendent shall be members ex 24460
officio. Their terms of office shall be determined by the rules of 24461
the department of agriculture. Any vacancy in the board caused by 24462
death, resignation, refusal to qualify, removal from county, or 24463
other cause may be filled by the board until the society's next 24464
annual election, when a director shall be elected for the 24465
unexpired term. There shall be an annual election of directors by 24466
ballot at a time and a place fixed by the board, but this election 24467
shall not be held later than the first Saturday in December 1994, 24468
and not later than the fifteenth day of November each year 24469
thereafter, beginning in 1995. The secretary of the society shall 24470
give notice of ~~such~~ the election, for three weeks prior to the 24471
holding thereof, in a newspaper of general circulation in the 24472
county or as provided in section 7.16 of the Revised Code, or by 24473
letter mailed to each member of the society. Only persons holding 24474
membership certificates at the close of the annual county fair, or 24475
at least fifteen calendar days before the date of election, as may 24476
be fixed by the board, may vote, unless ~~such~~ the election is held 24477
on the fairground during the fair, in which case all persons 24478
holding membership certificates on the date and hour of the 24479
election may vote. When the election is to be held during the 24480
fair, notice of ~~such~~ the election ~~must~~ shall be prominently 24481

mentioned in the premium list, in addition to the notice required 24482
in a newspaper. The terms of office of the retiring directors 24483
shall expire, and those of the directors-elect shall begin, not 24484
later than the first Saturday in January 1995, and not later than 24485
the thirtieth day of November each year thereafter, beginning in 24486
1995. 24487

The secretary of ~~such~~ the society shall send the name and 24488
address of each member of its board to the director of agriculture 24489
within ten days after the election. 24490

Sec. 1724.03. (A) After the articles of incorporation have 24491
been filed, and at the first meeting of the board of directors of 24492
a county land reutilization corporation, the board shall adopt 24493
regulations for the government of the corporation, the conduct of 24494
its affairs, and the management of its property, consistent with 24495
law and the articles. The content of the regulations shall be 24496
governed by section 1702.11 of the Revised Code to the extent not 24497
inconsistent with this chapter. 24498

(B) The board of directors of a county land reutilization 24499
corporation shall be composed of five, seven, or nine members, 24500
including the county treasurer, at least two of the members of the 24501
board of county commissioners, one representative of the largest 24502
municipal corporation, based on the population according to the 24503
most recent federal decennial census, that is located in the 24504
county, one representative of a township with a population of at 24505
least ten thousand in the unincorporated area of the township 24506
according to the most recent federal decennial census, if at least 24507
two such townships exist in the county, and any remaining members 24508
selected by the treasurer and the county commissioners who are 24509
members of the corporation's board. The township representative 24510
shall be chosen by a majority of the boards of township trustees 24511
of townships with a population of at least ten thousand in the 24512

unincorporated area of the township according to the most recent 24513
federal decennial census. At least one board member shall have 24514
private sector or nonprofit experience in rehabilitation or real 24515
estate acquisitions. A county treasurer and the county 24516
commissioners each may appoint a representative, as a director of 24517
the corporation, to act for the officer at any of the meetings of 24518
the corporation. Except as may otherwise be authorized by the 24519
regulations of the corporation, all members of the board of 24520
directors shall serve without compensation, but shall be 24521
reimbursed for actual and necessary expenses. 24522

Sec. 1739.061. (A)(1) This section applies to both of the 24523
following: 24524

(a) A multiple employer welfare arrangement that issues or 24525
requires the use of a standardized identification card or an 24526
electronic technology for submission and routing of prescription 24527
drug claims; 24528

(b) A person or entity that a multiple employer welfare 24529
arrangement contracts with to issue a standardized identification 24530
card or an electronic technology described in division (A)(1)(a) 24531
of this section. 24532

(2) Notwithstanding division (A)(1) of this section, this 24533
section does not apply to the issuance or required use of a 24534
standardized identification card or an electronic technology for 24535
the submission and routing of prescription drug claims in 24536
connection with any of the following: 24537

(a) Any program or arrangement covering only accident, 24538
credit, dental, disability income, long-term care, hospital 24539
indemnity, medicare supplement, medicare, tricare, specified 24540
disease, or vision care; coverage under a 24541
one-time-limited-duration policy of not longer than six months; 24542
coverage issued as a supplement to liability insurance; insurance 24543

arising out of workers' compensation or similar law; automobile 24544
medical payment insurance; or insurance under which benefits are 24545
payable with or without regard to fault and which is statutorily 24546
required to be contained in any liability insurance policy or 24547
equivalent self-insurance. 24548

(b) Coverage provided under the medicaid, ~~as defined in~~ 24549
~~section 5111.01 of the Revised Code~~ program. 24550

(c) Coverage provided under an employer's self-insurance plan 24551
or by any of its administrators, as defined in section 3959.01 of 24552
the Revised Code, to the extent that federal law supersedes, 24553
preempts, prohibits, or otherwise precludes the application of 24554
this section to the plan and its administrators. 24555

(B) A standardized identification card or an electronic 24556
technology issued or required to be used as provided in division 24557
(A)(1) of this section shall contain uniform prescription drug 24558
information in accordance with either division (B)(1) or (2) of 24559
this section. 24560

(1) The standardized identification card or the electronic 24561
technology shall be in a format and contain information fields 24562
approved by the national council for prescription drug programs or 24563
a successor organization, as specified in the council's or 24564
successor organization's pharmacy identification card 24565
implementation guide in effect on the first day of October most 24566
immediately preceding the issuance or required use of the 24567
standardized identification card or the electronic technology. 24568

(2) If the multiple employer welfare arrangement or person 24569
under contract with it to issue a standardized identification card 24570
or an electronic technology requires the information for the 24571
submission and routing of a claim, the standardized identification 24572
card or the electronic technology shall contain any of the 24573
following information: 24574

(a) The name of the multiple employer welfare arrangement;	24575
(b) The individual's name, group number, and identification number;	24576 24577
(c) A telephone number to inquire about pharmacy-related issues;	24578 24579
(d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN";	24580 24581
(e) The processor's control number, labeled as "RxPCN";	24582
(f) The individual's pharmacy benefits group number if different from the insured's medical group number, labeled as "RxGrp. "	24583 24584 24585
(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d) and (e) of this section if the issuer's international identification number or the processor's control number is different for medical and pharmacy claims.	24586 24587 24588 24589 24590 24591 24592 24593
(D) Each multiple employer welfare arrangement described in division (A) of this section shall annually file a certificate with the superintendent of insurance certifying that it or any person it contracts with to issue a standardized identification card or electronic technology for submission and routing of prescription drug claims complies with this section.	24594 24595 24596 24597 24598 24599
(E)(1) Except as provided in division (E)(2) of this section, if there is a change in the information contained in the standardized identification card or the electronic technology issued to an individual, the multiple employer welfare arrangement or person under contract with it to issue a standardized	24600 24601 24602 24603 24604

identification card or an electronic technology shall issue a new 24605
card or electronic technology to the individual. 24606

(2) A multiple employer welfare arrangement or person under 24607
contract with it is not required under division (E)(1) of this 24608
section to issue a new card or electronic technology to an 24609
individual more than once during a twelve-month period. 24610

(F) Nothing in this section shall be construed as requiring a 24611
multiple employer welfare arrangement to produce more than one 24612
standardized identification card or one electronic technology for 24613
use by individuals accessing health care benefits provided under a 24614
multiple employer welfare arrangement. 24615

Sec. 1751.01. As used in this chapter: 24616

(A)(1) "Basic health care services" means the following 24617
services when medically necessary: 24618

(a) Physician's services, except when such services are 24619
supplemental under division (B) of this section; 24620

(b) Inpatient hospital services; 24621

(c) Outpatient medical services; 24622

(d) Emergency health services; 24623

(e) Urgent care services; 24624

(f) Diagnostic laboratory services and diagnostic and 24625
therapeutic radiologic services; 24626

(g) Diagnostic and treatment services, other than 24627
prescription drug services, for biologically based mental 24628
illnesses; 24629

(h) Preventive health care services, including, but not 24630
limited to, voluntary family planning services, infertility 24631
services, periodic physical examinations, prenatal obstetrical 24632
care, and well-child care; 24633

(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code. 24634
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"Basic health care services" does not include experimental procedures. 24637
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Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services. 24639
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(2) A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses without offering coverage for all other basic health care services. A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses alone or in combination with one or more supplemental health care services. However, a health insuring corporation that offers coverage for any other basic health care service shall offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services. 24655
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(3) A health insuring corporation that offers coverage for 24666
basic health care services is not required to offer coverage for 24667
diagnostic and treatment services for biologically based mental 24668
illnesses in combination with the offer of coverage for all other 24669
listed basic health care services if all of the following apply: 24670

(a) The health insuring corporation submits documentation 24671
certified by an independent member of the American academy of 24672
actuaries to the superintendent of insurance showing that incurred 24673
claims for diagnostic and treatment services for biologically 24674
based mental illnesses for a period of at least six months 24675
independently caused the health insuring corporation's costs for 24676
claims and administrative expenses for the coverage of basic 24677
health care services to increase by more than one per cent per 24678
year. 24679

(b) The health insuring corporation submits a signed letter 24680
from an independent member of the American academy of actuaries to 24681
the superintendent of insurance opining that the increase in costs 24682
described in division (A)(3)(a) of this section could reasonably 24683
justify an increase of more than one per cent in the annual 24684
premiums or rates charged by the health insuring corporation for 24685
the coverage of basic health care services. 24686

(c) The superintendent of insurance makes the following 24687
determinations from the documentation and opinion submitted 24688
pursuant to divisions (A)(3)(a) and (b) of this section: 24689

(i) Incurred claims for diagnostic and treatment services for 24690
biologically based mental illnesses for a period of at least six 24691
months independently caused the health insuring corporation's 24692
costs for claims and administrative expenses for the coverage of 24693
basic health care services to increase by more than one per cent 24694
per year. 24695

(ii) The increase in costs reasonably justifies an increase 24696

of more than one per cent in the annual premiums or rates charged 24697
by the health insuring corporation for the coverage of basic 24698
health care services. 24699

Any determination made by the superintendent under this 24700
division is subject to Chapter 119. of the Revised Code. 24701

(B)(1) "Supplemental health care services" means any health 24702
care services other than basic health care services that a health 24703
insuring corporation may offer, alone or in combination with 24704
either basic health care services or other supplemental health 24705
care services, and includes: 24706

(a) Services of facilities for intermediate or long-term 24707
care, or both; 24708

(b) Dental care services; 24709

(c) Vision care and optometric services including lenses and 24710
frames; 24711

(d) Podiatric care or foot care services; 24712

(e) Mental health services, excluding diagnostic and 24713
treatment services for biologically based mental illnesses; 24714

(f) Short-term outpatient evaluative and crisis-intervention 24715
mental health services; 24716

(g) Medical or psychological treatment and referral services 24717
for alcohol and drug abuse or addiction; 24718

(h) Home health services; 24719

(i) Prescription drug services; 24720

(j) Nursing services; 24721

(k) Services of a dietitian licensed under Chapter 4759. of 24722
the Revised Code; 24723

(l) Physical therapy services; 24724

(m) Chiropractic services;	24725
(n) Any other category of services approved by the superintendent of insurance.	24726 24727
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	24728 24729 24730 24731 24732
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	24733 24734 24735 24736 24737
(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.	24738 24739 24740 24741 24742 24743 24744
(E) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.	24745 24746
(F) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis.	24747 24748 24749
(G) "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation.	24750 24751 24752
(H) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another	24753 24754

state. 24755

(I) "Emergency health services" means those health care 24756
services that must be available on a seven-days-per-week, 24757
twenty-four-hours-per-day basis in order to prevent jeopardy to an 24758
enrollee's health status that would occur if such services were 24759
not received as soon as possible, and includes, where appropriate, 24760
provisions for transportation and indemnity payments or service 24761
agreements for out-of-area coverage. 24762

(J) "Enrollee" means any natural person who is entitled to 24763
receive health care benefits provided by a health insuring 24764
corporation. 24765

(K) "Evidence of coverage" means any certificate, agreement, 24766
policy, or contract issued to a subscriber that sets out the 24767
coverage and other rights to which such person is entitled under a 24768
health care plan. 24769

(L) "Health care facility" means any facility, except a 24770
health care practitioner's office, that provides preventive, 24771
diagnostic, therapeutic, acute convalescent, rehabilitation, 24772
mental health, mental retardation, intermediate care, or skilled 24773
nursing services. 24774

(M) "Health care services" means basic, supplemental, and 24775
specialty health care services. 24776

(N) "Health delivery network" means any group of providers or 24777
health care facilities, or both, or any representative thereof, 24778
that have entered into an agreement to offer health care services 24779
in a panel rather than on an individual basis. 24780

(O) "Health insuring corporation" means a corporation, as 24781
defined in division (H) of this section, that, pursuant to a 24782
policy, contract, certificate, or agreement, pays for, reimburses, 24783
or provides, delivers, arranges for, or otherwise makes available, 24784
basic health care services, supplemental health care services, or 24785

specialty health care services, or a combination of basic health 24786
care services and either supplemental health care services or 24787
specialty health care services, through either an open panel plan 24788
or a closed panel plan. 24789

"Health insuring corporation" does not include a limited 24790
liability company formed pursuant to Chapter 1705. of the Revised 24791
Code, an insurer licensed under Title XXXIX of the Revised Code if 24792
that insurer offers only open panel plans under which all 24793
providers and health care facilities participating receive their 24794
compensation directly from the insurer, a corporation formed by or 24795
on behalf of a political subdivision or a department, office, or 24796
institution of the state, or a public entity formed by or on 24797
behalf of a board of county commissioners, a county board of 24798
developmental disabilities, an alcohol and drug addiction services 24799
board, a board of alcohol, drug addiction, and mental health 24800
services, or a community mental health board, as those terms are 24801
used in Chapters 340. and 5126. of the Revised Code. Except as 24802
provided by division (D) of section 1751.02 of the Revised Code, 24803
or as otherwise provided by law, no board, commission, agency, or 24804
other entity under the control of a political subdivision may 24805
accept insurance risk in providing for health care services. 24806
However, nothing in this division shall be construed as 24807
prohibiting such entities from purchasing the services of a health 24808
insuring corporation or a third-party administrator licensed under 24809
Chapter 3959. of the Revised Code. 24810

(P) "Intermediary organization" means a health delivery 24811
network or other entity that contracts with licensed health 24812
insuring corporations or self-insured employers, or both, to 24813
provide health care services, and that enters into contractual 24814
arrangements with other entities for the provision of health care 24815
services for the purpose of fulfilling the terms of its contracts 24816
with the health insuring corporations and self-insured employers. 24817

(Q) "Intermediate care" means residential care above the 24818
level of room and board for patients who require personal 24819
assistance and health-related services, but who do not require 24820
skilled nursing care. 24821

~~(R) "Medicaid" has the same meaning as in section 5111.01 of 24822
the Revised Code. 24823~~

~~(S)~~ "Medical record" means the personal information that 24824
relates to an individual's physical or mental condition, medical 24825
history, or medical treatment. 24826

~~(T) "Medicare" means the program established under Title 24827
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 24828
1395, as amended. 24829~~

~~(U)~~(S)(1) "Open panel plan" means a health care plan that 24830
provides incentives for enrollees to use participating providers 24831
and that also allows enrollees to use providers that are not 24832
participating providers. 24833

(2) No health insuring corporation may offer an open panel 24834
plan, unless the health insuring corporation is also licensed as 24835
an insurer under Title XXXIX of the Revised Code, the health 24836
insuring corporation, on June 4, 1997, holds a certificate of 24837
authority or license to operate under Chapter 1736. or 1740. of 24838
the Revised Code, or an insurer licensed under Title XXXIX of the 24839
Revised Code is responsible for the out-of-network risk as 24840
evidenced by both an evidence of coverage filing under section 24841
1751.11 of the Revised Code and a policy and certificate filing 24842
under section 3923.02 of the Revised Code. 24843

~~(V)~~(T) "Osteopathic hospital" means a hospital registered 24844
under section 3701.07 of the Revised Code that advocates 24845
osteopathic principles and the practice and perpetuation of 24846
osteopathic medicine by doing any of the following: 24847

(1) Maintaining a department or service of osteopathic 24848

medicine or a committee on the utilization of osteopathic 24849
principles and methods, under the supervision of an osteopathic 24850
physician; 24851

(2) Maintaining an active medical staff, the majority of 24852
which is comprised of osteopathic physicians; 24853

(3) Maintaining a medical staff executive committee that has 24854
osteopathic physicians as a majority of its members. 24855

~~(W)~~(U) "Panel" means a group of providers or health care 24856
facilities that have joined together to deliver health care 24857
services through a contractual arrangement with a health insuring 24858
corporation, employer group, or other payor. 24859

~~(X)~~(V) "Person" has the same meaning as in section 1.59 of 24860
the Revised Code, and, unless the context otherwise requires, 24861
includes any insurance company holding a certificate of authority 24862
under Title XXXIX of the Revised Code, any subsidiary and 24863
affiliate of an insurance company, and any government agency. 24864

~~(Y)~~(W) "Premium rate" means any set fee regularly paid by a 24865
subscriber to a health insuring corporation. A "premium rate" does 24866
not include a one-time membership fee, an annual administrative 24867
fee, or a nominal access fee, paid to a managed health care system 24868
under which the recipient of health care services remains solely 24869
responsible for any charges accessed for those services by the 24870
provider or health care facility. 24871

~~(Z)~~(X) "Primary care provider" means a provider that is 24872
designated by a health insuring corporation to supervise, 24873
coordinate, or provide initial care or continuing care to an 24874
enrollee, and that may be required by the health insuring 24875
corporation to initiate a referral for specialty care and to 24876
maintain supervision of the health care services rendered to the 24877
enrollee. 24878

~~(AA)~~(Y) "Provider" means any natural person or partnership of 24879

natural persons who are licensed, certified, accredited, or 24880
otherwise authorized in this state to furnish health care 24881
services, or any professional association organized under Chapter 24882
1785. of the Revised Code, provided that nothing in this chapter 24883
or other provisions of law shall be construed to preclude a health 24884
insuring corporation, health care practitioner, or organized 24885
health care group associated with a health insuring corporation 24886
from employing certified nurse practitioners, certified nurse 24887
anesthetists, clinical nurse specialists, certified nurse 24888
midwives, dietitians, physician assistants, dental assistants, 24889
dental hygienists, optometric technicians, or other allied health 24890
personnel who are licensed, certified, accredited, or otherwise 24891
authorized in this state to furnish health care services. 24892

~~(BB)~~(Z) "Provider sponsored organization" means a 24893
corporation, as defined in division (H) of this section, that is 24894
at least eighty per cent owned or controlled by one or more 24895
hospitals, as defined in section 3727.01 of the Revised Code, or 24896
one or more physicians licensed to practice medicine or surgery or 24897
osteopathic medicine and surgery under Chapter 4731. of the 24898
Revised Code, or any combination of such physicians and hospitals. 24899
Such control is presumed to exist if at least eighty per cent of 24900
the voting rights or governance rights of a provider sponsored 24901
organization are directly or indirectly owned, controlled, or 24902
otherwise held by any combination of the physicians and hospitals 24903
described in this division. 24904

~~(CC)~~(AA) "Solicitation document" means the written materials 24905
provided to prospective subscribers or enrollees, or both, and 24906
used for advertising and marketing to induce enrollment in the 24907
health care plans of a health insuring corporation. 24908

~~(DD)~~(BB) "Subscriber" means a person who is responsible for 24909
making payments to a health insuring corporation for participation 24910
in a health care plan, or an enrollee whose employment or other 24911

status is the basis of eligibility for enrollment in a health 24912
insuring corporation. 24913

~~(EE)~~(CC) "Urgent care services" means those health care 24914
services that are appropriately provided for an unforeseen 24915
condition of a kind that usually requires medical attention 24916
without delay but that does not pose a threat to the life, limb, 24917
or permanent health of the injured or ill person, and may include 24918
such health care services provided out of the health insuring 24919
corporation's approved service area pursuant to indemnity payments 24920
or service agreements. 24921

Sec. 1751.11. (A) Every subscriber of a health insuring 24922
corporation is entitled to an evidence of coverage for the health 24923
care plan under which health care benefits are provided. 24924

(B) Every subscriber of a health insuring corporation that 24925
offers basic health care services is entitled to an identification 24926
card or similar document that specifies the health insuring 24927
corporation's name as stated in its articles of incorporation, and 24928
any trade or fictitious names used by the health insuring 24929
corporation. The identification card or document shall list at 24930
least one toll-free telephone number that provides the subscriber 24931
with access, to information on a twenty-four-hours-per-day, 24932
seven-days-per-week basis, as to how health care services may be 24933
obtained. The identification card or document shall also list at 24934
least one toll-free number that, during normal business hours, 24935
provides the subscriber with access to information on the coverage 24936
available under the subscriber's health care plan and information 24937
on the health care plan's internal and external review processes. 24938

(C) No evidence of coverage, or amendment to the evidence of 24939
coverage, shall be delivered, issued for delivery, renewed, or 24940
used, until the form of the evidence of coverage or amendment has 24941
been filed by the health insuring corporation with the 24942

superintendent of insurance. If the superintendent does not 24943
disapprove the evidence of coverage or amendment within sixty days 24944
after it is filed it shall be deemed approved, unless the 24945
superintendent sooner gives approval for the evidence of coverage 24946
or amendment. With respect to an amendment to an approved evidence 24947
of coverage, the superintendent only may disapprove provisions 24948
amended or added to the evidence of coverage. If the 24949
superintendent determines within the sixty-day period that any 24950
evidence of coverage or amendment fails to meet the requirements 24951
of this section, the superintendent shall so notify the health 24952
insuring corporation and it shall be unlawful for the health 24953
insuring corporation to use such evidence of coverage or 24954
amendment. At any time, the superintendent, upon at least thirty 24955
days' written notice to a health insuring corporation, may 24956
withdraw an approval, deemed or actual, of any evidence of 24957
coverage or amendment on any of the grounds stated in this 24958
section. Such disapproval shall be effected by a written order, 24959
which shall state the grounds for disapproval and shall be issued 24960
in accordance with Chapter 119. of the Revised Code. 24961

(D) No evidence of coverage or amendment shall be delivered, 24962
issued for delivery, renewed, or used: 24963

(1) If it contains provisions or statements that are 24964
inequitable, untrue, misleading, or deceptive; 24965

(2) Unless it contains a clear, concise, and complete 24966
statement of the following: 24967

(a) The health care services and insurance or other benefits, 24968
if any, to which an enrollee is entitled under the health care 24969
plan; 24970

(b) Any exclusions or limitations on the health care 24971
services, type of health care services, benefits, or type of 24972
benefits to be provided, including copayments and deductibles; 24973

(c) An enrollee's personal financial obligation for noncovered services;	24974 24975
(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;	24976 24977 24978
(e) The premium rate with respect to individual and conversion contracts, and relevant copayment and deductible provisions with respect to all contracts. The statement of the premium rate, however, may be contained in a separate insert.	24979 24980 24981 24982
(f) The method utilized by the health insuring corporation for resolving enrollee complaints;	24983 24984
(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.83 and Chapter 3922. of the Revised Code.	24985 24986 24987
(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a hospital. This continuation of coverage shall terminate at the earliest occurrence of any of the following:	24988 24989 24990 24991 24992 24993
(a) The enrollee's discharge from the hospital;	24994
(b) The determination by the enrollee's attending physician that inpatient care is no longer medically indicated for the enrollee; however, nothing in division (D)(3)(b) of this section precludes a health insuring corporation from engaging in utilization review as described in the evidence of coverage.	24995 24996 24997 24998 24999
(c) The enrollee's reaching the limit for contractual benefits;	25000 25001
(d) The effective date of any new coverage.	25002
(4) Unless it contains a provision that states, in substance,	25003

that the health insuring corporation is not a member of any 25004
guaranty fund, and that in the event of the health insuring 25005
corporation's insolvency, an enrollee is protected only to the 25006
extent that the hold harmless provision required by section 25007
1751.13 of the Revised Code applies to the health care services 25008
rendered; 25009

(5) Unless it contains a provision that states, in substance, 25010
that in the event of the insolvency of the health insuring 25011
corporation, an enrollee may be financially responsible for health 25012
care services rendered by a provider or health care facility that 25013
is not under contract to the health insuring corporation, whether 25014
or not the health insuring corporation authorized the use of the 25015
provider or health care facility. 25016

(E) Notwithstanding divisions (C) and (D) of this section, a 25017
health insuring corporation may use an evidence of coverage that 25018
provides for the coverage of beneficiaries enrolled in medicare 25019
pursuant to a medicare contract, or an evidence of coverage that 25020
provides for the coverage of beneficiaries enrolled in the federal 25021
employees health benefits program pursuant to 5 U.S.C.A. 8905, or 25022
an evidence of coverage that provides for the coverage of medicaid 25023
recipients, or an evidence of coverage that provides for the 25024
coverage of beneficiaries under any other federal health care 25025
program regulated by a federal regulatory body, or an evidence of 25026
coverage that provides for the coverage of beneficiaries under any 25027
contract covering officers or employees of the state that has been 25028
entered into by the department of administrative services, if both 25029
of the following apply: 25030

(1) The evidence of coverage has been approved by the United 25031
States department of health and human services, the United States 25032
office of personnel management, the ~~Ohio~~ department of ~~job and~~ 25033
~~family services~~ medicaid, or the department of administrative 25034
services. 25035

(2) The evidence of coverage is filed with the superintendent 25036
of insurance prior to use and is accompanied by documentation of 25037
approval from the United States department of health and human 25038
services, the United States office of personnel management, the 25039
~~Ohio~~ department of ~~job and family services~~ medicaid, or the 25040
department of administrative services. 25041

Sec. 1751.12. (A)(1) No contractual periodic prepayment and 25042
no premium rate for nongroup and conversion policies for health 25043
care services, or any amendment to them, may be used by any health 25044
insuring corporation at any time until the contractual periodic 25045
prepayment and premium rate, or amendment, have been filed with 25046
the superintendent of insurance, and shall not be effective until 25047
the expiration of sixty days after their filing unless the 25048
superintendent sooner gives approval. The filing shall be 25049
accompanied by an actuarial certification in the form prescribed 25050
by the superintendent. The superintendent shall disapprove the 25051
filing, if the superintendent determines within the sixty-day 25052
period that the contractual periodic prepayment or premium rate, 25053
or amendment, is not in accordance with sound actuarial principles 25054
or is not reasonably related to the applicable coverage and 25055
characteristics of the applicable class of enrollees. The 25056
superintendent shall notify the health insuring corporation of the 25057
disapproval, and it shall thereafter be unlawful for the health 25058
insuring corporation to use the contractual periodic prepayment or 25059
premium rate, or amendment. 25060

(2) No contractual periodic prepayment for group policies for 25061
health care services shall be used until the contractual periodic 25062
prepayment has been filed with the superintendent. The filing 25063
shall be accompanied by an actuarial certification in the form 25064
prescribed by the superintendent. The superintendent may reject a 25065
filing made under division (A)(2) of this section at any time, 25066
with at least thirty days' written notice to a health insuring 25067

corporation, if the contractual periodic prepayment is not in 25068
accordance with sound actuarial principles or is not reasonably 25069
related to the applicable coverage and characteristics of the 25070
applicable class of enrollees. 25071

(3) At any time, the superintendent, upon at least thirty 25072
days' written notice to a health insuring corporation, may 25073
withdraw the approval given under division (A)(1) of this section, 25074
deemed or actual, of any contractual periodic prepayment or 25075
premium rate, or amendment, based on information that either of 25076
the following applies: 25077

(a) The contractual periodic prepayment or premium rate, or 25078
amendment, is not in accordance with sound actuarial principles. 25079

(b) The contractual periodic prepayment or premium rate, or 25080
amendment, is not reasonably related to the applicable coverage 25081
and characteristics of the applicable class of enrollees. 25082

(4) Any disapproval under division (A)(1) of this section, 25083
any rejection of a filing made under division (A)(2) of this 25084
section, or any withdrawal of approval under division (A)(3) of 25085
this section, shall be effected by a written notice, which shall 25086
state the specific basis for the disapproval, rejection, or 25087
withdrawal and shall be issued in accordance with Chapter 119. of 25088
the Revised Code. 25089

(B) Notwithstanding division (A) of this section, a health 25090
insuring corporation may use a contractual periodic prepayment or 25091
premium rate for policies used for the coverage of beneficiaries 25092
enrolled in medicare pursuant to a medicare risk contract or 25093
medicare cost contract, or for policies used for the coverage of 25094
beneficiaries enrolled in the federal employees health benefits 25095
program pursuant to 5 U.S.C.A. 8905, or for policies used for the 25096
coverage of medicaid recipients, or for policies used for the 25097
coverage of beneficiaries under any other federal health care 25098

program regulated by a federal regulatory body, or for policies 25099
used for the coverage of beneficiaries under any contract covering 25100
officers or employees of the state that has been entered into by 25101
the department of administrative services, if both of the 25102
following apply: 25103

(1) The contractual periodic prepayment or premium rate has 25104
been approved by the United States department of health and human 25105
services, the United States office of personnel management, the 25106
department of ~~job and family services~~ medicaid, or the department 25107
of administrative services. 25108

(2) The contractual periodic prepayment or premium rate is 25109
filed with the superintendent prior to use and is accompanied by 25110
documentation of approval from the United States department of 25111
health and human services, the United States office of personnel 25112
management, the department of ~~job and family services~~ medicaid, or 25113
the department of administrative services. 25114

(C) The administrative expense portion of all contractual 25115
periodic prepayment or premium rate filings submitted to the 25116
superintendent for review must reflect the actual cost of 25117
administering the product. The superintendent may require that the 25118
administrative expense portion of the filings be itemized and 25119
supported. 25120

(D)(1) Copayments must be reasonable and must not be a 25121
barrier to the necessary utilization of services by enrollees. 25122

(2) A health insuring corporation, in order to ensure that 25123
copayments are reasonable and not a barrier to the necessary 25124
utilization of basic health care services by enrollees, may do one 25125
of the following: 25126

(a) Impose copayment charges on any single covered basic 25127
health care service that does not exceed forty per cent of the 25128
average cost to the health insuring corporation of providing the 25129

service; 25130

(b) Impose copayment charges that annually do not exceed 25131
twenty per cent of the total annual cost to the health insuring 25132
corporation of providing all covered basic health care services, 25133
including physician office visits, urgent care services, and 25134
emergency health services, when aggregated as to all persons 25135
covered under the filed product in question. In addition, annual 25136
copayment charges as to each enrollee shall not exceed twenty per 25137
cent of the total annual cost to the health insuring corporation 25138
of providing all covered basic health care services, including 25139
physician office visits, urgent care services, and emergency 25140
health services, as to such enrollee. The total annual cost of 25141
providing a health care service is the cost to the health insuring 25142
corporation of providing the health care service to its enrollees 25143
as reduced by any applicable provider discount. 25144

(3) To ensure that copayments are reasonable and not a 25145
barrier to the utilization of basic health care services, a health 25146
insuring corporation may not impose, in any contract year, on any 25147
subscriber or enrollee, copayments that exceed two hundred per 25148
cent of the average annual premium rate to subscribers or 25149
enrollees. 25150

(4) For purposes of division (D) of this section, both of the 25151
following apply: 25152

(a) Copayments imposed by health insuring corporations in 25153
connection with a high deductible health plan that is linked to a 25154
health savings account are reasonable and are not a barrier to the 25155
necessary utilization of services by enrollees. 25156

(b) Divisions (D)(2) and (3) of this section do not apply to 25157
a high deductible health plan that is linked to a health savings 25158
account. 25159

(E) A health insuring corporation shall not impose lifetime 25160

maximums on basic health care services. However, a health insuring 25161
corporation may establish a benefit limit for inpatient hospital 25162
services that are provided pursuant to a policy, contract, 25163
certificate, or agreement for supplemental health care services. 25164

(F) A health insuring corporation may require that an 25165
enrollee pay an annual deductible that does not exceed one 25166
thousand dollars per enrollee or two thousand dollars per family, 25167
except that: 25168

(1) A health insuring corporation may impose higher 25169
deductibles for high deductible health plans that are linked to 25170
health savings accounts; 25171

(2) The superintendent may adopt rules allowing different 25172
annual deductible amounts for plans with a medical savings 25173
account, health reimbursement arrangement, flexible spending 25174
account, or similar account; 25175

(3) A health insuring corporation may impose higher 25176
deductibles under health plans if requested by the group contract, 25177
policy, certificate, or agreement holder, or an individual seeking 25178
coverage under an individual health plan. This shall not be 25179
construed as requiring the health insuring corporation to create 25180
customized health plans for group contract holders or individuals. 25181

(G) As used in this section, "health savings account" and 25182
"high deductible health plan" have the same meanings as in the 25183
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 223, as 25184
amended. 25185

Sec. 1751.14. (A) Notwithstanding section 3901.71 of the 25186
Revised Code, any policy, contract, or agreement for health care 25187
services authorized by this chapter that is issued, delivered, or 25188
renewed in this state and that provides that coverage of an 25189
unmarried dependent child will terminate upon attainment of the 25190

limiting age for dependent children specified in the policy, 25191
contract, or agreement, shall also provide in substance both of 25192
the following: 25193

(1) Once an unmarried child has attained the limiting age for 25194
dependent children, as provided in the policy, contract, or 25195
agreement, upon the request of the subscriber, the health insuring 25196
corporation shall offer to cover the unmarried child until the 25197
child attains twenty-eight years of age if all of the following 25198
are true: 25199

(a) The child is the natural child, stepchild, or adopted 25200
child of the subscriber. 25201

(b) The child is a resident of this state or a full-time 25202
student at an accredited public or private institution of higher 25203
education. 25204

(c) The child is not employed by an employer that offers any 25205
health benefit plan under which the child is eligible for 25206
coverage. 25207

(d) The child is not eligible for coverage under the medicaid 25208
~~program established under Chapter 5111. of the Revised Code~~ or the 25209
~~medicare program established under Title XVIII of the "Social~~ 25210
~~Security Act," 42 U.S.C. 1395.~~ 25211

(2) That attainment of the limiting age for dependent 25212
children shall not operate to terminate the coverage of a 25213
dependent child if the child is and continues to be both of the 25214
following: 25215

(a) Incapable of self-sustaining employment by reason of 25216
mental retardation or physical handicap; 25217

(b) Primarily dependent upon the subscriber for support and 25218
maintenance. 25219

(B) Proof of incapacity and dependence for purposes of 25220

division (A)(2) of this section shall be furnished to the health 25221
insuring corporation within thirty-one days of the child's 25222
attainment of the limiting age. Upon request, but not more 25223
frequently than annually, the health insuring corporation may 25224
require proof satisfactory to it of the continuance of such 25225
incapacity and dependency. 25226

(C) Nothing in this section shall do any of the following: 25227

(1) Require that any policy, contract, or agreement offer 25228
coverage for dependent children or provide coverage for an 25229
unmarried dependent child's children as dependents on the policy, 25230
contract, or agreement; 25231

(2) Require an employer to pay for any part of the premium 25232
for an unmarried dependent child that has attained the limiting 25233
age for dependents, as provided in the policy, contract, or 25234
agreement; 25235

(3) Require an employer to offer health insurance coverage to 25236
the dependents of any employee. 25237

(D) This section does not apply to any health insuring 25238
corporation policy, contract, or agreement offering only 25239
supplemental health care services or specialty health care 25240
services. 25241

(E) As used in this section, "health benefit plan" has the 25242
same meaning as in section 3924.01 of the Revised Code and also 25243
includes both of the following: 25244

(1) A public employee benefit plan; 25245

(2) A health benefit plan as regulated under the "Employee 25246
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 25247

Sec. 1751.271. (A) Each health insuring corporation that 25248
provides coverage to medicaid recipients shall post a performance 25249
bond in the amount of three million dollars as security to fulfill 25250

the obligations of the health insuring corporation to pay claims 25251
of contracted providers for covered health care services provided 25252
to medicaid recipients. The bond shall be payable to the 25253
department of insurance in the event that the health insuring 25254
corporation is placed in rehabilitation or liquidation proceedings 25255
under Chapter 3903. of the Revised Code, and shall become a 25256
special deposit subject to section 3903.14 or 3903.421 of the 25257
Revised Code, as applicable. In lieu of the performance bond, a 25258
medicaid health insuring corporation may deposit securities with 25259
the superintendent of insurance, acceptable to the superintendent, 25260
in the amount of three million dollars, to satisfy the bonding 25261
requirements of this section. Upon rehabilitation or liquidation, 25262
the securities shall become a special deposit subject to sections 25263
3903.14 and 3903.421 of the Revised Code, as applicable. The 25264
health insuring corporation shall receive the interest on the 25265
deposited securities as long as the health insuring corporation 25266
remains solvent. 25267

(B) The bond shall be issued by a surety company licensed 25268
with the department of insurance. The bond or deposit, or any 25269
replacement bond or deposit, shall be in a form acceptable to the 25270
superintendent, and shall remain in effect during the duration of 25271
the medicaid health insuring corporation's license and thereafter 25272
until all claims against the medicaid health insuring corporation 25273
have been paid in full. 25274

(C) Documentation of the bond acceptable to the 25275
superintendent of insurance shall be filed with the superintendent 25276
prior to the issuance of a certificate of authority. Annually, 25277
thirty days prior to the renewal of its certificate of authority, 25278
every medicaid health insuring corporation shall furnish the 25279
superintendent of insurance with evidence that the required bond 25280
is still in effect. 25281

(D) As used in this section: 25282

(1) "Contracted provider" means a provider that has a 25283
contract with a medicaid health insuring corporation to provide 25284
covered health care services to medicaid recipients. 25285

(2) "Medicaid health insuring corporation" means a health 25286
insuring corporation that provides health insurance coverage or 25287
otherwise assumes claims liabilities for medicaid recipients. 25288

(3) "Medicaid recipient" means a person ~~eligible for~~ 25289
~~assistance under~~ enrolled in the medicaid program ~~operated~~ 25290
~~pursuant to Chapter 5111. of the Revised Code.~~ 25291

Sec. 1751.31. (A) Any changes in a health insuring 25292
corporation's solicitation document shall be filed with the 25293
superintendent of insurance. The superintendent, within sixty days 25294
of filing, may disapprove any solicitation document or amendment 25295
to it on any of the grounds stated in this section. Such 25296
disapproval shall be effected by written notice to the health 25297
insuring corporation. The notice shall state the grounds for 25298
disapproval and shall be issued in accordance with Chapter 119. of 25299
the Revised Code. 25300

(B) The solicitation document shall contain all information 25301
necessary to enable a consumer to make an informed choice as to 25302
whether or not to enroll in the health insuring corporation. The 25303
information shall include a specific description of the health 25304
care services to be available and the approximate number and type 25305
of full-time equivalent medical practitioners. The information 25306
shall be presented in the solicitation document in a manner that 25307
is clear, concise, and intelligible to prospective applicants in 25308
the proposed service area. 25309

(C) Every potential applicant whose subscription to a health 25310
care plan is solicited shall receive, at or before the time of 25311
solicitation, a solicitation document approved by the 25312
superintendent. 25313

(D) Notwithstanding division (A) of this section, a health insuring corporation may use a solicitation document that the corporation uses in connection with policies for medicare beneficiaries pursuant to a medicare risk contract or medicare cost contract, or for policies for beneficiaries of the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies for medicaid recipients, or for policies for beneficiaries of any other federal health care program regulated by a federal regulatory body, or for policies for beneficiaries of contracts covering officers or employees of the state entered into by the department of administrative services, if both of the following apply:

(1) The solicitation document has been approved by the United States department of health and human services, the United States office of personnel management, the department of ~~job and family services~~ medicaid, or the department of administrative services.

(2) The solicitation document is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the department of ~~job and family services~~ medicaid, or the department of administrative services.

(E) No health insuring corporation, or its agents or representatives, shall use monetary or other valuable consideration, engage in misleading or deceptive practices, or make untrue, misleading, or deceptive representations to induce enrollment. Nothing in this division shall prohibit incentive forms of remuneration such as commission sales programs for the health insuring corporation's employees and agents.

(F) Any person obligated for any part of a premium rate in connection with an enrollment agreement, in addition to any right otherwise available to revoke an offer, may cancel such agreement

within seventy-two hours after having signed the agreement or 25346
offer to enroll. Cancellation occurs when written notice of the 25347
cancellation is given to the health insuring corporation or its 25348
agents or other representatives. A notice of cancellation mailed 25349
to the health insuring corporation shall be considered to have 25350
been filed on its postmark date. 25351

(G) Nothing in this section shall prohibit healthy lifestyle 25352
programs. 25353

Sec. 1751.60. (A) Except as provided for in divisions (E) and 25354
(F) of this section, every provider or health care facility that 25355
contracts with a health insuring corporation to provide health 25356
care services to the health insuring corporation's enrollees or 25357
subscribers shall seek compensation for covered services solely 25358
from the health insuring corporation and not, under any 25359
circumstances, from the enrollees or subscribers, except for 25360
approved copayments and deductibles. 25361

(B) No subscriber or enrollee of a health insuring 25362
corporation is liable to any contracting provider or health care 25363
facility for the cost of any covered health care services, if the 25364
subscriber or enrollee has acted in accordance with the evidence 25365
of coverage. 25366

(C) Except as provided for in divisions (E) and (F) of this 25367
section, every contract between a health insuring corporation and 25368
provider or health care facility shall contain a provision 25369
approved by the superintendent of insurance requiring the provider 25370
or health care facility to seek compensation solely from the 25371
health insuring corporation and not, under any circumstances, from 25372
the subscriber or enrollee, except for approved copayments and 25373
deductibles. 25374

(D) Nothing in this section shall be construed as preventing 25375
a provider or health care facility from billing the enrollee or 25376

subscriber of a health insuring corporation for noncovered 25377
services. 25378

(E) Upon application by a health insuring corporation and a 25379
provider or health care facility, the superintendent may waive the 25380
requirements of divisions (A) and (C) of this section when, in 25381
addition to the reserve requirements contained in section 1751.28 25382
of the Revised Code, the health insuring corporation provides 25383
sufficient assurances to the superintendent that the provider or 25384
health care facility has been provided with financial guarantees. 25385
No waiver of the requirements of divisions (A) and (C) of this 25386
section is effective as to enrollees or subscribers for whom the 25387
health insuring corporation is compensated under a provider 25388
agreement or risk contract entered into ~~pursuant to Chapter 5111-~~ 25389
~~or 5115. of the Revised Code~~ under the medicaid program. 25390

(F) The requirements of divisions (A) to (C) of this section 25391
apply only to health care services provided to an enrollee or 25392
subscriber prior to the effective date of a termination of a 25393
contract between the health insuring corporation and the provider 25394
or health care facility. 25395

Sec. 1923.14. (A) Except as otherwise provided in this 25396
section, within ten days after receiving a writ of execution 25397
described in division (A) or (B) of section 1923.13 of the Revised 25398
Code, the sheriff, police officer, constable, or bailiff shall 25399
execute it by restoring the plaintiff to the possession of the 25400
premises, and shall levy and collect the costs and make return, as 25401
upon other executions. If an appeal from the judgment of 25402
restitution is filed and if, following the filing of the appeal, a 25403
stay of execution is obtained and any required bond is filed with 25404
the court of common pleas, municipal court, or county court, the 25405
judge of that court immediately shall issue an order to the 25406
sheriff, police officer, constable, or bailiff commanding the 25407

delay of all further proceedings upon the execution. If the 25408
premises have been restored to the plaintiff, the sheriff, police 25409
officer, constable, or bailiff shall forthwith place the defendant 25410
in possession of them, and return the writ with the sheriff's, 25411
police officer's, constable's, or bailiff's proceedings and the 25412
costs taxed on it. 25413

(B)(1) After a court of common pleas, municipal court, or 25414
county court issues a writ of execution described in division (B) 25415
of section 1923.13 of the Revised Code, the clerk of the court 25416
shall send by regular mail, to the last known address of the 25417
titled owner of the manufactured home, mobile home, or 25418
recreational vehicle that is the subject of the writ and to the 25419
last known address of each other person who is listed on the writ 25420
as having any outstanding right, title, or interest in the home, 25421
vehicle, or personal property and to the auditor and treasurer of 25422
the county in which the court is located, a written notice that 25423
the home or vehicle potentially may be sold, destroyed, or have 25424
its title transferred under the circumstances described in 25425
division (B)(3) or (4) of this section. 25426

(2) Except as otherwise provided in this division, after 25427
receiving a writ of execution described in division (B) of section 25428
1923.13 of the Revised Code, and after causing the defendant to be 25429
removed from the residential premises of the manufactured home 25430
park, if necessary, in accordance with the writ, the sheriff, 25431
police officer, constable, or bailiff may cause the manufactured 25432
home, mobile home, or recreational vehicle that is the subject of 25433
the writ, and all personal property on the residential premises, 25434
at the sheriff's, police officer's, constable's, or bailiff's 25435
option, either to be removed from the manufactured home park and, 25436
if necessary, moved to a storage facility of the sheriff's, police 25437
officer's, constable's, or bailiff's choice, or to be retained at 25438
their current location on the residential premises, until they are 25439

claimed by the defendant or they are disposed of in a manner 25440
authorized by division (B)(3), (4), or (6) of this section or by 25441
another section of the Revised Code. The sheriff, police officer, 25442
constable, or bailiff shall not cause the manufactured home, 25443
mobile home, or recreational vehicle that is the subject of the 25444
writ, or the personal property, to be removed from the 25445
manufactured home park or moved to a storage facility if the 25446
holder of any outstanding lien, right, title, or interest in the 25447
home or vehicle, other than the titled owner of the home or 25448
vehicle, meets the conditions set forth in division (B)(6) or (7) 25449
of this section. 25450

The sheriff, police officer, constable, or bailiff who 25451
removes the manufactured home, mobile home, or recreational 25452
vehicle, or the abandoned personal property, from the residential 25453
premises shall be immune from civil liability pursuant to section 25454
2744.03 of the Revised Code for any damage caused to the home, 25455
vehicle, or any personal property during the removal. The park 25456
operator shall not be liable for any damage caused by the park 25457
operator's removal of the manufactured home, mobile home, or 25458
recreational vehicle or the removal of the personal property from 25459
the residential premises, or for any damage to the home, vehicle, 25460
or personal property during the time the home, vehicle, or 25461
property remains abandoned or stored in the manufactured home 25462
park, unless the damage is the result of acts that the park 25463
operator or the park operator's agents or employees performed with 25464
malicious purpose, in bad faith, or in a wanton or reckless 25465
manner. The reasonable costs for a removal of the manufactured 25466
home, mobile home, or recreational vehicle and personal property 25467
and, as applicable, the reasonable costs for its storage shall 25468
constitute a lien upon the home or vehicle payable by the titled 25469
owner of the home or vehicle or payable pursuant to division 25470
(B)(3) of this section. 25471

(3) Except as provided in divisions (B)(4), (5), and (6) of 25472
this section and division (D) of section 1923.12 of the Revised 25473
Code, within sixty days after receiving a writ of execution 25474
described in division (B) of section 1923.13 of the Revised Code, 25475
the sheriff, police officer, constable, or bailiff shall commence 25476
proceedings for the sale of the manufactured home, mobile home, or 25477
recreational vehicle that is the subject of the writ, and the 25478
abandoned personal property on the residential premises, if the 25479
home or vehicle is determined to be abandoned in accordance with 25480
the procedures for the sale of goods on execution under Chapter 25481
2329. of the Revised Code. In addition to all notices required to 25482
be given under section 2329.13 of the Revised Code, the sheriff, 25483
police officer, constable, or bailiff shall serve at their 25484
respective last known addresses a written notice of the date, 25485
time, and place of the sale upon all persons who are listed on the 25486
writ of execution as having any outstanding right, title, or 25487
interest in the abandoned manufactured home, mobile home, or 25488
recreational vehicle and the personal property and shall provide 25489
written notice to the auditor and the treasurer of the county in 25490
which the court issuing the writ is located. 25491

Unless the proceedings are governed by division (D) of 25492
section 1923.12 of the Revised Code, notwithstanding any statutory 25493
provision to the contrary, including, but not limited to, section 25494
2329.66 of the Revised Code, there shall be no stay of execution 25495
or exemption from levy or sale on execution available to the 25496
titled owner of the abandoned manufactured home, mobile home, or 25497
recreational vehicle in relation to a sale under this division. 25498
Except as otherwise provided in sections 2113.031, 2117.25, and 25499
~~5111.11~~ 5162.21 of the Revised Code in a case involving a deceased 25500
resident or resident's estate, the sheriff, police officer, 25501
constable, or bailiff shall distribute the proceeds from the sale 25502
of an abandoned manufactured home, mobile home, or recreational 25503
vehicle and any personal property under this division in the 25504

following manner: 25505

(a) The sheriff, police officer, constable, or bailiff shall 25506
first pay the costs for any moving of and any storage outside the 25507
manufactured home park of the home or vehicle and any personal 25508
property pursuant to division (B)(2) of this section, the costs of 25509
the sale, including reimbursing the park operator for the deposit 25510
that the park operator paid to the clerk of court under division 25511
(C) of section 1923.12 of the Revised Code, and any unpaid court 25512
costs assessed against the defendant in the underlying action. 25513

(b) Following the payment required by division (B)(3)(a) of 25514
this section, the sheriff, police officer, constable, or bailiff 25515
shall pay all outstanding tax liens on the home or vehicle. 25516

(c) Following the payment required by division (B)(3)(b) of 25517
this section, the sheriff, police officer, constable, or bailiff 25518
shall pay all other outstanding security interests, liens, or 25519
encumbrances on the home or vehicle by priority of filing or other 25520
priority. 25521

(d) Following the payment required by division (B)(3)(c) of 25522
this section, the sheriff, police officer, constable, or bailiff 25523
shall pay any outstanding monetary judgment rendered under section 25524
1923.09 or 1923.11 of the Revised Code in favor of the plaintiff 25525
and any costs associated with retaining the home or vehicle prior 25526
to the sale at its location on the residential premises within the 25527
manufactured home park pursuant to division (B)(2) of this 25528
section. 25529

(e) After complying with divisions (B)(3)(a) to (d) of this 25530
section, the sheriff, police officer, constable, or bailiff shall 25531
report any remaining money as unclaimed funds pursuant to Chapter 25532
169. of the Revised Code. 25533

Upon the return of any writ of execution for the satisfaction 25534
of which an abandoned manufactured home, mobile home, or 25535

recreational vehicle has been sold under this division, on careful 25536
examination of the proceedings of the sheriff, police officer, 25537
constable, or bailiff conducting the sale, if the court that 25538
issued the writ finds that the sale was made, in all respects, in 25539
conformity with the relevant provisions of Chapter 2329. of the 25540
Revised Code and with this division, it shall direct the clerk of 25541
the court to make an entry on the journal that the court is 25542
satisfied with the legality of the sale and the court shall direct 25543
the clerk of the court of common pleas of the county in which the 25544
writ was issued to issue a certificate of title, free and clear of 25545
all security interests, liens, and encumbrances, to the purchaser 25546
of the home or vehicle. The clerk of the court of common pleas 25547
shall issue the new certificate of title to the purchaser of the 25548
home or vehicle regardless of whether the writ was issued by the 25549
court of common pleas or another court duly authorized to issue 25550
the writ. If the manufactured home, mobile home, or recreational 25551
vehicle sold under this division is located in a manufactured home 25552
park, the purchaser of the home or vehicle shall have no right to 25553
maintain the home or vehicle in the manufactured home park without 25554
the park operator's consent and the sheriff, police officer, 25555
constable, or bailiff conducting the sale shall notify all 25556
prospective purchasers of this fact prior to the commencement of 25557
the sale. 25558

If, after it is offered for sale on two occasions under this 25559
division, the abandoned manufactured home, mobile home, or 25560
recreational vehicle cannot be sold due to a want of bidders, the 25561
sheriff, police officer, constable, or bailiff shall present the 25562
writ of execution unsatisfied to the clerk of the court of common 25563
pleas of the county in which the writ was issued for the issuance 25564
by the clerk in the manner prescribed in section 4505.10 of the 25565
Revised Code of a certificate of title transferring the title of 25566
the home or vehicle to the plaintiff, free and clear of all 25567
security interests, liens, and encumbrances. The clerk of the 25568

court of common pleas shall issue the new certificate of title 25569
transferring the title of the manufactured home, mobile home, or 25570
recreational vehicle to the plaintiff regardless of whether the 25571
writ was issued by the court of common pleas or another court duly 25572
authorized to issue the writ. If any taxes are owed on the home or 25573
vehicle at this time, the county auditor shall remove the 25574
delinquent taxes from the manufactured home tax list and the 25575
delinquent manufactured home tax list and remit any penalties for 25576
late payment of manufactured home taxes. Acceptance of the 25577
certificate of title by the plaintiff terminates all further 25578
proceedings under this section. 25579

(4) Except as provided in division (B)(5) or (6) of this 25580
section and division (D) of section 1923.12 of the Revised Code, 25581
within sixty days after receiving a writ of execution described in 25582
division (B) of section 1923.13 of the Revised Code, if the 25583
manufactured home, mobile home, or recreational vehicle is 25584
determined to be abandoned and to have a value of less than three 25585
thousand dollars, the sheriff, police officer, constable, or 25586
bailiff shall serve at their respective last known addresses a 25587
written notice of potential action as described in this division 25588
upon all persons who are listed on the writ as having any 25589
outstanding right, title, or interest in the home or vehicle. This 25590
notice shall be in addition to all notices required to be given 25591
under section 2329.13 of the Revised Code. Subject to the 25592
fulfillment of these notice requirements, the sheriff, police 25593
officer, constable, or bailiff shall take one of the following 25594
actions with respect to the abandoned manufactured home, mobile 25595
home, or recreational vehicle: 25596

(a) Cause its destruction if there is no person having an 25597
outstanding right, title, or interest in the home or vehicle, 25598
other than the titled owner of the home or vehicle; 25599

(b) Proceed with its sale under division (B)(3) of this 25600

section; 25601

(c) If there is no person having an outstanding right, title, 25602
or interest in the home or vehicle other than the titled owner of 25603
the home or vehicle, or if there is an outstanding right, title, 25604
or interest in the home or vehicle and the lienholder consents in 25605
writing, present the writ of execution to the clerk of the court 25606
of common pleas of the county in which the writ was issued for the 25607
issuance by the clerk in the manner prescribed in section 4505.10 25608
of the Revised Code of a certificate of title transferring the 25609
title of the home or vehicle to the plaintiff, free and clear of 25610
all security interests, liens, and encumbrances. The clerk of the 25611
court of common pleas shall issue the new certificate of title 25612
transferring the title of the home or vehicle regardless of 25613
whether the writ was issued by the court of common pleas or 25614
another court duly authorized to issue the writ. If any taxes are 25615
owed on the home or vehicle at this time, the county auditor shall 25616
remove the delinquent taxes from the manufactured home tax list 25617
and the delinquent manufactured home tax list and remit any 25618
penalties for late payment of manufactured home taxes. Acceptance 25619
of the certificate of title by the plaintiff terminates all 25620
further proceedings under this section. 25621

(5) At any time prior to the issuance of the writ of 25622
execution described in division (B) of section 1923.13 of the 25623
Revised Code, the titled owner of the manufactured home, mobile 25624
home, or recreational vehicle that would be the subject of the 25625
writ may remove the abandoned home or vehicle from the 25626
manufactured home park or other place of storage upon payment to 25627
the county auditor of all outstanding tax liens on the home or 25628
vehicle and, unless the owner is indigent, payment to the clerk of 25629
court of all unpaid court costs assessed against the defendant in 25630
the underlying action. After the issuance of the writ of 25631
execution, the titled owner of the home or vehicle may remove the 25632

abandoned home or vehicle from the manufactured home park or other 25633
place of storage at any time up to the day before the scheduled 25634
sale, destruction, or transfer of the home or vehicle pursuant to 25635
division (B)(3) or (4) of this section upon payment of all of the 25636
following: 25637

(a) All costs for moving and storage of the home or vehicle 25638
pursuant to division (B)(2) of this section and all costs incurred 25639
by the sheriff, police officer, constable, or bailiff up to and 25640
including the date of the removal of the home or vehicle; 25641

(b) All outstanding tax liens on the home or vehicle; 25642

(c) Unless the owner is indigent, all unpaid court costs 25643
assessed against the defendant in the underlying action. 25644

(6) At any time after the issuance of the writ of execution 25645
described in division (B) of section 1923.13 of the Revised Code, 25646
the holder of any outstanding lien, right, title, or interest in 25647
the manufactured home, mobile home, or recreational vehicle, other 25648
than the titled owner of the home or vehicle, may stop the 25649
sheriff, police officer, constable, or bailiff from proceeding 25650
with the sale under this division by doing both of the following: 25651

(a) Commencing a proceeding to repossess the home or vehicle 25652
pursuant to Chapters 1309. and 1317. of the Revised Code; 25653

(b) Paying to the park operator all monthly rental payments 25654
for the lot on which the home or vehicle is located from the time 25655
of the issuance of the writ of execution until the time that the 25656
home or vehicle is sold pursuant to Chapters 1309. and 1317. of 25657
the Revised Code. 25658

(7)(a) At any time prior to the day before the scheduled sale 25659
of the property pursuant to division (B)(3) of this section, the 25660
defendant may remove any personal property of the defendant from 25661
the abandoned home or vehicle or other place of storage. 25662

(b) If personal property owned by a person other than the defendant is abandoned on the residential premises and has not previously been removed, the owner of the personal property may remove the personal property from the abandoned home or vehicle or other place of storage up to the day before the scheduled sale of the property pursuant to division (B)(3) of this section upon presentation of proof of ownership of the property that is satisfactory to the sheriff, police officer, constable, or bailiff conducting the sale.

Sec. 2101.24. (A)(1) Except as otherwise provided by law, the probate court has exclusive jurisdiction:

(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.

(b) To grant and revoke letters testamentary and of administration;

(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;	25693 25694 25695 25696 25697
(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;	25698 25699 25700
(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;	25701 25702 25703 25704
(j) To authorize the completion of real property contracts on petition of executors and administrators;	25705 25706
(k) To construe wills;	25707
(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;	25708 25709 25710
(m) To direct and control the conduct of fiduciaries and settle their accounts;	25711 25712
(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	25713 25714
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	25715 25716
(p) To hear and determine actions to contest the validity of wills;	25717 25718
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	25719 25720 25721
(r) To hear and determine an action commenced pursuant to	25722

section 3107.41 of the Revised Code to obtain the release of 25723
information pertaining to the birth name of the adopted person and 25724
the identity of the adopted person's biological parents and 25725
biological siblings; 25726

(s) To act for and issue orders regarding wards pursuant to 25727
section 2111.50 of the Revised Code; 25728

(t) To hear and determine actions against sureties on the 25729
bonds of fiduciaries appointed by the probate court; 25730

(u) To hear and determine actions involving informed consent 25731
for medication of persons hospitalized pursuant to section 25732
5122.141 or 5122.15 of the Revised Code; 25733

(v) To hear and determine actions relating to durable powers 25734
of attorney for health care as described in division (D) of 25735
section 1337.16 of the Revised Code; 25736

(w) To hear and determine actions commenced by objecting 25737
individuals, in accordance with section 2133.05 of the Revised 25738
Code; 25739

(x) To hear and determine complaints that pertain to the use 25740
or continuation, or the withholding or withdrawal, of 25741
life-sustaining treatment in connection with certain patients 25742
allegedly in a terminal condition or in a permanently unconscious 25743
state pursuant to division (E) of section 2133.08 of the Revised 25744
Code, in accordance with that division; 25745

(y) To hear and determine applications that pertain to the 25746
withholding or withdrawal of nutrition and hydration from certain 25747
patients allegedly in a permanently unconscious state pursuant to 25748
section 2133.09 of the Revised Code, in accordance with that 25749
section; 25750

(z) To hear and determine applications of attending 25751
physicians in accordance with division (B) of section 2133.15 of 25752

the Revised Code; 25753

(aa) To hear and determine actions relative to the use or 25754
continuation of comfort care in connection with certain principals 25755
under durable powers of attorney for health care, declarants under 25756
declarations, or patients in accordance with division (E) of 25757
either section 1337.16 or 2133.12 of the Revised Code; 25758

(bb) To hear and determine applications for an order 25759
relieving an estate from administration under section 2113.03 of 25760
the Revised Code; 25761

(cc) To hear and determine applications for an order granting 25762
a summary release from administration under section 2113.031 of 25763
the Revised Code; 25764

(dd) To hear and determine actions relating to the exercise 25765
of the right of disposition, in accordance with section 2108.90 of 25766
the Revised Code; 25767

(ee) To hear and determine actions relating to the 25768
disinterment and reinterment of human remains under section 517.23 25769
of the Revised Code; 25770

(ff) To hear and determine petitions for an order for 25771
treatment of a person suffering from alcohol and other drug abuse 25772
filed under section ~~3793.34~~ 5119.93 of the Revised Code and to 25773
order treatment of that nature in accordance with, and take other 25774
actions afforded to the court under, sections ~~3793.31~~ 5119.90 to 25775
~~3793.39~~ 5119.98 of the Revised Code. 25776

(2) In addition to the exclusive jurisdiction conferred upon 25777
the probate court by division (A)(1) of this section, the probate 25778
court shall have exclusive jurisdiction over a particular subject 25779
matter if both of the following apply: 25780

(a) Another section of the Revised Code expressly confers 25781
jurisdiction over that subject matter upon the probate court. 25782

(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency.	25783 25784 25785
(B)(1) The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders, and to hear and determine actions as follows:	25786 25787 25788 25789
(a) If jurisdiction relative to a particular subject matter is stated to be concurrent in a section of the Revised Code or has been construed by judicial decision to be concurrent, any action that involves that subject matter;	25790 25791 25792 25793
(b) Any action that involves an inter vivos trust; a trust created pursuant to section 5815.28 of the Revised Code; a charitable trust or foundation; subject to divisions (A)(1)(u) and (z) of this section, a power of attorney, including, but not limited to, a durable power of attorney; the medical treatment of a competent adult; or a writ of habeas corpus;	25794 25795 25796 25797 25798 25799
(c) Subject to section 2101.31 of the Revised Code, any action with respect to a probate estate, guardianship, trust, or post-death dispute that involves any of the following:	25800 25801 25802
(i) A designation or removal of a beneficiary of a life insurance policy, annuity contract, retirement plan, brokerage account, security account, bank account, real property, or tangible personal property;	25803 25804 25805 25806
(ii) A designation or removal of a payable-on-death beneficiary or transfer-on-death beneficiary;	25807 25808
(iii) A change in the title to any asset involving a joint and survivorship interest;	25809 25810
(iv) An alleged gift;	25811
(v) The passing of assets upon the death of an individual	25812

otherwise than by will, intestate succession, or trust. 25813

(2) Any action that involves a concurrent jurisdiction 25814
subject matter and that is before the probate court may be 25815
transferred by the probate court, on its order, to the general 25816
division of the court of common pleas. 25817

(C) The probate court has plenary power at law and in equity 25818
to dispose fully of any matter that is properly before the court, 25819
unless the power is expressly otherwise limited or denied by a 25820
section of the Revised Code. 25821

(D) The jurisdiction acquired by a probate court over a 25822
matter or proceeding is exclusive of that of any other probate 25823
court, except when otherwise provided by law. 25824

Sec. 2108.05. (A) A donor may make an anatomical gift by 25825
doing any of the following: 25826

(1) Authorizing a statement or symbol to be imprinted on the 25827
donor's driver's license or identification card indicating that 25828
the donor has certified a willingness to make an anatomical gift; 25829

(2) Specifying in the donor's will an intent to make an 25830
anatomical gift; 25831

(3) Specifying an intent to make an anatomical gift in the 25832
donor's declaration as described in section 2133.16 of the Revised 25833
Code; 25834

(4) During a terminal illness or injury of the donor, 25835
communicating in any manner to a minimum of two adults, at least 25836
one of whom is a disinterested witness, that the donor intends to 25837
make an anatomical gift; 25838

(5) Following the procedure in division (B) of this section. 25839

(B) A donor or other person authorized to make an anatomical 25840
gift under section 2108.04 of the Revised Code may make a gift by 25841

a donor card or other record signed by the donor or other person 25842
making the gift or by authorizing that a statement or symbol 25843
indicating that the donor has certified a willingness to make an 25844
anatomical gift be included in a donor registry. If the donor or 25845
other person is physically unable to sign a record, the record may 25846
be signed by another individual at the direction of the donor or 25847
other person and shall do both of the following: 25848

(1) Be witnessed by at least two adults, at least one of whom 25849
is a disinterested witness, who have signed at the request of the 25850
donor or the other person; 25851

(2) State that it has been signed and witnessed as provided 25852
in division (B)(1) of this section. 25853

(C) Once a donor has authorized a statement or symbol to be 25854
imprinted on the donor's driver's license or identification card 25855
indicating that the donor has certified a willingness to make an 25856
anatomical gift, the donor does not need to recertify the donor's 25857
willingness to make an anatomical gift upon renewal of the 25858
driver's license or identification card. The authorization shall 25859
remain in effect until the donor withdraws that authorization. 25860

(D) Revocation, suspension, expiration, or cancellation of a 25861
driver's license or identification card upon which an anatomical 25862
gift is indicated does not invalidate the gift. 25863

~~(D)~~(E) An anatomical gift made by will takes effect on the 25864
donor's death whether or not the will is probated. Invalidation of 25865
the will after the donor's death does not invalidate the gift. 25866

Sec. 2113.041. (A) The administrator of the medicaid estate 25867
recovery program established pursuant to section ~~5111.11~~ 5162.21 25868
of the Revised Code may present an affidavit to a financial 25869
institution requesting that the financial institution release 25870
account proceeds to recover the cost of services correctly 25871

provided to a medicaid recipient who is subject to the medicaid 25872
estate recovery program. The affidavit shall include all of the 25873
following information: 25874

(1) The name of the decedent; 25875

(2) The name of any person who gave notice that the decedent 25876
was a medicaid recipient and that person's relationship to the 25877
decedent; 25878

(3) The name of the financial institution; 25879

(4) The account number; 25880

(5) A description of the claim for estate recovery; 25881

(6) The amount of funds to be recovered. 25882

(B) A financial institution may release account proceeds to 25883
the administrator of the medicaid estate recovery program if all 25884
of the following apply: 25885

(1) The decedent held an account at the financial institution 25886
that was in the decedent's name only. 25887

(2) No estate has been, and it is reasonable to assume that 25888
no estate will be, opened for the decedent. 25889

(3) The decedent has no outstanding debts known to the 25890
administrator of the medicaid estate recovery program. 25891

(4) The financial institution has received no objections or 25892
has determined that no valid objections to release of proceeds 25893
have been received. 25894

(C) If proceeds have been released pursuant to division (B) 25895
of this section and the department of ~~job and family services~~ 25896
medicaid receives notice of a valid claim to the proceeds that has 25897
a higher priority under section 2117.25 of the Revised Code than 25898
the claim of the medicaid estate recovery program, the department 25899
may refund the proceeds to the financial institution or pay them 25900

to the person or government entity with the claim. 25901

Sec. 2113.06. (A) Administration of the estate of an 25902
intestate shall be granted to persons mentioned in this division, 25903
in the following order: 25904

(1) To the surviving spouse of the deceased, if resident of 25905
the state; 25906

(2) To one of the next of kin of the deceased, resident of 25907
the state. 25908

(B) If the persons entitled to administer the estate under 25909
division (A) of this section fail to take or renounce 25910
administration voluntarily, the matter shall be set for hearing 25911
and notice given to the persons. 25912

(C) If there are no persons entitled to administration, if 25913
they are for any reason unsuitable for the discharge of the trust, 25914
or if without sufficient cause they neglect to apply within a 25915
reasonable time for the administration of the estate, their right 25916
to priority shall be lost, and the court shall commit the 25917
administration to some suitable person who is a resident of the 25918
state, or to the attorney general or the attorney general's 25919
designee, if the department of ~~job and family services~~ medicaid is 25920
seeking to recover ~~medical assistance~~ the costs of medicaid 25921
services from the deceased pursuant to section ~~5111.11~~ 5162.21 or 25922
~~5111.111~~ 5162.211 of the Revised Code. The person granted 25923
administration may be a creditor of the estate. 25924

(D) This section applies to the appointment of an 25925
administrator de bonis non. 25926

Sec. 2117.061. (A) As used in this section: 25927

(1) "Medicaid estate recovery program" means the program 25928
instituted under section ~~5111.11~~ 5162.21 of the Revised Code. 25929

(2) "Person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate.

(B) The person responsible for the estate of a decedent subject to the medicaid estate recovery program or the estate of a decedent who was the spouse of a decedent subject to the medicaid estate recovery program shall submit a properly completed medicaid estate recovery notice form to the administrator of the medicaid estate recovery program not later than thirty days after the occurrence of any of the following:

(1) The granting of letters of administration or letters testamentary;

(2) The filing of an application for release from administration or summary release from administration.

(C) The person responsible for the estate shall mark the appropriate box on the appropriate probate form that gives notice to the administrator of the medicaid estate recovery program to indicate compliance with the requirements of division (B) of this section.

(D) The administrator of the medicaid estate recovery program shall present a claim for estate recovery to the person responsible for the estate of the decedent or the person's legal representative not later than ninety days after the date on which the medicaid estate recovery notice form is received under division (B) of this section or one year after the decedent's death, whichever is later.

Sec. 2117.25. (A) Every executor or administrator shall proceed with diligence to pay the debts of the decedent and shall apply the assets in the following order:

(1) Costs and expenses of administration;	25960
(2) An amount, not exceeding four thousand dollars, for funeral expenses that are included in the bill of a funeral director, funeral expenses other than those in the bill of a funeral director that are approved by the probate court, and an amount, not exceeding three thousand dollars, for burial and cemetery expenses, including that portion of the funeral director's bill allocated to cemetery expenses that have been paid to the cemetery by the funeral director.	25961 25962 25963 25964 25965 25966 25967 25968
For purposes of division (A)(2) of this section, burial and cemetery expenses shall be limited to the following:	25969 25970
(a) The purchase of a right of interment;	25971
(b) Monuments or other markers;	25972
(c) The outer burial container;	25973
(d) The cost of opening and closing the place of interment;	25974
(e) The urn.	25975
(3) The allowance for support made to the surviving spouse, minor children, or both under section 2106.13 of the Revised Code;	25976 25977
(4) Debts entitled to a preference under the laws of the United States;	25978 25979
(5) Expenses of the last sickness of the decedent;	25980
(6) If the total bill of a funeral director for funeral expenses exceeds four thousand dollars, then, in addition to the amount described in division (A)(2) of this section, an amount, not exceeding two thousand dollars, for funeral expenses that are included in the bill and that exceed four thousand dollars;	25981 25982 25983 25984 25985
(7) Expenses of the decedent's last continuous stay in a nursing home as defined in section 3721.01 of the Revised Code, residential facility as defined in section 5123.19 of the Revised	25986 25987 25988

Code, or hospital long-term care unit as defined in section 25989
~~3721.50~~ 5168.40 of the Revised Code. 25990

For purposes of division (A)(7) of this section, a decedent's 25991
last ~~continuance~~ continuous stay includes up to thirty consecutive 25992
days during which the decedent was temporarily absent from the 25993
nursing home, residential facility, or hospital long-term care 25994
unit. 25995

(8) Personal property taxes, claims made under the medicaid 25996
estate recovery program instituted pursuant to section ~~5111.11~~ 25997
5162.21 of the Revised Code, and obligations for which the 25998
decedent was personally liable to the state or any of its 25999
subdivisions; 26000

(9) Debts for manual labor performed for the decedent within 26001
twelve months preceding the decedent's death, not exceeding three 26002
hundred dollars to any one person; 26003

(10) Other debts for which claims have been presented and 26004
finally allowed. 26005

(B) The part of the bill of a funeral director that exceeds 26006
the total of six thousand dollars as described in divisions (A)(2) 26007
and (6) of this section, and the part of a claim included in 26008
division (A)(9) of this section that exceeds three hundred dollars 26009
shall be included as a debt under division (A)(10) of this 26010
section, depending upon the time when the claim for the additional 26011
amount is presented. 26012

(C) Any natural person or fiduciary who pays a claim of any 26013
creditor described in division (A) of this section shall be 26014
subrogated to the rights of that creditor proportionate to the 26015
amount of the payment and shall be entitled to reimbursement for 26016
that amount in accordance with the priority of payments set forth 26017
in that division. 26018

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating 26019

to the manner in which and the time within which claims shall be 26020
presented, shall apply to claims set forth in divisions (A)(2), 26021
(6), and (9) of this section. Claims for an expense of 26022
administration or for the allowance for support need not be 26023
presented. The executor or administrator shall pay debts included 26024
in divisions (A)(4) and (8) of this section, of which the executor 26025
or administrator has knowledge, regardless of presentation. 26026

(2) The giving of written notice to an executor or 26027
administrator of a motion or application to revive an action 26028
pending against the decedent at the date of death shall be 26029
equivalent to the presentation of a claim to the executor or 26030
administrator for the purpose of determining the order of payment 26031
of any judgment rendered or decree entered in such an action. 26032

(E) No payments shall be made to creditors of one class until 26033
all those of the preceding class are fully paid or provided for. 26034
If the assets are insufficient to pay all the claims of one class, 26035
the creditors of that class shall be paid ratably. 26036

(F) If it appears at any time that the assets have been 26037
exhausted in paying prior or preferred charges, allowances, or 26038
claims, those payments shall be a bar to an action on any claim 26039
not entitled to that priority or preference. 26040

Sec. 2133.01. Unless the context otherwise requires, as used 26041
in sections 2133.01 to 2133.15 of the Revised Code: 26042

(A) "Adult" means an individual who is eighteen years of age 26043
or older. 26044

(B) "Attending physician" means the physician to whom a 26045
declarant or other patient, or the family of a declarant or other 26046
patient, has assigned primary responsibility for the treatment or 26047
care of the declarant or other patient, or, if the responsibility 26048
has not been assigned, the physician who has accepted that 26049

responsibility. 26050

(C) "Comfort care" means any of the following: 26051

(1) Nutrition when administered to diminish the pain or 26052
discomfort of a declarant or other patient, but not to postpone 26053
the declarant's or other patient's death; 26054

(2) Hydration when administered to diminish the pain or 26055
discomfort of a declarant or other patient, but not to postpone 26056
the declarant's or other patient's death; 26057

(3) Any other medical or nursing procedure, treatment, 26058
intervention, or other measure that is taken to diminish the pain 26059
or discomfort of a declarant or other patient, but not to postpone 26060
the declarant's or other patient's death. 26061

(D) "Consulting physician" means a physician who, in 26062
conjunction with the attending physician of a declarant or other 26063
patient, makes one or more determinations that are required to be 26064
made by the attending physician, or to be made by the attending 26065
physician and one other physician, by an applicable provision of 26066
this chapter, to a reasonable degree of medical certainty and in 26067
accordance with reasonable medical standards. 26068

(E) "Declarant" means any adult who has executed a 26069
declaration in accordance with section 2133.02 of the Revised 26070
Code. 26071

(F) "Declaration" means a written document executed in 26072
accordance with section 2133.02 of the Revised Code. 26073

(G) "Durable power of attorney for health care" means a 26074
document created pursuant to sections 1337.11 to 1337.17 of the 26075
Revised Code. 26076

(H) "Guardian" means a person appointed by a probate court 26077
pursuant to Chapter 2111. of the Revised Code to have the care and 26078
management of the person of an incompetent. 26079

(I) "Health care facility" means any of the following:	26080
(1) A hospital;	26081
(2) A hospice care program, pediatric respite care program, or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;	26082 26083 26084
(3) A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	26085 26086
(4) A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;	26087 26088 26089
(5) An intermediate care facility for the mentally retarded.	26090
(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	26091 26092 26093 26094 26095 26096
(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.	26097 26098
(L) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	26099 26100 26101
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	26102 26103
(N) "Hydration" means fluids that are artificially or technologically administered.	26104 26105
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	26106 26107
(P) "Intermediate care facility for the mentally retarded"	26108

has the same meaning as in section ~~5111.20~~ 5124.01 of the Revised Code. 261109
261110

(Q) "Life-sustaining treatment" means any medical procedure, 261111
treatment, intervention, or other measure that, when administered 261112
to a qualified patient or other patient, will serve principally to 261113
prolong the process of dying. 261114

(R) "Nurse" means a person who is licensed to practice 261115
nursing as a registered nurse or to practice practical nursing as 261116
a licensed practical nurse pursuant to Chapter 4723. of the 261117
Revised Code. 261118

(S) "Nursing home" has the same meaning as in section 3721.01 261119
of the Revised Code. 261120

(T) "Nutrition" means sustenance that is artificially or 261121
technologically administered. 261122

(U) "Permanently unconscious state" means a state of 261123
permanent unconsciousness in a declarant or other patient that, to 261124
a reasonable degree of medical certainty as determined in 261125
accordance with reasonable medical standards by the declarant's or 261126
other patient's attending physician and one other physician who 261127
has examined the declarant or other patient, is characterized by 261128
both of the following: 261129

(1) Irreversible unawareness of one's being and environment. 261130

(2) Total loss of cerebral cortical functioning, resulting in 261131
the declarant or other patient having no capacity to experience 261132
pain or suffering. 261133

(V) "Person" has the same meaning as in section 1.59 of the 261134
Revised Code and additionally includes political subdivisions and 261135
governmental agencies, boards, commissions, departments, 261136
institutions, offices, and other instrumentalities. 261137

(W) "Physician" means a person who is authorized under 261138

Chapter 4731. of the Revised Code to practice medicine and surgery	26139
or osteopathic medicine and surgery.	26140
(X) "Political subdivision" and "state" have the same	26141
meanings as in section 2744.01 of the Revised Code.	26142
(Y) "Professional disciplinary action" means action taken by	26143
the board or other entity that regulates the professional conduct	26144
of health care personnel, including the state medical board and	26145
the board of nursing.	26146
(Z) "Qualified patient" means an adult who has executed a	26147
declaration and has been determined to be in a terminal condition	26148
or in a permanently unconscious state.	26149
(AA) "Terminal condition" means an irreversible, incurable,	26150
and untreatable condition caused by disease, illness, or injury	26151
from which, to a reasonable degree of medical certainty as	26152
determined in accordance with reasonable medical standards by a	26153
declarant's or other patient's attending physician and one other	26154
physician who has examined the declarant or other patient, both of	26155
the following apply:	26156
(1) There can be no recovery.	26157
(2) Death is likely to occur within a relatively short time	26158
if life-sustaining treatment is not administered.	26159
(BB) "Tort action" means a civil action for damages for	26160
injury, death, or loss to person or property, other than a civil	26161
action for damages for breach of a contract or another agreement	26162
between persons.	26163
Sec. 2133.25. (A) The department of health, by rule adopted	26164
pursuant to Chapter 119. of the Revised Code, shall adopt a	26165
standardized method of procedure for the withholding of CPR by	26166
physicians, emergency medical services personnel, and health care	26167
facilities in accordance with sections 2133.21 to 2133.26 of the	26168

Revised Code. The standardized method shall specify criteria for 26169
determining when a do-not-resuscitate order issued by a physician 26170
is current. The standardized method so adopted shall be the 26171
"do-not-resuscitate protocol" for purposes of sections 2133.21 to 26172
2133.26 of the Revised Code. The department also shall approve one 26173
or more standard forms of DNR identification to be used throughout 26174
this state. 26175

(B) The department of health shall adopt rules in accordance 26176
with Chapter 119. of the Revised Code for the administration of 26177
sections 2133.21 to 2133.26 of the Revised Code. 26178

(C) The department of health shall appoint an advisory 26179
committee to advise the department in the development of rules 26180
under this section. The advisory committee shall include, but 26181
shall not be limited to, representatives of each of the following 26182
organizations: 26183

- (1) The association for hospitals and health systems (OHA); 26184
- (2) The Ohio state medical association; 26185
- (3) The Ohio chapter of the American college of emergency 26186
physicians; 26187
- (4) The Ohio hospice organization; 26188
- (5) The Ohio council for home care; 26189
- (6) The Ohio health care association; 26190
- (7) The Ohio ambulance association; 26191
- (8) The Ohio medical directors association; 26192
- (9) The Ohio association of emergency medical services; 26193
- (10) The bioethics network of Ohio; 26194
- (11) The Ohio nurses association; 26195
- (12) The Ohio academy of nursing homes; 26196

(13) The Ohio association of professional firefighters;	26197
(14) The department of developmental disabilities;	26198
(15) The Ohio osteopathic association;	26199
(16) The association of Ohio philanthropic homes, housing and services for the aging;	26200 26201
(17) The catholic conference of Ohio;	26202
(18) The department of aging;	26203
(19) The department of mental health <u>mental health and addiction services</u> ;	26204 26205
(20) The Ohio private residential association;	26206
(21) The northern Ohio fire fighters association.	26207
Sec. 2151.011. (A) As used in the Revised Code:	26208
(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:	26209 26210 26211
(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juveniledivision or the juvenile division combined with one or more other divisions;	26212 26213 26214 26215 26216
(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;	26217 26218 26219 26220
(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.	26221 26222
(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.	26223 26224

(3) "Private child placing agency" means any association, as 26225
defined in section 5103.02 of the Revised Code, that is certified 26226
under section 5103.03 of the Revised Code to accept temporary, 26227
permanent, or legal custody of children and place the children for 26228
either foster care or adoption. 26229

(4) "Private noncustodial agency" means any person, 26230
organization, association, or society certified by the department 26231
of job and family services that does not accept temporary or 26232
permanent legal custody of children, that is privately operated in 26233
this state, and that does one or more of the following: 26234

(a) Receives and cares for children for two or more 26235
consecutive weeks; 26236

(b) Participates in the placement of children in certified 26237
foster homes; 26238

(c) Provides adoption services in conjunction with a public 26239
children services agency or private child placing agency. 26240

(B) As used in this chapter: 26241

(1) "Adequate parental care" means the provision by a child's 26242
parent or parents, guardian, or custodian of adequate food, 26243
clothing, and shelter to ensure the child's health and physical 26244
safety and the provision by a child's parent or parents of 26245
specialized services warranted by the child's physical or mental 26246
needs. 26247

(2) "Adult" means an individual who is eighteen years of age 26248
or older. 26249

(3) "Agreement for temporary custody" means a voluntary 26250
agreement authorized by section 5103.15 of the Revised Code that 26251
transfers the temporary custody of a child to a public children 26252
services agency or a private child placing agency. 26253

(4) "Alternative response" means the public children services 26254

agency's response to a report of child abuse or neglect that 26255
engages the family in a comprehensive evaluation of child safety, 26256
risk of subsequent harm, and family strengths and needs and that 26257
does not include a determination as to whether child abuse or 26258
neglect occurred. 26259

(5) "Certified foster home" means a foster home, as defined 26260
in section 5103.02 of the Revised Code, certified under section 26261
5103.03 of the Revised Code. 26262

(6) "Child" means a person who is under eighteen years of 26263
age, except that the juvenile court has jurisdiction over any 26264
person who is adjudicated an unruly child prior to attaining 26265
eighteen years of age until the person attains twenty-one years of 26266
age, and, for purposes of that jurisdiction related to that 26267
adjudication, a person who is so adjudicated an unruly child shall 26268
be deemed a "child" until the person attains twenty-one years of 26269
age. 26270

(7) "Child day camp," "child care," "child day-care center," 26271
"part-time child day-care center," "type A family day-care home," 26272
"certified type B family day-care home," "type B home," 26273
"administrator of a child day-care center," "administrator of a 26274
type A family day-care home," "in-home aide," and "authorized 26275
provider" have the same meanings as in section 5104.01 of the 26276
Revised Code. 26277

(8) "Child care provider" means an individual who is a 26278
child-care staff member or administrator of a child day-care 26279
center, a type A family day-care home, or a type B family day-care 26280
home, or an in-home aide or an individual who is licensed, is 26281
regulated, is approved, operates under the direction of, or 26282
otherwise is certified by the department of job and family 26283
services, department of developmental disabilities, or the early 26284
childhood programs of the department of education. 26285

(9) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.	26286 26287
(10) "Commit" means to vest custody as ordered by the court.	26288
(11) "Counseling" includes both of the following:	26289
(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.	26290 26291 26292 26293 26294
(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.	26295 26296 26297 26298 26299 26300
(12) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.	26301 26302 26303 26304
(13) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.	26305 26306
(14) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.	26307 26308 26309 26310
(15) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.	26311 26312
(16) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative	26313 26314 26315

response or a traditional response. 26316

(17) "Foster caregiver" has the same meaning as in section 26317
5103.02 of the Revised Code. 26318

(18) "Guardian" means a person, association, or corporation 26319
that is granted authority by a probate court pursuant to Chapter 26320
2111. of the Revised Code to exercise parental rights over a child 26321
to the extent provided in the court's order and subject to the 26322
residual parental rights of the child's parents. 26323

(19) "Habitual truant" means any child of compulsory school 26324
age who is absent without legitimate excuse for absence from the 26325
public school the child is supposed to attend for five or more 26326
consecutive school days, seven or more school days in one school 26327
month, or twelve or more school days in a school year. 26328

(20) "Juvenile traffic offender" has the same meaning as in 26329
section 2152.02 of the Revised Code. 26330

(21) "Legal custody" means a legal status that vests in the 26331
custodian the right to have physical care and control of the child 26332
and to determine where and with whom the child shall live, and the 26333
right and duty to protect, train, and discipline the child and to 26334
provide the child with food, shelter, education, and medical care, 26335
all subject to any residual parental rights, privileges, and 26336
responsibilities. An individual granted legal custody shall 26337
exercise the rights and responsibilities personally unless 26338
otherwise authorized by any section of the Revised Code or by the 26339
court. 26340

(22) A "legitimate excuse for absence from the public school 26341
the child is supposed to attend" includes, but is not limited to, 26342
any of the following: 26343

(a) The fact that the child in question has enrolled in and 26344
is attending another public or nonpublic school in this or another 26345
state; 26346

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;	26347 26348 26349
(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.	26350 26351 26352
(23) "Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in section 5122.01 of the Revised Code.	26353 26354 26355
(24) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.	26356 26357 26358 26359 26360
(25) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.	26361 26362
(26) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.	26363 26364 26365 26366
(27) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.	26367 26368
(28) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.	26369 26370 26371 26372 26373 26374
(29) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified	26375 26376

foster homes, placement in a prospective adoptive home prior to 26377
the issuance of a final decree of adoption, organizations, 26378
certified organizations, child day-care centers, type A family 26379
day-care homes, child care provided by type B family day-care home 26380
providers and by in-home aides, group home providers, group homes, 26381
institutions, state institutions, residential facilities, 26382
residential care facilities, residential camps, day camps, public 26383
schools, chartered nonpublic schools, educational service centers, 26384
hospitals, and medical clinics that are responsible for the care, 26385
physical custody, or control of children. 26386

(30) "Out-of-home care child abuse" means any of the 26387
following when committed by a person responsible for the care of a 26388
child in out-of-home care: 26389

(a) Engaging in sexual activity with a child in the person's 26390
care; 26391

(b) Denial to a child, as a means of punishment, of proper or 26392
necessary subsistence, education, medical care, or other care 26393
necessary for a child's health; 26394

(c) Use of restraint procedures on a child that cause injury 26395
or pain; 26396

(d) Administration of prescription drugs or psychotropic 26397
medication to the child without the written approval and ongoing 26398
supervision of a licensed physician; 26399

(e) Commission of any act, other than by accidental means, 26400
that results in any injury to or death of the child in out-of-home 26401
care or commission of any act by accidental means that results in 26402
an injury to or death of a child in out-of-home care and that is 26403
at variance with the history given of the injury or death. 26404

(31) "Out-of-home care child neglect" means any of the 26405
following when committed by a person responsible for the care of a 26406
child in out-of-home care: 26407

(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;	26408 26409 26410
(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;	26411 26412 26413 26414
(c) Failure to develop a process for all of the following:	26415
(i) Administration of prescription drugs or psychotropic drugs for the child;	26416 26417
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	26418 26419
(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.	26420 26421 26422
(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;	26423 26424 26425
(e) Confinement of the child to a locked room without monitoring by staff;	26426 26427
(f) Failure to provide ongoing security for all prescription and nonprescription medication;	26428 26429
(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.	26430 26431 26432
(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and	26433 26434 26435 26436 26437

obligations, including all residual rights and obligations. 26438

(33) "Permanent surrender" means the act of the parents or, 26439
if a child has only one parent, of the parent of a child, by a 26440
voluntary agreement authorized by section 5103.15 of the Revised 26441
Code, to transfer the permanent custody of the child to a public 26442
children services agency or a private child placing agency. 26443

(34) "Person" means an individual, association, corporation, 26444
or partnership and the state or any of its political subdivisions, 26445
departments, or agencies. 26446

(35) "Person responsible for a child's care in out-of-home 26447
care" means any of the following: 26448

(a) Any foster caregiver, in-home aide, or provider; 26449

(b) Any administrator, employee, or agent of any of the 26450
following: a public or private detention facility; shelter 26451
facility; certified children's crisis care facility; organization; 26452
certified organization; child day-care center; type A family 26453
day-care home; certified type B family day-care home; group home; 26454
institution; state institution; residential facility; residential 26455
care facility; residential camp; day camp; school district; 26456
community school; chartered nonpublic school; educational service 26457
center; hospital; or medical clinic; 26458

(c) Any person who supervises or coaches children as part of 26459
an extracurricular activity sponsored by a school district, public 26460
school, or chartered nonpublic school; 26461

(d) Any other person who performs a similar function with 26462
respect to, or has a similar relationship to, children. 26463

(36) "Physically impaired" means having one or more of the 26464
following conditions that substantially limit one or more of an 26465
individual's major life activities, including self-care, receptive 26466
and expressive language, learning, mobility, and self-direction: 26467

(a) A substantial impairment of vision, speech, or hearing;	26468
(b) A congenital orthopedic impairment;	26469
(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.	26470 26471 26472
(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.	26473 26474 26475 26476
(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.	26477 26478 26479 26480
(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:	26481 26482
(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.	26483 26484 26485
(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.	26486 26487 26488 26489
(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.	26490 26491 26492
(41) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.	26493 26494 26495 26496
(42) "Protective supervision" means an order of disposition	26497

pursuant to which the court permits an abused, neglected, 26498
dependent, or unruly child to remain in the custody of the child's 26499
parents, guardian, or custodian and stay in the child's home, 26500
subject to any conditions and limitations upon the child, the 26501
child's parents, guardian, or custodian, or any other person that 26502
the court prescribes, including supervision as directed by the 26503
court for the protection of the child. 26504

(43) "Psychiatrist" has the same meaning as in section 26505
5122.01 of the Revised Code. 26506

(44) "Psychologist" has the same meaning as in section 26507
4732.01 of the Revised Code. 26508

(45) "Residential camp" means a program in which the care, 26509
physical custody, or control of children is accepted overnight for 26510
recreational or recreational and educational purposes. 26511

(46) "Residential care facility" means an institution, 26512
residence, or facility that is licensed by the department of 26513
~~mental health~~ mental health and addiction services under section 26514
~~5119.22~~ 5119.34 of the Revised Code and that provides care for a 26515
child. 26516

(47) "Residential facility" means a home or facility that is 26517
licensed by the department of developmental disabilities under 26518
section 5123.19 of the Revised Code and in which a child with a 26519
developmental disability resides. 26520

(48) "Residual parental rights, privileges, and 26521
responsibilities" means those rights, privileges, and 26522
responsibilities remaining with the natural parent after the 26523
transfer of legal custody of the child, including, but not 26524
necessarily limited to, the privilege of reasonable visitation, 26525
consent to adoption, the privilege to determine the child's 26526
religious affiliation, and the responsibility for support. 26527

(49) "School day" means the school day established by the 26528

state board of education pursuant to section 3313.48 of the Revised Code. 26529
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(50) "School month" and "school year" have the same meanings as in section 3313.62 of the Revised Code. 26531
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(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition. 26533
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(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code. 26538
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(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition. 26540
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(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code. 26543
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(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement. 26545
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(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm. 26550
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(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety 26556
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days, regardless of whether the parents resume contact with the 26559
child after that period of ninety days. 26560

Sec. 2151.3514. (A) As used in this section: 26561

(1) "~~Alcohol and drug~~ Community addiction program services
provider" has the same meaning as in section ~~3793.01~~ 5119.01 of 26562
the Revised Code; 26563
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(2) "Chemical dependency" means either of the following: 26565

(a) The chronic and habitual use of alcoholic beverages to 26566
the extent that the user no longer can control the use of alcohol 26567
or endangers the user's health, safety, or welfare or that of 26568
others; 26569

(b) The use of a drug of abuse to the extent that the user 26570
becomes physically or psychologically dependent on the drug or 26571
endangers the user's health, safety, or welfare or that of others. 26572

(3) "Drug of abuse" has the same meaning as in section 26573
3719.011 of the Revised Code. 26574

~~(4) "Medicaid" means the program established under Chapter~~ 26575
~~5111. of the Revised Code.~~ 26576

(B) If the juvenile court issues an order of temporary 26577
custody or protective supervision under division (A) of section 26578
2151.353 of the Revised Code with respect to a child adjudicated 26579
to be an abused, neglected, or dependent child and the alcohol or 26580
other drug addiction of a parent or other caregiver of the child 26581
was the basis for the adjudication of abuse, neglect, or 26582
dependency, the court shall issue an order requiring the parent or 26583
other caregiver to submit to an assessment and, if needed, 26584
treatment from ~~an alcohol and drug~~ a community addiction program
services provider certified by the department of ~~alcohol and drug~~ 26585
~~addiction services~~ mental health and addiction services. The court 26586
may order the parent or other caregiver to submit to alcohol or 26587
26588

other drug testing during, after, or both during and after, the 26589
treatment. The court shall send any order issued pursuant to this 26590
division to the public children services agency that serves the 26591
county in which the court is located for use as described in 26592
section 340.15 of the Revised Code. 26593

(C) Any order requiring alcohol or other drug testing that is 26594
issued pursuant to division (B) of this section shall require one 26595
alcohol or other drug test to be conducted each month during a 26596
period of twelve consecutive months beginning the month 26597
immediately following the month in which the order for alcohol or 26598
other drug testing is issued. Arrangements for administering the 26599
alcohol or other drug tests, as well as funding the costs of the 26600
tests, shall be locally determined in accordance with sections 26601
~~340.033~~ 340.03 and 340.15 of the Revised Code. If a parent or 26602
other caregiver required to submit to alcohol or other drug tests 26603
under this section is not a recipient of medicaid, the agency that 26604
refers the parent or caregiver for the tests may require the 26605
parent or caregiver to reimburse the agency for the cost of 26606
conducting the tests. 26607

(D) The certified ~~alcohol and drug~~ community addiction 26608
~~program~~ services provider that conducts any alcohol or other drug 26609
tests ordered in accordance with divisions (B) and (C) of this 26610
section shall send the results of the tests, along with the 26611
~~program's~~ provider's recommendations as to the benefits of 26612
continued treatment, to the court and to the public children 26613
services agency providing services to the involved family, 26614
according to federal regulations set forth in 42 C.F.R. Part 2, 26615
and division (B) of section 340.15 of the Revised Code. The court 26616
shall consider the results and the recommendations sent to it 26617
under this division in any adjudication or review by the court, 26618
according to section 2151.353, 2151.414, or 2151.419 of the 26619
Revised Code. 26620

Sec. 2151.362. (A)(1) In the manner prescribed by division 26621
(C)(1) or (2) of section 3313.64 of the Revised Code, as 26622
applicable, the court, at the time of making any order that 26623
removes a child from the child's own home or that vests legal or 26624
permanent custody of the child in a person other than the child's 26625
parent or a government agency, shall determine the school district 26626
that is to bear the cost of educating the child. The court shall 26627
make the determination a part of the order that provides for the 26628
child's placement or commitment. That school district shall bear 26629
the cost of educating the child unless and until the department of 26630
education determines that a different district shall be 26631
responsible for bearing that cost pursuant to division (A)(2) of 26632
this section. The court's order shall state that the determination 26633
of which school district is responsible to bear the cost of 26634
educating the child is subject to re-determination by the 26635
department pursuant to that division. 26636

(2) If, while the child is in the custody of a person other 26637
than the child's parent or a government agency, the department of 26638
education determines that the place of residence of the child's 26639
parent has changed since the court issued its initial order, the 26640
department may name a different school district to bear the cost 26641
of educating the child. The department shall make this new 26642
determination, and any future determinations, based on evidence 26643
received from the school district currently responsible to bear 26644
the cost of educating the child. If the department finds that the 26645
evidence demonstrates to its satisfaction that the residence of 26646
the child's parent has changed since the court issued its initial 26647
order under division (A)(1) of this section, or since the 26648
department last made a determination under division (A)(2) of this 26649
section, the department shall name the district in which the 26650
child's parent currently resides or, if the parent's residence is 26651
not known, the district in which the parent's last known residence 26652

is located. If the department cannot determine any Ohio district 26653
in which the parent currently resides or has resided, the school 26654
district designated in the initial court order under division 26655
(A)(1) of this section, or in the most recent determination made 26656
by the department under division (A)(2) of this section, shall 26657
continue to bear the cost of educating the child. 26658

(B) Whenever a child is placed in a detention facility 26659
established under section 2152.41 of the Revised Code or a 26660
juvenile facility established under section 2151.65 of the Revised 26661
Code, the facility shall be responsible for coordinating the 26662
education of the child. The facility may take any of the following 26663
measures in coordinating the education of the child: 26664

(1) If applicable, use the chartered nonpublic school that 26665
the facility operates; 26666

(2) Arrange with the school district responsible for bearing 26667
the cost of educating the child determined under division (A) of 26668
this section, for the facility to educate the child on its own; 26669

(3) Contract with an educational service center for the 26670
service center to educate the child; 26671

(4) Contract with the school district in which the facility 26672
is located for that school district to educate the child; 26673

(5) If the child is enrolled in an internet- or 26674
computer-based community school established under Chapter 3314. of 26675
the Revised Code, and provided that the facility possesses the 26676
necessary hardware, software, and internet connectivity, permit 26677
continued instruction of the child by the internet- or 26678
computer-based community school. 26679

If the facility coordinates the education of the child 26680
pursuant to division (B)(1), (2), (3), or (4) of this section, 26681
child's school district as determined by the court or the 26682
department, in the same manner as prescribed in division (A) of 26683

this section, shall pay the cost of educating the child based on 26684
the per capita cost of the educational facility within the 26685
detention home or juvenile facility. 26686

If the facility coordinates the education of the child 26687
pursuant to division (B)(5) of this section, payment for the cost 26688
of educating the child shall be made only as provided in division 26689
(C) of section 3314.08 of the Revised Code. 26690

(C) Whenever a child is placed by the court in a private 26691
institution, school, or residential treatment center or any other 26692
private facility, the state shall pay to the court a subsidy to 26693
help defray the expense of educating the child in an amount equal 26694
to the product of the daily per capita educational cost of the 26695
private facility, as determined pursuant to this section, and the 26696
number of days the child resides at the private facility, provided 26697
that the subsidy shall not exceed twenty-five hundred dollars per 26698
year per child. The daily per capita educational cost of a private 26699
facility shall be determined by dividing the actual program cost 26700
of the private facility or twenty-five hundred dollars, whichever 26701
is less, by three hundred sixty-five days or by three hundred 26702
sixty-six days for years that include February twenty-ninth. The 26703
state shall pay seventy-five per cent of the total subsidy for 26704
each year quarterly to the court. The state may adjust the 26705
remaining twenty-five per cent of the total subsidy to be paid to 26706
the court for each year to an amount that is less than twenty-five 26707
per cent of the total subsidy for that year based upon the 26708
availability of funds appropriated to the department of education 26709
for the purpose of subsidizing courts that place a child in a 26710
private institution, school, or residential treatment center or 26711
any other private facility and shall pay that adjusted amount to 26712
the court at the end of the year. 26713

Sec. 2151.86. (A)(1) The appointing or hiring officer of any 26714

entity that appoints or employs any person responsible for a 26715
child's care in out-of-home care shall request the superintendent 26716
of BCII to conduct a criminal records check with respect to any 26717
person who is under final consideration for appointment or 26718
employment as a person responsible for a child's care in 26719
out-of-home care, except that section 3319.39 of the Revised Code 26720
shall apply instead of this section if the out-of-home care entity 26721
is a public school, educational service center, or chartered 26722
nonpublic school. 26723

(2) At the times specified in this division, the 26724
administrative director of an agency, or attorney, who arranges an 26725
adoption for a prospective adoptive parent shall request the 26726
superintendent of BCII to conduct a criminal records check with 26727
respect to that prospective adoptive parent and a criminal records 26728
check with respect to all persons eighteen years of age or older 26729
who reside with the prospective adoptive parent. The 26730
administrative director or attorney shall request a criminal 26731
records check pursuant to this division at the time of the initial 26732
home study, every four years after the initial home study at the 26733
time of an update, and at the time that an adoptive home study is 26734
completed as a new home study. 26735

(3) Before a recommending agency submits a recommendation to 26736
the department of job and family services on whether the 26737
department should issue a certificate to a foster home under 26738
section 5103.03 of the Revised Code, and every four years 26739
thereafter prior to a recertification under that section, the 26740
administrative director of the agency shall request that the 26741
superintendent of BCII conduct a criminal records check with 26742
respect to the prospective foster caregiver and a criminal records 26743
check with respect to all other persons eighteen years of age or 26744
older who reside with the foster caregiver. 26745

(B)(1) If a person subject to a criminal records check under 26746

division (A)(1) of this section does not present proof that the 26747
person has been a resident of this state for the five-year period 26748
immediately prior to the date upon which the criminal records 26749
check is requested or does not provide evidence that within that 26750
five-year period the superintendent of BCII has requested 26751
information about the person from the federal bureau of 26752
investigation in a criminal records check, the appointing or 26753
hiring officer shall request that the superintendent of BCII 26754
obtain information from the federal bureau of investigation as a 26755
part of the criminal records check, including fingerprint-based 26756
checks of national crime information databases as described in 42 26757
U.S.C. 671. If a person subject to a criminal records check under 26758
division (A)(1) of this section presents proof that the person has 26759
been a resident of this state for that five-year period, the 26760
appointing or hiring officer or attorney may request that the 26761
superintendent of BCII include information from the federal bureau 26762
of investigation in the criminal records check, including 26763
fingerprint-based checks of national crime information databases 26764
as described in 42 U.S.C. 671. 26765

When the administrative director of an agency, or attorney, 26766
who arranges an adoption for a prospective parent requests, at the 26767
time of the initial home study, a criminal records check for a 26768
person pursuant to division (A)(2) of this section, the 26769
administrative director or attorney shall request that the 26770
superintendent of BCII obtain information from the federal bureau 26771
of investigation as part of the criminal records check, including 26772
fingerprint-based checks of national crime information databases 26773
as described in 42 U.S.C. 671, for the person subject to the 26774
criminal records check. In all other cases in which the 26775
administrative director of an agency, or attorney, who arranges an 26776
adoption for a prospective parent requests a criminal records 26777
check for a person pursuant to division (A)(2) of this section, 26778
the administrative director or attorney may request that the 26779

superintendent of BCII include information from the federal bureau 26780
of investigation in the criminal records check, including 26781
fingerprint-based checks of national crime information databases 26782
as described in 42 U.S.C. 671. 26783

When the administrative director of a recommending agency 26784
requests, before submitting a recommendation to the department of 26785
job and family services on whether the department should issue a 26786
certificate to a foster home under section 5103.03 of the Revised 26787
Code, a criminal records check for a person pursuant to division 26788
(A)(3) of this section, the administrative director shall request 26789
that the superintendent of BCII obtain information from the 26790
federal bureau of investigation as part of a criminal records 26791
check, including fingerprint-based checks of national crime 26792
information databases as described in 42 U.S.C. 671, for the 26793
person subject to the criminal records check. In all other cases 26794
in which the administrative director of a recommending agency 26795
requests a criminal records check for a person pursuant to 26796
division (A)(3) of this section, the administrative director may 26797
request that the superintendent of BCII include information from 26798
the federal bureau of investigation in the criminal records check, 26799
including fingerprint-based checks of national crime information 26800
databases as described in 42 U.S.C. 671. 26801

Prior to a hearing on a final decree of adoption or 26802
interlocutory order of adoption by a probate court, the 26803
administrative director of an agency, or an attorney, who arranges 26804
an adoption for a prospective parent shall provide to the clerk of 26805
the probate court either of the following: 26806

(a) Any information received pursuant to a request made under 26807
this division from the superintendent of BCII or the federal 26808
bureau of investigation as part of the criminal records check, 26809
including fingerprint-based checks of national crime information 26810
databases as described in 42 U.S.C. 671, for the person subject to 26811

the criminal records check; 26812

(b) Written notification that the person subject to a 26813
criminal records check pursuant to this division failed upon 26814
request to provide the information necessary to complete the form 26815
or failed to provide impressions of the person's fingerprints as 26816
required under division (B)(2) of this section. 26817

(2) An appointing or hiring officer, administrative director, 26818
or attorney required by division (A) of this section to request a 26819
criminal records check shall provide to each person subject to a 26820
criminal records check a copy of the form prescribed pursuant to 26821
division (C)(1) of section 109.572 of the Revised Code and a 26822
standard impression sheet to obtain fingerprint impressions 26823
prescribed pursuant to division (C)(2) of section 109.572 of the 26824
Revised Code, obtain the completed form and impression sheet from 26825
the person, and forward the completed form and impression sheet to 26826
the superintendent of BCII at the time the criminal records check 26827
is requested. 26828

Any person subject to a criminal records check who receives 26829
pursuant to this division a copy of the form prescribed pursuant 26830
to division (C)(1) of section 109.572 of the Revised Code and a 26831
copy of an impression sheet prescribed pursuant to division (C)(2) 26832
of that section and who is requested to complete the form and 26833
provide a set of fingerprint impressions shall complete the form 26834
or provide all the information necessary to complete the form and 26835
shall provide the impression sheet with the impressions of the 26836
person's fingerprints. If a person subject to a criminal records 26837
check, upon request, fails to provide the information necessary to 26838
complete the form or fails to provide impressions of the person's 26839
fingerprints, the appointing or hiring officer shall not appoint 26840
or employ the person as a person responsible for a child's care in 26841
out-of-home care, a probate court may not issue a final decree of 26842
adoption or an interlocutory order of adoption making the person 26843

an adoptive parent, and the department of job and family services 26844
shall not issue a certificate authorizing the prospective foster 26845
caregiver to operate a foster home. 26846

(C)(1) No appointing or hiring officer shall appoint or 26847
employ a person as a person responsible for a child's care in 26848
out-of-home care, the department of job and family services shall 26849
not issue a certificate under section 5103.03 of the Revised Code 26850
authorizing a prospective foster caregiver to operate a foster 26851
home, and no probate court shall issue a final decree of adoption 26852
or an interlocutory order of adoption making a person an adoptive 26853
parent if the person or, in the case of a prospective foster 26854
caregiver or prospective adoptive parent, any person eighteen 26855
years of age or older who resides with the prospective foster 26856
caregiver or prospective adoptive parent previously has been 26857
convicted of or pleaded guilty to any of the violations described 26858
in division (A)(4) of section 109.572 of the Revised Code, unless 26859
the person meets rehabilitation standards established in rules 26860
adopted under division (F) of this section. 26861

(2) The appointing or hiring officer may appoint or employ a 26862
person as a person responsible for a child's care in out-of-home 26863
care conditionally until the criminal records check required by 26864
this section is completed and the officer receives the results of 26865
the criminal records check. If the results of the criminal records 26866
check indicate that, pursuant to division (C)(1) of this section, 26867
the person subject to the criminal records check does not qualify 26868
for appointment or employment, the officer shall release the 26869
person from appointment or employment. 26870

(3) Prior to certification or recertification under section 26871
5103.03 of the Revised Code, the prospective foster caregiver 26872
subject to a criminal records check under division (A)(3) of this 26873
section shall notify the recommending agency of the revocation of 26874
any foster home license, certificate, or other similar 26875

authorization in another state occurring within the five years 26876
prior to the date of application to become a foster caregiver in 26877
this state. The failure of a prospective foster caregiver to 26878
notify the recommending agency of any revocation of that type in 26879
another state that occurred within that five-year period shall be 26880
grounds for denial of the person's foster home application or the 26881
revocation of the person's foster home certification, whichever is 26882
applicable. If a person has had a revocation in another state 26883
within the five years prior to the date of the application, the 26884
department of job and family services shall not issue a foster 26885
home certificate to the prospective foster caregiver. 26886

(D) The appointing or hiring officer, administrative 26887
director, or attorney shall pay to the bureau of criminal 26888
identification and investigation the fee prescribed pursuant to 26889
division (C)(3) of section 109.572 of the Revised Code for each 26890
criminal records check conducted in accordance with that section 26891
upon a request pursuant to division (A) of this section. The 26892
officer, director, or attorney may charge the person subject to 26893
the criminal records check a fee for the costs the officer, 26894
director, or attorney incurs in obtaining the criminal records 26895
check. A fee charged under this division shall not exceed the 26896
amount of fees the officer, director, or attorney pays for the 26897
criminal records check. If a fee is charged under this division, 26898
the officer, director, or attorney shall notify the person who is 26899
the applicant at the time of the person's initial application for 26900
appointment or employment, an adoption to be arranged, or a 26901
certificate to operate a foster home of the amount of the fee and 26902
that, unless the fee is paid, the person who is the applicant will 26903
not be considered for appointment or employment or as an adoptive 26904
parent or foster caregiver. 26905

(E) The report of any criminal records check conducted by the 26906
bureau of criminal identification and investigation in accordance 26907

with section 109.572 of the Revised Code and pursuant to a request 26908
made under division (A) of this section is not a public record for 26909
the purposes of section 149.43 of the Revised Code and shall not 26910
be made available to any person other than the following: 26911

(1) The person who is the subject of the criminal records 26912
check or the person's representative; 26913

(2) The appointing or hiring officer, administrative 26914
director, or attorney requesting the criminal records check or the 26915
officer's, director's, or attorney's representative; 26916

(3) The department of job and family services, a county 26917
department of job and family services, or a public children 26918
services agency; 26919

(4) Any court, hearing officer, or other necessary individual 26920
involved in a case dealing with the denial of employment, a final 26921
decree of adoption or interlocutory order of adoption, or a foster 26922
home certificate. 26923

(F) The director of job and family services shall adopt rules 26924
in accordance with Chapter 119. of the Revised Code to implement 26925
this section. The rules shall include rehabilitation standards a 26926
person who has been convicted of or pleaded guilty to an offense 26927
listed in division (A)(4) of section 109.572 of the Revised Code 26928
must meet for an appointing or hiring officer to appoint or employ 26929
the person as a person responsible for a child's care in 26930
out-of-home care, a probate court to issue a final decree of 26931
adoption or interlocutory order of adoption making the person an 26932
adoptive parent, or the department to issue a certificate 26933
authorizing the prospective foster caregiver to operate a foster 26934
home or not revoke a foster home certificate for a violation 26935
specified in section 5103.0328 of the Revised Code. 26936

(G) An appointing or hiring officer, administrative director, 26937
or attorney required by division (A) of this section to request a 26938

criminal records check shall inform each person who is the 26939
applicant, at the time of the person's initial application for 26940
appointment or employment, an adoption to be arranged, or a foster 26941
home certificate, that the person subject to the criminal records 26942
check is required to provide a set of impressions of the person's 26943
fingerprints and that a criminal records check is required to be 26944
conducted and satisfactorily completed in accordance with section 26945
109.572 of the Revised Code. 26946

~~(H) The department of job and family services may waive the 26947
requirement that a criminal records check based on fingerprints be 26948
conducted for an adult resident of a prospective adoptive or 26949
foster home or the home of a foster caregiver if the recommending 26950
agency documents to the department's satisfaction that the adult 26951
resident is physically unable to comply with the fingerprinting 26952
requirement and poses no danger to foster children or adoptive 26953
children who may be placed in the home. In such cases, the 26954
recommending or approving agency shall request that the bureau of 26955
criminal identification and investigation conduct a criminal 26956
records check using the person's name and social security number. 26957~~

~~(I) As used in this section: 26958~~

~~(1) "Children's hospital" means any of the following: 26959~~

~~(a) A hospital registered under section 3701.07 of the 26960
Revised Code that provides general pediatric medical and surgical 26961
care, and in which at least seventy-five per cent of annual 26962
inpatient discharges for the preceding two calendar years were 26963
individuals less than eighteen years of age; 26964~~

~~(b) A distinct portion of a hospital registered under section 26965
3701.07 of the Revised Code that provides general pediatric 26966
medical and surgical care, has a total of at least one hundred 26967
fifty registered pediatric special care and pediatric acute care 26968
beds, and in which at least seventy-five per cent of annual 26969~~

inpatient discharges for the preceding two calendar years were 26970
individuals less than eighteen years of age; 26971

(c) A distinct portion of a hospital, if the hospital is 26972
registered under section 3701.07 of the Revised Code as a 26973
children's hospital and the children's hospital meets all the 26974
requirements of division ~~(I)~~(H)(1)(a) of this section. 26975

(2) "Criminal records check" has the same meaning as in 26976
section 109.572 of the Revised Code. 26977

(3) "Person responsible for a child's care in out-of-home 26978
care" has the same meaning as in section 2151.011 of the Revised 26979
Code, except that it does not include a prospective employee of 26980
the department of youth services or a person responsible for a 26981
child's care in a hospital or medical clinic other than a 26982
children's hospital. 26983

(4) "Person subject to a criminal records check" means the 26984
following: 26985

(a) A person who is under final consideration for appointment 26986
or employment as a person responsible for a child's care in 26987
out-of-home care; 26988

(b) A prospective adoptive parent; 26989

(c) A prospective foster caregiver; 26990

(d) A person eighteen years old or older who resides with a 26991
prospective foster caregiver or a prospective adoptive parent. 26992

(5) "Recommending agency" means a public children services 26993
agency, private child placing agency, or private noncustodial 26994
agency to which the department of job and family services has 26995
delegated a duty to inspect and approve foster homes. 26996

(6) "Superintendent of BCII" means the superintendent of the 26997
bureau of criminal identification and investigation. 26998

Sec. 2152.54. (A) An evaluation of a child who does not 26999
appear to the court to be a person who is at least moderately 27000
intellectually disabled shall be made by an evaluator who is one 27001
of the following: 27002

(1) A professional employed by a psychiatric facility or 27003
center certified by the department of ~~mental health~~ mental health 27004
and addiction services to provide forensic services and appointed 27005
by the director of the facility or center to conduct the 27006
evaluation; 27007

(2) A psychiatrist or a licensed clinical psychologist who 27008
satisfies the criteria of division (I)(1) of section 5122.01 of 27009
the Revised Code and has specialized education, training, or 27010
experience in forensic evaluations of children or adolescents. 27011

(B) An evaluation of a child who appears to the court to be a 27012
person who is at least moderately intellectually disabled shall be 27013
made by a psychiatrist or licensed clinical psychologist who 27014
satisfies the criteria of division (I)(1) of section 5122.01 of 27015
the Revised Code and has specialized education, training, or 27016
experience in forensic evaluations of children or adolescents who 27017
have intellectual disability. 27018

(C) If an evaluation is conducted by an evaluator of the type 27019
described in division (A)(1) or (2) of this section and the 27020
evaluator concludes that the child is a person who is at least 27021
moderately intellectually disabled, the evaluator shall 27022
discontinue the evaluation and notify the court within one 27023
business day after reaching the conclusion. Within two business 27024
days after receiving notification, the court shall order the child 27025
to undergo an evaluation by an evaluator of the type described in 27026
division (B) of this section. Within two business days after the 27027
appointment of the new evaluator, the original evaluator shall 27028
deliver to the new evaluator all information relating to the child 27029

obtained during the original evaluation. 27030

Sec. 2152.59. (A) If after a hearing held pursuant to section 27031
2152.58 of the Revised Code the court determines that a child is 27032
competent, the court shall proceed with the delinquent child's 27033
proceeding as provided by law. No statement that a child makes 27034
during an evaluation or hearing conducted under sections 2152.51 27035
through 2152.59 of the Revised Code shall be used against the 27036
child on the issue of responsibility or guilt in any child or 27037
adult proceeding. 27038

(B) If after a hearing held pursuant to section 2152.58 of 27039
the Revised Code the court determines that the child is not 27040
competent and cannot attain competency within the period of time 27041
applicable under division (D)(2) of this section, the court shall 27042
dismiss the charges without prejudice, except that the court may 27043
delay dismissal for up to ninety calendar days and do either of 27044
the following: 27045

(1) Refer the matter to a public children services agency and 27046
request that agency determine whether to file an action in 27047
accordance with section 2151.27 of the Revised Code alleging that 27048
the child is a dependent, neglected, or abused child; 27049

(2) Assign court staff to refer the child or the child's 27050
family to the local family and children first council or an agency 27051
funded by the department of ~~mental health~~ mental health and 27052
addiction services or department of developmental disabilities or 27053
otherwise secure services to reduce the potential that the child 27054
would engage in behavior that could result in delinquent child or 27055
other criminal charges. 27056

(C) If after a hearing held pursuant to section 2152.58 of 27057
the Revised Code the court determines that a child is not 27058
competent but could likely attain competency by participating in 27059
services specifically designed to help the child develop 27060

competency, the court may order the child to participate in 27061
services specifically designed to help the child develop 27062
competency at county expense. The court shall name a reliable 27063
provider to deliver the competency attainment services and shall 27064
order the child's parent, guardian, or custodian to contact that 27065
provider by a specified date to arrange for services. 27066

(D) The competency attainment services provided to a child 27067
shall be based on a competency attainment plan described in 27068
division (E)(2) of this section and approved by the court. 27069
Services are subject to the following conditions and time periods 27070
measured from the date the court approves the plan: 27071

(1) Services shall be provided in the least restrictive 27072
setting that is consistent with the child's ability to attain 27073
competency and the safety of both the child and the community. If 27074
the child has been released on temporary or interim orders and 27075
refuses or fails to cooperate with the service provider, the court 27076
may reassess the orders and amend them to require a more 27077
appropriate setting. 27078

(2) No child shall be required to participate in competency 27079
attainment services for longer than is required for the child to 27080
attain competency. The following maximum periods of participation 27081
apply: 27082

(a) If a child is ordered to participate in competency 27083
attainment services that are provided outside of a residential 27084
setting, the child shall not participate in those services for a 27085
period exceeding three months if the child is charged with an act 27086
that would be a misdemeanor if committed by an adult, six months 27087
if the child is charged with an act that would be a felony of the 27088
third, fourth, or fifth degree if committed by an adult, or one 27089
year if the child is charged with an act that would be a felony of 27090
the first or second degree, aggravated murder, or murder if 27091
committed by an adult. 27092

(b) If a child is ordered to receive competency attainment services that are provided in a residential setting that is operated solely or in part for the purpose of providing competency attainment services, the child shall not participate in those services for a period exceeding forty-five calendar days if the child is charged with an act that would be a misdemeanor if committed by an adult, three months if the child is charged with an act that would be a felony of the third, fourth, or fifth degree if committed by an adult, six months if the child is charged with an act that would be a felony of the first or second degree if committed by an adult, or one year if the child is charged with an act that would be aggravated murder or murder if committed by an adult.

(c) If a child is ordered into a residential, detention, or other secured setting for reasons other than to participate in competency attainment services and is also ordered to participate in competency attainment services concurrently, the child shall participate in the competency attainment services for not longer than the relevant period set forth in division (D)(2)(a) of this section.

(d) If a child is ordered to participate in competency attainment services that require the child to live for some but not all of the duration of the services in a residential setting that is operated solely or in part for the purpose of providing competency attainment services, the child shall participate in the competency attainment services for not longer than the relevant period set forth in division (D)(2)(b) of this section. For the purpose of calculating a time period under division (D)(2)(d) of this section, two days of participation in a nonresidential setting shall equal one day of participation in a residential setting.

(3) A child who receives competency attainment services in a

residential setting that is operated solely or partly for the 27125
purpose of providing competency attainment services is in 27126
detention for purposes of section 2921.34 and division (B) of 27127
section 2152.18 of the Revised Code during the time that the child 27128
resides in the residential setting. 27129

(E)(1) Within ten business days after the court names the 27130
provider responsible for the child's competency attainment 27131
services under division (D) of this section, the court shall 27132
deliver to that provider a copy of each competency assessment 27133
report it has received for review. The provider shall return the 27134
copies of the reports to the court upon the termination of the 27135
services. 27136

(2) Not later than thirty calendar days after the child 27137
contacts the competency attainment services provider under 27138
division (C) of this section, the provider shall submit to the 27139
court a plan for the child to attain competency. The court shall 27140
provide copies of the plan to the prosecuting attorney, the 27141
child's attorney, the child's guardian ad litem, if any, and the 27142
child's parents, guardian, or custodian. 27143

(F) The provider that provides the child's competency 27144
attainment services pursuant to the competency attainment plan 27145
shall submit reports to the court on the following schedule: 27146

(1) A report on the child's progress every thirty calendar 27147
days and on the termination of services. The report shall not 27148
include any details of the alleged offense as reported by the 27149
child. 27150

(2) If the provider determines that the child is not 27151
cooperating to a degree that would allow the services to be 27152
effective to help the child attain competency, a report informing 27153
the court of the determination within three business days after 27154
making the determination; 27155

(3) If the provider determines that the current setting is no longer the least restrictive setting that is consistent with the child's ability to attain competency and the safety of both the child and the community, a report informing the court of the determination within three business days after making the determination;

(4) If the provider determines that the child has achieved the goals of the plan and would be able to understand the nature and objectives of the proceeding against the child and to assist in the child's defense, with or without reasonable accommodations to meet the criteria set forth in division (B) of section 2152.56 of the Revised Code, a report informing the court of that determination within three business days after making the determination. If the provider believes that accommodations would be necessary or desirable, the report shall include recommendations for accommodations.

(5) If the provider determines that the child will not achieve the goals of the plan within the applicable period of time under division (D)(2) of this section, a report informing the court of the determination within three business days after making the determination. The report shall include recommendations for services for the child that would support the safety of the child or the community.

(G) The court shall provide copies of any report made under division (F) of this section to the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any. The court shall provide copies of any report made under division (F) of this section to the child's parents, guardian, or custodian unless the court finds that doing so is not in the best interest of the child.

(H)(1) Within fifteen business days after receiving a report under division (F) of this section, the court may hold a hearing

to determine if a new order is necessary. To assist in making a 27188
determination under division (H) of this section, the court may 27189
order a new competency evaluation in accordance with section 27190
2152.53 of the Revised Code. Until a new order is issued or the 27191
required period of participation expires, the child shall continue 27192
to participate in competency attainment services. 27193

(2) If after a hearing held under division (H)(1) of this 27194
section the court determines that the child is not making progress 27195
toward competency or is so uncooperative that attainment services 27196
cannot be effective, the court may order a change in setting or 27197
services that would help the child attain competency within the 27198
relevant period of time under division (D)(2) of this section. 27199

(3) If after a hearing held under division (H)(1) of this 27200
section the court determines that the child has not or will not 27201
attain competency within the relevant period of time under 27202
division (D)(2) of this section, the court shall dismiss the 27203
delinquency complaint without prejudice, except that the court may 27204
delay dismissal for up to ninety calendar days and do either of 27205
the following: 27206

(a) Refer the matter to a public children services agency and 27207
request that agency determine whether to file an action in 27208
accordance with section 2151.27 of the Revised Code alleging that 27209
the child is a dependent, neglected, or abused child; 27210

(b) Assign court staff to refer the child or the child's 27211
family to the local family and children first council or an agency 27212
funded by the department of ~~mental health~~ mental health and 27213
addiction services or department of developmental disabilities or 27214
otherwise secure services to reduce the potential that the child 27215
would engage in behavior that could result in delinquency or other 27216
criminal charges. 27217

(4) A dismissal under division (H)(3) of this section does 27218

not preclude a future delinquent child proceeding or criminal prosecution as provided under section 2151.23 of the Revised Code if the child eventually attains competency.

(5) If after a hearing held under division (H)(1) of this section the court determines that the child has attained competency, the court shall proceed with the delinquent child's proceeding in accordance with division (A) of this section.

(6) A dismissal under this section does not bar a civil action based on the acts or omissions that formed the basis of the complaint.

Sec. 2303.201. (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed six dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.

(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed either upon an order of the court, subject to an appropriation by the board of county commissioners, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund

described in division (A)(2) of this section are more than 27250
sufficient to satisfy the purpose for which the additional fee 27251
described in division (A)(1) of this section was imposed, the 27252
court may declare a surplus in the fund and, subject to an 27253
appropriation by the board of county commissioners, expend those 27254
surplus funds, or upon an order of the court, subject to the court 27255
making an annual report available to the public listing the use of 27256
all such funds, expend those surplus funds, for other appropriate 27257
technological expenses of the court. 27258

(B)(1) The court of common pleas of any county may determine 27259
that, for the efficient operation of the court, additional funds 27260
are required to make technological advances in or to computerize 27261
the office of the clerk of the court of common pleas and, upon 27262
that determination, authorize and direct the clerk of the court of 27263
common pleas to charge an additional fee, not to exceed twenty 27264
dollars, on the filing of each cause of action or appeal, on the 27265
filing, docketing, and endorsing of each certificate of judgment, 27266
or on the docketing and indexing of each aid in execution or 27267
petition to vacate, revive, or modify a judgment under divisions 27268
(A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code 27269
and not to exceed one dollar each for the services described in 27270
divisions (B), (C), (D), (F), (H), and (L) of section 2303.20 of 27271
the Revised Code. Subject to division (B)(2) of this section, all 27272
moneys collected under division (B)(1) of this section shall be 27273
paid to the county treasurer to be disbursed, upon an order of the 27274
court of common pleas and subject to appropriation by the board of 27275
county commissioners, in an amount no greater than the actual cost 27276
to the court of procuring and maintaining technology and computer 27277
systems for the office of the clerk of the court of common pleas. 27278

(2) If the court of common pleas of a county makes the 27279
determination described in division (B)(1) of this section, the 27280
board of county commissioners of that county may issue one or more 27281

general obligation bonds for the purpose of procuring and 27282
maintaining the technology and computer systems for the office of 27283
the clerk of the court of common pleas. In addition to the 27284
purposes stated in division (B)(1) of this section for which the 27285
moneys collected under that division may be expended, the moneys 27286
additionally may be expended to pay debt charges on and financing 27287
costs related to any general obligation bonds issued pursuant to 27288
division (B)(2) of this section as they become due. General 27289
obligation bonds issued pursuant to division (B)(2) of this 27290
section are Chapter 133. securities. 27291

(C) The court of common pleas shall collect the sum of 27292
twenty-six dollars as additional filing fees in each new civil 27293
action or proceeding for the charitable public purpose of 27294
providing financial assistance to legal aid societies that operate 27295
within the state and to support the office of the state public 27296
defender. This division does not apply to proceedings concerning 27297
annulments, dissolutions of marriage, divorces, legal separation, 27298
spousal support, marital property or separate property 27299
distribution, support, or other domestic relations matters; to a 27300
juvenile division of a court of common pleas; to a probate 27301
division of a court of common pleas, except that the additional 27302
filing fees shall apply to name change, guardianship, adoption, 27303
and decedents' estate proceedings; or to an execution on a 27304
judgment, proceeding in aid of execution, or other post-judgment 27305
proceeding arising out of a civil action. The filing fees required 27306
to be collected under this division shall be in addition to any 27307
other filing fees imposed in the action or proceeding and shall be 27308
collected at the time of the filing of the action or proceeding. 27309
The court shall not waive the payment of the additional filing 27310
fees in a new civil action or proceeding unless the court waives 27311
the advanced payment of all filing fees in the action or 27312
proceeding. All such moneys collected during a month except for an 27313
amount equal to up to one per cent of those moneys retained to 27314

cover administrative costs shall be transmitted on or before the 27315
twentieth day of the following month by the clerk of the court to 27316
the treasurer of state in a manner prescribed by the treasurer of 27317
state or by the Ohio legal assistance foundation. The treasurer of 27318
state shall deposit four per cent of the funds collected under 27319
this division to the credit of the civil case filing fee fund 27320
established under section 120.07 of the Revised Code and 27321
ninety-six per cent of the funds collected under this division to 27322
the credit of the legal aid fund established under section 120.52 27323
of the Revised Code. 27324

The court may retain up to one per cent of the moneys it 27325
collects under this division to cover administrative costs, 27326
including the hiring of any additional personnel necessary to 27327
implement this division. If the court fails to transmit to the 27328
treasurer of state the moneys the court collects under this 27329
division in a manner prescribed by the treasurer of state or by 27330
the Ohio legal assistance foundation, the court shall forfeit the 27331
moneys the court retains under this division to cover 27332
administrative costs, including the hiring of any additional 27333
personnel necessary to implement this division, and shall transmit 27334
to the treasurer of state all moneys collected under this 27335
division, including the forfeited amount retained for 27336
administrative costs, for deposit in the legal aid fund. 27337

(D) On and after the thirtieth day after December 9, 1994, 27338
the court of common pleas shall collect the sum of thirty-two 27339
dollars as additional filing fees in each new action or proceeding 27340
for annulment, divorce, or dissolution of marriage for the purpose 27341
of funding shelters for victims of domestic violence pursuant to 27342
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 27343
required to be collected under this division shall be in addition 27344
to any other filing fees imposed in the action or proceeding and 27345
shall be collected at the time of the filing of the action or 27346

proceeding. The court shall not waive the payment of the 27347
additional filing fees in a new action or proceeding for 27348
annulment, divorce, or dissolution of marriage unless the court 27349
waives the advanced payment of all filing fees in the action or 27350
proceeding. On or before the twentieth day of each month, all 27351
moneys collected during the immediately preceding month pursuant 27352
to this division shall be deposited by the clerk of the court into 27353
the county treasury in the special fund used for deposit of 27354
additional marriage license fees as described in section 3113.34 27355
of the Revised Code. Upon their deposit into the fund, the moneys 27356
shall be retained in the fund and expended only as described in 27357
section 3113.34 of the Revised Code. 27358

(E)(1) The court of common pleas may determine that, for the 27359
efficient operation of the court, additional funds are necessary 27360
to acquire and pay for special projects of the court, including, 27361
but not limited to, the acquisition of additional facilities or 27362
the rehabilitation of existing facilities, the acquisition of 27363
equipment, the hiring and training of staff, community service 27364
programs, mediation or dispute resolution services, the employment 27365
of magistrates, the training and education of judges, acting 27366
judges, and magistrates, and other related services. Upon that 27367
determination, the court by rule may charge a fee, in addition to 27368
all other court costs, on the filing of each criminal cause, civil 27369
action or proceeding, or judgment by confession. 27370

If the court of common pleas offers or requires a special 27371
program or ~~service~~ additional services in cases of a specific 27372
type, the court by rule may assess an additional charge in a case 27373
of that type, over and above court costs, to cover the special 27374
program or service. The court shall adjust the special assessment 27375
periodically, but not retroactively, so that the amount assessed 27376
in those cases does not exceed the actual cost of providing the 27377
service or program. 27378

All moneys collected under division (E) of this section shall 27379
be paid to the county treasurer for deposit into either a general 27380
special projects fund or a fund established for a specific special 27381
project. Moneys from a fund of that nature shall be disbursed upon 27382
an order of the court, subject to an appropriation by the board of 27383
county commissioners, in an amount no greater than the actual cost 27384
to the court of a project. If a specific fund is terminated 27385
because of the discontinuance of a program or service established 27386
under division (E) of this section, the court may order, subject 27387
to an appropriation by the board of county commissioners, that 27388
moneys remaining in the fund be transferred to an account 27389
established under this division for a similar purpose. 27390

(2) As used in division (E) of this section: 27391

(a) "Criminal cause" means a charge alleging the violation of 27392
a statute or ordinance, or subsection of a statute or ordinance, 27393
that requires a separate finding of fact or a separate plea before 27394
disposition and of which the defendant may be found guilty, 27395
whether filed as part of a multiple charge on a single summons, 27396
citation, or complaint or as a separate charge on a single 27397
summons, citation, or complaint. "Criminal cause" does not include 27398
separate violations of the same statute or ordinance, or 27399
subsection of the same statute or ordinance, unless each charge is 27400
filed on a separate summons, citation, or complaint. 27401

(b) "Civil action or proceeding" means any civil litigation 27402
that must be determined by judgment entry. 27403

Sec. 2305.234. (A) As used in this section: 27404

(1) "Chiropractic claim," "medical claim," and "optometric 27405
claim" have the same meanings as in section 2305.113 of the 27406
Revised Code. 27407

(2) "Dental claim" has the same meaning as in section 27408

2305.113 of the Revised Code, except that it does not include any 27409
claim arising out of a dental operation or any derivative claim 27410
for relief that arises out of a dental operation. 27411

(3) "Governmental health care program" has the same meaning 27412
as in section 4731.65 of the Revised Code. 27413

(4) "Health care facility or location" means a hospital, 27414
clinic, ambulatory surgical facility, office of a health care 27415
professional or associated group of health care professionals, 27416
training institution for health care professionals, or any other 27417
place where medical, dental, or other health-related diagnosis, 27418
care, or treatment is provided to a person. 27419

(5) "Health care professional" means any of the following who 27420
provide medical, dental, or other health-related diagnosis, care, 27421
or treatment: 27422

(a) Physicians authorized under Chapter 4731. of the Revised 27423
Code to practice medicine and surgery or osteopathic medicine and 27424
surgery; 27425

(b) Registered nurses and licensed practical nurses licensed 27426
under Chapter 4723. of the Revised Code and individuals who hold a 27427
certificate of authority issued under that chapter that authorizes 27428
the practice of nursing as a certified registered nurse 27429
anesthetist, clinical nurse specialist, certified nurse-midwife, 27430
or certified nurse practitioner; 27431

(c) Physician assistants authorized to practice under Chapter 27432
4730. of the Revised Code; 27433

(d) Dentists and dental hygienists licensed under Chapter 27434
4715. of the Revised Code; 27435

(e) Physical therapists, physical therapist assistants, 27436
occupational therapists, and occupational therapy assistants 27437
licensed under Chapter 4755. of the Revised Code; 27438

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	27439 27440
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	27441 27442
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	27443 27444
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	27445 27446
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	27447 27448
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	27449 27450 27451 27452
(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;	27453 27454
(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code;	27455 27456
(n) Professional clinical counselors, professional counselors, independent social workers, social workers, independent marriage and family therapists, and marriage and family therapists, licensed under Chapter 4757. of the Revised Code;	27457 27458 27459 27460 27461
(o) Psychologists licensed under Chapter 4732. of the Revised Code;	27462 27463
(p) Independent chemical dependency counselors, chemical dependency counselors III, chemical dependency counselors II, and chemical dependency counselors I, licensed under Chapter 4758. of the Revised Code.	27464 27465 27466 27467
(6) "Health care worker" means a person other than a health	27468

care professional who provides medical, dental, or other 27469
health-related care or treatment under the direction of a health 27470
care professional with the authority to direct that individual's 27471
activities, including medical technicians, medical assistants, 27472
dental assistants, orderlies, aides, and individuals acting in 27473
similar capacities. 27474

(7) "Indigent and uninsured person" means a person who meets 27475
all of the following requirements: 27476

(a) The person's income is not greater than two hundred per 27477
cent of the current poverty line as defined by the United States 27478
office of management and budget and revised in accordance with 27479
section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 27480
95 Stat. 511, 42 U.S.C. 9902, as amended. 27481

(b) The person is not eligible ~~to receive medical assistance~~ 27482
~~under Chapter 5111. of the Revised Code or assistance under~~ for 27483
the medicaid program or any other governmental health care 27484
program. 27485

(c) Either of the following applies: 27486

(i) The person is not a policyholder, certificate holder, 27487
insured, contract holder, subscriber, enrollee, member, 27488
beneficiary, or other covered individual under a health insurance 27489
or health care policy, contract, or plan. 27490

(ii) The person is a policyholder, certificate holder, 27491
insured, contract holder, subscriber, enrollee, member, 27492
beneficiary, or other covered individual under a health insurance 27493
or health care policy, contract, or plan, but the insurer, policy, 27494
contract, or plan denies coverage or is the subject of insolvency 27495
or bankruptcy proceedings in any jurisdiction. 27496

(8) "Nonprofit health care referral organization" means an 27497
entity that is not operated for profit and refers patients to, or 27498
arranges for the provision of, health-related diagnosis, care, or 27499

treatment by a health care professional or health care worker. 27500

(9) "Operation" means any procedure that involves cutting or 27501
otherwise infiltrating human tissue by mechanical means, including 27502
surgery, laser surgery, ionizing radiation, therapeutic 27503
ultrasound, or the removal of intraocular foreign bodies. 27504

"Operation" does not include the administration of medication by 27505
injection, unless the injection is administered in conjunction 27506
with a procedure infiltrating human tissue by mechanical means 27507
other than the administration of medicine by injection. 27508

"Operation" does not include routine dental restorative 27509
procedures, the scaling of teeth, or extractions of teeth that are 27510
not impacted. 27511

(10) "Tort action" means a civil action for damages for 27512
injury, death, or loss to person or property other than a civil 27513
action for damages for a breach of contract or another agreement 27514
between persons or government entities. 27515

(11) "Volunteer" means an individual who provides any 27516
medical, dental, or other health-care related diagnosis, care, or 27517
treatment without the expectation of receiving and without receipt 27518
of any compensation or other form of remuneration from an indigent 27519
and uninsured person, another person on behalf of an indigent and 27520
uninsured person, any health care facility or location, any 27521
nonprofit health care referral organization, or any other person 27522
or government entity. 27523

(12) "Community control sanction" has the same meaning as in 27524
section 2929.01 of the Revised Code. 27525

(13) "Deep sedation" means a drug-induced depression of 27526
consciousness during which a patient cannot be easily aroused but 27527
responds purposefully following repeated or painful stimulation, a 27528
patient's ability to independently maintain ventilatory function 27529
may be impaired, a patient may require assistance in maintaining a 27530

patent airway and spontaneous ventilation may be inadequate, and 27531
cardiovascular function is usually maintained. 27532

(14) "General anesthesia" means a drug-induced loss of 27533
consciousness during which a patient is not arousable, even by 27534
painful stimulation, the ability to independently maintain 27535
ventilatory function is often impaired, a patient often requires 27536
assistance in maintaining a patent airway, positive pressure 27537
ventilation may be required because of depressed spontaneous 27538
ventilation or drug-induced depression of neuromuscular function, 27539
and cardiovascular function may be impaired. 27540

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 27541
health care professional who is a volunteer and complies with 27542
division (B)(2) of this section is not liable in damages to any 27543
person or government entity in a tort or other civil action, 27544
including an action on a medical, dental, chiropractic, 27545
optometric, or other health-related claim, for injury, death, or 27546
loss to person or property that allegedly arises from an action or 27547
omission of the volunteer in the provision to an indigent and 27548
uninsured person of medical, dental, or other health-related 27549
diagnosis, care, or treatment, including the provision of samples 27550
of medicine and other medical products, unless the action or 27551
omission constitutes willful or wanton misconduct. 27552

(2) To qualify for the immunity described in division (B)(1) 27553
of this section, a health care professional shall do all of the 27554
following prior to providing diagnosis, care, or treatment: 27555

(a) Determine, in good faith, that the indigent and uninsured 27556
person is mentally capable of giving informed consent to the 27557
provision of the diagnosis, care, or treatment and is not subject 27558
to duress or under undue influence; 27559

(b) Inform the person of the provisions of this section, 27560
including notifying the person that, by giving informed consent to 27561

the provision of the diagnosis, care, or treatment, the person 27562
cannot hold the health care professional liable for damages in a 27563
tort or other civil action, including an action on a medical, 27564
dental, chiropractic, optometric, or other health-related claim, 27565
unless the action or omission of the health care professional 27566
constitutes willful or wanton misconduct; 27567

(c) Obtain the informed consent of the person and a written 27568
waiver, signed by the person or by another individual on behalf of 27569
and in the presence of the person, that states that the person is 27570
mentally competent to give informed consent and, without being 27571
subject to duress or under undue influence, gives informed consent 27572
to the provision of the diagnosis, care, or treatment subject to 27573
the provisions of this section. A written waiver under division 27574
(B)(2)(c) of this section shall state clearly and in conspicuous 27575
type that the person or other individual who signs the waiver is 27576
signing it with full knowledge that, by giving informed consent to 27577
the provision of the diagnosis, care, or treatment, the person 27578
cannot bring a tort or other civil action, including an action on 27579
a medical, dental, chiropractic, optometric, or other 27580
health-related claim, against the health care professional unless 27581
the action or omission of the health care professional constitutes 27582
willful or wanton misconduct. 27583

(3) A physician or podiatrist who is not covered by medical 27584
malpractice insurance, but complies with division (B)(2) of this 27585
section, is not required to comply with division (A) of section 27586
4731.143 of the Revised Code. 27587

(C) Subject to divisions (F) and (G)(3) of this section, 27588
health care workers who are volunteers are not liable in damages 27589
to any person or government entity in a tort or other civil 27590
action, including an action upon a medical, dental, chiropractic, 27591
optometric, or other health-related claim, for injury, death, or 27592
loss to person or property that allegedly arises from an action or 27593

omission of the health care worker in the provision to an indigent 27594
and uninsured person of medical, dental, or other health-related 27595
diagnosis, care, or treatment, unless the action or omission 27596
constitutes willful or wanton misconduct. 27597

(D) Subject to divisions (F) and (G)(3) of this section, a 27598
nonprofit health care referral organization is not liable in 27599
damages to any person or government entity in a tort or other 27600
civil action, including an action on a medical, dental, 27601
chiropractic, optometric, or other health-related claim, for 27602
injury, death, or loss to person or property that allegedly arises 27603
from an action or omission of the nonprofit health care referral 27604
organization in referring indigent and uninsured persons to, or 27605
arranging for the provision of, medical, dental, or other 27606
health-related diagnosis, care, or treatment by a health care 27607
professional described in division (B)(1) of this section or a 27608
health care worker described in division (C) of this section, 27609
unless the action or omission constitutes willful or wanton 27610
misconduct. 27611

(E) Subject to divisions (F) and (G)(3) of this section and 27612
to the extent that the registration requirements of section 27613
3701.071 of the Revised Code apply, a health care facility or 27614
location associated with a health care professional described in 27615
division (B)(1) of this section, a health care worker described in 27616
division (C) of this section, or a nonprofit health care referral 27617
organization described in division (D) of this section is not 27618
liable in damages to any person or government entity in a tort or 27619
other civil action, including an action on a medical, dental, 27620
chiropractic, optometric, or other health-related claim, for 27621
injury, death, or loss to person or property that allegedly arises 27622
from an action or omission of the health care professional or 27623
worker or nonprofit health care referral organization relative to 27624
the medical, dental, or other health-related diagnosis, care, or 27625

treatment provided to an indigent and uninsured person on behalf 27626
of or at the health care facility or location, unless the action 27627
or omission constitutes willful or wanton misconduct. 27628

(F)(1) Except as provided in division (F)(2) of this section, 27629
the immunities provided by divisions (B), (C), (D), and (E) of 27630
this section are not available to a health care professional, 27631
health care worker, nonprofit health care referral organization, 27632
or health care facility or location if, at the time of an alleged 27633
injury, death, or loss to person or property, the health care 27634
professionals or health care workers involved are providing one of 27635
the following: 27636

(a) Any medical, dental, or other health-related diagnosis, 27637
care, or treatment pursuant to a community service work order 27638
entered by a court under division (B) of section 2951.02 of the 27639
Revised Code or imposed by a court as a community control 27640
sanction; 27641

(b) Performance of an operation to which any one of the 27642
following applies: 27643

(i) The operation requires the administration of deep 27644
sedation or general anesthesia. 27645

(ii) The operation is a procedure that is not typically 27646
performed in an office. 27647

(iii) The individual involved is a health care professional, 27648
and the operation is beyond the scope of practice or the 27649
education, training, and competence, as applicable, of the health 27650
care professional. 27651

(c) Delivery of a baby or any other purposeful termination of 27652
a human pregnancy. 27653

(2) Division (F)(1) of this section does not apply when a 27654
health care professional or health care worker provides medical, 27655

dental, or other health-related diagnosis, care, or treatment that 27656
is necessary to preserve the life of a person in a medical 27657
emergency. 27658

(G)(1) This section does not create a new cause of action or 27659
substantive legal right against a health care professional, health 27660
care worker, nonprofit health care referral organization, or 27661
health care facility or location. 27662

(2) This section does not affect any immunities from civil 27663
liability or defenses established by another section of the 27664
Revised Code or available at common law to which a health care 27665
professional, health care worker, nonprofit health care referral 27666
organization, or health care facility or location may be entitled 27667
in connection with the provision of emergency or other medical, 27668
dental, or other health-related diagnosis, care, or treatment. 27669

(3) This section does not grant an immunity from tort or 27670
other civil liability to a health care professional, health care 27671
worker, nonprofit health care referral organization, or health 27672
care facility or location for actions that are outside the scope 27673
of authority of health care professionals or health care workers. 27674

(4) This section does not affect any legal responsibility of 27675
a health care professional, health care worker, or nonprofit 27676
health care referral organization to comply with any applicable 27677
law of this state or rule of an agency of this state. 27678

(5) This section does not affect any legal responsibility of 27679
a health care facility or location to comply with any applicable 27680
law of this state, rule of an agency of this state, or local code, 27681
ordinance, or regulation that pertains to or regulates building, 27682
housing, air pollution, water pollution, sanitation, health, fire, 27683
zoning, or safety. 27684

Sec. 2307.65. (A) The attorney general may bring a civil 27685

action in the Franklin county court of common pleas on behalf of 27686
the department of ~~job and family services~~ medicaid, and the 27687
prosecuting attorney of the county in which a violation of 27688
division (B) of section 2913.401 of the Revised Code occurs may 27689
bring a civil action in the court of common pleas of that county 27690
on behalf of the county department of job and family services, 27691
against a person who violates division (B) of section 2913.401 of 27692
the Revised Code for the recovery of the amount of benefits paid 27693
on behalf of a person that either department would not have paid 27694
but for the violation minus any amounts paid in restitution under 27695
division (C)(2) of section 2913.401 of the Revised Code and for 27696
reasonable attorney's fees and all other fees and costs of 27697
litigation. 27698

(B) In a civil action brought under division (A) of this 27699
section, if the defendant failed to disclose a transfer of 27700
property in violation of division (B)(3) of section 2913.401 of 27701
the Revised Code, the court may also grant any of the following 27702
relief to the extent permitted by the "Social Security Act," 27703
section 1917, 42 U.S.C. 1396p: 27704

(1) Avoidance of the transfer of property that was not 27705
disclosed in violation of division (B)(3) of section 2913.401 of 27706
the Revised Code to the extent of the amount of benefits the 27707
department would not have paid but for the violation; 27708

(2) An order of attachment or garnishment against the 27709
property in accordance with Chapter 2715. or 2716. of the Revised 27710
Code; 27711

(3) An injunction against any further disposition by the 27712
transferor or transferee, or both, of the property the transfer of 27713
which was not disclosed in violation of division (B)(3) of section 27714
2913.401 of the Revised Code or against the disposition of other 27715
property by the transferor or transferee; 27716

(4) Appointment of a receiver to take charge of the property transferred or of other property of the transferee;	27717 27718
(5) Any other relief that the court considers just and equitable.	27719 27720
(C) To the extent permitted by <u>the "Social Security Act," section 1917</u> , 42 U.S.C. 1396p, the department of job and family services <u>medicaid</u> or the county department of job and family services may enforce a judgment obtained under this section by levying on property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code or on the proceeds of the transfer of that property in accordance with Chapter 2329. of the Revised Code.	27721 27722 27723 27724 27725 27726 27727 27728
(D) The remedies provided in divisions (B) and (C) of this section do not apply if the transferee of the property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code acquired the property in good faith and for fair market value.	27729 27730 27731 27732 27733
(E) The remedies provided in this section are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of section 2913.401 of the Revised Code.	27734 27735 27736 27737
(F) Amounts of medicaid benefits <u>services</u> paid and recovered in an action brought under this section shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.	27738 27739 27740 27741 27742
Sec. 2317.02. The following persons shall not testify in certain respects:	27743 27744
(A)(1) An attorney, concerning a communication made to the attorney by a client in that relation or concerning the attorney's	27745 27746

advice to a client, except that the attorney may testify by 27747
express consent of the client or, if the client is deceased, by 27748
the express consent of the surviving spouse or the executor or 27749
administrator of the estate of the deceased client. However, if 27750
the client voluntarily reveals the substance of attorney-client 27751
communications in a nonprivileged context or is deemed by section 27752
2151.421 of the Revised Code to have waived any testimonial 27753
privilege under this division, the attorney may be compelled to 27754
testify on the same subject. 27755

The testimonial privilege established under this division 27756
does not apply concerning a communication between a client who has 27757
since died and the deceased client's attorney if the communication 27758
is relevant to a dispute between parties who claim through that 27759
deceased client, regardless of whether the claims are by testate 27760
or intestate succession or by inter vivos transaction, and the 27761
dispute addresses the competency of the deceased client when the 27762
deceased client executed a document that is the basis of the 27763
dispute or whether the deceased client was a victim of fraud, 27764
undue influence, or duress when the deceased client executed a 27765
document that is the basis of the dispute. 27766

(2) An attorney, concerning a communication made to the 27767
attorney by a client in that relationship or the attorney's advice 27768
to a client, except that if the client is an insurance company, 27769
the attorney may be compelled to testify, subject to an in camera 27770
inspection by a court, about communications made by the client to 27771
the attorney or by the attorney to the client that are related to 27772
the attorney's aiding or furthering an ongoing or future 27773
commission of bad faith by the client, if the party seeking 27774
disclosure of the communications has made a prima-facie showing of 27775
bad faith, fraud, or criminal misconduct by the client. 27776

(B)(1) A physician or a dentist concerning a communication 27777
made to the physician or dentist by a patient in that relation or 27778

the physician's or dentist's advice to a patient, except as 27779
otherwise provided in this division, division (B)(2), and division 27780
(B)(3) of this section, and except that, if the patient is deemed 27781
by section 2151.421 of the Revised Code to have waived any 27782
testimonial privilege under this division, the physician may be 27783
compelled to testify on the same subject. 27784

The testimonial privilege established under this division 27785
does not apply, and a physician or dentist may testify or may be 27786
compelled to testify, in any of the following circumstances: 27787

(a) In any civil action, in accordance with the discovery 27788
provisions of the Rules of Civil Procedure in connection with a 27789
civil action, or in connection with a claim under Chapter 4123. of 27790
the Revised Code, under any of the following circumstances: 27791

(i) If the patient or the guardian or other legal 27792
representative of the patient gives express consent; 27793

(ii) If the patient is deceased, the spouse of the patient or 27794
the executor or administrator of the patient's estate gives 27795
express consent; 27796

(iii) If a medical claim, dental claim, chiropractic claim, 27797
or optometric claim, as defined in section 2305.113 of the Revised 27798
Code, an action for wrongful death, any other type of civil 27799
action, or a claim under Chapter 4123. of the Revised Code is 27800
filed by the patient, the personal representative of the estate of 27801
the patient if deceased, or the patient's guardian or other legal 27802
representative. 27803

(b) In any civil action concerning court-ordered treatment or 27804
services received by a patient, if the court-ordered treatment or 27805
services were ordered as part of a case plan journalized under 27806
section 2151.412 of the Revised Code or the court-ordered 27807
treatment or services are necessary or relevant to dependency, 27808
neglect, or abuse or temporary or permanent custody proceedings 27809

under Chapter 2151. of the Revised Code. 27810

(c) In any criminal action concerning any test or the results 27811
of any test that determines the presence or concentration of 27812
alcohol, a drug of abuse, a combination of them, a controlled 27813
substance, or a metabolite of a controlled substance in the 27814
patient's whole blood, blood serum or plasma, breath, urine, or 27815
other bodily substance at any time relevant to the criminal 27816
offense in question. 27817

(d) In any criminal action against a physician or dentist. In 27818
such an action, the testimonial privilege established under this 27819
division does not prohibit the admission into evidence, in 27820
accordance with the Rules of Evidence, of a patient's medical or 27821
dental records or other communications between a patient and the 27822
physician or dentist that are related to the action and obtained 27823
by subpoena, search warrant, or other lawful means. A court that 27824
permits or compels a physician or dentist to testify in such an 27825
action or permits the introduction into evidence of patient 27826
records or other communications in such an action shall require 27827
that appropriate measures be taken to ensure that the 27828
confidentiality of any patient named or otherwise identified in 27829
the records is maintained. Measures to ensure confidentiality that 27830
may be taken by the court include sealing its records or deleting 27831
specific information from its records. 27832

(e)(i) If the communication was between a patient who has 27833
since died and the deceased patient's physician or dentist, the 27834
communication is relevant to a dispute between parties who claim 27835
through that deceased patient, regardless of whether the claims 27836
are by testate or intestate succession or by inter vivos 27837
transaction, and the dispute addresses the competency of the 27838
deceased patient when the deceased patient executed a document 27839
that is the basis of the dispute or whether the deceased patient 27840
was a victim of fraud, undue influence, or duress when the 27841

deceased patient executed a document that is the basis of the 27842
dispute. 27843

(ii) If neither the spouse of a patient nor the executor or 27844
administrator of that patient's estate gives consent under 27845
division (B)(1)(a)(ii) of this section, testimony or the 27846
disclosure of the patient's medical records by a physician, 27847
dentist, or other health care provider under division (B)(1)(e)(i) 27848
of this section is a permitted use or disclosure of protected 27849
health information, as defined in 45 C.F.R. 160.103, and an 27850
authorization or opportunity to be heard shall not be required. 27851

(iii) Division (B)(1)(e)(i) of this section does not require 27852
a mental health professional to disclose psychotherapy notes, as 27853
defined in 45 C.F.R. 164.501. 27854

(iv) An interested person who objects to testimony or 27855
disclosure under division (B)(1)(e)(i) of this section may seek a 27856
protective order pursuant to Civil Rule 26. 27857

(v) A person to whom protected health information is 27858
disclosed under division (B)(1)(e)(i) of this section shall not 27859
use or disclose the protected health information for any purpose 27860
other than the litigation or proceeding for which the information 27861
was requested and shall return the protected health information to 27862
the covered entity or destroy the protected health information, 27863
including all copies made, at the conclusion of the litigation or 27864
proceeding. 27865

(2)(a) If any law enforcement officer submits a written 27866
statement to a health care provider that states that an official 27867
criminal investigation has begun regarding a specified person or 27868
that a criminal action or proceeding has been commenced against a 27869
specified person, that requests the provider to supply to the 27870
officer copies of any records the provider possesses that pertain 27871
to any test or the results of any test administered to the 27872

specified person to determine the presence or concentration of 27873
alcohol, a drug of abuse, a combination of them, a controlled 27874
substance, or a metabolite of a controlled substance in the 27875
person's whole blood, blood serum or plasma, breath, or urine at 27876
any time relevant to the criminal offense in question, and that 27877
conforms to section 2317.022 of the Revised Code, the provider, 27878
except to the extent specifically prohibited by any law of this 27879
state or of the United States, shall supply to the officer a copy 27880
of any of the requested records the provider possesses. If the 27881
health care provider does not possess any of the requested 27882
records, the provider shall give the officer a written statement 27883
that indicates that the provider does not possess any of the 27884
requested records. 27885

(b) If a health care provider possesses any records of the 27886
type described in division (B)(2)(a) of this section regarding the 27887
person in question at any time relevant to the criminal offense in 27888
question, in lieu of personally testifying as to the results of 27889
the test in question, the custodian of the records may submit a 27890
certified copy of the records, and, upon its submission, the 27891
certified copy is qualified as authentic evidence and may be 27892
admitted as evidence in accordance with the Rules of Evidence. 27893
Division (A) of section 2317.422 of the Revised Code does not 27894
apply to any certified copy of records submitted in accordance 27895
with this division. Nothing in this division shall be construed to 27896
limit the right of any party to call as a witness the person who 27897
administered the test to which the records pertain, the person 27898
under whose supervision the test was administered, the custodian 27899
of the records, the person who made the records, or the person 27900
under whose supervision the records were made. 27901

(3)(a) If the testimonial privilege described in division 27902
(B)(1) of this section does not apply as provided in division 27903
(B)(1)(a)(iii) of this section, a physician or dentist may be 27904

compelled to testify or to submit to discovery under the Rules of 27905
Civil Procedure only as to a communication made to the physician 27906
or dentist by the patient in question in that relation, or the 27907
physician's or dentist's advice to the patient in question, that 27908
related causally or historically to physical or mental injuries 27909
that are relevant to issues in the medical claim, dental claim, 27910
chiropractic claim, or optometric claim, action for wrongful 27911
death, other civil action, or claim under Chapter 4123. of the 27912
Revised Code. 27913

(b) If the testimonial privilege described in division (B)(1) 27914
of this section does not apply to a physician or dentist as 27915
provided in division (B)(1)(c) of this section, the physician or 27916
dentist, in lieu of personally testifying as to the results of the 27917
test in question, may submit a certified copy of those results, 27918
and, upon its submission, the certified copy is qualified as 27919
authentic evidence and may be admitted as evidence in accordance 27920
with the Rules of Evidence. Division (A) of section 2317.422 of 27921
the Revised Code does not apply to any certified copy of results 27922
submitted in accordance with this division. Nothing in this 27923
division shall be construed to limit the right of any party to 27924
call as a witness the person who administered the test in 27925
question, the person under whose supervision the test was 27926
administered, the custodian of the results of the test, the person 27927
who compiled the results, or the person under whose supervision 27928
the results were compiled. 27929

(4) The testimonial privilege described in division (B)(1) of 27930
this section is not waived when a communication is made by a 27931
physician to a pharmacist or when there is communication between a 27932
patient and a pharmacist in furtherance of the physician-patient 27933
relation. 27934

(5)(a) As used in divisions (B)(1) to (4) of this section, 27935
"communication" means acquiring, recording, or transmitting any 27936

information, in any manner, concerning any facts, opinions, or 27937
statements necessary to enable a physician or dentist to diagnose, 27938
treat, prescribe, or act for a patient. A "communication" may 27939
include, but is not limited to, any medical or dental, office, or 27940
hospital communication such as a record, chart, letter, 27941
memorandum, laboratory test and results, x-ray, photograph, 27942
financial statement, diagnosis, or prognosis. 27943

(b) As used in division (B)(2) of this section, "health care 27944
provider" means a hospital, ambulatory care facility, long-term 27945
care facility, pharmacy, emergency facility, or health care 27946
practitioner. 27947

(c) As used in division (B)(5)(b) of this section: 27948

(i) "Ambulatory care facility" means a facility that provides 27949
medical, diagnostic, or surgical treatment to patients who do not 27950
require hospitalization, including a dialysis center, ambulatory 27951
surgical facility, cardiac catheterization facility, diagnostic 27952
imaging center, extracorporeal shock wave lithotripsy center, home 27953
health agency, inpatient hospice, birthing center, radiation 27954
therapy center, emergency facility, and an urgent care center. 27955
"Ambulatory health care facility" does not include the private 27956
office of a physician or dentist, whether the office is for an 27957
individual or group practice. 27958

(ii) "Emergency facility" means a hospital emergency 27959
department or any other facility that provides emergency medical 27960
services. 27961

(iii) "Health care practitioner" has the same meaning as in 27962
section 4769.01 of the Revised Code. 27963

(iv) "Hospital" has the same meaning as in section 3727.01 of 27964
the Revised Code. 27965

(v) "Long-term care facility" means a nursing home, 27966
residential care facility, or home for the aging, as those terms 27967

are defined in section 3721.01 of the Revised Code; a residential 27968
facility licensed under section ~~5119.22~~ 5119.34 of the Revised 27969
Code that provides accommodations, supervision, and personal care 27970
services for three to sixteen unrelated adults; a nursing facility 27971
~~or intermediate care facility for the mentally retarded, as those~~ 27972
~~terms are~~ defined in section ~~5111.20~~ 5165.01 of the Revised Code; 27973
a ~~facility or portion of a facility certified as a~~ skilled nursing 27974
facility under Title XVIII of the "Social Security Act," ~~49 Stat.~~ 27975
~~286 (1965), 42 U.S.C.A. 1395, as amended, as defined in section~~ 27976
5165.01 of the Revised Code; and an intermediate care facility for 27977
the mentally retarded, as defined in section 5124.01 of the 27978
Revised Code. 27979

(vi) "Pharmacy" has the same meaning as in section 4729.01 of 27980
the Revised Code. 27981

(d) As used in divisions (B)(1) and (2) of this section, 27982
"drug of abuse" has the same meaning as in section 4506.01 of the 27983
Revised Code. 27984

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section 27985
apply to doctors of medicine, doctors of osteopathic medicine, 27986
doctors of podiatry, and dentists. 27987

(7) Nothing in divisions (B)(1) to (6) of this section 27988
affects, or shall be construed as affecting, the immunity from 27989
civil liability conferred by section 307.628 of the Revised Code 27990
or the immunity from civil liability conferred by section 2305.33 27991
of the Revised Code upon physicians who report an employee's use 27992
of a drug of abuse, or a condition of an employee other than one 27993
involving the use of a drug of abuse, to the employer of the 27994
employee in accordance with division (B) of that section. As used 27995
in division (B)(7) of this section, "employee," "employer," and 27996
"physician" have the same meanings as in section 2305.33 of the 27997
Revised Code. 27998

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.

(2) As used in division (C) of this section:

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the

other, during coverture, unless the communication was made, or act 28030
done, in the known presence or hearing of a third person competent 28031
to be a witness; and such rule is the same if the marital relation 28032
has ceased to exist; 28033

(E) A person who assigns a claim or interest, concerning any 28034
matter in respect to which the person would not, if a party, be 28035
permitted to testify; 28036

(F) A person who, if a party, would be restricted under 28037
section 2317.03 of the Revised Code, when the property or thing is 28038
sold or transferred by an executor, administrator, guardian, 28039
trustee, heir, devisee, or legatee, shall be restricted in the 28040
same manner in any action or proceeding concerning the property or 28041
thing. 28042

(G)(1) A school guidance counselor who holds a valid educator 28043
license from the state board of education as provided for in 28044
section 3319.22 of the Revised Code, a person licensed under 28045
Chapter 4757. of the Revised Code as a professional clinical 28046
counselor, professional counselor, social worker, independent 28047
social worker, marriage and family therapist or independent 28048
marriage and family therapist, or registered under Chapter 4757. 28049
of the Revised Code as a social work assistant concerning a 28050
confidential communication received from a client in that relation 28051
or the person's advice to a client unless any of the following 28052
applies: 28053

(a) The communication or advice indicates clear and present 28054
danger to the client or other persons. For the purposes of this 28055
division, cases in which there are indications of present or past 28056
child abuse or neglect of the client constitute a clear and 28057
present danger. 28058

(b) The client gives express consent to the testimony. 28059

(c) If the client is deceased, the surviving spouse or the 28060

executor or administrator of the estate of the deceased client 28061
gives express consent. 28062

(d) The client voluntarily testifies, in which case the 28063
school guidance counselor or person licensed or registered under 28064
Chapter 4757. of the Revised Code may be compelled to testify on 28065
the same subject. 28066

(e) The court in camera determines that the information 28067
communicated by the client is not germane to the counselor-client, 28068
marriage and family therapist-client, or social worker-client 28069
relationship. 28070

(f) A court, in an action brought against a school, its 28071
administration, or any of its personnel by the client, rules after 28072
an in-camera inspection that the testimony of the school guidance 28073
counselor is relevant to that action. 28074

(g) The testimony is sought in a civil action and concerns 28075
court-ordered treatment or services received by a patient as part 28076
of a case plan journalized under section 2151.412 of the Revised 28077
Code or the court-ordered treatment or services are necessary or 28078
relevant to dependency, neglect, or abuse or temporary or 28079
permanent custody proceedings under Chapter 2151. of the Revised 28080
Code. 28081

(2) Nothing in division (G)(1) of this section shall relieve 28082
a school guidance counselor or a person licensed or registered 28083
under Chapter 4757. of the Revised Code from the requirement to 28084
report information concerning child abuse or neglect under section 28085
2151.421 of the Revised Code. 28086

(H) A mediator acting under a mediation order issued under 28087
division (A) of section 3109.052 of the Revised Code or otherwise 28088
issued in any proceeding for divorce, dissolution, legal 28089
separation, annulment, or the allocation of parental rights and 28090
responsibilities for the care of children, in any action or 28091

proceeding, other than a criminal, delinquency, child abuse, child
neglect, or dependent child action or proceeding, that is brought
by or against either parent who takes part in mediation in
accordance with the order and that pertains to the mediation
process, to any information discussed or presented in the
mediation process, to the allocation of parental rights and
responsibilities for the care of the parents' children, or to the
awarding of parenting time rights in relation to their children;

(I) A communications assistant, acting within the scope of
the communication assistant's authority, when providing
telecommunications relay service pursuant to section 4931.06 of
the Revised Code or Title II of the "Communications Act of 1934,"
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication
made through a telecommunications relay service. Nothing in this
section shall limit the obligation of a communications assistant
to divulge information or testify when mandated by federal law or
regulation or pursuant to subpoena in a criminal proceeding.

Nothing in this section shall limit any immunity or privilege
granted under federal law or regulation.

(J)(1) A chiropractor in a civil proceeding concerning a
communication made to the chiropractor by a patient in that
relation or the chiropractor's advice to a patient, except as
otherwise provided in this division. The testimonial privilege
established under this division does not apply, and a chiropractor
may testify or may be compelled to testify, in any civil action,
in accordance with the discovery provisions of the Rules of Civil
Procedure in connection with a civil action, or in connection with
a claim under Chapter 4123. of the Revised Code, under any of the
following circumstances:

(a) If the patient or the guardian or other legal
representative of the patient gives express consent.

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session. 28155
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(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true: 28161
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(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger. 28164
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(b) The individual who received crisis response services gives express consent to the testimony. 28169
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(c) If the individual who received crisis response services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent. 28171
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(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be compelled to testify on the same subject. 28174
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(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member. 28177
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(f) The communication or advice pertains or is related to any criminal act. 28181
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(3) As used in division (K) of this section: 28183

(a) "Crisis response services" means consultation, risk 28184

assessment, referral, and on-site crisis intervention services 28185
provided by a critical incident stress management team to 28186
individuals affected by crisis or disaster. 28187

(b) "Critical incident stress management team member" or 28188
"team member" means an individual specially trained to provide 28189
crisis response services as a member of an organized community or 28190
local crisis response team that holds membership in the Ohio 28191
critical incident stress management network. 28192

(c) "Debriefing session" means a session at which crisis 28193
response services are rendered by a critical incident stress 28194
management team member during or after a crisis or disaster. 28195

(L)(1) Subject to division (L)(2) of this section and except 28196
as provided in division (L)(3) of this section, an employee 28197
assistance professional, concerning a communication made to the 28198
employee assistance professional by a client in the employee 28199
assistance professional's official capacity as an employee 28200
assistance professional. 28201

(2) Division (L)(1) of this section applies to an employee 28202
assistance professional who meets either or both of the following 28203
requirements: 28204

(a) Is certified by the employee assistance certification 28205
commission to engage in the employee assistance profession; 28206

(b) Has education, training, and experience in all of the 28207
following: 28208

(i) Providing workplace-based services designed to address 28209
employer and employee productivity issues; 28210

(ii) Providing assistance to employees and employees' 28211
dependents in identifying and finding the means to resolve 28212
personal problems that affect the employees or the employees' 28213
performance; 28214

(iii) Identifying and resolving productivity problems	28215
associated with an employee's concerns about any of the following	28216
matters: health, marriage, family, finances, substance abuse or	28217
other addiction, workplace, law, and emotional issues;	28218
(iv) Selecting and evaluating available community resources;	28219
(v) Making appropriate referrals;	28220
(vi) Local and national employee assistance agreements;	28221
(vii) Client confidentiality.	28222
(3) Division (L)(1) of this section does not apply to any of	28223
the following:	28224
(a) A criminal action or proceeding involving an offense	28225
under sections 2903.01 to 2903.06 of the Revised Code if the	28226
employee assistance professional's disclosure or testimony relates	28227
directly to the facts or immediate circumstances of the offense;	28228
(b) A communication made by a client to an employee	28229
assistance professional that reveals the contemplation or	28230
commission of a crime or serious, harmful act;	28231
(c) A communication that is made by a client who is an	28232
unemancipated minor or an adult adjudicated to be incompetent and	28233
indicates that the client was the victim of a crime or abuse;	28234
(d) A civil proceeding to determine an individual's mental	28235
competency or a criminal action in which a plea of not guilty by	28236
reason of insanity is entered;	28237
(e) A civil or criminal malpractice action brought against	28238
the employee assistance professional;	28239
(f) When the employee assistance professional has the express	28240
consent of the client or, if the client is deceased or disabled,	28241
the client's legal representative;	28242
(g) When the testimonial privilege otherwise provided by	28243

division (L)(1) of this section is abrogated under law. 28244

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 28245
2317.41 of the Revised Code but subject to division (B) of this 28246
section, the records, or copies or photographs of the records, of 28247
a hospital, homes required to be licensed pursuant to section 28248
3721.01 of the Revised Code, and residential facilities licensed 28249
pursuant to section ~~5119.22~~ 5119.34 of the Revised Code that 28250
provides accommodations, supervision, and personal care services 28251
for three to sixteen unrelated adults, in lieu of the testimony in 28252
open court of their custodian, person who made them, or person 28253
under whose supervision they were made, may be qualified as 28254
authentic evidence if any such person endorses thereon the 28255
person's verified certification identifying such records, giving 28256
the mode and time of their preparation, and stating that they were 28257
prepared in the usual course of the business of the institution. 28258
Such records, copies, or photographs may not be qualified by 28259
certification as provided in this section unless the party 28260
intending to offer them delivers a copy of them, or of their 28261
relevant portions, to the attorney of record for each adverse 28262
party not less than five days before trial. Nothing in this 28263
section shall be construed to limit the right of any party to call 28264
the custodian, person who made such records, or person under whose 28265
supervision they were made, as a witness. 28266

(B) Division (A) of this section does not apply to any 28267
certified copy of the results of any test given to determine the 28268
presence or concentration of alcohol, a drug of abuse, a 28269
combination of them, a controlled substance, or a metabolite of a 28270
controlled substance in a patient's whole blood, blood serum or 28271
plasma, breath, or urine at any time relevant to a criminal 28272
offense that is submitted in a criminal action or proceeding in 28273
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 28274
of the Revised Code. 28275

<u>Sec. 2329.192. (A) As used in this section:</u>	28276
<u>(1) "State lien" means a lien upon real estate, including</u>	28277
<u>lands and tenements, of persons indebted to the state for debt,</u>	28278
<u>taxes, or in any other manner recorded by a state agency in any</u>	28279
<u>office of the clerk of a county court or the county recorder.</u>	28280
<u>(2) "State lienholder" means the department, agency, or other</u>	28281
<u>division of the state in whose name a state lien has been filed or</u>	28282
<u>recorded.</u>	28283
<u>(B) In every action seeking the judicial sale of real estate</u>	28284
<u>that is subject to a state lien, all of the following apply:</u>	28285
<u>(1) The party seeking a judicial sale shall include the state</u>	28286
<u>lienholder as a party defendant and shall serve that state</u>	28287
<u>lienholder with a copy of the preliminary judicial report or</u>	28288
<u>commitment for an owner's fee policy of title insurance filed in</u>	28289
<u>accordance with section 2329.191 of the Revised Code.</u>	28290
<u>(2) A state lienholder shall not be made a party defendant if</u>	28291
<u>no state lien has been recorded against the owner of the real</u>	28292
<u>estate for which the judicial sale is sought.</u>	28293
<u>(3) The appearance of the state lienholder shall be presumed</u>	28294
<u>for purposes of jurisdiction, and the court shall take judicial</u>	28295
<u>notice that the state has a lien against the real estate.</u>	28296
<u>(4) A state lienholder may, but is not required to, file an</u>	28297
<u>answer to the complaint or any other pleading in the action if the</u>	28298
<u>amount, validity, or priority of the state lien is not identified</u>	28299
<u>in the pleadings as disputed and shall file an answer to the</u>	28300
<u>complaint or any other pleading in the action if the amount,</u>	28301
<u>validity, or priority of the state lien is identified in the</u>	28302
<u>pleadings as disputed. If a state lien is not identified as</u>	28303
<u>disputed, unless the state files an answer or other responsive</u>	28304
<u>pleading, the party seeking the judicial sale is not required to</u>	28305

serve the state lienholder with any answer or subsequent pleadings 28306
in the action for judicial sale. 28307

(5) As part of any order confirming the sale of the real 28308
estate that is subject to any undisputed state lien or 28309
distributing the proceeds of any judicial sale of real estate, the 28310
undisputed state lien shall be protected as if the state had 28311
appeared in the action and filed an answer asserting the validity 28312
of the state lien as recorded in the office of the clerk of the 28313
county court or the office of the county recorder. 28314

(6) Any party asserting a dispute as to the amount, validity, 28315
or priority of the state lien or of any lien or other interest 28316
that has priority over the state lien shall serve the state 28317
lienholder and the attorney general with notice of the dispute, 28318
and the state lienholder shall be permitted to file a responsive 28319
pleading and participate in the proceedings as if the state 28320
lienholder had been served with a summons on the date the state 28321
lienholder received notice of the dispute. 28322

(C) Upon the judicial sale of the real estate that is the 28323
subject of an action under division (B) of this section, the 28324
interest of any undisputed state lien shall transfer to the 28325
proceeds of the sale of the real estate, and the state lienholder 28326
shall be entitled to payment from the proceeds of the sale of the 28327
real estate in accordance with the state lienholder's priority as 28328
set forth in the final judicial report or commitment for an 28329
owner's fee policy of title insurance filed in accordance with 28330
section 2329.191 of the Revised Code. 28331

Sec. 2505.02. (A) As used in this section: 28332

(1) "Substantial right" means a right that the United States 28333
Constitution, the Ohio Constitution, a statute, the common law, or 28334
a rule of procedure entitles a person to enforce or protect. 28335

(2) "Special proceeding" means an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity.

(3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter, suppression of evidence, a prima-facie showing pursuant to section 2307.85 or 2307.86 of the Revised Code, a prima-facie showing pursuant to section 2307.92 of the Revised Code, or a finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code.

(B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

(3) An order that vacates or sets aside a judgment or grants a new trial;

(4) An order that grants or denies a provisional remedy and to which both of the following apply:

(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

(5) An order that determines that an action may or may not be maintained as a class action; 28366
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(6) An order determining the constitutionality of any changes to the Revised Code made by Am. Sub. S.B. 281 of the 124th general assembly, including the amendment of sections 1751.67, 2117.06, 2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 3923.64, 4705.15, and 5111.018 (renumbered as 5164.07 by H.B. 59 of the 130th general assembly), and the enactment of sections 2305.113, 2323.41, 2323.43, and 2323.55 of the Revised Code or any changes made by Sub. S.B. 80 of the 125th general assembly, including the amendment of sections 2125.02, 2305.10, 2305.131, 2315.18, 2315.19, and 2315.21 of the Revised Code; 28368
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(7) An order in an appropriation proceeding that may be appealed pursuant to division (B)(3) of section 163.09 of the Revised Code. 28379
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(C) When a court issues an order that vacates or sets aside a judgment or grants a new trial, the court, upon the request of either party, shall state in the order the grounds upon which the new trial is granted or the judgment vacated or set aside. 28382
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(D) This section applies to and governs any action, including an appeal, that is pending in any court on July 22, 1998, and all claims filed or actions commenced on or after July 22, 1998, notwithstanding any provision of any prior statute or rule of law of this state. 28386
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Sec. 2743.02. (A)(1) The state hereby waives its immunity from liability, except as provided for the office of the state fire marshal in division (G)(1) of section 9.60 and division (B) of section 3737.221 of the Revised Code and subject to division (H) of this section, and consents to be sued, and have its liability determined, in the court of claims created in this 28391
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chapter in accordance with the same rules of law applicable to 28397
suits between private parties, except that the determination of 28398
liability is subject to the limitations set forth in this chapter 28399
and, in the case of state universities or colleges, in section 28400
3345.40 of the Revised Code, and except as provided in division 28401
(A)(2) or (3) of this section. To the extent that the state has 28402
previously consented to be sued, this chapter has no 28403
applicability. 28404

Except in the case of a civil action filed by the state, 28405
filing a civil action in the court of claims results in a complete 28406
waiver of any cause of action, based on the same act or omission, 28407
that the filing party has against any officer or employee, as 28408
defined in section 109.36 of the Revised Code. The waiver shall be 28409
void if the court determines that the act or omission was 28410
manifestly outside the scope of the officer's or employee's office 28411
or employment or that the officer or employee acted with malicious 28412
purpose, in bad faith, or in a wanton or reckless manner. 28413

(2) If a claimant proves in the court of claims that an 28414
officer or employee, as defined in section 109.36 of the Revised 28415
Code, would have personal liability for the officer's or 28416
employee's acts or omissions but for the fact that the officer or 28417
employee has personal immunity under section 9.86 of the Revised 28418
Code, the state shall be held liable in the court of claims in any 28419
action that is timely filed pursuant to section 2743.16 of the 28420
Revised Code and that is based upon the acts or omissions. 28421

(3)(a) Except as provided in division (A)(3)(b) of this 28422
section, the state is immune from liability in any civil action or 28423
proceeding involving the performance or nonperformance of a public 28424
duty, including the performance or nonperformance of a public duty 28425
that is owed by the state in relation to any action of an 28426
individual who is committed to the custody of the state. 28427

(b) The state immunity provided in division (A)(3)(a) of this 28428

section does not apply to any action of the state under 28429
circumstances in which a special relationship can be established 28430
between the state and an injured party. A special relationship 28431
under this division is demonstrated if all of the following 28432
elements exist: 28433

(i) An assumption by the state, by means of promises or 28434
actions, of an affirmative duty to act on behalf of the party who 28435
was allegedly injured; 28436

(ii) Knowledge on the part of the state's agents that 28437
inaction of the state could lead to harm; 28438

(iii) Some form of direct contact between the state's agents 28439
and the injured party; 28440

(iv) The injured party's justifiable reliance on the state's 28441
affirmative undertaking. 28442

(B) The state hereby waives the immunity from liability of 28443
all hospitals owned or operated by one or more political 28444
subdivisions and consents for them to be sued, and to have their 28445
liability determined, in the court of common pleas, in accordance 28446
with the same rules of law applicable to suits between private 28447
parties, subject to the limitations set forth in this chapter. 28448
This division is also applicable to hospitals owned or operated by 28449
political subdivisions that have been determined by the supreme 28450
court to be subject to suit prior to July 28, 1975. 28451

(C) Any hospital, as defined in section 2305.113 of the 28452
Revised Code, may purchase liability insurance covering its 28453
operations and activities and its agents, employees, nurses, 28454
interns, residents, staff, and members of the governing board and 28455
committees, and, whether or not such insurance is purchased, may, 28456
to the extent that its governing board considers appropriate, 28457
indemnify or agree to indemnify and hold harmless any such person 28458
against expense, including attorney's fees, damage, loss, or other 28459

liability arising out of, or claimed to have arisen out of, the 28460
death, disease, or injury of any person as a result of the 28461
negligence, malpractice, or other action or inaction of the 28462
indemnified person while acting within the scope of the 28463
indemnified person's duties or engaged in activities at the 28464
request or direction, or for the benefit, of the hospital. Any 28465
hospital electing to indemnify those persons, or to agree to so 28466
indemnify, shall reserve any funds that are necessary, in the 28467
exercise of sound and prudent actuarial judgment, to cover the 28468
potential expense, fees, damage, loss, or other liability. The 28469
superintendent of insurance may recommend, or, if the hospital 28470
requests the superintendent to do so, the superintendent shall 28471
recommend, a specific amount for any period that, in the 28472
superintendent's opinion, represents such a judgment. This 28473
authority is in addition to any authorization otherwise provided 28474
or permitted by law. 28475

(D)(1) Notwithstanding any other provision of the Revised 28476
Code or rules of a court to the contrary, in an action against the 28477
state to recover damages for injury, death, or loss to person or 28478
property caused by an act or omission of the state itself, by an 28479
act or omission of any officer or employee of the state while 28480
acting within the scope of employment or official 28481
responsibilities, or by an act or omission of any other person 28482
authorized to act on behalf of the state that occurred while 28483
engaged in activities at the request or direction, or for the 28484
benefit, of the state, the following apply: 28485

(a) Punitive or exemplary damages shall not be awarded. 28486

(b)(i) Recoveries against the state shall be reduced by the 28487
aggregate of ~~insurance proceeds, disability award, benefits~~ or 28488
other collateral recovery received by the claimant for the injury, 28489
death, or loss allegedly incurred. ~~This division~~ If a claimant 28490
receives or is entitled to receive benefits or other collateral 28491

recovery, the claimant or the claimant's attorney shall disclose 28492
the benefits or other collateral recovery to the court, and the 28493
court shall deduct the amount of the benefits or other collateral 28494
recovery from any award against the state recovered by the 28495
claimant. No insurer or other person is entitled to bring a civil 28496
action under a subrogation provision in an insurance or other 28497
contract against the state with respect to those benefits or other 28498
collateral recovery. Nothing in this division affects or shall be 28499
construed to limit the rights of a beneficiary under a life 28500
insurance policy or the rights of sureties under fidelity or 28501
surety bonds. 28502

(ii) Division (D)(1)(b)(i) of this section does not apply to 28503
civil actions in the court of claims against a state university or 28504
college under the circumstances described in section 3345.40 of 28505
the Revised Code. The collateral benefits provisions of division 28506
(B)(2) of that section apply under those circumstances. 28507

(c) There shall not be any limitation on compensatory damages 28508
that represent the actual loss of the person who is awarded the 28509
damages. However, except in wrongful death actions brought 28510
pursuant to Chapter 2125. of the Revised Code, damages that arise 28511
from the same cause of action, transaction or occurrence, or 28512
series of transactions or occurrences and that do not represent 28513
the actual loss of the person who is awarded the damages shall not 28514
exceed two hundred fifty thousand dollars in favor of any one 28515
person. The limitation on damages that do not represent the actual 28516
loss of the person who is awarded the damages provided in this 28517
division does not apply to court costs that are awarded to a 28518
claimant, or to interest on a judgment rendered in favor of a 28519
claimant, in an action against the state. 28520

(2) As used in division (D) of this section: 28521

(a) "Benefits" includes, but is not limited to, proceeds from 28522
a policy or policies of insurance, social security benefits, 28523

veterans' benefits, unemployment compensation, workers' compensation, medicaid benefits, medicare benefits, and disability awards. 28524
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(b) "Collateral recovery" includes, but is not limited to, any settlements with and judgments against third parties that arise out of the same operative facts involved in, and the injury, death, or loss allegedly incurred, in the action against the state, or any other source of recovery for any injury, death, or loss allegedly incurred in that action. 28527
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(c) Except as provided in division (D)(2)(d) of this section, "the actual loss of the person who is awarded the damages" includes all of the following: 28533
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(i) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the injured person; 28536
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(ii) All expenditures of the injured person or of another person on behalf of the injured person for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations that were necessary because of the injury; 28540
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(iii) All expenditures to be incurred in the future, as determined by the court, by the injured person or by another person on behalf of the injured person for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations that will be necessary because of the injury; 28545
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(iv) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed; 28551
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(v) All expenditures of the injured person, of the person whose property was injured or destroyed, or of another person on behalf of the injured person or the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved; 28555
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(vi) Any other expenditures of the injured person, of the person whose property was injured or destroyed, or of another person on behalf of the injured person or the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss. 28560
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(d) "The actual loss of the person who is awarded the damages" does not include either of the following: 28566
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(i) Any fees paid or owed to an attorney for any services rendered in relation to the personal or property injury or property loss; 28568
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(ii) Any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education of the injured person, for mental anguish, or for any other intangible loss. 28571
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(E) The only defendant in original actions in the court of claims is the state. The state may file a third-party complaint or counterclaim in any civil action, except a civil action for ten thousand dollars or less, that is filed in the court of claims. 28576
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(F) A civil action against an officer or employee, as defined in section 109.36 of the Revised Code, that alleges that the officer's or employee's conduct was manifestly outside the scope of the officer's or employee's employment or official responsibilities, or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner 28580
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shall first be filed against the state in the court of claims that 28586
has exclusive, original jurisdiction to determine, initially, 28587
whether the officer or employee is entitled to personal immunity 28588
under section 9.86 of the Revised Code and whether the courts of 28589
common pleas have jurisdiction over the civil action. The officer 28590
or employee may participate in the immunity determination 28591
proceeding before the court of claims to determine whether the 28592
officer or employee is entitled to personal immunity under section 28593
9.86 of the Revised Code. 28594

The filing of a claim against an officer or employee under 28595
this division tolls the running of the applicable statute of 28596
limitations until the court of claims determines whether the 28597
officer or employee is entitled to personal immunity under section 28598
9.86 of the Revised Code. 28599

(G) If a claim lies against an officer or employee who is a 28600
member of the Ohio national guard, and the officer or employee 28601
was, at the time of the act or omission complained of, subject to 28602
the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 28603
2671, et seq., the Federal Tort Claims Act is the exclusive remedy 28604
of the claimant and the state has no liability under this section. 28605

(H) If an inmate of a state correctional institution has a 28606
claim against the state for the loss of or damage to property and 28607
the amount claimed does not exceed three hundred dollars, before 28608
commencing an action against the state in the court of claims, the 28609
inmate shall file a claim for the loss or damage under the rules 28610
adopted by the director of rehabilitation and correction pursuant 28611
to this division. The inmate shall file the claim within the time 28612
allowed for commencement of a civil action under section 2743.16 28613
of the Revised Code. If the state admits or compromises the claim, 28614
the director shall make payment from a fund designated by the 28615
director for that purpose. If the state denies the claim or does 28616
not compromise the claim at least sixty days prior to expiration 28617

of the time allowed for commencement of a civil action based upon 28618
the loss or damage under section 2743.16 of the Revised Code, the 28619
inmate may commence an action in the court of claims under this 28620
chapter to recover damages for the loss or damage. 28621

The director of rehabilitation and correction shall adopt 28622
rules pursuant to Chapter 119. of the Revised Code to implement 28623
this division. 28624

Sec. 2744.05. Notwithstanding any other provisions of the 28625
Revised Code or rules of a court to the contrary, in an action 28626
against a political subdivision to recover damages for injury, 28627
death, or loss to person or property caused by an act or omission 28628
in connection with a governmental or proprietary function: 28629

(A) Punitive or exemplary damages shall not be awarded. 28630

(B)(1) If a claimant receives or is entitled to receive 28631
benefits for injuries or loss allegedly incurred from a policy or 28632
policies of insurance or any other source, the benefits shall be 28633
disclosed to the court, and the amount of the benefits shall be 28634
deducted from any award against a political subdivision recovered 28635
by that claimant. No insurer or other person is entitled to bring 28636
an action under a subrogation provision in an insurance or other 28637
contract against a political subdivision with respect to those 28638
benefits. 28639

The amount of the benefits shall be deducted from an award 28640
against a political subdivision under division (B)(1) of this 28641
section regardless of whether the claimant may be under an 28642
obligation to pay back the benefits upon recovery, in whole or in 28643
part, for the claim. A claimant whose benefits have been deducted 28644
from an award under division (B)(1) of this section is not 28645
considered fully compensated and shall not be required to 28646
reimburse a subrogated claim for benefits deducted from an award 28647
pursuant to division (B)(1) of this section. 28648

(2) Nothing in division (B)(1) of this section shall be 28649
construed to do either of the following: 28650

(a) Limit the rights of a beneficiary under a life insurance 28651
policy or the rights of sureties under fidelity or surety bonds; 28652

(b) Prohibit the department of ~~job and family services~~ 28653
medicaid from recovering from the political subdivision, pursuant 28654
to section ~~5101.58~~ 5160.37 of the Revised Code, the cost of 28655
medical assistance ~~benefits provided under Chapter 5107. or 5111.~~ 28656
~~of the Revised Code~~ provided under a medical assistance program. 28657

(C)(1) There shall not be any limitation on compensatory 28658
damages that represent the actual loss of the person who is 28659
awarded the damages. However, except in wrongful death actions 28660
brought pursuant to Chapter 2125. of the Revised Code, damages 28661
that arise from the same cause of action, transaction or 28662
occurrence, or series of transactions or occurrences and that do 28663
not represent the actual loss of the person who is awarded the 28664
damages shall not exceed two hundred fifty thousand dollars in 28665
favor of any one person. The limitation on damages that do not 28666
represent the actual loss of the person who is awarded the damages 28667
provided in this division does not apply to court costs that are 28668
awarded to a plaintiff, or to interest on a judgment rendered in 28669
favor of a plaintiff, in an action against a political 28670
subdivision. 28671

(2) As used in this division, "the actual loss of the person 28672
who is awarded the damages" includes all of the following: 28673

(a) All wages, salaries, or other compensation lost by the 28674
person injured as a result of the injury, including wages, 28675
salaries, or other compensation lost as of the date of a judgment 28676
and future expected lost earnings of the person injured; 28677

(b) All expenditures of the person injured or another person 28678
on behalf of the person injured for medical care or treatment, for 28679

rehabilitation services, or for other care, treatment, services, 28680
products, or accommodations that were necessary because of the 28681
injury; 28682

(c) All expenditures to be incurred in the future, as 28683
determined by the court, by the person injured or another person 28684
on behalf of the person injured for medical care or treatment, for 28685
rehabilitation services, or for other care, treatment, services, 28686
products, or accommodations that will be necessary because of the 28687
injury; 28688

(d) All expenditures of a person whose property was injured 28689
or destroyed or of another person on behalf of the person whose 28690
property was injured or destroyed in order to repair or replace 28691
the property that was injured or destroyed; 28692

(e) All expenditures of the person injured or of the person 28693
whose property was injured or destroyed or of another person on 28694
behalf of the person injured or of the person whose property was 28695
injured or destroyed in relation to the actual preparation or 28696
presentation of the claim involved; 28697

(f) Any other expenditures of the person injured or of the 28698
person whose property was injured or destroyed or of another 28699
person on behalf of the person injured or of the person whose 28700
property was injured or destroyed that the court determines 28701
represent an actual loss experienced because of the personal or 28702
property injury or property loss. 28703

"The actual loss of the person who is awarded the damages" 28704
does not include any fees paid or owed to an attorney for any 28705
services rendered in relation to a personal or property injury or 28706
property loss, and does not include any damages awarded for pain 28707
and suffering, for the loss of society, consortium, companionship, 28708
care, assistance, attention, protection, advice, guidance, 28709
counsel, instruction, training, or education of the person 28710

injured, for mental anguish, or for any other intangible loss. 28711

Sec. 2901.13. (A)(1) Except as provided in division (A)(2) or 28712
(3) of this section or as otherwise provided in this section, a 28713
prosecution shall be barred unless it is commenced within the 28714
following periods after an offense is committed: 28715

(a) For a felony, six years; 28716

(b) For a misdemeanor other than a minor misdemeanor, two 28717
years; 28718

(c) For a minor misdemeanor, six months. 28719

(2) There is no period of limitation for the prosecution of a 28720
violation of section 2903.01 or 2903.02 of the Revised Code. 28721

(3) Except as otherwise provided in divisions (B) to (H) of 28722
this section, a prosecution of any of the following offenses shall 28723
be barred unless it is commenced within twenty years after the 28724
offense is committed: 28725

(a) A violation of section 2903.03, 2903.04, 2905.01, 28726
2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 28727
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 28728
2911.01, 2911.02, 2911.11, 2911.12, or 2917.02 of the Revised 28729
Code, a violation of section 2903.11 or 2903.12 of the Revised 28730
Code if the victim is a peace officer, a violation of section 28731
2903.13 of the Revised Code that is a felony, or a violation of 28732
former section 2907.12 of the Revised Code; 28733

(b) A conspiracy to commit, attempt to commit, or complicity 28734
in committing a violation set forth in division (A)(3)(a) of this 28735
section. 28736

(B)(1) Except as otherwise provided in division (B)(2) of 28737
this section, if the period of limitation provided in division 28738
(A)(1) or (3) of this section has expired, prosecution shall be 28739
commenced for an offense of which an element is fraud or breach of 28740

a fiduciary duty, within one year after discovery of the offense 28741
either by an aggrieved person, or by the aggrieved person's legal 28742
representative who is not a party to the offense. 28743

(2) If the period of limitation provided in division (A)(1) 28744
or (3) of this section has expired, prosecution for a violation of 28745
section 2913.49 of the Revised Code shall be commenced within five 28746
years after discovery of the offense either by an aggrieved person 28747
or the aggrieved person's legal representative who is not a party 28748
to the offense. 28749

(C)(1) If the period of limitation provided in division 28750
(A)(1) or (3) of this section has expired, prosecution shall be 28751
commenced for the following offenses during the following 28752
specified periods of time: 28753

(a) For an offense involving misconduct in office by a public 28754
servant, at any time while the accused remains a public servant, 28755
or within two years thereafter; 28756

(b) For an offense by a person who is not a public servant 28757
but whose offense is directly related to the misconduct in office 28758
of a public servant, at any time while that public servant remains 28759
a public servant, or within two years thereafter. 28760

(2) As used in this division: 28761

(a) An "offense is directly related to the misconduct in 28762
office of a public servant" includes, but is not limited to, a 28763
violation of section 101.71, 101.91, 121.61 or 2921.13, division 28764
(F) or (H) of section 102.03, division (A) of section 2921.02, 28765
division (A) or (B) of section 2921.43, or division (F) or (G) of 28766
section 3517.13 of the Revised Code, that is directly related to 28767
an offense involving misconduct in office of a public servant. 28768

(b) "Public servant" has the same meaning as in section 28769
2921.01 of the Revised Code. 28770

(D) An offense is committed when every element of the offense 28771
occurs. In the case of an offense of which an element is a 28772
continuing course of conduct, the period of limitation does not 28773
begin to run until such course of conduct or the accused's 28774
accountability for it terminates, whichever occurs first. 28775

(E) A prosecution is commenced on the date an indictment is 28776
returned or an information filed, or on the date a lawful arrest 28777
without a warrant is made, or on the date a warrant, summons, 28778
citation, or other process is issued, whichever occurs first. A 28779
prosecution is not commenced by the return of an indictment or the 28780
filing of an information unless reasonable diligence is exercised 28781
to issue and execute process on the same. A prosecution is not 28782
commenced upon issuance of a warrant, summons, citation, or other 28783
process, unless reasonable diligence is exercised to execute the 28784
same. 28785

(F) The period of limitation shall not run during any time 28786
when the corpus delicti remains undiscovered. 28787

(G) The period of limitation shall not run during any time 28788
when the accused purposely avoids prosecution. Proof that the 28789
accused departed this state or concealed the accused's identity or 28790
whereabouts is prima-facie evidence of the accused's purpose to 28791
avoid prosecution. 28792

(H) The period of limitation shall not run during any time a 28793
prosecution against the accused based on the same conduct is 28794
pending in this state, even though the indictment, information, or 28795
process that commenced the prosecution is quashed or the 28796
proceedings on the indictment, information, or process are set 28797
aside or reversed on appeal. 28798

(I) The period of limitation for a violation of any provision 28799
of Title XXIX of the Revised Code that involves a physical or 28800
mental wound, injury, disability, or condition of a nature that 28801

reasonably indicates abuse or neglect of a child under eighteen 28802
years of age or of a mentally retarded, developmentally disabled, 28803
or physically impaired child under twenty-one years of age shall 28804
not begin to run until either of the following occurs: 28805

(1) The victim of the offense reaches the age of majority. 28806

(2) A public children services agency, or a municipal or 28807
county peace officer that is not the parent or guardian of the 28808
child, in the county in which the child resides or in which the 28809
abuse or neglect is occurring or has occurred has been notified 28810
that abuse or neglect is known, suspected, or believed to have 28811
occurred. 28812

(J) As used in this section, "peace officer" has the same 28813
meaning as in section 2935.01 of the Revised Code. 28814

Sec. 2901.30. (A) As used in sections 2901.30 to 2901.32 of 28815
the Revised Code: 28816

(1) "Information" means information that can be integrated 28817
into the computer system and that relates to the physical or 28818
mental description of a minor including, but not limited to, 28819
height, weight, color of hair and eyes, use of eyeglasses or 28820
contact lenses, skin coloring, physical or mental handicaps, 28821
special medical conditions or needs, abnormalities, problems, 28822
scars and marks, and distinguishing characteristics, and other 28823
information that could assist in identifying a minor including, 28824
but not limited to, full name and nickname, date and place of 28825
birth, age, names and addresses of parents and other relatives, 28826
fingerprints, dental records, photographs, social security number, 28827
driver's license number, credit card numbers, bank account 28828
numbers, and clothing. 28829

(2) "Minor" means a person under eighteen years of age. 28830

(3) "Missing children" or "missing child" means either of the 28831

following: 28832

(a) A minor who has run away from or who otherwise is missing 28833
from the home of, or the care, custody, and control of, the 28834
minor's parents, parent who is the residential parent and legal 28835
custodian, guardian, legal custodian, or other person having 28836
responsibility for the care of the minor; 28837

(b) A minor who is missing and about whom there is reason to 28838
believe the minor could be the victim of a violation of section 28839
2905.01, 2905.02, 2905.03, or 2919.23 of the Revised Code or of a 28840
violation of section 2905.04 of the Revised Code as it existed 28841
prior to July 1, 1996. 28842

(B) When a law enforcement agency in this state that has 28843
jurisdiction in the matter is informed that a minor is or may be a 28844
missing child and that the person providing the information wishes 28845
to file a missing child report, the law enforcement agency shall 28846
take that report. Upon taking the report, the law enforcement 28847
agency shall take prompt action upon it, including, but not 28848
limited to, concerted efforts to locate the missing child. No law 28849
enforcement agency in this state shall have a rule or policy that 28850
prohibits or discourages the filing of or the taking of action 28851
upon a missing child report, within a specified period following 28852
the discovery or formulation of a belief that a minor is or could 28853
be a missing child. 28854

(C) If a missing child report is made to a law enforcement 28855
agency in this state that has jurisdiction in the matter, the law 28856
enforcement agency shall gather readily available information 28857
about the missing child and integrate it into the national crime 28858
information center computer immediately following the making of 28859
the report. The law enforcement agency shall make reasonable 28860
efforts to acquire additional information about the missing child 28861
following the transmittal of the initially available information, 28862
and promptly integrate any additional information acquired into 28863

such computer systems. 28864

Whenever a law enforcement agency integrates information 28865
about a missing child into the national crime information center 28866
computer, the law enforcement agency promptly shall notify the 28867
missing child's parents, parent who is the residential parent and 28868
legal custodian, guardian, or legal custodian, or any other person 28869
responsible for the care of the missing child, that it has so 28870
integrated the information. 28871

The parents, parent who is the residential parent and legal 28872
custodian, guardian, legal custodian, or other person responsible 28873
for the care of the missing child shall provide available 28874
information upon request, and may provide information voluntarily, 28875
to the law enforcement agency during the information gathering 28876
process. The law enforcement agency also may obtain available 28877
information about the missing child from other persons, subject to 28878
constitutional and statutory limitations. 28879

(D) Upon the filing of a missing child report, the law 28880
enforcement agency involved may notify the public or nonpublic 28881
school in which the missing child is or was most recently 28882
enrolled, as ascertained by the agency, that the child is the 28883
subject of a missing child report and that the child's school 28884
records are to be marked in accordance with section 3313.672 of 28885
the Revised Code. 28886

(E) Upon the filing of a missing child report, the law 28887
enforcement agency involved promptly shall make a reasonable 28888
attempt to notify other law enforcement agencies within its county 28889
and, if the agency has jurisdiction in a municipal corporation or 28890
township that borders another county, to notify the law 28891
enforcement agency for the municipal corporation or township in 28892
the other county with which it shares the border, that it has 28893
taken a missing child report and may be requesting assistance or 28894
cooperation in the case, and provide relevant information to the 28895

other law enforcement agencies. The agency may notify additional 28896
law enforcement agencies, or appropriate public children services 28897
agencies, about the case, request their assistance or cooperation 28898
in the case, and provide them with relevant information. 28899

Upon request from a law enforcement agency, a public children 28900
services agency shall grant the law enforcement agency access to 28901
all information concerning a missing child that the agency 28902
possesses that may be relevant to the law enforcement agency in 28903
investigating a missing child report concerning that child. The 28904
information obtained by the law enforcement agency shall be used 28905
only to further the investigation to locate the missing child. 28906

(F) Upon request, law enforcement agencies in this state 28907
shall provide assistance to, and cooperate with, other law 28908
enforcement agencies in their investigation of missing child 28909
cases. The assistance and cooperation under this paragraph shall 28910
be pursuant to any terms agreed upon by the law enforcement 28911
agencies, which may include the provision of law enforcement 28912
services or the use of law enforcement equipment or the 28913
interchange of services and equipment among the cooperating law 28914
enforcement agencies. Chapter 2744. of the Revised Code, insofar 28915
as it applies to the operation of law enforcement agencies, shall 28916
apply to the cooperating political subdivisions and to the law 28917
enforcement agency employees when they are rendering services 28918
pursuant to this paragraph outside the territory of the political 28919
subdivision by which they are employed. Law enforcement agency 28920
employees rendering services outside the territory of the 28921
political subdivision in which they are employed, pursuant to this 28922
paragraph, shall be entitled to participate in any indemnity fund 28923
established by their employer to the same extent as if they were 28924
rendering service within the territory of their employing 28925
political subdivision. Those law enforcement agency employees also 28926
shall be entitled to all the rights and benefits of Chapter 4123. 28927

of the Revised Code to the same extent as if rendering services 28928
within the territory of their employing political subdivision. 28929

The information in any missing child report made to a law 28930
enforcement agency shall be made available, upon request, to law 28931
enforcement personnel of this state, other states, and the federal 28932
government when the law enforcement personnel indicate that the 28933
request is to aid in identifying or locating a missing child or 28934
the possible identification of a deceased minor who, upon 28935
discovery, cannot be identified. 28936

(G) When a missing child has not been located within thirty 28937
days after the date on which the missing child report pertaining 28938
to the child was filed with a law enforcement agency, that law 28939
enforcement agency shall request the missing child's parents, 28940
parent who is the residential parent and legal custodian, 28941
guardian, or legal custodian, or any other person responsible for 28942
the care of the missing child, to provide written consent for the 28943
law enforcement agency to contact the missing child's dentist and 28944
request the missing child's dental records. Upon receipt of such 28945
written consent, the dentist shall release a copy of the missing 28946
child's dental records to the law enforcement agency and shall 28947
provide and encode the records in such form as requested by the 28948
law enforcement agency. The law enforcement agency then shall 28949
integrate information in the records into the national crime 28950
information center computer in order to compare the records to 28951
those of unidentified deceased persons. This division does not 28952
prevent a law enforcement agency from seeking consent to obtain 28953
copies of a missing child's dental records, or prevent a missing 28954
child's parents, parent who is the residential parent and legal 28955
custodian, guardian, or legal custodian, or any other person 28956
responsible for the care of the missing child, from granting 28957
consent for the release of copies of the missing child's dental 28958
records to a law enforcement agency, at any time. 28959

(H) A missing child's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian, or any other persons responsible for the care of a missing child, immediately shall notify the law enforcement agency with which they filed the missing child report whenever the child has returned to their home or to their care, custody, and control, has been released if the missing child was the victim of an offense listed in division (A)(3)(b) of this section, or otherwise has been located. Upon such notification or upon otherwise learning that a missing child has returned to the home of, or to the care, custody, and control of the missing child's parents, parent who is the residential parent and legal custodian, guardian, legal custodian, or other person responsible for the missing child's care, has been released if the missing child was the victim of an offense listed in division (A)(3)(b) of this section, or otherwise has been located, the law enforcement agency involved promptly shall integrate the fact that the minor no longer is a missing child into the national crime information center computer and shall inform any school that was notified under division (D) of this section that the minor is no longer a missing child.

~~(I) Nothing contained in this section shall be construed to impair the confidentiality of services provided to runaway minors by shelters for runaway minors pursuant to sections 5119.64 to 5119.68 of the Revised Code.~~

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the Revised Code:

(A) "Care facility" means any of the following:

(1) Any "home" as defined in section 3721.10 ~~or 5111.20~~ of the Revised Code;

(2) Any "residential facility" as defined in section 5123.19 of the Revised Code;

(3) Any institution or facility operated or provided by the department of ~~mental health~~ mental health and addiction services or by the department of developmental disabilities pursuant to sections ~~5119.02~~ 5119.14 and 5123.03 of the Revised Code;

(4) Any "residential facility" as defined in section ~~5119.22~~ 5119.34 of the Revised Code;

(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;

(6) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others.

(B) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical contact with the person or by the inappropriate use of a physical or chemical restraint, medication, or isolation on the person.

(C)(1) "Gross neglect" means knowingly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in physical harm or serious physical harm to the person.

(2) "Neglect" means recklessly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in serious physical harm to the person.

(D) "Inappropriate use of a physical or chemical restraint, medication, or isolation" means the use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in

quantities that preclude habilitation and treatment. 29022

Sec. 2907.22. (A) No person shall knowingly: 29023

(1) Establish, maintain, operate, manage, supervise, control, 29024
or have an interest in a brothel or any other enterprise a purpose 29025
of which is to facilitate engagement in sexual activity for hire; 29026

(2) Supervise, manage, or control the activities of a 29027
prostitute in engaging in sexual activity for hire; 29028

(3) Transport another, or cause another to be transported 29029
~~across the boundary of this state or of any county in this state,~~ 29030
in order to facilitate the other person's engaging in sexual 29031
activity for hire; 29032

(4) For the purpose of violating or facilitating a violation 29033
of this section, induce or procure another to engage in sexual 29034
activity for hire. 29035

(B) Whoever violates this section is guilty of promoting 29036
prostitution. Except as otherwise provided in this division, 29037
promoting prostitution is a felony of the fourth degree. If any 29038
prostitute in the brothel involved in the offense, or the 29039
prostitute whose activities are supervised, managed, or controlled 29040
by the offender, or the person transported, induced, or procured 29041
by the offender to engage in sexual activity for hire, is a minor, 29042
whether or not the offender knows the age of the minor, then 29043
promoting prostitution is a felony of the third degree. If the 29044
offender in any case also is convicted of or pleads guilty to a 29045
specification as described in section 2941.1422 of the Revised 29046
Code that was included in the indictment, count in the indictment, 29047
or information charging the offense, the court shall sentence the 29048
offender to a mandatory prison term as provided in division (B)(7) 29049
of section 2929.14 of the Revised Code and shall order the 29050
offender to make restitution as provided in division (B)(8) of 29051

section 2929.18 of the Revised Code. 29052

Sec. 2913.40. (A) As used in this section: 29053

(1) "Statement or representation" means any oral, written, 29054
electronic, electronic impulse, or magnetic communication that is 29055
used to identify an item of goods or a service for which 29056
reimbursement may be made under the ~~medical assistance~~ medicaid 29057
program or that states income and expense and is or may be used to 29058
determine a rate of reimbursement under the ~~medical assistance~~ 29059
medicaid program. 29060

(2) ~~"Medical assistance program" means the program~~ 29061
~~established by the department of job and family services to~~ 29062
~~provide medical assistance under section 5111.01 of the Revised~~ 29063
~~Code and the medicaid program of Title XIX of the "Social Security~~ 29064
~~Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.~~ 29065

~~(3)~~ "Provider" means any person who has signed a provider 29066
agreement with the department of ~~job and family services~~ medicaid 29067
to provide goods or services pursuant to the ~~medical assistance~~ 29068
medicaid program or any person who has signed an agreement with a 29069
party to such a provider agreement under which the person agrees 29070
to provide goods or services that are reimbursable under the 29071
~~medical assistance~~ medicaid program. 29072

~~(4)~~(3) "Provider agreement" ~~means an oral or written~~ 29073
~~agreement between the department of job and family services and a~~ 29074
~~person in which the person agrees to provide goods or services~~ 29075
~~under the medical assistance program~~ has the same meaning as in 29076
section 5164.01 of the Revised Code. 29077

~~(5)~~(4) "Recipient" means any individual who receives goods or 29078
services from a provider under the ~~medical assistance~~ medicaid 29079
program. 29080

~~(6)~~(5) "Records" means any medical, professional, financial, 29081

or business records relating to the treatment or care of any 29082
recipient, to goods or services provided to any recipient, or to 29083
rates paid for goods or services provided to any recipient and any 29084
records that are required by the rules of the medicaid director ~~of~~ 29085
~~job and family services~~ to be kept for the ~~medical assistance~~
medicaid program. 29086
29087

(B) No person shall knowingly make or cause to be made a 29088
false or misleading statement or representation for use in 29089
obtaining reimbursement from the ~~medical assistance~~ medicaid 29090
program. 29091

(C) No person, with purpose to commit fraud or knowing that 29092
the person is facilitating a fraud, shall do either of the 29093
following: 29094

(1) Contrary to the terms of the person's provider agreement, 29095
charge, solicit, accept, or receive for goods or services that the 29096
person provides under the ~~medical assistance~~ medicaid program any 29097
property, money, or other consideration in addition to the amount 29098
of reimbursement under the ~~medical assistance~~ medicaid program and 29099
the person's provider agreement for the goods or services and any 29100
cost-sharing expenses authorized by section ~~5111.0112~~ 5162.20 of 29101
the Revised Code or rules adopted ~~pursuant to section 5111.01,~~ 29102
~~5111.011, or 5111.02 of the Revised Code~~ by the medicaid director 29103
regarding the medicaid program. 29104

(2) Solicit, offer, or receive any remuneration, other than 29105
any cost-sharing expenses authorized by section ~~5111.0112~~ 5162.20 29106
of the Revised Code or rules adopted ~~under section 5111.01,~~ 29107
~~5111.011, or 5111.02 of the Revised Code~~ by the medicaid director 29108
regarding the medicaid program, in cash or in kind, including, but 29109
not limited to, a kickback or rebate, in connection with the 29110
furnishing of goods or services for which whole or partial 29111
reimbursement is or may be made under the ~~medical assistance~~ 29112
medicaid program. 29113

(D) No person, having submitted a claim for or provided goods or services under the ~~medical assistance~~ medicaid program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the ~~medical assistance~~ medicaid program:

(1) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person;

(2) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.

(E) Whoever violates this section is guilty of medicaid fraud. Except as otherwise provided in this division, medicaid fraud is a misdemeanor of the first degree. If the value of property, services, or funds obtained in violation of this section is one thousand dollars or more and is less than seven thousand five hundred dollars, medicaid fraud is a felony of the fifth degree. If the value of property, services, or funds obtained in violation of this section is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, medicaid fraud is a felony of the fourth degree. If the value of the property, services, or funds obtained in violation of this section is one hundred fifty thousand dollars or more, medicaid fraud is a felony of the third degree.

(F) Upon application of the governmental agency, office, or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the ~~medical~~

assistance medicaid program to which the person is not entitled to 29146
pay to the applicant its cost of investigating and prosecuting the 29147
case. The costs of investigation and prosecution that a defendant 29148
is ordered to pay pursuant to this division shall be in addition 29149
to any other penalties for the receipt of that reimbursement that 29150
are provided in this section, section ~~5111.03~~ 5164.35 of the 29151
Revised Code, or any other provision of law. 29152

(G) The provisions of this section are not intended to be 29153
exclusive remedies and do not preclude the use of any other 29154
criminal or civil remedy for any act that is in violation of this 29155
section. 29156

Sec. 2913.401. (A) As used in this section: 29157

(1) "Medicaid ~~benefits services~~" means ~~benefits under the~~ 29158
~~medical assistance program established under Chapter 5111.~~ has the 29159
same meaning as in section 5164.01 of the Revised Code. 29160

(2) "Property" means any real or personal property or other 29161
asset in which a person has any legal title or interest. 29162

(B) No person shall knowingly do any of the following in an 29163
application for enrollment in the medicaid ~~benefits~~ program or in 29164
a document that requires a disclosure of assets for the purpose of 29165
determining eligibility ~~to receive~~ for the medicaid ~~benefits~~ 29166
program: 29167

(1) Make or cause to be made a false or misleading statement; 29168

(2) Conceal an interest in property; 29169

(3)(a) Except as provided in division (B)(3)(b) of this 29170
section, fail to disclose a transfer of property that occurred 29171
during the period beginning thirty-six months before submission of 29172
the application or document and ending on the date the application 29173
or document was submitted; 29174

(b) Fail to disclose a transfer of property that occurred 29175

during the period beginning sixty months before submission of the 29176
application or document and ending on the date the application or 29177
document was submitted and that was made to an irrevocable trust a 29178
portion of which is not distributable to the applicant for 29179
~~medicaid benefits~~ or the recipient of ~~medicaid benefits~~ or to a 29180
revocable trust. 29181

(C)(1) Whoever violates this section is guilty of medicaid 29182
eligibility fraud. Except as otherwise provided in this division, 29183
a violation of this section is a misdemeanor of the first degree. 29184
If the value of the medicaid ~~benefits~~ services paid as a result of 29185
the violation is one thousand dollars or more and is less than 29186
seven thousand five hundred dollars, a violation of this section 29187
is a felony of the fifth degree. If the value of the medicaid 29188
~~benefits~~ services paid as a result of the violation is seven 29189
thousand five hundred dollars or more and is less than one hundred 29190
fifty thousand dollars, a violation of this section is a felony of 29191
the fourth degree. If the value of the medicaid ~~benefits~~ services 29192
paid as a result of the violation is one hundred fifty thousand 29193
dollars or more, a violation of this section is a felony of the 29194
third degree. 29195

(2) In addition to imposing a sentence under division (C)(1) 29196
of this section, the court shall order that a person who is guilty 29197
of medicaid eligibility fraud make restitution in the full amount 29198
of any medicaid ~~benefits~~ services paid on behalf of an applicant 29199
for or recipient of medicaid ~~benefits~~ for which the applicant or 29200
recipient was not eligible, plus interest at the rate applicable 29201
to judgments on unreimbursed amounts from the date on which the 29202
~~benefits~~ medicaid services were paid to the date on which 29203
restitution is made. 29204

(3) The remedies and penalties provided in this section are 29205
not exclusive and do not preclude the use of any other criminal or 29206
civil remedy for any act that is in violation of this section. 29207

(D) This section does not apply to a person who fully 29208
disclosed in an application for medicaid ~~benefits~~ or in a document 29209
that requires a disclosure of assets for the purpose of 29210
determining eligibility ~~to receive for~~ medicaid ~~benefits~~ all of 29211
the interests in property of the applicant for or recipient of 29212
medicaid ~~benefits~~, all transfers of property by the applicant for 29213
or recipient of medicaid ~~benefits~~, and the circumstances of all 29214
those transfers. 29215

(E) Any amounts of medicaid ~~benefits~~ services recovered as 29216
restitution under this section and any interest on those amounts 29217
shall be credited to the general revenue fund, and any applicable 29218
federal share shall be returned to the appropriate agency or 29219
department of the United States. 29220

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a 29221
violation of section 2919.27 of the Revised Code or of a municipal 29222
ordinance that is substantially similar to that section, the court 29223
may order an evaluation of the mental condition of the defendant 29224
if the court determines that either of the following criteria 29225
apply: 29226

(i) If the alleged violation is a violation of a protection 29227
order issued or consent agreement approved pursuant to section 29228
2919.26 or 3113.31 of the Revised Code, that the violation 29229
allegedly involves conduct by the defendant that caused physical 29230
harm to the person or property of a family or household member 29231
covered by the order or agreement, or conduct by the defendant 29232
that caused a family or household member to believe that the 29233
defendant would cause physical harm to that member or that 29234
member's property. 29235

(ii) If the alleged violation is a violation of a protection 29236
order issued pursuant to section 2903.213 or 2903.214 of the 29237
Revised Code or a protection order issued by a court of another 29238

state, that the violation allegedly involves conduct by the 29239
defendant that caused physical harm to the person or property of 29240
the person covered by the order, or conduct by the defendant that 29241
caused the person covered by the order to believe that the 29242
defendant would cause physical harm to that person or that 29243
person's property. 29244

(b) If a defendant is charged with a violation of section 29245
2903.211 of the Revised Code or of a municipal ordinance that is 29246
substantially similar to that section, the court may order an 29247
evaluation of the mental condition of the defendant. 29248

(2) An evaluation ordered under division (A)(1) of this 29249
section shall be completed no later than thirty days from the date 29250
the order is entered pursuant to that division. In that order, the 29251
court shall do either of the following: 29252

(a) Order that the evaluation of the mental condition of the 29253
defendant be preceded by an examination conducted either by a 29254
forensic center that is designated by the department of ~~mental~~ 29255
~~health~~ mental health and addiction services to conduct 29256
examinations and make evaluations of defendants charged with 29257
violations of section 2903.211 or 2919.27 of the Revised Code or 29258
of substantially similar municipal ordinances in the area in which 29259
the court is located, or by any other program or facility that is 29260
designated by the department of ~~mental health~~ mental health and 29261
addiction services or the department of developmental disabilities 29262
to conduct examinations and make evaluations of defendants charged 29263
with violations of section 2903.211 or 2919.27 of the Revised Code 29264
or of substantially similar municipal ordinances, and that is 29265
operated by either department or is certified by either department 29266
as being in compliance with the standards established under 29267
division ~~(H)~~(B)(7) of section ~~5119.01~~ 5119.10 of the Revised Code 29268
or division (C) of section 5123.04 of the Revised Code. 29269

(b) Designate a center, program, or facility other than one 29270

designated by the department of ~~mental health~~ mental health and 29271
addiction services or the department of developmental 29272
disabilities, as described in division (A)(2)(a) of this section, 29273
to conduct the evaluation and preceding examination of the mental 29274
condition of the defendant. 29275

Whether the court acts pursuant to division (A)(2)(a) or (b) 29276
of this section, the court may designate examiners other than the 29277
personnel of the center, program, facility, or department involved 29278
to make the evaluation and preceding examination of the mental 29279
condition of the defendant. 29280

(B) If the court considers that additional evaluations of the 29281
mental condition of a defendant are necessary following the 29282
evaluation authorized by division (A) of this section, the court 29283
may order up to two additional similar evaluations. These 29284
evaluations shall be completed no later than thirty days from the 29285
date the applicable court order is entered. If more than one 29286
evaluation of the mental condition of the defendant is ordered 29287
under this division, the prosecutor and the defendant may 29288
recommend to the court an examiner whom each prefers to perform 29289
one of the evaluations and preceding examinations. 29290

(C)(1) The court may order a defendant who has been released 29291
on bail to submit to an examination under division (A) or (B) of 29292
this section. The examination shall be conducted either at the 29293
detention facility in which the defendant would have been confined 29294
if the defendant had not been released on bail, or, if so 29295
specified by the center, program, facility, or examiners involved, 29296
at the premises of the center, program, or facility. Additionally, 29297
the examination shall be conducted at the times established by the 29298
examiners involved. If such a defendant refuses to submit to an 29299
examination or a complete examination as required by the court or 29300
the center, program, facility, or examiners involved, the court 29301
may amend the conditions of the bail of the defendant and order 29302

the sheriff to take the defendant into custody and deliver the 29303
defendant to the detention facility in which the defendant would 29304
have been confined if the defendant had not been released on bail, 29305
or, if so specified by the center, program, facility, or examiners 29306
involved, to the premises of the center, program, or facility, for 29307
purposes of the examination. 29308

(2) A defendant who has not been released on bail shall be 29309
examined at the detention facility in which the defendant is 29310
confined or, if so specified by the center, program, facility, or 29311
examiners involved, at the premises of the center, program, or 29312
facility. 29313

(D) The examiner of the mental condition of a defendant under 29314
division (A) or (B) of this section shall file a written report 29315
with the court within thirty days after the entry of an order for 29316
the evaluation of the mental condition of the defendant. The 29317
report shall contain the findings of the examiner; the facts in 29318
reasonable detail on which the findings are based; the opinion of 29319
the examiner as to the mental condition of the defendant; the 29320
opinion of the examiner as to whether the defendant represents a 29321
substantial risk of physical harm to other persons as manifested 29322
by evidence of recent homicidal or other violent behavior, 29323
evidence of recent threats that placed other persons in reasonable 29324
fear of violent behavior and serious physical harm, or evidence of 29325
present dangerousness; and the opinion of the examiner as to the 29326
types of treatment or counseling that the defendant needs. The 29327
court shall provide copies of the report to the prosecutor and 29328
defense counsel. 29329

(E) The costs of any evaluation and preceding examination of 29330
a defendant that is ordered pursuant to division (A) or (B) of 29331
this section shall be taxed as court costs in the criminal case. 29332

(F) If the examiner considers it necessary in order to make 29333
an accurate evaluation of the mental condition of a defendant, an 29334

examiner under division (A) or (B) of this section may request any family or household member of the defendant to provide the examiner with information. A family or household member may, but is not required to, provide information to the examiner upon receipt of the request.

(G) As used in this section:

(1) "Bail" includes a recognizance.

(2) "Examiner" means a psychiatrist, a licensed independent social worker who is employed by a forensic center that is certified as being in compliance with the standards established under division ~~(H)(B)(7)~~ of section ~~5119.01~~ 5119.10 or division (C) of section 5123.04 of the Revised Code, a licensed professional clinical counselor who is employed at a forensic center that is certified as being in compliance with such standards, or a licensed clinical psychologist, except that in order to be an examiner, a licensed clinical psychologist shall meet the criteria of division (I)(1) of section 5122.01 of the Revised Code or be employed to conduct examinations by the department of ~~mental health~~ mental health and addiction services or by a forensic center certified as being in compliance with the standards established under division ~~(H)(B)(7)~~ of section ~~5119.01~~ 5119.10 or division (C) of section 5123.04 of the Revised Code that is designated by the department of ~~mental health~~ mental health and addiction services.

(3) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(4) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(5) "Psychiatrist" and "licensed clinical psychologist" have the same meanings as in section 5122.01 of the Revised Code.

(6) "Protection order issued by a court of another state" has

the same meaning as in section 2919.27 of the Revised Code. 29366

Sec. 2921.01. As used in sections 2921.01 to 2921.45 of the Revised Code: 29367
29368

(A) "Public official" means any elected or appointed officer, 29369
or employee, or agent of the state or any political subdivision, 29370
whether in a temporary or permanent capacity, and includes, but is 29371
not limited to, legislators, judges, and law enforcement officers. 29372
"Public official" does not include an employee, officer, or 29373
governor-appointed member of the board of directors of the 29374
nonprofit corporation formed under section 187.01 of the Revised 29375
Code. 29376

(B) "Public servant" means any of the following: 29377

(1) Any public official; 29378

(2) Any person performing ad hoc a governmental function, 29379
including, but not limited to, a juror, member of a temporary 29380
commission, master, arbitrator, advisor, or consultant; 29381

(3) A person who is a candidate for public office, whether or 29382
not the person is elected or appointed to the office for which the 29383
person is a candidate. A person is a candidate for purposes of 29384
this division if the person has been nominated according to law 29385
for election or appointment to public office, or if the person has 29386
filed a petition or petitions as required by law to have the 29387
person's name placed on the ballot in a primary, general, or 29388
special election, or if the person campaigns as a write-in 29389
candidate in any primary, general, or special election. 29390

"Public servant" does not include an employee, officer, or 29391
governor-appointed member of the board of directors of the 29392
nonprofit corporation formed under section 187.01 of the Revised 29393
Code. 29394

(C) "Party official" means any person who holds an elective 29395

or appointive post in a political party in the United States or 29396
this state, by virtue of which the person directs, conducts, or 29397
participates in directing or conducting party affairs at any level 29398
of responsibility. 29399

(D) "Official proceeding" means any proceeding before a 29400
legislative, judicial, administrative, or other governmental 29401
agency or official authorized to take evidence under oath, and 29402
includes any proceeding before a referee, hearing examiner, 29403
commissioner, notary, or other person taking testimony or a 29404
deposition in connection with an official proceeding. 29405

(E) "Detention" means arrest; confinement in any vehicle 29406
subsequent to an arrest; confinement in any public or private 29407
facility for custody of persons charged with or convicted of crime 29408
in this state or another state or under the laws of the United 29409
States or alleged or found to be a delinquent child or unruly 29410
child in this state or another state or under the laws of the 29411
United States; hospitalization, institutionalization, or 29412
confinement in any public or private facility that is ordered 29413
pursuant to or under the authority of section 2945.37, 2945.371, 29414
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 29415
Code; confinement in any vehicle for transportation to or from any 29416
facility of any of those natures; detention for extradition or 29417
deportation; except as provided in this division, supervision by 29418
any employee of any facility of any of those natures that is 29419
incidental to hospitalization, institutionalization, or 29420
confinement in the facility but that occurs outside the facility; 29421
supervision by an employee of the department of rehabilitation and 29422
correction of a person on any type of release from a state 29423
correctional institution; or confinement in any vehicle, airplane, 29424
or place while being returned from outside of this state into this 29425
state by a private person or entity pursuant to a contract entered 29426
into under division (E) of section 311.29 of the Revised Code or 29427

division (B) of section 5149.03 of the Revised Code. For a person 29428
confined in a county jail who participates in a county jail 29429
industry program pursuant to section 5147.30 of the Revised Code, 29430
"detention" includes time spent at an assigned work site and going 29431
to and from the work site. 29432

(F) "Detention facility" means any public or private place 29433
used for the confinement of a person charged with or convicted of 29434
any crime in this state or another state or under the laws of the 29435
United States or alleged or found to be a delinquent child or 29436
unruly child in this state or another state or under the laws of 29437
the United States. 29438

(G) "Valuable thing or valuable benefit" includes, but is not 29439
limited to, a contribution. This inclusion does not indicate or 29440
imply that a contribution was not included in those terms before 29441
September 17, 1986. 29442

(H) "Campaign committee," "contribution," "political action 29443
committee," "legislative campaign fund," "political party," and 29444
"political contributing entity" have the same meanings as in 29445
section 3517.01 of the Revised Code. 29446

(I) "Provider agreement" ~~and "medical assistance program"~~ 29447
~~have~~ has the same ~~meanings~~ meaning as in section ~~2913.40~~ 5164.01 29448
of the Revised Code. 29449

Sec. 2921.13. (A) No person shall knowingly make a false 29450
statement, or knowingly swear or affirm the truth of a false 29451
statement previously made, when any of the following applies: 29452

(1) The statement is made in any official proceeding. 29453

(2) The statement is made with purpose to incriminate 29454
another. 29455

(3) The statement is made with purpose to mislead a public 29456
official in performing the public official's official function. 29457

(4) The statement is made with purpose to secure a grant 29458
under Chapter 4143. of the Revised Code; the payment of 29459
unemployment compensation; Ohio works first; prevention, 29460
retention, and contingency benefits and services; disability 29461
financial assistance; retirement benefits or health care coverage 29462
from a state retirement system; economic development assistance, 29463
as defined in section 9.66 of the Revised Code; or other benefits 29464
administered by a governmental agency or paid out of a public 29465
treasury. 29466

(5) The statement is made with purpose to secure the issuance 29467
by a governmental agency of a license, permit, authorization, 29468
certificate, registration, release, or provider agreement. 29469

(6) The statement is sworn or affirmed before a notary public 29470
or another person empowered to administer oaths. 29471

(7) The statement is in writing on or in connection with a 29472
report or return that is required or authorized by law. 29473

(8) The statement is in writing and is made with purpose to 29474
induce another to extend credit to or employ the offender, to 29475
confer any degree, diploma, certificate of attainment, award of 29476
excellence, or honor on the offender, or to extend to or bestow 29477
upon the offender any other valuable benefit or distinction, when 29478
the person to whom the statement is directed relies upon it to 29479
that person's detriment. 29480

(9) The statement is made with purpose to commit or 29481
facilitate the commission of a theft offense. 29482

(10) The statement is knowingly made to a probate court in 29483
connection with any action, proceeding, or other matter within its 29484
jurisdiction, either orally or in a written document, including, 29485
but not limited to, an application, petition, complaint, or other 29486
pleading, or an inventory, account, or report. 29487

(11) The statement is made on an account, form, record, 29488

stamp, label, or other writing that is required by law. 29489

(12) The statement is made in connection with the purchase of 29490
a firearm, as defined in section 2923.11 of the Revised Code, and 29491
in conjunction with the furnishing to the seller of the firearm of 29492
a fictitious or altered driver's or commercial driver's license or 29493
permit, a fictitious or altered identification card, or any other 29494
document that contains false information about the purchaser's 29495
identity. 29496

(13) The statement is made in a document or instrument of 29497
writing that purports to be a judgment, lien, or claim of 29498
indebtedness and is filed or recorded with the secretary of state, 29499
a county recorder, or the clerk of a court of record. 29500

(14) The statement is made in an application filed with a 29501
county sheriff pursuant to section 2923.125 of the Revised Code in 29502
order to obtain or renew a concealed handgun license or is made in 29503
an affidavit submitted to a county sheriff to obtain a concealed 29504
handgun license on a temporary emergency basis under section 29505
2923.1213 of the Revised Code. 29506

(15) The statement is required under section 5743.71 of the 29507
Revised Code in connection with the person's purchase of 29508
cigarettes or tobacco products in a delivery sale. 29509

(B) No person, in connection with the purchase of a firearm, 29510
as defined in section 2923.11 of the Revised Code, shall knowingly 29511
furnish to the seller of the firearm a fictitious or altered 29512
driver's or commercial driver's license or permit, a fictitious or 29513
altered identification card, or any other document that contains 29514
false information about the purchaser's identity. 29515

(C) No person, in an attempt to obtain a concealed handgun 29516
license under section 2923.125 of the Revised Code, shall 29517
knowingly present to a sheriff a fictitious or altered document 29518
that purports to be certification of the person's competence in 29519

handling a handgun as described in division (B)(3) of that 29520
section. 29521

(D) It is no defense to a charge under division (A)(6) of 29522
this section that the oath or affirmation was administered or 29523
taken in an irregular manner. 29524

(E) If contradictory statements relating to the same fact are 29525
made by the offender within the period of the statute of 29526
limitations for falsification, it is not necessary for the 29527
prosecution to prove which statement was false but only that one 29528
or the other was false. 29529

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 29530
(6), (7), (8), (10), (11), (13), or (15) of this section is guilty 29531
of falsification, a misdemeanor of the first degree. 29532

(2) Whoever violates division (A)(9) of this section is 29533
guilty of falsification in a theft offense. Except as otherwise 29534
provided in this division, falsification in a theft offense is a 29535
misdemeanor of the first degree. If the value of the property or 29536
services stolen is one thousand dollars or more and is less than 29537
seven thousand five hundred dollars, falsification in a theft 29538
offense is a felony of the fifth degree. If the value of the 29539
property or services stolen is seven thousand five hundred dollars 29540
or more and is less than one hundred fifty thousand dollars, 29541
falsification in a theft offense is a felony of the fourth degree. 29542
If the value of the property or services stolen is one hundred 29543
fifty thousand dollars or more, falsification in a theft offense 29544
is a felony of the third degree. 29545

(3) Whoever violates division (A)(12) or (B) of this section 29546
is guilty of falsification to purchase a firearm, a felony of the 29547
fifth degree. 29548

(4) Whoever violates division (A)(14) or (C) of this section 29549
is guilty of falsification to obtain a concealed handgun license, 29550

a felony of the fourth degree. 29551

(G) A person who violates this section is liable in a civil 29552
action to any person harmed by the violation for injury, death, or 29553
loss to person or property incurred as a result of the commission 29554
of the offense and for reasonable attorney's fees, court costs, 29555
and other expenses incurred as a result of prosecuting the civil 29556
action commenced under this division. A civil action under this 29557
division is not the exclusive remedy of a person who incurs 29558
injury, death, or loss to person or property as a result of a 29559
violation of this section. 29560

Sec. 2921.22. (A)(1) Except as provided in division (A)(2) of 29561
this section, no person, knowing that a felony has been or is 29562
being committed, shall knowingly fail to report such information 29563
to law enforcement authorities. 29564

(2) No person, knowing that a violation of division (B) of 29565
section 2913.04 of the Revised Code has been, or is being 29566
committed or that the person has received information derived from 29567
such a violation, shall knowingly fail to report the violation to 29568
law enforcement authorities. 29569

(B) Except for conditions that are within the scope of 29570
division (E) of this section, no physician, limited practitioner, 29571
nurse, or other person giving aid to a sick or injured person 29572
shall negligently fail to report to law enforcement authorities 29573
any gunshot or stab wound treated or observed by the physician, 29574
limited practitioner, nurse, or person, or any serious physical 29575
harm to persons that the physician, limited practitioner, nurse, 29576
or person knows or has reasonable cause to believe resulted from 29577
an offense of violence. 29578

(C) No person who discovers the body or acquires the first 29579
knowledge of the death of a person shall fail to report the death 29580
immediately to a physician whom the person knows to be treating 29581

the deceased for a condition from which death at such time would 29582
not be unexpected, or to a law enforcement officer, an ambulance 29583
service, an emergency squad, or the coroner in a political 29584
subdivision in which the body is discovered, the death is believed 29585
to have occurred, or knowledge concerning the death is obtained. 29586

(D) No person shall fail to provide upon request of the 29587
person to whom a report required by division (C) of this section 29588
was made, or to any law enforcement officer who has reasonable 29589
cause to assert the authority to investigate the circumstances 29590
surrounding the death, any facts within the person's knowledge 29591
that may have a bearing on the investigation of the death. 29592

(E)(1) As used in this division, "burn injury" means any of 29593
the following: 29594

(a) Second or third degree burns; 29595

(b) Any burns to the upper respiratory tract or laryngeal 29596
edema due to the inhalation of superheated air; 29597

(c) Any burn injury or wound that may result in death; 29598

(d) Any physical harm to persons caused by or as the result 29599
of the use of fireworks, novelties and trick noisemakers, and wire 29600
sparklers, as each is defined by section 3743.01 of the Revised 29601
Code. 29602

(2) No physician, nurse, or limited practitioner who, outside 29603
a hospital, sanitarium, or other medical facility, attends or 29604
treats a person who has sustained a burn injury that is inflicted 29605
by an explosion or other incendiary device or that shows evidence 29606
of having been inflicted in a violent, malicious, or criminal 29607
manner shall fail to report the burn injury immediately to the 29608
local arson, or fire and explosion investigation, bureau, if there 29609
is a bureau of this type in the jurisdiction in which the person 29610
is attended or treated, or otherwise to local law enforcement 29611
authorities. 29612

(3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device or that shows evidence of having been inflicted in a violent, malicious, or criminal manner shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under division (E)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the state fire marshal. The report shall comply with the uniform standard developed by the state fire marshal pursuant to division (A)(15) of section 3737.22 of the Revised Code.

(5) Anyone participating in the making of reports under division (E) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding section 4731.22 of the Revised Code, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under division (E) of this section.

(F)(1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, professional clinical counselor, or professional counselor who knows or has reasonable cause to believe that a patient or client has been the victim of domestic

violence, as defined in section 3113.31 of the Revised Code, shall 29645
note that knowledge or belief and the basis for it in the 29646
patient's or client's records. 29647

(2) Notwithstanding section 4731.22 of the Revised Code, the 29648
doctor-patient privilege shall not be a ground for excluding any 29649
information regarding the report containing the knowledge or 29650
belief noted under division (F)(1) of this section, and the 29651
information may be admitted as evidence in accordance with the 29652
Rules of Evidence. 29653

(G) Divisions (A) and (D) of this section do not require 29654
disclosure of information, when any of the following applies: 29655

(1) The information is privileged by reason of the 29656
relationship between attorney and client; doctor and patient; 29657
licensed psychologist or licensed school psychologist and client; 29658
member of the clergy, rabbi, minister, or priest and any person 29659
communicating information confidentially to the member of the 29660
clergy, rabbi, minister, or priest for a religious counseling 29661
purpose of a professional character; husband and wife; or a 29662
communications assistant and those who are a party to a 29663
telecommunications relay service call. 29664

(2) The information would tend to incriminate a member of the 29665
actor's immediate family. 29666

(3) Disclosure of the information would amount to revealing a 29667
news source, privileged under section 2739.04 or 2739.12 of the 29668
Revised Code. 29669

(4) Disclosure of the information would amount to disclosure 29670
by a member of the ordained clergy of an organized religious body 29671
of a confidential communication made to that member of the clergy 29672
in that member's capacity as a member of the clergy by a person 29673
seeking the aid or counsel of that member of the clergy. 29674

(5) Disclosure would amount to revealing information acquired 29675

by the actor in the course of the actor's duties in connection 29676
with a bona fide program of treatment or services for drug 29677
dependent persons or persons in danger of drug dependence, which 29678
program is maintained or conducted by a hospital, clinic, person, 29679
agency, or ~~organization~~ services provider certified pursuant to 29680
section ~~3793.06~~ 5119.36 of the Revised Code. 29681

(6) Disclosure would amount to revealing information acquired 29682
by the actor in the course of the actor's duties in connection 29683
with a bona fide program for providing counseling services to 29684
victims of crimes that are violations of section 2907.02 or 29685
2907.05 of the Revised Code or to victims of felonious sexual 29686
penetration in violation of former section 2907.12 of the Revised 29687
Code. As used in this division, "counseling services" include 29688
services provided in an informal setting by a person who, by 29689
education or experience, is competent to provide those services. 29690

(H) No disclosure of information pursuant to this section 29691
gives rise to any liability or recrimination for a breach of 29692
privilege or confidence. 29693

(I) Whoever violates division (A) or (B) of this section is 29694
guilty of failure to report a crime. Violation of division (A)(1) 29695
of this section is a misdemeanor of the fourth degree. Violation 29696
of division (A)(2) or (B) of this section is a misdemeanor of the 29697
second degree. 29698

(J) Whoever violates division (C) or (D) of this section is 29699
guilty of failure to report knowledge of a death, a misdemeanor of 29700
the fourth degree. 29701

(K)(1) Whoever negligently violates division (E) of this 29702
section is guilty of a minor misdemeanor. 29703

(2) Whoever knowingly violates division (E) of this section 29704
is guilty of a misdemeanor of the second degree. 29705

Sec. 2921.36. (A) No person shall knowingly convey, or 29706
attempt to convey, onto the grounds of a detention facility or of 29707
an institution, office building, or other place that is under the 29708
control of the department of ~~mental health~~ mental health and 29709
addiction services, the department of developmental disabilities, 29710
the department of youth services, or the department of 29711
rehabilitation and correction any of the following items: 29712

(1) Any deadly weapon or dangerous ordnance, as defined in 29713
section 2923.11 of the Revised Code, or any part of or ammunition 29714
for use in such a deadly weapon or dangerous ordnance; 29715

(2) Any drug of abuse, as defined in section 3719.011 of the 29716
Revised Code; 29717

(3) Any intoxicating liquor, as defined in section 4301.01 of 29718
the Revised Code. 29719

(B) Division (A) of this section does not apply to any person 29720
who conveys or attempts to convey an item onto the grounds of a 29721
detention facility or of an institution, office building, or other 29722
place under the control of the department of ~~mental health~~ mental 29723
health and addiction services, the department of developmental 29724
disabilities, the department of youth services, or the department 29725
of rehabilitation and correction pursuant to the written 29726
authorization of the person in charge of the detention facility or 29727
the institution, office building, or other place and in accordance 29728
with the written rules of the detention facility or the 29729
institution, office building, or other place. 29730

(C) No person shall knowingly deliver, or attempt to deliver, 29731
to any person who is confined in a detention facility, to a child 29732
confined in a youth services facility, to a prisoner who is 29733
temporarily released from confinement for a work assignment, or to 29734
any patient in an institution under the control of the department 29735
of ~~mental health~~ mental health and addiction services or the 29736

department of developmental disabilities any item listed in 29737
division (A)(1), (2), or (3) of this section. 29738

(D) No person shall knowingly deliver, or attempt to deliver, 29739
cash to any person who is confined in a detention facility, to a 29740
child confined in a youth services facility, or to a prisoner who 29741
is temporarily released from confinement for a work assignment. 29742

(E) No person shall knowingly deliver, or attempt to deliver, 29743
to any person who is confined in a detention facility, to a child 29744
confined in a youth services facility, or to a prisoner who is 29745
temporarily released from confinement for a work assignment a 29746
cellular telephone, two-way radio, or other electronic 29747
communications device. 29748

(F)(1) It is an affirmative defense to a charge under 29749
division (A)(1) of this section that the weapon or dangerous 29750
ordnance in question was being transported in a motor vehicle for 29751
any lawful purpose, that it was not on the actor's person, and, if 29752
the weapon or dangerous ordnance in question was a firearm, that 29753
it was unloaded and was being carried in a closed package, box, or 29754
case or in a compartment that can be reached only by leaving the 29755
vehicle. 29756

(2) It is an affirmative defense to a charge under division 29757
(C) of this section that the actor was not otherwise prohibited by 29758
law from delivering the item to the confined person, the child, 29759
the prisoner, or the patient and that either of the following 29760
applies: 29761

(a) The actor was permitted by the written rules of the 29762
detention facility or the institution, office building, or other 29763
place to deliver the item to the confined person or the patient. 29764

(b) The actor was given written authorization by the person 29765
in charge of the detention facility or the institution, office 29766
building, or other place to deliver the item to the confined 29767

person or the patient. 29768

(G)(1) Whoever violates division (A)(1) of this section or 29769
commits a violation of division (C) of this section involving an 29770
item listed in division (A)(1) of this section is guilty of 29771
illegal conveyance of weapons onto the grounds of a specified 29772
governmental facility, a felony of the third degree. If the 29773
offender is an officer or employee of the department of 29774
rehabilitation and correction, the court shall impose a mandatory 29775
prison term. 29776

(2) Whoever violates division (A)(2) of this section or 29777
commits a violation of division (C) of this section involving any 29778
drug of abuse is guilty of illegal conveyance of drugs of abuse 29779
onto the grounds of a specified governmental facility, a felony of 29780
the third degree. If the offender is an officer or employee of the 29781
department of rehabilitation and correction or of the department 29782
of youth services, the court shall impose a mandatory prison term. 29783

(3) Whoever violates division (A)(3) of this section or 29784
commits a violation of division (C) of this section involving any 29785
intoxicating liquor is guilty of illegal conveyance of 29786
intoxicating liquor onto the grounds of a specified governmental 29787
facility, a misdemeanor of the second degree. 29788

(4) Whoever violates division (D) of this section is guilty 29789
of illegal conveyance of cash onto the grounds of a detention 29790
facility, a misdemeanor of the first degree. If the offender 29791
previously has been convicted of or pleaded guilty to a violation 29792
of division (D) of this section, illegal conveyance of cash onto 29793
the grounds of a detention facility is a felony of the fifth 29794
degree. 29795

(5) Whoever violates division (E) of this section is guilty 29796
of illegal conveyance of a communications device onto the grounds 29797
of a specified governmental facility, a misdemeanor of the first 29798

degree, or if the offender previously has been convicted of or 29799
pleaded guilty to a violation of division (E) of this section, a 29800
felony of the fifth degree. 29801

Sec. 2921.38. (A) No person who is confined in a detention 29802
facility, with intent to harass, annoy, threaten, or alarm another 29803
person, shall cause or attempt to cause the other person to come 29804
into contact with blood, semen, urine, feces, or another bodily 29805
substance by throwing the bodily substance at the other person, by 29806
expelling the bodily substance upon the other person, or in any 29807
other manner. 29808

(B) No person, with intent to harass, annoy, threaten, or 29809
alarm a law enforcement officer, shall cause or attempt to cause 29810
the law enforcement officer to come into contact with blood, 29811
semen, urine, feces, or another bodily substance by throwing the 29812
bodily substance at the law enforcement officer, by expelling the 29813
bodily substance upon the law enforcement officer, or in any other 29814
manner. 29815

(C) No person, with knowledge that the person is a carrier of 29816
the virus that causes acquired immunodeficiency syndrome, is a 29817
carrier of a hepatitis virus, or is infected with tuberculosis and 29818
with intent to harass, annoy, threaten, or alarm another person, 29819
shall cause or attempt to cause the other person to come into 29820
contact with blood, semen, urine, feces, or another bodily 29821
substance by throwing the bodily substance at the other person, by 29822
expelling the bodily substance upon the other person, or in any 29823
other manner. 29824

(D) Whoever violates this section is guilty of harassment 29825
with a bodily substance. A violation of division (A) or (B) of 29826
this section is a felony of the fifth degree. A violation of 29827
division (C) of this section is a felony of the third degree. 29828

(E)(1) The court, on request of the prosecutor, or the law 29829

enforcement authority responsible for the investigation of the 29830
violation, shall cause a person who allegedly has committed a 29831
violation of this section to submit to one or more appropriate 29832
tests to determine if the person is a carrier of the virus that 29833
causes acquired immunodeficiency syndrome, is a carrier of a 29834
hepatitis virus, or is infected with tuberculosis. 29835

(2) The court shall charge the offender with the costs of the 29836
test or tests ordered under division (E)(1) of this section unless 29837
the court determines that the accused is unable to pay, in which 29838
case the costs shall be charged to the entity that operates the 29839
detention facility in which the alleged offense occurred. 29840

(F) This section does not apply to a person who is 29841
hospitalized, institutionalized, or confined in a facility 29842
operated by the department of ~~mental health~~ mental health and
addiction services or the department of developmental 29843
disabilities. 29844
29845

Sec. 2923.126. (A) A concealed handgun license that is issued 29846
under section 2923.125 of the Revised Code shall expire five years 29847
after the date of issuance. A licensee who has been issued a 29848
license under that section shall be granted a grace period of 29849
thirty days after the licensee's license expires during which the 29850
licensee's license remains valid. Except as provided in divisions 29851
(B) and (C) of this section, a licensee who has been issued a 29852
concealed handgun license under section 2923.125 or 2923.1213 of 29853
the Revised Code may carry a concealed handgun anywhere in this 29854
state if the licensee also carries a valid license and valid 29855
identification when the licensee is in actual possession of a 29856
concealed handgun. The licensee shall give notice of any change in 29857
the licensee's residence address to the sheriff who issued the 29858
license within forty-five days after that change. 29859

If a licensee is the driver or an occupant of a motor vehicle 29860

that is stopped as the result of a traffic stop or a stop for 29861
another law enforcement purpose and if the licensee is 29862
transporting or has a loaded handgun in the motor vehicle at that 29863
time, the licensee shall promptly inform any law enforcement 29864
officer who approaches the vehicle while stopped that the licensee 29865
has been issued a concealed handgun license and that the licensee 29866
currently possesses or has a loaded handgun; the licensee shall 29867
not knowingly disregard or fail to comply with lawful orders of a 29868
law enforcement officer given while the motor vehicle is stopped, 29869
knowingly fail to remain in the motor vehicle while stopped, or 29870
knowingly fail to keep the licensee's hands in plain sight after 29871
any law enforcement officer begins approaching the licensee while 29872
stopped and before the officer leaves, unless directed otherwise 29873
by a law enforcement officer; and the licensee shall not knowingly 29874
have contact with the loaded handgun by touching it with the 29875
licensee's hands or fingers, in any manner in violation of 29876
division (E) of section 2923.16 of the Revised Code, after any law 29877
enforcement officer begins approaching the licensee while stopped 29878
and before the officer leaves. Additionally, if a licensee is the 29879
driver or an occupant of a commercial motor vehicle that is 29880
stopped by an employee of the motor carrier enforcement unit for 29881
the purposes defined in section 5503.04 of the Revised Code and if 29882
the licensee is transporting or has a loaded handgun in the 29883
commercial motor vehicle at that time, the licensee shall promptly 29884
inform the employee of the unit who approaches the vehicle while 29885
stopped that the licensee has been issued a concealed handgun 29886
license and that the licensee currently possesses or has a loaded 29887
handgun. 29888

If a licensee is stopped for a law enforcement purpose and if 29889
the licensee is carrying a concealed handgun at the time the 29890
officer approaches, the licensee shall promptly inform any law 29891
enforcement officer who approaches the licensee while stopped that 29892
the licensee has been issued a concealed handgun license and that 29893

the licensee currently is carrying a concealed handgun; the 29894
licensee shall not knowingly disregard or fail to comply with 29895
lawful orders of a law enforcement officer given while the 29896
licensee is stopped or knowingly fail to keep the licensee's hands 29897
in plain sight after any law enforcement officer begins 29898
approaching the licensee while stopped and before the officer 29899
leaves, unless directed otherwise by a law enforcement officer; 29900
and the licensee shall not knowingly remove, attempt to remove, 29901
grasp, or hold the loaded handgun or knowingly have contact with 29902
the loaded handgun by touching it with the licensee's hands or 29903
fingers, in any manner in violation of division (B) of section 29904
2923.12 of the Revised Code, after any law enforcement officer 29905
begins approaching the licensee while stopped and before the 29906
officer leaves. 29907

(B) A valid concealed handgun license does not authorize the 29908
licensee to carry a concealed handgun in any manner prohibited 29909
under division (B) of section 2923.12 of the Revised Code or in 29910
any manner prohibited under section 2923.16 of the Revised Code. A 29911
valid license does not authorize the licensee to carry a concealed 29912
handgun into any of the following places: 29913

(1) A police station, sheriff's office, or state highway 29914
patrol station, premises controlled by the bureau of criminal 29915
identification and investigation, a state correctional 29916
institution, jail, workhouse, or other detention facility, an 29917
airport passenger terminal, or an institution that is maintained, 29918
operated, managed, and governed pursuant to division (A) of 29919
section ~~5119.02~~ 5119.14 of the Revised Code or division (A)(1) of 29920
section 5123.03 of the Revised Code; 29921

(2) A school safety zone if the licensee's carrying the 29922
concealed handgun is in violation of section 2923.122 of the 29923
Revised Code; 29924

(3) A courthouse or another building or structure in which a 29925

courtroom is located, in violation of section 2923.123 of the Revised Code;

(4) Any premises or open air arena for which a D permit has been issued under Chapter 4303. of the Revised Code if the licensee's carrying the concealed handgun is in violation of section 2923.121 of the Revised Code;

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

(7) A child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home, except that this division does not prohibit a licensee who resides in a type A family day-care home, a type B family day-care home, or a type C family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

(8) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;

(9) Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking

facility for motor vehicles, or rest facility and is not a 29957
courthouse or other building or structure in which a courtroom is 29958
located that is subject to division (B)(3) of this section; 29959

(10) A place in which federal law prohibits the carrying of 29960
handguns. 29961

(C)(1) Nothing in this section shall negate or restrict a 29962
rule, policy, or practice of a private employer that is not a 29963
private college, university, or other institution of higher 29964
education concerning or prohibiting the presence of firearms on 29965
the private employer's premises or property, including motor 29966
vehicles owned by the private employer. Nothing in this section 29967
shall require a private employer of that nature to adopt a rule, 29968
policy, or practice concerning or prohibiting the presence of 29969
firearms on the private employer's premises or property, including 29970
motor vehicles owned by the private employer. 29971

(2)(a) A private employer shall be immune from liability in a 29972
civil action for any injury, death, or loss to person or property 29973
that allegedly was caused by or related to a licensee bringing a 29974
handgun onto the premises or property of the private employer, 29975
including motor vehicles owned by the private employer, unless the 29976
private employer acted with malicious purpose. A private employer 29977
is immune from liability in a civil action for any injury, death, 29978
or loss to person or property that allegedly was caused by or 29979
related to the private employer's decision to permit a licensee to 29980
bring, or prohibit a licensee from bringing, a handgun onto the 29981
premises or property of the private employer. As used in this 29982
division, "private employer" includes a private college, 29983
university, or other institution of higher education. 29984

(b) A political subdivision shall be immune from liability in 29985
a civil action, to the extent and in the manner provided in 29986
Chapter 2744. of the Revised Code, for any injury, death, or loss 29987
to person or property that allegedly was caused by or related to a 29988

licensee bringing a handgun onto any premises or property owned, 29989
leased, or otherwise under the control of the political 29990
subdivision. As used in this division, "political subdivision" has 29991
the same meaning as in section 2744.01 of the Revised Code. 29992

(3)(a) Except as provided in division (C)(3)(b) of this 29993
section, the owner or person in control of private land or 29994
premises, and a private person or entity leasing land or premises 29995
owned by the state, the United States, or a political subdivision 29996
of the state or the United States, may post a sign in a 29997
conspicuous location on that land or on those premises prohibiting 29998
persons from carrying firearms or concealed firearms on or onto 29999
that land or those premises. Except as otherwise provided in this 30000
division, a person who knowingly violates a posted prohibition of 30001
that nature is guilty of criminal trespass in violation of 30002
division (A)(4) of section 2911.21 of the Revised Code and is 30003
guilty of a misdemeanor of the fourth degree. If a person 30004
knowingly violates a posted prohibition of that nature and the 30005
posted land or premises primarily was a parking lot or other 30006
parking facility, the person is not guilty of criminal trespass in 30007
violation of division (A)(4) of section 2911.21 of the Revised 30008
Code and instead is subject only to a civil cause of action for 30009
trespass based on the violation. 30010

(b) A landlord may not prohibit or restrict a tenant who is a 30011
licensee and who on or after September 9, 2008, enters into a 30012
rental agreement with the landlord for the use of residential 30013
premises, and the tenant's guest while the tenant is present, from 30014
lawfully carrying or possessing a handgun on those residential 30015
premises. 30016

(c) As used in division (C)(3) of this section: 30017

(i) "Residential premises" has the same meaning as in section 30018
5321.01 of the Revised Code, except "residential premises" does 30019
not include a dwelling unit that is owned or operated by a college 30020

or university. 30021

(ii) "Landlord," "tenant," and "rental agreement" have the 30022
same meanings as in section 5321.01 of the Revised Code. 30023

(D) A person who holds a concealed handgun license issued by 30024
another state that is recognized by the attorney general pursuant 30025
to a reciprocity agreement entered into pursuant to section 109.69 30026
of the Revised Code has the same right to carry a concealed 30027
handgun in this state as a person who was issued a concealed 30028
handgun license under section 2923.125 of the Revised Code and is 30029
subject to the same restrictions that apply to a person who 30030
carries a license issued under that section. 30031

(E) A peace officer has the same right to carry a concealed 30032
handgun in this state as a person who was issued a concealed 30033
handgun license under section 2923.125 of the Revised Code. For 30034
purposes of reciprocity with other states, a peace officer shall 30035
be considered to be a licensee in this state. 30036

(F)(1) A qualified retired peace officer who possesses a 30037
retired peace officer identification card issued pursuant to 30038
division (F)(2) of this section and a valid firearms 30039
requalification certification issued pursuant to division (F)(3) 30040
of this section has the same right to carry a concealed handgun in 30041
this state as a person who was issued a concealed handgun license 30042
under section 2923.125 of the Revised Code and is subject to the 30043
same restrictions that apply to a person who carries a license 30044
issued under that section. For purposes of reciprocity with other 30045
states, a qualified retired peace officer who possesses a retired 30046
peace officer identification card issued pursuant to division 30047
(F)(2) of this section and a valid firearms requalification 30048
certification issued pursuant to division (F)(3) of this section 30049
shall be considered to be a licensee in this state. 30050

(2)(a) Each public agency of this state or of a political 30051

subdivision of this state that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:

(i) The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.

(ii) Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.

(iii) At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.

(iv) Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of fifteen years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.

(b) A retired peace officer identification card issued to a person under division (F)(2)(a) of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer

with the issuing public agency and satisfies the criteria set 30083
forth in divisions (F)(2)(a)(i) to (iv) of this section. In 30084
addition to the required content specified in this division, a 30085
retired peace officer identification card issued to a person under 30086
division (F)(2)(a) of this section may include the firearms 30087
requalification certification described in division (F)(3) of this 30088
section, and if the identification card includes that 30089
certification, the identification card shall serve as the firearms 30090
requalification certification for the retired peace officer. If 30091
the issuing public agency issues credentials to active law 30092
enforcement officers who serve the agency, the agency may comply 30093
with division (F)(2)(a) of this section by issuing the same 30094
credentials to persons who retired from service as a peace officer 30095
with the agency and who satisfy the criteria set forth in 30096
divisions (F)(2)(a)(i) to (iv) of this section, provided that the 30097
credentials so issued to retired peace officers are stamped with 30098
the word "RETIRED." 30099

(c) A public agency of this state or of a political 30100
subdivision of this state may charge persons who retired from 30101
service as a peace officer with the agency a reasonable fee for 30102
issuing to the person a retired peace officer identification card 30103
pursuant to division (F)(2)(a) of this section. 30104

(3) If a person retired from service as a peace officer with 30105
a public agency of this state or of a political subdivision of 30106
this state and the person satisfies the criteria set forth in 30107
divisions (F)(2)(a)(i) to (iv) of this section, the public agency 30108
may provide the retired peace officer with the opportunity to 30109
attend a firearms requalification program that is approved for 30110
purposes of firearms requalification required under section 30111
109.801 of the Revised Code. The retired peace officer may be 30112
required to pay the cost of the course. 30113

If a retired peace officer who satisfies the criteria set 30114

forth in divisions (F)(2)(a)(i) to (iv) of this section attends a 30115
firearms requalification program that is approved for purposes of 30116
firearms requalification required under section 109.801 of the 30117
Revised Code, the retired peace officer's successful completion of 30118
the firearms requalification program requalifies the retired peace 30119
officer for purposes of division (F) of this section for five 30120
years from the date on which the program was successfully 30121
completed, and the requalification is valid during that five-year 30122
period. If a retired peace officer who satisfies the criteria set 30123
forth in divisions (F)(2)(a)(i) to (iv) of this section 30124
satisfactorily completes such a firearms requalification program, 30125
the retired peace officer shall be issued a firearms 30126
requalification certification that identifies the retired peace 30127
officer by name, identifies the entity that taught the program, 30128
specifies that the retired peace officer successfully completed 30129
the program, specifies the date on which the course was 30130
successfully completed, and specifies that the requalification is 30131
valid for five years from that date of successful completion. The 30132
firearms requalification certification for a retired peace officer 30133
may be included in the retired peace officer identification card 30134
issued to the retired peace officer under division (F)(2) of this 30135
section. 30136

A retired peace officer who attends a firearms 30137
requalification program that is approved for purposes of firearms 30138
requalification required under section 109.801 of the Revised Code 30139
may be required to pay the cost of the program. 30140

(G) As used in this section: 30141

(1) "Qualified retired peace officer" means a person who 30142
satisfies all of the following: 30143

(a) The person satisfies the criteria set forth in divisions 30144
(F)(2)(a)(i) to (v) of this section. 30145

(b) The person is not under the influence of alcohol or 30146
another intoxicating or hallucinatory drug or substance. 30147

(c) The person is not prohibited by federal law from 30148
receiving firearms. 30149

(2) "Retired peace officer identification card" means an 30150
identification card that is issued pursuant to division (F)(2) of 30151
this section to a person who is a retired peace officer. 30152

(3) "Government facility of this state or a political 30153
subdivision of this state" means any of the following: 30154

(a) A building or part of a building that is owned or leased 30155
by the government of this state or a political subdivision of this 30156
state and where employees of the government of this state or the 30157
political subdivision regularly are present for the purpose of 30158
performing their official duties as employees of the state or 30159
political subdivision; 30160

(b) The office of a deputy registrar serving pursuant to 30161
Chapter 4503. of the Revised Code that is used to perform deputy 30162
registrar functions. 30163

Sec. 2925.03. (A) No person shall knowingly do any of the 30164
following: 30165

(1) Sell or offer to sell a controlled substance or a 30166
controlled substance analog; 30167

(2) Prepare for shipment, ship, transport, deliver, prepare 30168
for distribution, or distribute a controlled substance or a 30169
controlled substance analog, when the offender knows or has 30170
reasonable cause to believe that the controlled substance or a 30171
controlled substance analog is intended for sale or resale by the 30172
offender or another person. 30173

(B) This section does not apply to any of the following: 30174

(1) Manufacturers, licensed health professionals authorized 30175
to prescribe drugs, pharmacists, owners of pharmacies, and other 30176
persons whose conduct is in accordance with Chapters 3719., 4715., 30177
4723., 4729., 4730., 4731., and 4741. of the Revised Code; 30178

(2) If the offense involves an anabolic steroid, any person 30179
who is conducting or participating in a research project involving 30180
the use of an anabolic steroid if the project has been approved by 30181
the United States food and drug administration; 30182

(3) Any person who sells, offers for sale, prescribes, 30183
dispenses, or administers for livestock or other nonhuman species 30184
an anabolic steroid that is expressly intended for administration 30185
through implants to livestock or other nonhuman species and 30186
approved for that purpose under the "Federal Food, Drug, and 30187
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 30188
and is sold, offered for sale, prescribed, dispensed, or 30189
administered for that purpose in accordance with that act. 30190

(C) Whoever violates division (A) of this section is guilty 30191
of one of the following: 30192

(1) If the drug involved in the violation is any compound, 30193
mixture, preparation, or substance included in schedule I or 30194
schedule II, with the exception of marihuana, cocaine, L.S.D., 30195
heroin, hashish, and controlled substance analogs, whoever 30196
violates division (A) of this section is guilty of aggravated 30197
trafficking in drugs. The penalty for the offense shall be 30198
determined as follows: 30199

(a) Except as otherwise provided in division (C)(1)(b), (c), 30200
(d), (e), or (f) of this section, aggravated trafficking in drugs 30201
is a felony of the fourth degree, and division (C) of section 30202
2929.13 of the Revised Code applies in determining whether to 30203
impose a prison term on the offender. 30204

(b) Except as otherwise provided in division (C)(1)(c), (d), 30205

(e), or (f) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, aggravated trafficking in drugs is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If aggravated trafficking in drugs is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved equals or exceeds 30238
fifty times the bulk amount but is less than one hundred times the 30239
bulk amount and regardless of whether the offense was committed in 30240
the vicinity of a school or in the vicinity of a juvenile, 30241
aggravated trafficking in drugs is a felony of the first degree, 30242
and the court shall impose as a mandatory prison term one of the 30243
prison terms prescribed for a felony of the first degree. 30244

(f) If the amount of the drug involved equals or exceeds one 30245
hundred times the bulk amount and regardless of whether the 30246
offense was committed in the vicinity of a school or in the 30247
vicinity of a juvenile, aggravated trafficking in drugs is a 30248
felony of the first degree, the offender is a major drug offender, 30249
and the court shall impose as a mandatory prison term the maximum 30250
prison term prescribed for a felony of the first degree. 30251

(2) If the drug involved in the violation is any compound, 30252
mixture, preparation, or substance included in schedule III, IV, 30253
or V, whoever violates division (A) of this section is guilty of 30254
trafficking in drugs. The penalty for the offense shall be 30255
determined as follows: 30256

(a) Except as otherwise provided in division (C)(2)(b), (c), 30257
(d), or (e) of this section, trafficking in drugs is a felony of 30258
the fifth degree, and division (B) of section 2929.13 of the 30259
Revised Code applies in determining whether to impose a prison 30260
term on the offender. 30261

(b) Except as otherwise provided in division (C)(2)(c), (d), 30262
or (e) of this section, if the offense was committed in the 30263
vicinity of a school or in the vicinity of a juvenile, trafficking 30264
in drugs is a felony of the fourth degree, and division (C) of 30265
section 2929.13 of the Revised Code applies in determining whether 30266
to impose a prison term on the offender. 30267

(c) Except as otherwise provided in this division, if the 30268

amount of the drug involved equals or exceeds the bulk amount but 30269
is less than five times the bulk amount, trafficking in drugs is a 30270
felony of the fourth degree, and division (B) of section 2929.13 30271
of the Revised Code applies in determining whether to impose a 30272
prison term for the offense. If the amount of the drug involved is 30273
within that range and if the offense was committed in the vicinity 30274
of a school or in the vicinity of a juvenile, trafficking in drugs 30275
is a felony of the third degree, and there is a presumption for a 30276
prison term for the offense. 30277

(d) Except as otherwise provided in this division, if the 30278
amount of the drug involved equals or exceeds five times the bulk 30279
amount but is less than fifty times the bulk amount, trafficking 30280
in drugs is a felony of the third degree, and there is a 30281
presumption for a prison term for the offense. If the amount of 30282
the drug involved is within that range and if the offense was 30283
committed in the vicinity of a school or in the vicinity of a 30284
juvenile, trafficking in drugs is a felony of the second degree, 30285
and there is a presumption for a prison term for the offense. 30286

(e) Except as otherwise provided in this division, if the 30287
amount of the drug involved equals or exceeds fifty times the bulk 30288
amount, trafficking in drugs is a felony of the second degree, and 30289
the court shall impose as a mandatory prison term one of the 30290
prison terms prescribed for a felony of the second degree. If the 30291
amount of the drug involved equals or exceeds fifty times the bulk 30292
amount and if the offense was committed in the vicinity of a 30293
school or in the vicinity of a juvenile, trafficking in drugs is a 30294
felony of the first degree, and the court shall impose as a 30295
mandatory prison term one of the prison terms prescribed for a 30296
felony of the first degree. 30297

(3) If the drug involved in the violation is marihuana or a 30298
compound, mixture, preparation, or substance containing marihuana 30299
other than hashish, whoever violates division (A) of this section 30300

is guilty of trafficking in marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), (g), or (h) of this section, trafficking in marihuana is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(3)(c), (d), (e), (f), (g), or (h) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred grams but is less than one thousand grams, trafficking in marihuana is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity

of a school or in the vicinity of a juvenile, trafficking in 30333
marihuana is a felony of the second degree, and there is a 30334
presumption that a prison term shall be imposed for the offense. 30335

(e) Except as otherwise provided in this division, if the 30336
amount of the drug involved equals or exceeds five thousand grams 30337
but is less than twenty thousand grams, trafficking in marihuana 30338
is a felony of the third degree, and there is a presumption that a 30339
prison term shall be imposed for the offense. If the amount of the 30340
drug involved is within that range and if the offense was 30341
committed in the vicinity of a school or in the vicinity of a 30342
juvenile, trafficking in marihuana is a felony of the second 30343
degree, and there is a presumption that a prison term shall be 30344
imposed for the offense. 30345

(f) Except as otherwise provided in this division, if the 30346
amount of the drug involved equals or exceeds twenty thousand 30347
grams but is less than forty thousand grams, trafficking in 30348
marihuana is a felony of the second degree, and the court shall 30349
impose a mandatory prison term of five, six, seven, or eight 30350
years. If the amount of the drug involved is within that range and 30351
if the offense was committed in the vicinity of a school or in the 30352
vicinity of a juvenile, trafficking in marihuana is a felony of 30353
the first degree, and the court shall impose as a mandatory prison 30354
term the maximum prison term prescribed for a felony of the first 30355
degree. 30356

(g) Except as otherwise provided in this division, if the 30357
amount of the drug involved equals or exceeds forty thousand 30358
grams, trafficking in marihuana is a felony of the second degree, 30359
and the court shall impose as a mandatory prison term the maximum 30360
prison term prescribed for a felony of the second degree. If the 30361
amount of the drug involved equals or exceeds forty thousand grams 30362
and if the offense was committed in the vicinity of a school or in 30363
the vicinity of a juvenile, trafficking in marihuana is a felony 30364

of the first degree, and the court shall impose as a mandatory 30365
prison term the maximum prison term prescribed for a felony of the 30366
first degree. 30367

(h) Except as otherwise provided in this division, if the 30368
offense involves a gift of twenty grams or less of marihuana, 30369
trafficking in marihuana is a minor misdemeanor upon a first 30370
offense and a misdemeanor of the third degree upon a subsequent 30371
offense. If the offense involves a gift of twenty grams or less of 30372
marihuana and if the offense was committed in the vicinity of a 30373
school or in the vicinity of a juvenile, trafficking in marihuana 30374
is a misdemeanor of the third degree. 30375

(4) If the drug involved in the violation is cocaine or a 30376
compound, mixture, preparation, or substance containing cocaine, 30377
whoever violates division (A) of this section is guilty of 30378
trafficking in cocaine. The penalty for the offense shall be 30379
determined as follows: 30380

(a) Except as otherwise provided in division (C)(4)(b), (c), 30381
(d), (e), (f), or (g) of this section, trafficking in cocaine is a 30382
felony of the fifth degree, and division (B) of section 2929.13 of 30383
the Revised Code applies in determining whether to impose a prison 30384
term on the offender. 30385

(b) Except as otherwise provided in division (C)(4)(c), (d), 30386
(e), (f), or (g) of this section, if the offense was committed in 30387
the vicinity of a school or in the vicinity of a juvenile, 30388
trafficking in cocaine is a felony of the fourth degree, and 30389
division (C) of section 2929.13 of the Revised Code applies in 30390
determining whether to impose a prison term on the offender. 30391

(c) Except as otherwise provided in this division, if the 30392
amount of the drug involved equals or exceeds five grams but is 30393
less than ten grams of cocaine, trafficking in cocaine is a felony 30394
of the fourth degree, and division (B) of section 2929.13 of the 30395

Revised Code applies in determining whether to impose a prison 30396
term for the offense. If the amount of the drug involved is within 30397
that range and if the offense was committed in the vicinity of a 30398
school or in the vicinity of a juvenile, trafficking in cocaine is 30399
a felony of the third degree, and there is a presumption for a 30400
prison term for the offense. 30401

(d) Except as otherwise provided in this division, if the 30402
amount of the drug involved equals or exceeds ten grams but is 30403
less than twenty grams of cocaine, trafficking in cocaine is a 30404
felony of the third degree, and, except as otherwise provided in 30405
this division, there is a presumption for a prison term for the 30406
offense. If trafficking in cocaine is a felony of the third degree 30407
under this division and if the offender two or more times 30408
previously has been convicted of or pleaded guilty to a felony 30409
drug abuse offense, the court shall impose as a mandatory prison 30410
term one of the prison terms prescribed for a felony of the third 30411
degree. If the amount of the drug involved is within that range 30412
and if the offense was committed in the vicinity of a school or in 30413
the vicinity of a juvenile, trafficking in cocaine is a felony of 30414
the second degree, and the court shall impose as a mandatory 30415
prison term one of the prison terms prescribed for a felony of the 30416
second degree. 30417

(e) Except as otherwise provided in this division, if the 30418
amount of the drug involved equals or exceeds twenty grams but is 30419
less than twenty-seven grams of cocaine, trafficking in cocaine is 30420
a felony of the second degree, and the court shall impose as a 30421
mandatory prison term one of the prison terms prescribed for a 30422
felony of the second degree. If the amount of the drug involved is 30423
within that range and if the offense was committed in the vicinity 30424
of a school or in the vicinity of a juvenile, trafficking in 30425
cocaine is a felony of the first degree, and the court shall 30426
impose as a mandatory prison term one of the prison terms 30427

prescribed for a felony of the first degree. 30428

(f) If the amount of the drug involved equals or exceeds 30429
twenty-seven grams but is less than one hundred grams of cocaine 30430
and regardless of whether the offense was committed in the 30431
vicinity of a school or in the vicinity of a juvenile, trafficking 30432
in cocaine is a felony of the first degree, and the court shall 30433
impose as a mandatory prison term one of the prison terms 30434
prescribed for a felony of the first degree. 30435

(g) If the amount of the drug involved equals or exceeds one 30436
hundred grams of cocaine and regardless of whether the offense was 30437
committed in the vicinity of a school or in the vicinity of a 30438
juvenile, trafficking in cocaine is a felony of the first degree, 30439
the offender is a major drug offender, and the court shall impose 30440
as a mandatory prison term the maximum prison term prescribed for 30441
a felony of the first degree. 30442

(5) If the drug involved in the violation is L.S.D. or a 30443
compound, mixture, preparation, or substance containing L.S.D., 30444
whoever violates division (A) of this section is guilty of 30445
trafficking in L.S.D. The penalty for the offense shall be 30446
determined as follows: 30447

(a) Except as otherwise provided in division (C)(5)(b), (c), 30448
(d), (e), (f), or (g) of this section, trafficking in L.S.D. is a 30449
felony of the fifth degree, and division (B) of section 2929.13 of 30450
the Revised Code applies in determining whether to impose a prison 30451
term on the offender. 30452

(b) Except as otherwise provided in division (C)(5)(c), (d), 30453
(e), (f), or (g) of this section, if the offense was committed in 30454
the vicinity of a school or in the vicinity of a juvenile, 30455
trafficking in L.S.D. is a felony of the fourth degree, and 30456
division (C) of section 2929.13 of the Revised Code applies in 30457
determining whether to impose a prison term on the offender. 30458

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses of L.S.D. in a solid form or equals or exceeds one gram but is less than five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than two hundred fifty unit doses of L.S.D. in a solid form or equals or exceeds five grams but is less than twenty-five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If trafficking in L.S.D. is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the

amount of the drug involved equals or exceeds two hundred fifty 30491
unit doses but is less than one thousand unit doses of L.S.D. in a 30492
solid form or equals or exceeds twenty-five grams but is less than 30493
one hundred grams of L.S.D. in a liquid concentrate, liquid 30494
extract, or liquid distillate form, trafficking in L.S.D. is a 30495
felony of the second degree, and the court shall impose as a 30496
mandatory prison term one of the prison terms prescribed for a 30497
felony of the second degree. If the amount of the drug involved is 30498
within that range and if the offense was committed in the vicinity 30499
of a school or in the vicinity of a juvenile, trafficking in 30500
L.S.D. is a felony of the first degree, and the court shall impose 30501
as a mandatory prison term one of the prison terms prescribed for 30502
a felony of the first degree. 30503

(f) If the amount of the drug involved equals or exceeds one 30504
thousand unit doses but is less than five thousand unit doses of 30505
L.S.D. in a solid form or equals or exceeds one hundred grams but 30506
is less than five hundred grams of L.S.D. in a liquid concentrate, 30507
liquid extract, or liquid distillate form and regardless of 30508
whether the offense was committed in the vicinity of a school or 30509
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 30510
of the first degree, and the court shall impose as a mandatory 30511
prison term one of the prison terms prescribed for a felony of the 30512
first degree. 30513

(g) If the amount of the drug involved equals or exceeds five 30514
thousand unit doses of L.S.D. in a solid form or equals or exceeds 30515
five hundred grams of L.S.D. in a liquid concentrate, liquid 30516
extract, or liquid distillate form and regardless of whether the 30517
offense was committed in the vicinity of a school or in the 30518
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 30519
first degree, the offender is a major drug offender, and the court 30520
shall impose as a mandatory prison term the maximum prison term 30521
prescribed for a felony of the first degree. 30522

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of trafficking in heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), (f), or (g) of this section, trafficking in heroin is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(6)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, trafficking in heroin is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than one hundred unit doses or equals or exceeds five grams but is less than ten grams, trafficking in heroin is a felony of the third degree, and there is a presumption for a

prison term for the offense. If the amount of the drug involved is 30555
within that range and if the offense was committed in the vicinity 30556
of a school or in the vicinity of a juvenile, trafficking in 30557
heroin is a felony of the second degree, and there is a 30558
presumption for a prison term for the offense. 30559

(e) Except as otherwise provided in this division, if the 30560
amount of the drug involved equals or exceeds one hundred unit 30561
doses but is less than five hundred unit doses or equals or 30562
exceeds ten grams but is less than fifty grams, trafficking in 30563
heroin is a felony of the second degree, and the court shall 30564
impose as a mandatory prison term one of the prison terms 30565
prescribed for a felony of the second degree. If the amount of the 30566
drug involved is within that range and if the offense was 30567
committed in the vicinity of a school or in the vicinity of a 30568
juvenile, trafficking in heroin is a felony of the first degree, 30569
and the court shall impose as a mandatory prison term one of the 30570
prison terms prescribed for a felony of the first degree. 30571

(f) If the amount of the drug involved equals or exceeds five 30572
hundred unit doses but is less than two thousand five hundred unit 30573
doses or equals or exceeds fifty grams but is less than two 30574
hundred fifty grams and regardless of whether the offense was 30575
committed in the vicinity of a school or in the vicinity of a 30576
juvenile, trafficking in heroin is a felony of the first degree, 30577
and the court shall impose as a mandatory prison term one of the 30578
prison terms prescribed for a felony of the first degree. 30579

(g) If the amount of the drug involved equals or exceeds two 30580
thousand five hundred unit doses or equals or exceeds two hundred 30581
fifty grams and regardless of whether the offense was committed in 30582
the vicinity of a school or in the vicinity of a juvenile, 30583
trafficking in heroin is a felony of the first degree, the 30584
offender is a major drug offender, and the court shall impose as a 30585
mandatory prison term the maximum prison term prescribed for a 30586

felony of the first degree. 30587

(7) If the drug involved in the violation is hashish or a 30588
compound, mixture, preparation, or substance containing hashish, 30589
whoever violates division (A) of this section is guilty of 30590
trafficking in hashish. The penalty for the offense shall be 30591
determined as follows: 30592

(a) Except as otherwise provided in division (C)(7)(b), (c), 30593
(d), (e), (f), or (g) of this section, trafficking in hashish is a 30594
felony of the fifth degree, and division (B) of section 2929.13 of 30595
the Revised Code applies in determining whether to impose a prison 30596
term on the offender. 30597

(b) Except as otherwise provided in division (C)(7)(c), (d), 30598
(e), (f), or (g) of this section, if the offense was committed in 30599
the vicinity of a school or in the vicinity of a juvenile, 30600
trafficking in hashish is a felony of the fourth degree, and 30601
division (B) of section 2929.13 of the Revised Code applies in 30602
determining whether to impose a prison term on the offender. 30603

(c) Except as otherwise provided in this division, if the 30604
amount of the drug involved equals or exceeds ten grams but is 30605
less than fifty grams of hashish in a solid form or equals or 30606
exceeds two grams but is less than ten grams of hashish in a 30607
liquid concentrate, liquid extract, or liquid distillate form, 30608
trafficking in hashish is a felony of the fourth degree, and 30609
division (B) of section 2929.13 of the Revised Code applies in 30610
determining whether to impose a prison term on the offender. If 30611
the amount of the drug involved is within that range and if the 30612
offense was committed in the vicinity of a school or in the 30613
vicinity of a juvenile, trafficking in hashish is a felony of the 30614
third degree, and division (C) of section 2929.13 of the Revised 30615
Code applies in determining whether to impose a prison term on the 30616
offender. 30617

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty grams but is less than two hundred fifty grams of hashish in a solid form or equals or exceeds ten grams but is less than fifty grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty grams but is less than one thousand grams of hashish in a solid form or equals or exceeds fifty grams but is less than two hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than two thousand grams of hashish in a solid form or equals or exceeds two hundred grams but is less than four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the second degree, and the court shall impose a mandatory prison term

of five, six, seven, or eight years. If the amount of the drug 30650
involved is within that range and if the offense was committed in 30651
the vicinity of a school or in the vicinity of a juvenile, 30652
trafficking in hashish is a felony of the first degree, and the 30653
court shall impose as a mandatory prison term the maximum prison 30654
term prescribed for a felony of the first degree. 30655

(g) Except as otherwise provided in this division, if the 30656
amount of the drug involved equals or exceeds two thousand grams 30657
of hashish in a solid form or equals or exceeds four hundred grams 30658
of hashish in a liquid concentrate, liquid extract, or liquid 30659
distillate form, trafficking in hashish is a felony of the second 30660
degree, and the court shall impose as a mandatory prison term the 30661
maximum prison term prescribed for a felony of the second degree. 30662
If the amount of the drug involved equals or exceeds two thousand 30663
grams of hashish in a solid form or equals or exceeds four hundred 30664
grams of hashish in a liquid concentrate, liquid extract, or 30665
liquid distillate form and if the offense was committed in the 30666
vicinity of a school or in the vicinity of a juvenile, trafficking 30667
in hashish is a felony of the first degree, and the court shall 30668
impose as a mandatory prison term the maximum prison term 30669
prescribed for a felony of the first degree. 30670

(8) If the drug involved in the violation is a controlled 30671
substance analog or compound, mixture, preparation, or substance 30672
that contains a controlled substance analog, whoever violates 30673
division (A) of this section is guilty of trafficking in a 30674
controlled substance analog. The penalty for the offense shall be 30675
determined as follows: 30676

(a) Except as otherwise provided in division (C)(8)(b), (c), 30677
(d), (e), (f), or (g) of this section, trafficking in a controlled 30678
substance analog is a felony of the fifth degree, and division (C) 30679
of section 2929.13 of the Revised Code applies in determining 30680
whether to impose a prison term on the offender. 30681

(b) Except as otherwise provided in division (C)(8)(c), (d), 30682
(e), (f), or (g) of this section, if the offense was committed in 30683
the vicinity of a school or in the vicinity of a juvenile, 30684
trafficking in a controlled substance analog is a felony of the 30685
fourth degree, and division (C) of section 2929.13 of the Revised 30686
Code applies in determining whether to impose a prison term on the 30687
offender. 30688

(c) Except as otherwise provided in this division, if the 30689
amount of the drug involved equals or exceeds ten grams but is 30690
less than twenty grams, trafficking in a controlled substance 30691
analog is a felony of the fourth degree, and division (B) of 30692
section 2929.13 of the Revised Code applies in determining whether 30693
to impose a prison term for the offense. If the amount of the drug 30694
involved is within that range and if the offense was committed in 30695
the vicinity of a school or in the vicinity of a juvenile, 30696
trafficking in a controlled substance analog is a felony of the 30697
third degree, and there is a presumption for a prison term for the 30698
offense. 30699

(d) Except as otherwise provided in this division, if the 30700
amount of the drug involved equals or exceeds twenty grams but is 30701
less than thirty grams, trafficking in a controlled substance 30702
analog is a felony of the third degree, and there is a presumption 30703
for a prison term for the offense. If the amount of the drug 30704
involved is within that range and if the offense was committed in 30705
the vicinity of a school or in the vicinity of a juvenile, 30706
trafficking in a controlled substance analog is a felony of the 30707
second degree, and there is a presumption for a prison term for 30708
the offense. 30709

(e) Except as otherwise provided in this division, if the 30710
amount of the drug involved equals or exceeds thirty grams but is 30711
less than forty grams, trafficking in a controlled substance 30712
analog is a felony of the second degree, and the court shall 30713

impose as a mandatory prison term one of the prison terms 30714
prescribed for a felony of the second degree. If the amount of the 30715
drug involved is within that range and if the offense was 30716
committed in the vicinity of a school or in the vicinity of a 30717
juvenile, trafficking in a controlled substance analog is a felony 30718
of the first degree, and the court shall impose as a mandatory 30719
prison term one of the prison terms prescribed for a felony of the 30720
first degree. 30721

(f) If the amount of the drug involved equals or exceeds 30722
forty grams but is less than fifty grams and regardless of whether 30723
the offense was committed in the vicinity of a school or in the 30724
vicinity of a juvenile, trafficking in a controlled substance 30725
analog is a felony of the first degree, and the court shall impose 30726
as a mandatory prison term one of the prison terms prescribed for 30727
a felony of the first degree. 30728

(g) If the amount of the drug involved equals or exceeds 30729
fifty grams and regardless of whether the offense was committed in 30730
the vicinity of a school or in the vicinity of a juvenile, 30731
trafficking in a controlled substance analog is a felony of the 30732
first degree, the offender is a major drug offender, and the court 30733
shall impose as a mandatory prison term the maximum prison term 30734
prescribed for a felony of the first degree. 30735

(D) In addition to any prison term authorized or required by 30736
division (C) of this section and sections 2929.13 and 2929.14 of 30737
the Revised Code, and in addition to any other sanction imposed 30738
for the offense under this section or sections 2929.11 to 2929.18 30739
of the Revised Code, the court that sentences an offender who is 30740
convicted of or pleads guilty to a violation of division (A) of 30741
this section shall do all of the following that are applicable 30742
regarding the offender: 30743

(1) If the violation of division (A) of this section is a 30744
felony of the first, second, or third degree, the court shall 30745

impose upon the offender the mandatory fine specified for the 30746
offense under division (B)(1) of section 2929.18 of the Revised 30747
Code unless, as specified in that division, the court determines 30748
that the offender is indigent. Except as otherwise provided in 30749
division (H)(1) of this section, a mandatory fine or any other 30750
fine imposed for a violation of this section is subject to 30751
division (F) of this section. If a person is charged with a 30752
violation of this section that is a felony of the first, second, 30753
or third degree, posts bail, and forfeits the bail, the clerk of 30754
the court shall pay the forfeited bail pursuant to divisions 30755
(D)(1) and (F) of this section, as if the forfeited bail was a 30756
fine imposed for a violation of this section. If any amount of the 30757
forfeited bail remains after that payment and if a fine is imposed 30758
under division (H)(1) of this section, the clerk of the court 30759
shall pay the remaining amount of the forfeited bail pursuant to 30760
divisions (H)(2) and (3) of this section, as if that remaining 30761
amount was a fine imposed under division (H)(1) of this section. 30762

(2) The court shall suspend the driver's or commercial 30763
driver's license or permit of the offender in accordance with 30764
division (G) of this section. 30765

(3) If the offender is a professionally licensed person, the 30766
court immediately shall comply with section 2925.38 of the Revised 30767
Code. 30768

(E) When a person is charged with the sale of or offer to 30769
sell a bulk amount or a multiple of a bulk amount of a controlled 30770
substance, the jury, or the court trying the accused, shall 30771
determine the amount of the controlled substance involved at the 30772
time of the offense and, if a guilty verdict is returned, shall 30773
return the findings as part of the verdict. In any such case, it 30774
is unnecessary to find and return the exact amount of the 30775
controlled substance involved, and it is sufficient if the finding 30776
and return is to the effect that the amount of the controlled 30777

substance involved is the requisite amount, or that the amount of 30778
the controlled substance involved is less than the requisite 30779
amount. 30780

(F)(1) Notwithstanding any contrary provision of section 30781
3719.21 of the Revised Code and except as provided in division (H) 30782
of this section, the clerk of the court shall pay any mandatory 30783
fine imposed pursuant to division (D)(1) of this section and any 30784
fine other than a mandatory fine that is imposed for a violation 30785
of this section pursuant to division (A) or (B)(5) of section 30786
2929.18 of the Revised Code to the county, township, municipal 30787
corporation, park district, as created pursuant to section 511.18 30788
or 1545.04 of the Revised Code, or state law enforcement agencies 30789
in this state that primarily were responsible for or involved in 30790
making the arrest of, and in prosecuting, the offender. However, 30791
the clerk shall not pay a mandatory fine so imposed to a law 30792
enforcement agency unless the agency has adopted a written 30793
internal control policy under division (F)(2) of this section that 30794
addresses the use of the fine moneys that it receives. Each agency 30795
shall use the mandatory fines so paid to subsidize the agency's 30796
law enforcement efforts that pertain to drug offenses, in 30797
accordance with the written internal control policy adopted by the 30798
recipient agency under division (F)(2) of this section. 30799

(2)~~(a)~~ Prior to receiving any fine moneys under division 30800
(F)(1) of this section or division (B) of section 2925.42 of the 30801
Revised Code, a law enforcement agency shall adopt a written 30802
internal control policy that addresses the agency's use and 30803
disposition of all fine moneys so received and that provides for 30804
the keeping of detailed financial records of the receipts of those 30805
fine moneys, the general types of expenditures made out of those 30806
fine moneys, and the specific amount of each general type of 30807
expenditure. The policy shall not provide for or permit the 30808
identification of any specific expenditure that is made in an 30809

ongoing investigation. All financial records of the receipts of 30810
those fine moneys, the general types of expenditures made out of 30811
those fine moneys, and the specific amount of each general type of 30812
expenditure by an agency are public records open for inspection 30813
under section 149.43 of the Revised Code. Additionally, a written 30814
internal control policy adopted under this division is such a 30815
public record, and the agency that adopted it shall comply with 30816
it. 30817

~~(b) Each law enforcement agency that receives in any calendar 30818
year any fine moneys under division (F)(1) of this section or 30819
division (B) of section 2925.42 of the Revised Code shall prepare 30820
a report covering the calendar year that cumulates all of the 30821
information contained in all of the public financial records kept 30822
by the agency pursuant to division (F)(2)(a) of this section for 30823
that calendar year, and shall send a copy of the cumulative 30824
report, no later than the first day of March in the calendar year 30825
following the calendar year covered by the report, to the attorney 30826
general. Each report received by the attorney general is a public 30827
record open for inspection under section 149.43 of the Revised 30828
Code. Not later than the fifteenth day of April in the calendar 30829
year in which the reports are received, the attorney general shall 30830
send to the president of the senate and the speaker of the house 30831
of representatives a written notification that does all of the 30832
following:~~ 30833

~~(i) Indicates that the attorney general has received from law 30834
enforcement agencies reports of the type described in this 30835
division that cover the previous calendar year and indicates that 30836
the reports were received under this division;~~ 30837

~~(ii) Indicates that the reports are open for inspection under 30838
section 149.43 of the Revised Code;~~ 30839

~~(iii) Indicates that the attorney general will provide a copy 30840
of any or all of the reports to the president of the senate or the 30841~~

~~speaker of the house of representatives upon request.~~ 30842

(3) As used in division (F) of this section: 30843

(a) "Law enforcement agencies" includes, but is not limited 30844
to, the state board of pharmacy and the office of a prosecutor. 30845

(b) "Prosecutor" has the same meaning as in section 2935.01 30846
of the Revised Code. 30847

(G) When required under division (D)(2) of this section or 30848
any other provision of this chapter, the court shall suspend for 30849
not less than six months or more than five years the driver's or 30850
commercial driver's license or permit of any person who is 30851
convicted of or pleads guilty to any violation of this section or 30852
any other specified provision of this chapter. If an offender's 30853
driver's or commercial driver's license or permit is suspended 30854
pursuant to this division, the offender, at any time after the 30855
expiration of two years from the day on which the offender's 30856
sentence was imposed or from the day on which the offender finally 30857
was released from a prison term under the sentence, whichever is 30858
later, may file a motion with the sentencing court requesting 30859
termination of the suspension; upon the filing of such a motion 30860
and the court's finding of good cause for the termination, the 30861
court may terminate the suspension. 30862

(H)(1) In addition to any prison term authorized or required 30863
by division (C) of this section and sections 2929.13 and 2929.14 30864
of the Revised Code, in addition to any other penalty or sanction 30865
imposed for the offense under this section or sections 2929.11 to 30866
2929.18 of the Revised Code, and in addition to the forfeiture of 30867
property in connection with the offense as prescribed in Chapter 30868
2981. of the Revised Code, the court that sentences an offender 30869
who is convicted of or pleads guilty to a violation of division 30870
(A) of this section may impose upon the offender an additional 30871
fine specified for the offense in division (B)(4) of section 30872

2929.18 of the Revised Code. A fine imposed under division (H)(1) 30873
of this section is not subject to division (F) of this section and 30874
shall be used solely for the support of one or more eligible 30875
~~alcohol and drug~~ community addiction programs services provider in 30876
accordance with divisions (H)(2) and (3) of this section. 30877

(2) The court that imposes a fine under division (H)(1) of 30878
this section shall specify in the judgment that imposes the fine 30879
one or more eligible ~~alcohol and drug~~ community addiction programs 30880
services provider for the support of which the fine money is to be 30881
used. No ~~alcohol and drug~~ community addiction program services 30882
provider shall receive or use money paid or collected in 30883
satisfaction of a fine imposed under division (H)(1) of this 30884
section unless the ~~program~~ services provider is specified in the 30885
judgment that imposes the fine. No ~~alcohol and drug~~ community 30886
~~addiction program~~ services provider shall be specified in the 30887
judgment unless the ~~program~~ services provider is an eligible 30888
~~alcohol and drug~~ community addiction program services provider 30889
and, except as otherwise provided in division (H)(2) of this 30890
section, unless the ~~program~~ services provider is located in the 30891
county in which the court that imposes the fine is located or in a 30892
county that is immediately contiguous to the county in which that 30893
court is located. If no eligible ~~alcohol and drug~~ community 30894
~~addiction program~~ services provider is located in any of those 30895
counties, the judgment may specify an eligible ~~alcohol and drug~~ 30896
community addiction program services provider that is located 30897
anywhere within this state. 30898

(3) Notwithstanding any contrary provision of section 3719.21 30899
of the Revised Code, the clerk of the court shall pay any fine 30900
imposed under division (H)(1) of this section to the eligible 30901
~~alcohol and drug~~ community addiction program services provider 30902
specified pursuant to division (H)(2) of this section in the 30903
judgment. The eligible ~~alcohol and drug~~ community addiction 30904

~~program services provider~~ that receives the fine moneys shall use 30905
the moneys only for the alcohol and drug addiction services 30906
identified in the application for certification under section 30907
~~3793.06~~ 5119.36 of the Revised Code or in the application for a 30908
license under section ~~3793.11~~ 5119.39 of the Revised Code filed 30909
with the department of ~~alcohol and drug addiction services~~ mental
health and addiction services by the ~~alcohol and drug~~ community
addiction ~~program services provider~~ specified in the judgment. 30912

(4) Each ~~alcohol and drug~~ community addiction ~~program~~ 30913
services provider that receives in a calendar year any fine moneys 30914
under division (H)(3) of this section shall file an annual report 30915
covering that calendar year with the court of common pleas and the 30916
board of county commissioners of the county in which the ~~program~~ 30917
services provider is located, with the court of common pleas and 30918
the board of county commissioners of each county from which the 30919
~~program services provider~~ received the moneys if that county is 30920
different from the county in which the ~~program services provider~~ 30921
is located, and with the attorney general. The ~~alcohol and drug~~ 30922
community addiction ~~program services provider~~ shall file the 30923
report no later than the first day of March in the calendar year 30924
following the calendar year in which the ~~program services provider~~ 30925
received the fine moneys. The report shall include statistics on 30926
the number of persons served by the ~~alcohol and drug~~ community 30927
addiction ~~program services provider~~, identify the types of alcohol 30928
and drug addiction services provided to those persons, and include 30929
a specific accounting of the purposes for which the fine moneys 30930
received were used. No information contained in the report shall 30931
identify, or enable a person to determine the identity of, any 30932
person served by the ~~alcohol and drug~~ community addiction ~~program~~ 30933
services provider. Each report received by a court of common 30934
pleas, a board of county commissioners, or the attorney general is 30935
a public record open for inspection under section 149.43 of the 30936
Revised Code. 30937

(5) As used in divisions (H)(1) to (5) of this section: 30938

(a) "~~Alcohol and drug~~ Community addiction program services provider" and "alcohol and drug addiction services" have the same 30939
meanings as in section ~~3793.01~~ 5119.01 of the Revised Code. 30940
30941

(b) "Eligible ~~alcohol and drug~~ community addiction program services provider" means ~~an alcohol and drug~~ a community addiction 30942
~~program services provider~~ that is certified under section ~~3793.06~~ 30943
5119.36 of the Revised Code or licensed under section ~~3793.11~~ 30944
5119.39 of the Revised Code by the department of ~~alcohol and drug~~ 30945
~~addiction services~~ mental health and addiction services. 30946
30947

(I) As used in this section, "drug" includes any substance 30948
that is represented to be a drug. 30949

(J) It is an affirmative defense to a charge of trafficking 30950
in a controlled substance analog under division (C)(8) of this 30951
section that the person charged with violating that offense sold 30952
or offered to sell, or prepared for shipment, shipped, 30953
transported, delivered, prepared for distribution, or distributed 30954
an item described in division (HH)(2)(a), (b), or (c) of section 30955
3719.01 of the Revised Code. 30956

Sec. 2929.13. (A) Except as provided in division (E), (F), or 30957
(G) of this section and unless a specific sanction is required to 30958
be imposed or is precluded from being imposed pursuant to law, a 30959
court that imposes a sentence upon an offender for a felony may 30960
impose any sanction or combination of sanctions on the offender 30961
that are provided in sections 2929.14 to 2929.18 of the Revised 30962
Code. 30963

If the offender is eligible to be sentenced to community 30964
control sanctions, the court shall consider the appropriateness of 30965
imposing a financial sanction pursuant to section 2929.18 of the 30966
Revised Code or a sanction of community service pursuant to 30967

section 2929.17 of the Revised Code as the sole sanction for the 30968
offense. Except as otherwise provided in this division, if the 30969
court is required to impose a mandatory prison term for the 30970
offense for which sentence is being imposed, the court also shall 30971
impose any financial sanction pursuant to section 2929.18 of the 30972
Revised Code that is required for the offense and may impose any 30973
other financial sanction pursuant to that section but may not 30974
impose any additional sanction or combination of sanctions under 30975
section 2929.16 or 2929.17 of the Revised Code. 30976

If the offender is being sentenced for a fourth degree felony 30977
OVI offense or for a third degree felony OVI offense, in addition 30978
to the mandatory term of local incarceration or the mandatory 30979
prison term required for the offense by division (G)(1) or (2) of 30980
this section, the court shall impose upon the offender a mandatory 30981
fine in accordance with division (B)(3) of section 2929.18 of the 30982
Revised Code and may impose whichever of the following is 30983
applicable: 30984

(1) For a fourth degree felony OVI offense for which sentence 30985
is imposed under division (G)(1) of this section, an additional 30986
community control sanction or combination of community control 30987
sanctions under section 2929.16 or 2929.17 of the Revised Code. If 30988
the court imposes upon the offender a community control sanction 30989
and the offender violates any condition of the community control 30990
sanction, the court may take any action prescribed in division (B) 30991
of section 2929.15 of the Revised Code relative to the offender, 30992
including imposing a prison term on the offender pursuant to that 30993
division. 30994

(2) For a third or fourth degree felony OVI offense for which 30995
sentence is imposed under division (G)(2) of this section, an 30996
additional prison term as described in division (B)(4) of section 30997
2929.14 of the Revised Code or a community control sanction as 30998
described in division (G)(2) of this section. 30999

(B)(1)(a) Except as provided in division (B)(1)(b) of this section, if an offender is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense, the court shall sentence the offender to a community control sanction of at least one year's duration if all of the following apply:

(i) The offender previously has not been convicted of or pleaded guilty to a felony offense.

(ii) The most serious charge against the offender at the time of sentencing is a felony of the fourth or fifth degree.

(iii) If the court made a request of the department of rehabilitation and correction pursuant to division (B)(1)(c) of this section, the department, within the forty-five-day period specified in that division, provided the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court.

(iv) The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed.

(b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply:

(i) The offender committed the offense while having a firearm on or about the offender's person or under the offender's control.

(ii) If the offense is a qualifying assault offense, the offender caused serious physical harm to another person while committing the offense, and, if the offense is not a qualifying assault offense, the offender caused physical harm to another

person while committing the offense. 31031

(iii) The offender violated a term of the conditions of bond 31032
as set by the court. 31033

(iv) The court made a request of the department of 31034
rehabilitation and correction pursuant to division (B)(1)(c) of 31035
this section, and the department, within the forty-five-day period 31036
specified in that division, did not provide the court with the 31037
name of, contact information for, and program details of any 31038
community control sanction of at least one year's duration that is 31039
available for persons sentenced by the court. 31040

(v) The offense is a sex offense that is a fourth or fifth 31041
degree felony violation of any provision of Chapter 2907. of the 31042
Revised Code. 31043

(vi) In committing the offense, the offender attempted to 31044
cause or made an actual threat of physical harm to a person with a 31045
deadly weapon. 31046

(vii) In committing the offense, the offender attempted to 31047
cause or made an actual threat of physical harm to a person, and 31048
the offender previously was convicted of an offense that caused 31049
physical harm to a person. 31050

(viii) The offender held a public office or position of 31051
trust, and the offense related to that office or position; the 31052
offender's position obliged the offender to prevent the offense or 31053
to bring those committing it to justice; or the offender's 31054
professional reputation or position facilitated the offense or was 31055
likely to influence the future conduct of others. 31056

(ix) The offender committed the offense for hire or as part 31057
of an organized criminal activity. 31058

(x) The offender at the time of the offense was serving, or 31059
the offender previously had served, a prison term. 31060

(xi) The offender committed the offense while under a 31061
community control sanction, while on probation, or while released 31062
from custody on a bond or personal recognizance. 31063

(c) If a court that is sentencing an offender who is 31064
convicted of or pleads guilty to a felony of the fourth or fifth 31065
degree that is not an offense of violence or that is a qualifying 31066
assault offense believes that no community control sanctions are 31067
available for its use that, if imposed on the offender, will 31068
adequately fulfill the overriding principles and purposes of 31069
sentencing, the court shall contact the department of 31070
rehabilitation and correction and ask the department to provide 31071
the court with the names of, contact information for, and program 31072
details of one or more community control sanctions of at least one 31073
year's duration that are available for persons sentenced by the 31074
court. Not later than forty-five days after receipt of a request 31075
from a court under this division, the department shall provide the 31076
court with the names of, contact information for, and program 31077
details of one or more community control sanctions of at least one 31078
year's duration that are available for persons sentenced by the 31079
court, if any. Upon making a request under this division that 31080
relates to a particular offender, a court shall defer sentencing 31081
of that offender until it receives from the department the names 31082
of, contact information for, and program details of one or more 31083
community control sanctions of at least one year's duration that 31084
are available for persons sentenced by the court or for forty-five 31085
days, whichever is the earlier. 31086

If the department provides the court with the names of, 31087
contact information for, and program details of one or more 31088
community control sanctions of at least one year's duration that 31089
are available for persons sentenced by the court within the 31090
forty-five-day period specified in this division, the court shall 31091
impose upon the offender a community control sanction under 31092

division (B)(1)(a) of this section, except that the court may 31093
impose a prison term under division (B)(1)(b) of this section if a 31094
factor described in division (B)(1)(b)(i) or (ii) of this section 31095
applies. If the department does not provide the court with the 31096
names of, contact information for, and program details of one or 31097
more community control sanctions of at least one year's duration 31098
that are available for persons sentenced by the court within the 31099
forty-five-day period specified in this division, the court may 31100
impose upon the offender a prison term under division 31101
(B)(1)(b)(iv) of this section. 31102

(d) A sentencing court may impose an additional penalty under 31103
division (B) of section 2929.15 of the Revised Code upon an 31104
offender sentenced to a community control sanction under division 31105
(B)(1)(a) of this section if the offender violates the conditions 31106
of the community control sanction, violates a law, or leaves the 31107
state without the permission of the court or the offender's 31108
probation officer. 31109

(2) If division (B)(1) of this section does not apply, except 31110
as provided in division (E), (F), or (G) of this section, in 31111
determining whether to impose a prison term as a sanction for a 31112
felony of the fourth or fifth degree, the sentencing court shall 31113
comply with the purposes and principles of sentencing under 31114
section 2929.11 of the Revised Code and with section 2929.12 of 31115
the Revised Code. 31116

(C) Except as provided in division (D), (E), (F), or (G) of 31117
this section, in determining whether to impose a prison term as a 31118
sanction for a felony of the third degree or a felony drug offense 31119
that is a violation of a provision of Chapter 2925. of the Revised 31120
Code and that is specified as being subject to this division for 31121
purposes of sentencing, the sentencing court shall comply with the 31122
purposes and principles of sentencing under section 2929.11 of the 31123
Revised Code and with section 2929.12 of the Revised Code. 31124

(D)(1) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree, for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, and for a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Division (D)(2) of this section does not apply to a presumption established under this division for a violation of division (A)(4) of section 2907.05 of the Revised Code.

(2) Notwithstanding the presumption established under division (D)(1) of this section for the offenses listed in that division other than a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code, the sentencing court may impose a community control sanction or a combination of community control sanctions instead of a prison term on an offender for a felony of the first or second degree or for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable if it makes both of the following findings:

(a) A community control sanction or a combination of community control sanctions would adequately punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a lesser likelihood of recidivism outweigh the applicable factors under that section indicating a greater likelihood of recidivism.

(b) A community control sanction or a combination of community control sanctions would not demean the seriousness of

the offense, because one or more factors under section 2929.12 of 31157
the Revised Code that indicate that the offender's conduct was 31158
less serious than conduct normally constituting the offense are 31159
applicable, and they outweigh the applicable factors under that 31160
section that indicate that the offender's conduct was more serious 31161
than conduct normally constituting the offense. 31162

(E)(1) Except as provided in division (F) of this section, 31163
for any drug offense that is a violation of any provision of 31164
Chapter 2925. of the Revised Code and that is a felony of the 31165
third, fourth, or fifth degree, the applicability of a presumption 31166
under division (D) of this section in favor of a prison term or of 31167
division (B) or (C) of this section in determining whether to 31168
impose a prison term for the offense shall be determined as 31169
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 31170
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 31171
Revised Code, whichever is applicable regarding the violation. 31172

(2) If an offender who was convicted of or pleaded guilty to 31173
a felony violates the conditions of a community control sanction 31174
imposed for the offense solely by reason of producing positive 31175
results on a drug test, the court, as punishment for the violation 31176
of the sanction, shall not order that the offender be imprisoned 31177
unless the court determines on the record either of the following: 31178

(a) The offender had been ordered as a sanction for the 31179
felony to participate in a drug treatment program, in a drug 31180
education program, or in narcotics anonymous or a similar program, 31181
and the offender continued to use illegal drugs after a reasonable 31182
period of participation in the program. 31183

(b) The imprisonment of the offender for the violation is 31184
consistent with the purposes and principles of sentencing set 31185
forth in section 2929.11 of the Revised Code. 31186

(3) A court that sentences an offender for a drug abuse 31187

offense that is a felony of the third, fourth, or fifth degree may 31188
require that the offender be assessed by a properly credentialed 31189
professional within a specified period of time. The court shall 31190
require the professional to file a written assessment of the 31191
offender with the court. If the offender is eligible for a 31192
community control sanction and after considering the written 31193
assessment, the court may impose a community control sanction that 31194
includes treatment and recovery support services authorized by 31195
section ~~3793.02~~ 5119.21 of the Revised Code. If the court imposes 31196
treatment and recovery support services as a community control 31197
sanction, the court shall direct the level and type of treatment 31198
and recovery support services after considering the assessment and 31199
recommendation of treatment and recovery support services 31200
providers. 31201

(F) Notwithstanding divisions (A) to (E) of this section, the 31202
court shall impose a prison term or terms under sections 2929.02 31203
to 2929.06, section 2929.14, section 2929.142, or section 2971.03 31204
of the Revised Code and except as specifically provided in section 31205
2929.20, divisions (C) to (I) of section 2967.19, or section 31206
2967.191 of the Revised Code or when parole is authorized for the 31207
offense under section 2967.13 of the Revised Code shall not reduce 31208
the term or terms pursuant to section 2929.20, section 2967.19, 31209
section 2967.193, or any other provision of Chapter 2967. or 31210
Chapter 5120. of the Revised Code for any of the following 31211
offenses: 31212

(1) Aggravated murder when death is not imposed or murder; 31213

(2) Any rape, regardless of whether force was involved and 31214
regardless of the age of the victim, or an attempt to commit rape 31215
if, had the offender completed the rape that was attempted, the 31216
offender would have been guilty of a violation of division 31217
(A)(1)(b) of section 2907.02 of the Revised Code and would be 31218
sentenced under section 2971.03 of the Revised Code; 31219

(3) Gross sexual imposition or sexual battery, if the victim 31220
is less than thirteen years of age and if any of the following 31221
applies: 31222

(a) Regarding gross sexual imposition, the offender 31223
previously was convicted of or pleaded guilty to rape, the former 31224
offense of felonious sexual penetration, gross sexual imposition, 31225
or sexual battery, and the victim of the previous offense was less 31226
than thirteen years of age; 31227

(b) Regarding gross sexual imposition, the offense was 31228
committed on or after August 3, 2006, and evidence other than the 31229
testimony of the victim was admitted in the case corroborating the 31230
violation. 31231

(c) Regarding sexual battery, either of the following 31232
applies: 31233

(i) The offense was committed prior to August 3, 2006, the 31234
offender previously was convicted of or pleaded guilty to rape, 31235
the former offense of felonious sexual penetration, or sexual 31236
battery, and the victim of the previous offense was less than 31237
thirteen years of age. 31238

(ii) The offense was committed on or after August 3, 2006. 31239

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 31240
2903.11, 2903.12, 2903.13, 2905.32, or 2907.07 of the Revised Code 31241
if the section requires the imposition of a prison term; 31242

(5) A first, second, or third degree felony drug offense for 31243
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 31244
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 31245
4729.99 of the Revised Code, whichever is applicable regarding the 31246
violation, requires the imposition of a mandatory prison term; 31247

(6) Any offense that is a first or second degree felony and 31248
that is not set forth in division (F)(1), (2), (3), or (4) of this 31249

section, if the offender previously was convicted of or pleaded 31250
guilty to aggravated murder, murder, any first or second degree 31251
felony, or an offense under an existing or former law of this 31252
state, another state, or the United States that is or was 31253
substantially equivalent to one of those offenses; 31254

(7) Any offense that is a third degree felony and either is a 31255
violation of section 2903.04 of the Revised Code or an attempt to 31256
commit a felony of the second degree that is an offense of 31257
violence and involved an attempt to cause serious physical harm to 31258
a person or that resulted in serious physical harm to a person if 31259
the offender previously was convicted of or pleaded guilty to any 31260
of the following offenses: 31261

(a) Aggravated murder, murder, involuntary manslaughter, 31262
rape, felonious sexual penetration as it existed under section 31263
2907.12 of the Revised Code prior to September 3, 1996, a felony 31264
of the first or second degree that resulted in the death of a 31265
person or in physical harm to a person, or complicity in or an 31266
attempt to commit any of those offenses; 31267

(b) An offense under an existing or former law of this state, 31268
another state, or the United States that is or was substantially 31269
equivalent to an offense listed in division (F)(7)(a) of this 31270
section that resulted in the death of a person or in physical harm 31271
to a person. 31272

(8) Any offense, other than a violation of section 2923.12 of 31273
the Revised Code, that is a felony, if the offender had a firearm 31274
on or about the offender's person or under the offender's control 31275
while committing the felony, with respect to a portion of the 31276
sentence imposed pursuant to division (B)(1)(a) of section 2929.14 31277
of the Revised Code for having the firearm; 31278

(9) Any offense of violence that is a felony, if the offender 31279
wore or carried body armor while committing the felony offense of 31280

violence, with respect to the portion of the sentence imposed 31281
pursuant to division (B)(1)(d) of section 2929.14 of the Revised 31282
Code for wearing or carrying the body armor; 31283

(10) Corrupt activity in violation of section 2923.32 of the 31284
Revised Code when the most serious offense in the pattern of 31285
corrupt activity that is the basis of the offense is a felony of 31286
the first degree; 31287

(11) Any violent sex offense or designated homicide, assault, 31288
or kidnapping offense if, in relation to that offense, the 31289
offender is adjudicated a sexually violent predator; 31290

(12) A violation of division (A)(1) or (2) of section 2921.36 31291
of the Revised Code, or a violation of division (C) of that 31292
section involving an item listed in division (A)(1) or (2) of that 31293
section, if the offender is an officer or employee of the 31294
department of rehabilitation and correction; 31295

(13) A violation of division (A)(1) or (2) of section 2903.06 31296
of the Revised Code if the victim of the offense is a peace 31297
officer, as defined in section 2935.01 of the Revised Code, or an 31298
investigator of the bureau of criminal identification and 31299
investigation, as defined in section 2903.11 of the Revised Code, 31300
with respect to the portion of the sentence imposed pursuant to 31301
division (B)(5) of section 2929.14 of the Revised Code; 31302

(14) A violation of division (A)(1) or (2) of section 2903.06 31303
of the Revised Code if the offender has been convicted of or 31304
pleaded guilty to three or more violations of division (A) or (B) 31305
of section 4511.19 of the Revised Code or an equivalent offense, 31306
as defined in section 2941.1415 of the Revised Code, or three or 31307
more violations of any combination of those divisions and 31308
offenses, with respect to the portion of the sentence imposed 31309
pursuant to division (B)(6) of section 2929.14 of the Revised 31310
Code; 31311

(15) Kidnapping, in the circumstances specified in section 31312
2971.03 of the Revised Code and when no other provision of 31313
division (F) of this section applies; 31314

(16) Kidnapping, abduction, compelling prostitution, 31315
promoting prostitution, engaging in a pattern of corrupt activity, 31316
illegal use of a minor in a nudity-oriented material or 31317
performance in violation of division (A)(1) or (2) of section 31318
2907.323 of the Revised Code, or endangering children in violation 31319
of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of 31320
the Revised Code, if the offender is convicted of or pleads guilty 31321
to a specification as described in section 2941.1422 of the 31322
Revised Code that was included in the indictment, count in the 31323
indictment, or information charging the offense; 31324

(17) A felony violation of division (A) or (B) of section 31325
2919.25 of the Revised Code if division (D)(3), (4), or (5) of 31326
that section, and division (D)(6) of that section, require the 31327
imposition of a prison term; 31328

(18) A felony violation of section 2903.11, 2903.12, or 31329
2903.13 of the Revised Code, if the victim of the offense was a 31330
woman that the offender knew was pregnant at the time of the 31331
violation, with respect to a portion of the sentence imposed 31332
pursuant to division (B)(8) of section 2929.14 of the Revised 31333
Code. 31334

(G) Notwithstanding divisions (A) to (E) of this section, if 31335
an offender is being sentenced for a fourth degree felony OVI 31336
offense or for a third degree felony OVI offense, the court shall 31337
impose upon the offender a mandatory term of local incarceration 31338
or a mandatory prison term in accordance with the following: 31339

(1) If the offender is being sentenced for a fourth degree 31340
felony OVI offense and if the offender has not been convicted of 31341
and has not pleaded guilty to a specification of the type 31342

described in section 2941.1413 of the Revised Code, the court may 31343
impose upon the offender a mandatory term of local incarceration 31344
of sixty days or one hundred twenty days as specified in division 31345
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 31346
not reduce the term pursuant to section 2929.20, 2967.193, or any 31347
other provision of the Revised Code. The court that imposes a 31348
mandatory term of local incarceration under this division shall 31349
specify whether the term is to be served in a jail, a 31350
community-based correctional facility, a halfway house, or an 31351
alternative residential facility, and the offender shall serve the 31352
term in the type of facility specified by the court. A mandatory 31353
term of local incarceration imposed under division (G)(1) of this 31354
section is not subject to any other Revised Code provision that 31355
pertains to a prison term except as provided in division (A)(1) of 31356
this section. 31357

(2) If the offender is being sentenced for a third degree 31358
felony OVI offense, or if the offender is being sentenced for a 31359
fourth degree felony OVI offense and the court does not impose a 31360
mandatory term of local incarceration under division (G)(1) of 31361
this section, the court shall impose upon the offender a mandatory 31362
prison term of one, two, three, four, or five years if the 31363
offender also is convicted of or also pleads guilty to a 31364
specification of the type described in section 2941.1413 of the 31365
Revised Code or shall impose upon the offender a mandatory prison 31366
term of sixty days or one hundred twenty days as specified in 31367
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 31368
if the offender has not been convicted of and has not pleaded 31369
guilty to a specification of that type. Subject to divisions (C) 31370
to (I) of section 2967.19 of the Revised Code, the court shall not 31371
reduce the term pursuant to section 2929.20, 2967.19, 2967.193, or 31372
any other provision of the Revised Code. The offender shall serve 31373
the one-, two-, three-, four-, or five-year mandatory prison term 31374
consecutively to and prior to the prison term imposed for the 31375

underlying offense and consecutively to any other mandatory prison 31376
term imposed in relation to the offense. In no case shall an 31377
offender who once has been sentenced to a mandatory term of local 31378
incarceration pursuant to division (G)(1) of this section for a 31379
fourth degree felony OVI offense be sentenced to another mandatory 31380
term of local incarceration under that division for any violation 31381
of division (A) of section 4511.19 of the Revised Code. In 31382
addition to the mandatory prison term described in division (G)(2) 31383
of this section, the court may sentence the offender to a 31384
community control sanction under section 2929.16 or 2929.17 of the 31385
Revised Code, but the offender shall serve the prison term prior 31386
to serving the community control sanction. The department of 31387
rehabilitation and correction may place an offender sentenced to a 31388
mandatory prison term under this division in an intensive program 31389
prison established pursuant to section 5120.033 of the Revised 31390
Code if the department gave the sentencing judge prior notice of 31391
its intent to place the offender in an intensive program prison 31392
established under that section and if the judge did not notify the 31393
department that the judge disapproved the placement. Upon the 31394
establishment of the initial intensive program prison pursuant to 31395
section 5120.033 of the Revised Code that is privately operated 31396
and managed by a contractor pursuant to a contract entered into 31397
under section 9.06 of the Revised Code, both of the following 31398
apply: 31399

(a) The department of rehabilitation and correction shall 31400
make a reasonable effort to ensure that a sufficient number of 31401
offenders sentenced to a mandatory prison term under this division 31402
are placed in the privately operated and managed prison so that 31403
the privately operated and managed prison has full occupancy. 31404

(b) Unless the privately operated and managed prison has full 31405
occupancy, the department of rehabilitation and correction shall 31406
not place any offender sentenced to a mandatory prison term under 31407

this division in any intensive program prison established pursuant 31408
to section 5120.033 of the Revised Code other than the privately 31409
operated and managed prison. 31410

(H) If an offender is being sentenced for a sexually oriented 31411
offense or child-victim oriented offense that is a felony 31412
committed on or after January 1, 1997, the judge shall require the 31413
offender to submit to a DNA specimen collection procedure pursuant 31414
to section 2901.07 of the Revised Code. 31415

(I) If an offender is being sentenced for a sexually oriented 31416
offense or a child-victim oriented offense committed on or after 31417
January 1, 1997, the judge shall include in the sentence a summary 31418
of the offender's duties imposed under sections 2950.04, 2950.041, 31419
2950.05, and 2950.06 of the Revised Code and the duration of the 31420
duties. The judge shall inform the offender, at the time of 31421
sentencing, of those duties and of their duration. If required 31422
under division (A)(2) of section 2950.03 of the Revised Code, the 31423
judge shall perform the duties specified in that section, or, if 31424
required under division (A)(6) of section 2950.03 of the Revised 31425
Code, the judge shall perform the duties specified in that 31426
division. 31427

(J)(1) Except as provided in division (J)(2) of this section, 31428
when considering sentencing factors under this section in relation 31429
to an offender who is convicted of or pleads guilty to an attempt 31430
to commit an offense in violation of section 2923.02 of the 31431
Revised Code, the sentencing court shall consider the factors 31432
applicable to the felony category of the violation of section 31433
2923.02 of the Revised Code instead of the factors applicable to 31434
the felony category of the offense attempted. 31435

(2) When considering sentencing factors under this section in 31436
relation to an offender who is convicted of or pleads guilty to an 31437
attempt to commit a drug abuse offense for which the penalty is 31438
determined by the amount or number of unit doses of the controlled 31439

substance involved in the drug abuse offense, the sentencing court 31440
shall consider the factors applicable to the felony category that 31441
the drug abuse offense attempted would be if that drug abuse 31442
offense had been committed and had involved an amount or number of 31443
unit doses of the controlled substance that is within the next 31444
lower range of controlled substance amounts than was involved in 31445
the attempt. 31446

(K) As used in this section: 31447

(1) "Drug abuse offense" has the same meaning as in section 31448
2925.01 of the Revised Code. 31449

(2) "Qualifying assault offense" means a violation of section 31450
2903.13 of the Revised Code for which the penalty provision in 31451
division (C)(7)(b) or (C)(8)(b) of that section applies. 31452

(L) At the time of sentencing an offender for any sexually 31453
oriented offense, if the offender is a tier III sex 31454
offender/child-victim offender relative to that offense and the 31455
offender does not serve a prison term or jail term, the court may 31456
require that the offender be monitored by means of a global 31457
positioning device. If the court requires such monitoring, the 31458
cost of monitoring shall be borne by the offender. If the offender 31459
is indigent, the cost of compliance shall be paid by the crime 31460
victims reparations fund. 31461

Sec. 2929.15. (A)(1) If in sentencing an offender for a 31462
felony the court is not required to impose a prison term, a 31463
mandatory prison term, or a term of life imprisonment upon the 31464
offender, the court may directly impose a sentence that consists 31465
of one or more community control sanctions authorized pursuant to 31466
section 2929.16, 2929.17, or 2929.18 of the Revised Code. If the 31467
court is sentencing an offender for a fourth degree felony OVI 31468
offense under division (G)(1) of section 2929.13 of the Revised 31469
Code, in addition to the mandatory term of local incarceration 31470

imposed under that division and the mandatory fine required by 31471
division (B)(3) of section 2929.18 of the Revised Code, the court 31472
may impose upon the offender a community control sanction or 31473
combination of community control sanctions in accordance with 31474
sections 2929.16 and 2929.17 of the Revised Code. If the court is 31475
sentencing an offender for a third or fourth degree felony OVI 31476
offense under division (G)(2) of section 2929.13 of the Revised 31477
Code, in addition to the mandatory prison term or mandatory prison 31478
term and additional prison term imposed under that division, the 31479
court also may impose upon the offender a community control 31480
sanction or combination of community control sanctions under 31481
section 2929.16 or 2929.17 of the Revised Code, but the offender 31482
shall serve all of the prison terms so imposed prior to serving 31483
the community control sanction. 31484

The duration of all community control sanctions imposed upon 31485
an offender under this division shall not exceed five years. If 31486
the offender absconds or otherwise leaves the jurisdiction of the 31487
court in which the offender resides without obtaining permission 31488
from the court or the offender's probation officer to leave the 31489
jurisdiction of the court, or if the offender is confined in any 31490
institution for the commission of any offense while under a 31491
community control sanction, the period of the community control 31492
sanction ceases to run until the offender is brought before the 31493
court for its further action. If the court sentences the offender 31494
to one or more nonresidential sanctions under section 2929.17 of 31495
the Revised Code, the court shall impose as a condition of the 31496
nonresidential sanctions that, during the period of the sanctions, 31497
the offender must abide by the law and must not leave the state 31498
without the permission of the court or the offender's probation 31499
officer. The court may impose any other conditions of release 31500
under a community control sanction that the court considers 31501
appropriate, including, but not limited to, requiring that the 31502
offender not ingest or be injected with a drug of abuse and submit 31503

to random drug testing as provided in division (D) of this section 31504
to determine whether the offender ingested or was injected with a 31505
drug of abuse and requiring that the results of the drug test 31506
indicate that the offender did not ingest or was not injected with 31507
a drug of abuse. 31508

(2)(a) If a court sentences an offender to any community 31509
control sanction or combination of community control sanctions 31510
authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the 31511
Revised Code, the court shall place the offender under the general 31512
control and supervision of a department of probation in the county 31513
that serves the court for purposes of reporting to the court a 31514
violation of any condition of the sanctions, any condition of 31515
release under a community control sanction imposed by the court, a 31516
violation of law, or the departure of the offender from this state 31517
without the permission of the court or the offender's probation 31518
officer. Alternatively, if the offender resides in another county 31519
and a county department of probation has been established in that 31520
county or that county is served by a multicounty probation 31521
department established under section 2301.27 of the Revised Code, 31522
the court may request the court of common pleas of that county to 31523
receive the offender into the general control and supervision of 31524
that county or multicounty department of probation for purposes of 31525
reporting to the court a violation of any condition of the 31526
sanctions, any condition of release under a community control 31527
sanction imposed by the court, a violation of law, or the 31528
departure of the offender from this state without the permission 31529
of the court or the offender's probation officer, subject to the 31530
jurisdiction of the trial judge over and with respect to the 31531
person of the offender, and to the rules governing that department 31532
of probation. 31533

If there is no department of probation in the county that 31534
serves the court, the court shall place the offender, regardless 31535

of the offender's county of residence, under the general control 31536
and supervision of the adult parole authority for purposes of 31537
reporting to the court a violation of any of the sanctions, any 31538
condition of release under a community control sanction imposed by 31539
the court, a violation of law, or the departure of the offender 31540
from this state without the permission of the court or the 31541
offender's probation officer. 31542

(b) If the court imposing sentence upon an offender sentences 31543
the offender to any community control sanction or combination of 31544
community control sanctions authorized pursuant to section 31545
2929.16, 2929.17, or 2929.18 of the Revised Code, and if the 31546
offender violates any condition of the sanctions, any condition of 31547
release under a community control sanction imposed by the court, 31548
violates any law, or departs the state without the permission of 31549
the court or the offender's probation officer, the public or 31550
private person or entity that operates or administers the sanction 31551
or the program or activity that comprises the sanction shall 31552
report the violation or departure directly to the sentencing 31553
court, or shall report the violation or departure to the county or 31554
multicounty department of probation with general control and 31555
supervision over the offender under division (A)(2)(a) of this 31556
section or the officer of that department who supervises the 31557
offender, or, if there is no such department with general control 31558
and supervision over the offender under that division, to the 31559
adult parole authority. If the public or private person or entity 31560
that operates or administers the sanction or the program or 31561
activity that comprises the sanction reports the violation or 31562
departure to the county or multicounty department of probation or 31563
the adult parole authority, the department's or authority's 31564
officers may treat the offender as if the offender were on 31565
probation and in violation of the probation, and shall report the 31566
violation of the condition of the sanction, any condition of 31567
release under a community control sanction imposed by the court, 31568

the violation of law, or the departure from the state without the 31569
required permission to the sentencing court. 31570

(3) If an offender who is eligible for community control 31571
sanctions under this section admits to being drug addicted or the 31572
court has reason to believe that the offender is drug addicted, 31573
and if the offense for which the offender is being sentenced was 31574
related to the addiction, the court may require that the offender 31575
be assessed by a properly credentialed professional within a 31576
specified period of time and shall require the professional to 31577
file a written assessment of the offender with the court. If a 31578
court imposes treatment and recovery support services as a 31579
community control sanction, the court shall direct the level and 31580
type of treatment and recovery support services after 31581
consideration of the written assessment, if available at the time 31582
of sentencing, and recommendations of the professional and other 31583
treatment and recovery support services providers. 31584

(4) If an assessment completed pursuant to division (A)(3) of 31585
this section indicates that the offender is addicted to drugs or 31586
alcohol, the court may include in any community control sanction 31587
imposed for a violation of section 2925.02, 2925.03, 2925.04, 31588
2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 31589
2925.37 of the Revised Code a requirement that the offender 31590
participate in a treatment and recovery support services program 31591
certified under section ~~3793.06~~ 5119.36 of the Revised Code or 31592
offered by another properly credentialed ~~program~~ community 31593
addiction services provider. 31594

(B)(1) If the conditions of a community control sanction are 31595
violated or if the offender violates a law or leaves the state 31596
without the permission of the court or the offender's probation 31597
officer, the sentencing court may impose upon the violator one or 31598
more of the following penalties: 31599

(a) A longer time under the same sanction if the total time 31600

under the sanctions does not exceed the five-year limit specified 31601
in division (A) of this section; 31602

(b) A more restrictive sanction under section 2929.16, 31603
2929.17, or 2929.18 of the Revised Code; 31604

(c) A prison term on the offender pursuant to section 2929.14 31605
of the Revised Code. 31606

(2) The prison term, if any, imposed upon a violator pursuant 31607
to this division shall be within the range of prison terms 31608
available for the offense for which the sanction that was violated 31609
was imposed and shall not exceed the prison term specified in the 31610
notice provided to the offender at the sentencing hearing pursuant 31611
to division (B)(2) of section 2929.19 of the Revised Code. The 31612
court may reduce the longer period of time that the offender is 31613
required to spend under the longer sanction, the more restrictive 31614
sanction, or a prison term imposed pursuant to this division by 31615
the time the offender successfully spent under the sanction that 31616
was initially imposed. 31617

(C) If an offender, for a significant period of time, 31618
fulfills the conditions of a sanction imposed pursuant to section 31619
2929.16, 2929.17, or 2929.18 of the Revised Code in an exemplary 31620
manner, the court may reduce the period of time under the sanction 31621
or impose a less restrictive sanction, but the court shall not 31622
permit the offender to violate any law or permit the offender to 31623
leave the state without the permission of the court or the 31624
offender's probation officer. 31625

(D)(1) If a court under division (A)(1) of this section 31626
imposes a condition of release under a community control sanction 31627
that requires the offender to submit to random drug testing, the 31628
department of probation or the adult parole authority that has 31629
general control and supervision of the offender under division 31630
(A)(2)(a) of this section may cause the offender to submit to 31631

random drug testing performed by a laboratory or entity that has 31632
entered into a contract with any of the governmental entities or 31633
officers authorized to enter into a contract with that laboratory 31634
or entity under section 341.26, 753.33, or 5120.63 of the Revised 31635
Code. 31636

(2) If no laboratory or entity described in division (D)(1) 31637
of this section has entered into a contract as specified in that 31638
division, the department of probation or the adult parole 31639
authority that has general control and supervision of the offender 31640
under division (A)(2)(a) of this section shall cause the offender 31641
to submit to random drug testing performed by a reputable public 31642
laboratory to determine whether the individual who is the subject 31643
of the drug test ingested or was injected with a drug of abuse. 31644

(3) A laboratory or entity that has entered into a contract 31645
pursuant to section 341.26, 753.33, or 5120.63 of the Revised Code 31646
shall perform the random drug tests under division (D)(1) of this 31647
section in accordance with the applicable standards that are 31648
included in the terms of that contract. A public laboratory shall 31649
perform the random drug tests under division (D)(2) of this 31650
section in accordance with the standards set forth in the policies 31651
and procedures established by the department of rehabilitation and 31652
correction pursuant to section 5120.63 of the Revised Code. An 31653
offender who is required under division (A)(1) of this section to 31654
submit to random drug testing as a condition of release under a 31655
community control sanction and whose test results indicate that 31656
the offender ingested or was injected with a drug of abuse shall 31657
pay the fee for the drug test if the department of probation or 31658
the adult parole authority that has general control and 31659
supervision of the offender requires payment of a fee. A 31660
laboratory or entity that performs the random drug testing on an 31661
offender under division (D)(1) or (2) of this section shall 31662
transmit the results of the drug test to the appropriate 31663

department of probation or the adult parole authority that has 31664
general control and supervision of the offender under division 31665
(A)(2)(a) of this section. 31666

Sec. 2930.01. As used in this chapter: 31667

(A) "Crime" means any of the following: 31668

(1) A felony; 31669

(2) A violation of section 2903.05, 2903.06, 2903.13, 31670
2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04 of the 31671
Revised Code, a violation of section 2903.07 of the Revised Code 31672
as it existed prior to March 23, 2000, or a violation of a 31673
substantially equivalent municipal ordinance; 31674

(3) A violation of division (A) or (B) of section 4511.19, 31675
division (A) or (B) of section 1547.11, or division (A)(3) of 31676
section 4561.15 of the Revised Code or of a municipal ordinance 31677
substantially similar to any of those divisions that is the 31678
proximate cause of a vehicle, streetcar, trackless trolley, 31679
aquatic device, or aircraft accident in which the victim receives 31680
injuries for which the victim receives medical treatment either at 31681
the scene of the accident by emergency medical services personnel 31682
or at a hospital, ambulatory care facility, physician's office, 31683
specialist's office, or other medical care facility. 31684

(4) A motor vehicle accident to which both of the following 31685
apply: 31686

(a) The motor vehicle accident is caused by a violation of a 31687
provision of the Revised Code that is a misdemeanor of the first 31688
degree or higher. 31689

(b) As a result of the motor vehicle accident, the victim 31690
receives injuries for which the victim receives medical treatment 31691
either at the scene of the accident by emergency medical services 31692
personnel or at a hospital, ambulatory care facility, physician's 31693

office, specialist's office, or other medical care facility. 31694

(B) "Custodial agency" means one of the following: 31695

(1) The entity that has custody of a defendant or an alleged 31696
juvenile offender who is incarcerated for a crime, is under 31697
detention for the commission of a specified delinquent act, or who 31698
is detained after a finding of incompetence to stand trial or not 31699
guilty by reason of insanity relative to a crime, including any of 31700
the following: 31701

(a) The department of rehabilitation and correction or the 31702
adult parole authority; 31703

(b) A county sheriff; 31704

(c) The entity that administers a jail, as defined in section 31705
2929.01 of the Revised Code; 31706

(d) The entity that administers a community-based 31707
correctional facility and program or a district community-based 31708
correctional facility and program; 31709

(e) The department of ~~mental health~~ mental health and 31710
addiction services or other entity to which a defendant found 31711
incompetent to stand trial or not guilty by reason of insanity is 31712
committed. 31713

(2) The entity that has custody of an alleged juvenile 31714
offender pursuant to an order of disposition of a juvenile court, 31715
including the department of youth services or a school, camp, 31716
institution, or other facility operated for the care of delinquent 31717
children. 31718

(C) "Defendant" means a person who is alleged to be the 31719
perpetrator of a crime in a police report or in a complaint, 31720
indictment, or information that charges the commission of a crime 31721
and that provides the basis for the criminal prosecution and 31722
subsequent proceedings to which this chapter makes reference. 31723

(D) "Member of the victim's family" means a spouse, child, 31724
stepchild, sibling, parent, stepparent, grandparent, or other 31725
relative of a victim but does not include a person who is charged 31726
with, convicted of, or adjudicated to be a delinquent child for 31727
the crime or specified delinquent act against the victim or 31728
another crime or specified delinquent act arising from the same 31729
conduct, criminal episode, or plan. 31730

(E) "Prosecutor" means one of the following: 31731

(1) With respect to a criminal case, it has the same meaning 31732
as in section 2935.01 of the Revised Code and also includes the 31733
attorney general and, when appropriate, the employees of any 31734
person listed in section 2935.01 of the Revised Code or of the 31735
attorney general. 31736

(2) With respect to a delinquency proceeding, it includes any 31737
person listed in division (C) of section 2935.01 of the Revised 31738
Code or an employee of a person listed in that division who 31739
prosecutes a delinquency proceeding. 31740

(F) "Public agency" means an office, agency, department, 31741
bureau, or other governmental entity of the state or of a 31742
political subdivision of the state. 31743

(G) "Public official" has the same meaning as in section 31744
2921.01 of the Revised Code. 31745

(H) "Victim" means either of the following: 31746

(1) A person who is identified as the victim of a crime or 31747
specified delinquent act in a police report or in a complaint, 31748
indictment, or information that charges the commission of a crime 31749
and that provides the basis for the criminal prosecution or 31750
delinquency proceeding and subsequent proceedings to which this 31751
chapter makes reference. 31752

(2) A person who receives injuries as a result of a vehicle, 31753

streetcar, trackless trolley, aquatic device, or aircraft accident 31754
that is proximately caused by a violation described in division 31755
(A)(3) of this section or a motor vehicle accident that is 31756
proximately caused by a violation described in division (A)(4) of 31757
this section and who receives medical treatment as described in 31758
division (A)(3) or (4) of this section, whichever is applicable. 31759

(I) "Victim's representative" means a member of the victim's 31760
family or another person who pursuant to the authority of section 31761
2930.02 of the Revised Code exercises the rights of a victim under 31762
this chapter. 31763

(J) "Court" means a court of common pleas, juvenile court, 31764
municipal court, or county court. 31765

(K) "Delinquency proceeding" means all proceedings in a 31766
juvenile court that are related to a case in which a complaint has 31767
been filed alleging that a child is a delinquent child. 31768

(L) "Case" means a delinquency proceeding and all related 31769
activity or a criminal prosecution and all related activity. 31770

(M) The "defense" means the defense against criminal charges 31771
in a criminal prosecution or the defense against a delinquent 31772
child complaint in a delinquency proceeding. 31773

(N) The "prosecution" means the prosecution of criminal 31774
charges in a criminal prosecution or the prosecution of a 31775
delinquent child complaint in a delinquency proceeding. 31776

(O) "Specified delinquent act" means any of the following: 31777

(1) An act committed by a child that if committed by an adult 31778
would be a felony; 31779

(2) An act committed by a child that is a violation of a 31780
section listed in division (A)(1) or (2) of this section or is a 31781
violation of a substantially equivalent municipal ordinance; 31782

(3) An act committed by a child that is described in division 31783

(A)(3) or (4) of this section.	31784
(P)(1) "Alleged juvenile offender" means a child who is	31785
alleged to have committed a specified delinquent act in a police	31786
report or in a complaint in juvenile court that charges the	31787
commission of a specified delinquent act and that provides the	31788
basis for the delinquency proceeding and all subsequent	31789
proceedings to which this chapter makes reference.	31790
(2) As used in divisions (O) and (P)(1) of this section,	31791
"child" has the same meaning as in section 2151.011 of the Revised	31792
Code.	31793
(Q) "Motor vehicle accident" means any accident involving a	31794
motor vehicle.	31795
(R) "Motor vehicle" has the same meaning as in section	31796
4509.01 of the Revised Code.	31797
(S) "Aircraft" has the same meaning as in section 4561.01 of	31798
the Revised Code.	31799
(T) "Aquatic device" means any vessel, or any water skis,	31800
aquaplane, or similar device.	31801
(U) "Vehicle," "streetcar," and "trackless trolley" have the	31802
same meanings as in section 4511.01 of the Revised Code.	31803
(V) "Vehicle, streetcar, trackless trolley, aquatic device,	31804
or aircraft accident" means any accident involving a vehicle,	31805
streetcar, trackless trolley, aquatic device, or aircraft.	31806
(W) "Vessel" has the same meaning as in section 1547.01 of	31807
the Revised Code.	31808
Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal,	31809
deputy marshal, municipal police officer, township constable,	31810
police officer of a township or joint police district, member of a	31811
police force employed by a metropolitan housing authority under	31812

division (D) of section 3735.31 of the Revised Code, member of a 31813
police force employed by a regional transit authority under 31814
division (Y) of section 306.35 of the Revised Code, state 31815
university law enforcement officer appointed under section 3345.04 31816
of the Revised Code, veterans' home police officer appointed under 31817
section 5907.02 of the Revised Code, special police officer 31818
employed by a port authority under section 4582.04 or 4582.28 of 31819
the Revised Code, or a special police officer employed by a 31820
municipal corporation at a municipal airport, or other municipal 31821
air navigation facility, that has scheduled operations, as defined 31822
in section 119.3 of Title 14 of the Code of Federal Regulations, 31823
14 C.F.R. 119.3, as amended, and that is required to be under a 31824
security program and is governed by aviation security rules of the 31825
transportation security administration of the United States 31826
department of transportation as provided in Parts 1542. and 1544. 31827
of Title 49 of the Code of Federal Regulations, as amended, shall 31828
arrest and detain, until a warrant can be obtained, a person found 31829
violating, within the limits of the political subdivision, 31830
metropolitan housing authority housing project, regional transit 31831
authority facilities or areas of a municipal corporation that have 31832
been agreed to by a regional transit authority and a municipal 31833
corporation located within its territorial jurisdiction, college, 31834
university, veterans' home operated under Chapter 5907. of the 31835
Revised Code, port authority, or municipal airport or other 31836
municipal air navigation facility, in which the peace officer is 31837
appointed, employed, or elected, a law of this state, an ordinance 31838
of a municipal corporation, or a resolution of a township. 31839

(2) A peace officer of the department of natural resources, a 31840
state fire marshal law enforcement officer described in division 31841
(A)(23) of section 109.71 of the Revised Code, or an individual 31842
designated to perform law enforcement duties under section 31843
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 31844
detain, until a warrant can be obtained, a person found violating, 31845

within the limits of the peace officer's, state fire marshal law 31846
enforcement officer's, or individual's territorial jurisdiction, a 31847
law of this state. 31848

(3) The house sergeant at arms, if the house sergeant at arms 31849
has arrest authority pursuant to division (E)(1) of section 31850
101.311 of the Revised Code, and an assistant house sergeant at 31851
arms shall arrest and detain, until a warrant can be obtained, a 31852
person found violating, within the limits of the sergeant at 31853
arms's or assistant sergeant at arms's territorial jurisdiction 31854
specified in division (D)(1)(a) of section 101.311 of the Revised 31855
Code or while providing security pursuant to division (D)(1)(f) of 31856
section 101.311 of the Revised Code, a law of this state, an 31857
ordinance of a municipal corporation, or a resolution of a 31858
township. 31859

(4) The senate sergeant at arms and an assistant senate 31860
sergeant at arms shall arrest and detain, until a warrant can be 31861
obtained, a person found violating, within the limits of the 31862
sergeant at arms's or assistant sergeant at arms's territorial 31863
jurisdiction specified in division (B) of section 101.312 of the 31864
Revised Code, a law of this state, an ordinance of a municipal 31865
corporation, or a resolution of a township. 31866

(B)(1) When there is reasonable ground to believe that an 31867
offense of violence, the offense of criminal child enticement as 31868
defined in section 2905.05 of the Revised Code, the offense of 31869
public indecency as defined in section 2907.09 of the Revised 31870
Code, the offense of domestic violence as defined in section 31871
2919.25 of the Revised Code, the offense of violating a protection 31872
order as defined in section 2919.27 of the Revised Code, the 31873
offense of menacing by stalking as defined in section 2903.211 of 31874
the Revised Code, the offense of aggravated trespass as defined in 31875
section 2911.211 of the Revised Code, a theft offense as defined 31876
in section 2913.01 of the Revised Code, or a felony drug abuse 31877

offense as defined in section 2925.01 of the Revised Code, has 31878
been committed within the limits of the political subdivision, 31879
metropolitan housing authority housing project, regional transit 31880
authority facilities or those areas of a municipal corporation 31881
that have been agreed to by a regional transit authority and a 31882
municipal corporation located within its territorial jurisdiction, 31883
college, university, veterans' home operated under Chapter 5907. 31884
of the Revised Code, port authority, or municipal airport or other 31885
municipal air navigation facility, in which the peace officer is 31886
appointed, employed, or elected or within the limits of the 31887
territorial jurisdiction of the peace officer, a peace officer 31888
described in division (A) of this section may arrest and detain 31889
until a warrant can be obtained any person who the peace officer 31890
has reasonable cause to believe is guilty of the violation. 31891

(2) For purposes of division (B)(1) of this section, the 31892
execution of any of the following constitutes reasonable ground to 31893
believe that the offense alleged in the statement was committed 31894
and reasonable cause to believe that the person alleged in the 31895
statement to have committed the offense is guilty of the 31896
violation: 31897

(a) A written statement by a person alleging that an alleged 31898
offender has committed the offense of menacing by stalking or 31899
aggravated trespass; 31900

(b) A written statement by the administrator of the 31901
interstate compact on mental health appointed under section 31902
~~5119.51~~ 5119.71 of the Revised Code alleging that a person who had 31903
been hospitalized, institutionalized, or confined in any facility 31904
under an order made pursuant to or under authority of section 31905
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 31906
2945.402 of the Revised Code has escaped from the facility, from 31907
confinement in a vehicle for transportation to or from the 31908
facility, or from supervision by an employee of the facility that 31909

is incidental to hospitalization, institutionalization, or 31910
confinement in the facility and that occurs outside of the 31911
facility, in violation of section 2921.34 of the Revised Code; 31912

(c) A written statement by the administrator of any facility 31913
in which a person has been hospitalized, institutionalized, or 31914
confined under an order made pursuant to or under authority of 31915
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 31916
2945.402 of the Revised Code alleging that the person has escaped 31917
from the facility, from confinement in a vehicle for 31918
transportation to or from the facility, or from supervision by an 31919
employee of the facility that is incidental to hospitalization, 31920
institutionalization, or confinement in the facility and that 31921
occurs outside of the facility, in violation of section 2921.34 of 31922
the Revised Code. 31923

(3)(a) For purposes of division (B)(1) of this section, a 31924
peace officer described in division (A) of this section has 31925
reasonable grounds to believe that the offense of domestic 31926
violence or the offense of violating a protection order has been 31927
committed and reasonable cause to believe that a particular person 31928
is guilty of committing the offense if any of the following 31929
occurs: 31930

(i) A person executes a written statement alleging that the 31931
person in question has committed the offense of domestic violence 31932
or the offense of violating a protection order against the person 31933
who executes the statement or against a child of the person who 31934
executes the statement. 31935

(ii) No written statement of the type described in division 31936
(B)(3)(a)(i) of this section is executed, but the peace officer, 31937
based upon the peace officer's own knowledge and observation of 31938
the facts and circumstances of the alleged incident of the offense 31939
of domestic violence or the alleged incident of the offense of 31940
violating a protection order or based upon any other information, 31941

including, but not limited to, any reasonably trustworthy 31942
information given to the peace officer by the alleged victim of 31943
the alleged incident of the offense or any witness of the alleged 31944
incident of the offense, concludes that there are reasonable 31945
grounds to believe that the offense of domestic violence or the 31946
offense of violating a protection order has been committed and 31947
reasonable cause to believe that the person in question is guilty 31948
of committing the offense. 31949

(iii) No written statement of the type described in division 31950
(B)(3)(a)(i) of this section is executed, but the peace officer 31951
witnessed the person in question commit the offense of domestic 31952
violence or the offense of violating a protection order. 31953

(b) If pursuant to division (B)(3)(a) of this section a peace 31954
officer has reasonable grounds to believe that the offense of 31955
domestic violence or the offense of violating a protection order 31956
has been committed and reasonable cause to believe that a 31957
particular person is guilty of committing the offense, it is the 31958
preferred course of action in this state that the officer arrest 31959
and detain that person pursuant to division (B)(1) of this section 31960
until a warrant can be obtained. 31961

If pursuant to division (B)(3)(a) of this section a peace 31962
officer has reasonable grounds to believe that the offense of 31963
domestic violence or the offense of violating a protection order 31964
has been committed and reasonable cause to believe that family or 31965
household members have committed the offense against each other, 31966
it is the preferred course of action in this state that the 31967
officer, pursuant to division (B)(1) of this section, arrest and 31968
detain until a warrant can be obtained the family or household 31969
member who committed the offense and whom the officer has 31970
reasonable cause to believe is the primary physical aggressor. 31971
There is no preferred course of action in this state regarding any 31972
other family or household member who committed the offense and 31973

whom the officer does not have reasonable cause to believe is the 31974
primary physical aggressor, but, pursuant to division (B)(1) of 31975
this section, the peace officer may arrest and detain until a 31976
warrant can be obtained any other family or household member who 31977
committed the offense and whom the officer does not have 31978
reasonable cause to believe is the primary physical aggressor. 31979

(c) If a peace officer described in division (A) of this 31980
section does not arrest and detain a person whom the officer has 31981
reasonable cause to believe committed the offense of domestic 31982
violence or the offense of violating a protection order when it is 31983
the preferred course of action in this state pursuant to division 31984
(B)(3)(b) of this section that the officer arrest that person, the 31985
officer shall articulate in the written report of the incident 31986
required by section 2935.032 of the Revised Code a clear statement 31987
of the officer's reasons for not arresting and detaining that 31988
person until a warrant can be obtained. 31989

(d) In determining for purposes of division (B)(3)(b) of this 31990
section which family or household member is the primary physical 31991
aggressor in a situation in which family or household members have 31992
committed the offense of domestic violence or the offense of 31993
violating a protection order against each other, a peace officer 31994
described in division (A) of this section, in addition to any 31995
other relevant circumstances, should consider all of the 31996
following: 31997

(i) Any history of domestic violence or of any other violent 31998
acts by either person involved in the alleged offense that the 31999
officer reasonably can ascertain; 32000

(ii) If violence is alleged, whether the alleged violence was 32001
caused by a person acting in self-defense; 32002

(iii) Each person's fear of physical harm, if any, resulting 32003
from the other person's threatened use of force against any person 32004

or resulting from the other person's use or history of the use of 32005
force against any person, and the reasonableness of that fear; 32006

(iv) The comparative severity of any injuries suffered by the 32007
persons involved in the alleged offense. 32008

(e)(i) A peace officer described in division (A) of this 32009
section shall not require, as a prerequisite to arresting or 32010
charging a person who has committed the offense of domestic 32011
violence or the offense of violating a protection order, that the 32012
victim of the offense specifically consent to the filing of 32013
charges against the person who has committed the offense or sign a 32014
complaint against the person who has committed the offense. 32015

(ii) If a person is arrested for or charged with committing 32016
the offense of domestic violence or the offense of violating a 32017
protection order and if the victim of the offense does not 32018
cooperate with the involved law enforcement or prosecuting 32019
authorities in the prosecution of the offense or, subsequent to 32020
the arrest or the filing of the charges, informs the involved law 32021
enforcement or prosecuting authorities that the victim does not 32022
wish the prosecution of the offense to continue or wishes to drop 32023
charges against the alleged offender relative to the offense, the 32024
involved prosecuting authorities, in determining whether to 32025
continue with the prosecution of the offense or whether to dismiss 32026
charges against the alleged offender relative to the offense and 32027
notwithstanding the victim's failure to cooperate or the victim's 32028
wishes, shall consider all facts and circumstances that are 32029
relevant to the offense, including, but not limited to, the 32030
statements and observations of the peace officers who responded to 32031
the incident that resulted in the arrest or filing of the charges 32032
and of all witnesses to that incident. 32033

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 32034
this section whether to arrest a person pursuant to division 32035
(B)(1) of this section, a peace officer described in division (A) 32036

of this section shall not consider as a factor any possible 32037
shortage of cell space at the detention facility to which the 32038
person will be taken subsequent to the person's arrest or any 32039
possibility that the person's arrest might cause, contribute to, 32040
or exacerbate overcrowding at that detention facility or at any 32041
other detention facility. 32042

(g) If a peace officer described in division (A) of this 32043
section intends pursuant to divisions (B)(3)(a) to (g) of this 32044
section to arrest a person pursuant to division (B)(1) of this 32045
section and if the officer is unable to do so because the person 32046
is not present, the officer promptly shall seek a warrant for the 32047
arrest of the person. 32048

(h) If a peace officer described in division (A) of this 32049
section responds to a report of an alleged incident of the offense 32050
of domestic violence or an alleged incident of the offense of 32051
violating a protection order and if the circumstances of the 32052
incident involved the use or threatened use of a deadly weapon or 32053
any person involved in the incident brandished a deadly weapon 32054
during or in relation to the incident, the deadly weapon that was 32055
used, threatened to be used, or brandished constitutes contraband, 32056
and, to the extent possible, the officer shall seize the deadly 32057
weapon as contraband pursuant to Chapter 2981. of the Revised 32058
Code. Upon the seizure of a deadly weapon pursuant to division 32059
(B)(3)(h) of this section, section 2981.12 of the Revised Code 32060
shall apply regarding the treatment and disposition of the deadly 32061
weapon. For purposes of that section, the "underlying criminal 32062
offense" that was the basis of the seizure of a deadly weapon 32063
under division (B)(3)(h) of this section and to which the deadly 32064
weapon had a relationship is any of the following that is 32065
applicable: 32066

(i) The alleged incident of the offense of domestic violence 32067
or the alleged incident of the offense of violating a protection 32068

order to which the officer who seized the deadly weapon responded; 32069

(ii) Any offense that arose out of the same facts and 32070
circumstances as the report of the alleged incident of the offense 32071
of domestic violence or the alleged incident of the offense of 32072
violating a protection order to which the officer who seized the 32073
deadly weapon responded. 32074

(4) If, in the circumstances described in divisions (B)(3)(a) 32075
to (g) of this section, a peace officer described in division (A) 32076
of this section arrests and detains a person pursuant to division 32077
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 32078
this section, a peace officer described in division (A) of this 32079
section seizes a deadly weapon, the officer, to the extent 32080
described in and in accordance with section 9.86 or 2744.03 of the 32081
Revised Code, is immune in any civil action for damages for 32082
injury, death, or loss to person or property that arises from or 32083
is related to the arrest and detention or the seizure. 32084

(C) When there is reasonable ground to believe that a 32085
violation of division (A)(1), (2), (3), (4), or (5) of section 32086
4506.15 or a violation of section 4511.19 of the Revised Code has 32087
been committed by a person operating a motor vehicle subject to 32088
regulation by the public utilities commission of Ohio under Title 32089
XLIX of the Revised Code, a peace officer with authority to 32090
enforce that provision of law may stop or detain the person whom 32091
the officer has reasonable cause to believe was operating the 32092
motor vehicle in violation of the division or section and, after 32093
investigating the circumstances surrounding the operation of the 32094
vehicle, may arrest and detain the person. 32095

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 32096
municipal police officer, member of a police force employed by a 32097
metropolitan housing authority under division (D) of section 32098
3735.31 of the Revised Code, member of a police force employed by 32099
a regional transit authority under division (Y) of section 306.35 32100

of the Revised Code, special police officer employed by a port 32101
authority under section 4582.04 or 4582.28 of the Revised Code, 32102
special police officer employed by a municipal corporation at a 32103
municipal airport or other municipal air navigation facility 32104
described in division (A) of this section, township constable, 32105
police officer of a township or joint police district, state 32106
university law enforcement officer appointed under section 3345.04 32107
of the Revised Code, peace officer of the department of natural 32108
resources, individual designated to perform law enforcement duties 32109
under section 511.232, 1545.13, or 6101.75 of the Revised Code, 32110
the house sergeant at arms if the house sergeant at arms has 32111
arrest authority pursuant to division (E)(1) of section 101.311 of 32112
the Revised Code, or an assistant house sergeant at arms is 32113
authorized by division (A) or (B) of this section to arrest and 32114
detain, within the limits of the political subdivision, 32115
metropolitan housing authority housing project, regional transit 32116
authority facilities or those areas of a municipal corporation 32117
that have been agreed to by a regional transit authority and a 32118
municipal corporation located within its territorial jurisdiction, 32119
port authority, municipal airport or other municipal air 32120
navigation facility, college, or university in which the officer 32121
is appointed, employed, or elected or within the limits of the 32122
territorial jurisdiction of the peace officer, a person until a 32123
warrant can be obtained, the peace officer, outside the limits of 32124
that territory, may pursue, arrest, and detain that person until a 32125
warrant can be obtained if all of the following apply: 32126

(1) The pursuit takes place without unreasonable delay after 32127
the offense is committed; 32128

(2) The pursuit is initiated within the limits of the 32129
political subdivision, metropolitan housing authority housing 32130
project, regional transit authority facilities or those areas of a 32131
municipal corporation that have been agreed to by a regional 32132

transit authority and a municipal corporation located within its 32133
territorial jurisdiction, port authority, municipal airport or 32134
other municipal air navigation facility, college, or university in 32135
which the peace officer is appointed, employed, or elected or 32136
within the limits of the territorial jurisdiction of the peace 32137
officer; 32138

(3) The offense involved is a felony, a misdemeanor of the 32139
first degree or a substantially equivalent municipal ordinance, a 32140
misdemeanor of the second degree or a substantially equivalent 32141
municipal ordinance, or any offense for which points are 32142
chargeable pursuant to section 4510.036 of the Revised Code. 32143

(E) In addition to the authority granted under division (A) 32144
or (B) of this section: 32145

(1) A sheriff or deputy sheriff may arrest and detain, until 32146
a warrant can be obtained, any person found violating section 32147
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 32148
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 32149
portion of any street or highway that is located immediately 32150
adjacent to the boundaries of the county in which the sheriff or 32151
deputy sheriff is elected or appointed. 32152

(2) A member of the police force of a township police 32153
district created under section 505.48 of the Revised Code, a 32154
member of the police force of a joint police district created 32155
under section 505.482 of the Revised Code, or a township constable 32156
appointed in accordance with section 509.01 of the Revised Code, 32157
who has received a certificate from the Ohio peace officer 32158
training commission under section 109.75 of the Revised Code, may 32159
arrest and detain, until a warrant can be obtained, any person 32160
found violating any section or chapter of the Revised Code listed 32161
in division (E)(1) of this section, other than sections 4513.33 32162
and 4513.34 of the Revised Code, on the portion of any street or 32163
highway that is located immediately adjacent to the boundaries of 32164

the township police district or joint police district, in the case 32165
of a member of a township police district or joint police district 32166
police force, or the unincorporated territory of the township, in 32167
the case of a township constable. However, if the population of 32168
the township that created the township police district served by 32169
the member's police force, or the townships and municipal 32170
corporations that created the joint police district served by the 32171
member's police force, or the township that is served by the 32172
township constable, is sixty thousand or less, the member of the 32173
township police district or joint police district police force or 32174
the township constable may not make an arrest under division 32175
(E)(2) of this section on a state highway that is included as part 32176
of the interstate system. 32177

(3) A police officer or village marshal appointed, elected, 32178
or employed by a municipal corporation may arrest and detain, 32179
until a warrant can be obtained, any person found violating any 32180
section or chapter of the Revised Code listed in division (E)(1) 32181
of this section on the portion of any street or highway that is 32182
located immediately adjacent to the boundaries of the municipal 32183
corporation in which the police officer or village marshal is 32184
appointed, elected, or employed. 32185

(4) A peace officer of the department of natural resources, a 32186
state fire marshal law enforcement officer described in division 32187
(A)(23) of section 109.71 of the Revised Code, or an individual 32188
designated to perform law enforcement duties under section 32189
511.232, 1545.13, or 6101.75 of the Revised Code may arrest and 32190
detain, until a warrant can be obtained, any person found 32191
violating any section or chapter of the Revised Code listed in 32192
division (E)(1) of this section, other than sections 4513.33 and 32193
4513.34 of the Revised Code, on the portion of any street or 32194
highway that is located immediately adjacent to the boundaries of 32195
the lands and waters that constitute the territorial jurisdiction 32196

of the peace officer or state fire marshal law enforcement 32197
officer. 32198

(F)(1) A department of ~~mental health~~ mental health and 32199
addiction services special police officer or a department of 32200
developmental disabilities special police officer may arrest 32201
without a warrant and detain until a warrant can be obtained any 32202
person found committing on the premises of any institution under 32203
the jurisdiction of the particular department a misdemeanor under 32204
a law of the state. 32205

A department of ~~mental health~~ mental health and addiction 32206
services special police officer or a department of developmental 32207
disabilities special police officer may arrest without a warrant 32208
and detain until a warrant can be obtained any person who has been 32209
hospitalized, institutionalized, or confined in an institution 32210
under the jurisdiction of the particular department pursuant to or 32211
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 32212
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 32213
found committing on the premises of any institution under the 32214
jurisdiction of the particular department a violation of section 32215
2921.34 of the Revised Code that involves an escape from the 32216
premises of the institution. 32217

(2)(a) If a department of ~~mental health~~ mental health and 32218
addiction services special police officer or a department of 32219
developmental disabilities special police officer finds any person 32220
who has been hospitalized, institutionalized, or confined in an 32221
institution under the jurisdiction of the particular department 32222
pursuant to or under authority of section 2945.37, 2945.371, 32223
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 32224
Code committing a violation of section 2921.34 of the Revised Code 32225
that involves an escape from the premises of the institution, or 32226
if there is reasonable ground to believe that a violation of 32227
section 2921.34 of the Revised Code has been committed that 32228

involves an escape from the premises of an institution under the 32229
jurisdiction of the department of ~~mental health~~ mental health and 32230
addiction services or the department of developmental disabilities 32231
and if a department of ~~mental health~~ mental health and addiction 32232
services special police officer or a department of developmental 32233
disabilities special police officer has reasonable cause to 32234
believe that a particular person who has been hospitalized, 32235
institutionalized, or confined in the institution pursuant to or 32236
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 32237
2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of 32238
the violation, the special police officer, outside of the premises 32239
of the institution, may pursue, arrest, and detain that person for 32240
that violation of section 2921.34 of the Revised Code, until a 32241
warrant can be obtained, if both of the following apply: 32242

(i) The pursuit takes place without unreasonable delay after 32243
the offense is committed; 32244

(ii) The pursuit is initiated within the premises of the 32245
institution from which the violation of section 2921.34 of the 32246
Revised Code occurred. 32247

(b) For purposes of division (F)(2)(a) of this section, the 32248
execution of a written statement by the administrator of the 32249
institution in which a person had been hospitalized, 32250
institutionalized, or confined pursuant to or under authority of 32251
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 32252
2945.402 of the Revised Code alleging that the person has escaped 32253
from the premises of the institution in violation of section 32254
2921.34 of the Revised Code constitutes reasonable ground to 32255
believe that the violation was committed and reasonable cause to 32256
believe that the person alleged in the statement to have committed 32257
the offense is guilty of the violation. 32258

(G) As used in this section: 32259

- (1) A "department of ~~mental health~~ mental health and
addiction services special police officer" means a special police
officer of the department of ~~mental health~~ mental health and
addiction services designated under section ~~5119.14~~ 5119.08 of the
Revised Code who is certified by the Ohio peace officer training
commission under section 109.77 of the Revised Code as having
successfully completed an approved peace officer basic training
program.
- (2) A "department of developmental disabilities special
police officer" means a special police officer of the department
of developmental disabilities designated under section 5123.13 of
the Revised Code who is certified by the Ohio peace officer
training council under section 109.77 of the Revised Code as
having successfully completed an approved peace officer basic
training program.
- (3) "Deadly weapon" has the same meaning as in section
2923.11 of the Revised Code.
- (4) "Family or household member" has the same meaning as in
section 2919.25 of the Revised Code.
- (5) "Street" or "highway" has the same meaning as in section
4511.01 of the Revised Code.
- (6) "Interstate system" has the same meaning as in section
5516.01 of the Revised Code.
- (7) "Peace officer of the department of natural resources"
means an employee of the department of natural resources who is a
natural resources law enforcement staff officer designated
pursuant to section 1501.013 of the Revised Code, a forest officer
designated pursuant to section 1503.29 of the Revised Code, a
preserve officer designated pursuant to section 1517.10 of the
Revised Code, a wildlife officer designated pursuant to section
1531.13 of the Revised Code, a park officer designated pursuant to

section 1541.10 of the Revised Code, or a state watercraft officer 32291
designated pursuant to section 1547.521 of the Revised Code. 32292

(8) "Portion of any street or highway" means all lanes of the 32293
street or highway irrespective of direction of travel, including 32294
designated turn lanes, and any berm, median, or shoulder. 32295

Sec. 2935.33. (A) If a person charged with a misdemeanor is 32296
taken before a judge of a court of record and if it appears to the 32297
judge that the person is an alcoholic or is suffering from acute 32298
alcohol intoxication and that the person would benefit from 32299
services provided by ~~an alcohol and drug~~ a community addiction 32300
~~program services provider~~ certified under Chapter ~~3793.~~ 5119. of 32301
the Revised Code, the judge may place the person temporarily in a 32302
~~program services provider~~ certified under that chapter in the area 32303
in which the court has jurisdiction for inpatient care and 32304
treatment for an indefinite period not exceeding five days. The 32305
commitment does not limit the right to release on bail. The judge 32306
may dismiss a charge of a violation of division (B) of section 32307
2917.11 of the Revised Code or of a municipal ordinance 32308
substantially equivalent to that division if the defendant 32309
complies with all the conditions of treatment ordered by the 32310
court. 32311

The court may order that any fines or court costs collected 32312
by the court from defendants who have received inpatient care from 32313
~~an alcohol and drug~~ a community addiction ~~program services~~ 32314
provider be paid, for the benefit of the program, to the board of 32315
alcohol, drug addiction, and mental health services of the 32316
alcohol, drug addiction, and mental health service district in 32317
which the ~~program services provider~~ is located or to the director 32318
of ~~alcohol and drug addiction services~~ mental health and addiction 32319
services. 32320

(B) If a person is being sentenced for a violation of 32321

division (B) of section 2917.11 or section 4511.19 of the Revised Code, a misdemeanor violation of section 2919.25 of the Revised Code, a misdemeanor violation of section 2919.27 of the Revised Code involving a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, or a violation of a municipal ordinance substantially equivalent to that division or any of those sections and if it appears to the judge at the time of sentencing that the person is an alcoholic or is suffering from acute alcohol intoxication and that, in lieu of imprisonment, the person would benefit from services provided by ~~an alcohol and drug~~ a community addiction program services provider certified under Chapter ~~3793.~~ 5119. of the Revised Code, the court may commit the person to close supervision in any facility in the area in which the court has jurisdiction that is, or is operated by, such a ~~program services provider~~. Such close supervision may include outpatient services and part-time release, except that a person convicted of a violation of division (A) of section 4511.19 of the Revised Code shall be confined to the facility for at least three days and except that a person convicted of a misdemeanor violation of section 2919.25 of the Revised Code, a misdemeanor violation of section 2919.27 of the Revised Code involving a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, or a violation of a substantially equivalent municipal ordinance shall be confined to the facility in accordance with the order of commitment. A commitment of a person to a facility for purposes of close supervision shall not exceed the maximum term for which the person could be imprisoned.

(C) A law enforcement officer who finds a person subject to prosecution for violation of division (B) of section 2917.11 of the Revised Code or a municipal ordinance substantially equivalent to that division and who has reasonable cause to believe that the person is an alcoholic or is suffering from acute alcohol

intoxication and would benefit from immediate treatment 32355
immediately may place the person in ~~an alcohol and drug a~~ 32356
community addiction program services provider certified under 32357
Chapter ~~3793-~~ 5119. of the Revised Code in the area in which the 32358
person is found, for emergency treatment, in lieu of other arrest 32359
procedures, for a maximum period of forty-eight hours. During that 32360
time, if the person desires to leave such custody, the person 32361
shall be released forthwith. 32362

(D) As used in this section: 32363

(1) "Alcoholic" has the same meaning as in section ~~3793.01~~ 32364
5119.01 of the Revised Code; 32365

(2) "Acute alcohol intoxication" means a heavy consumption of 32366
alcohol over a relatively short period of time, resulting in 32367
dysfunction of the brain centers controlling behavior, speech, and 32368
memory and causing characteristic withdrawal symptoms. 32369

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of 32370
the Revised Code: 32371

(1) "Prosecutor" means a prosecuting attorney or a city 32372
director of law, village solicitor, or similar chief legal officer 32373
of a municipal corporation who has authority to prosecute a 32374
criminal case that is before the court or the criminal case in 32375
which a defendant in a criminal case has been found incompetent to 32376
stand trial or not guilty by reason of insanity. 32377

(2) "Examiner" means either of the following: 32378

(a) A psychiatrist or a licensed clinical psychologist who 32379
satisfies the criteria of division (I)(1) of section 5122.01 of 32380
the Revised Code or is employed by a certified forensic center 32381
designated by the department of ~~mental health~~ mental health and 32382
addiction services to conduct examinations or evaluations. 32383

(b) For purposes of a separate mental retardation evaluation 32384

that is ordered by a court pursuant to division (H) of section 32385
2945.371 of the Revised Code, a psychologist designated by the 32386
director of developmental disabilities pursuant to that section to 32387
conduct that separate mental retardation evaluation. 32388

(3) "Nonsecured status" means any unsupervised, off-grounds 32389
movement or trial visit from a hospital or institution, or any 32390
conditional release, that is granted to a person who is found 32391
incompetent to stand trial and is committed pursuant to section 32392
2945.39 of the Revised Code or to a person who is found not guilty 32393
by reason of insanity and is committed pursuant to section 2945.40 32394
of the Revised Code. 32395

(4) "Unsupervised, off-grounds movement" includes only 32396
off-grounds privileges that are unsupervised and that have an 32397
expectation of return to the hospital or institution on a daily 32398
basis. 32399

(5) "Trial visit" means a patient privilege of a longer 32400
stated duration of unsupervised community contact with an 32401
expectation of return to the hospital or institution at designated 32402
times. 32403

(6) "Conditional release" means a commitment status under 32404
which the trial court at any time may revoke a person's 32405
conditional release and order the rehospitalization or 32406
reinstitutionalization of the person as described in division (A) 32407
of section 2945.402 of the Revised Code and pursuant to which a 32408
person who is found incompetent to stand trial or a person who is 32409
found not guilty by reason of insanity lives and receives 32410
treatment in the community for a period of time that does not 32411
exceed the maximum prison term or term of imprisonment that the 32412
person could have received for the offense in question had the 32413
person been convicted of the offense instead of being found 32414
incompetent to stand trial on the charge of the offense or being 32415
found not guilty by reason of insanity relative to the offense. 32416

(7) "Licensed clinical psychologist," "mentally ill person
subject to hospitalization by court order," and "psychiatrist"
have the same meanings as in section 5122.01 of the Revised Code.

(8) "Mentally retarded person subject to institutionalization
by court order" has the same meaning as in section 5123.01 of the
Revised Code.

(B) In a criminal action in a court of common pleas, a county
court, or a municipal court, the court, prosecutor, or defense may
raise the issue of the defendant's competence to stand trial. If
the issue is raised before the trial has commenced, the court
shall hold a hearing on the issue as provided in this section. If
the issue is raised after the trial has commenced, the court shall
hold a hearing on the issue only for good cause shown or on the
court's own motion.

(C) The court shall conduct the hearing required or
authorized under division (B) of this section within thirty days
after the issue is raised, unless the defendant has been referred
for evaluation in which case the court shall conduct the hearing
within ten days after the filing of the report of the evaluation
or, in the case of a defendant who is ordered by the court
pursuant to division (H) of section 2945.371 of the Revised Code
to undergo a separate mental retardation evaluation conducted by a
psychologist designated by the director of developmental
disabilities, within ten days after the filing of the report of
the separate mental retardation evaluation under that division. A
hearing may be continued for good cause.

(D) The defendant shall be represented by counsel at the
hearing conducted under division (C) of this section. If the
defendant is unable to obtain counsel, the court shall appoint
counsel under Chapter 120. of the Revised Code or under the
authority recognized in division (C) of section 120.06, division
(E) of section 120.16, division (E) of section 120.26, or section

2941.51 of the Revised Code before proceeding with the hearing. 32449

(E) The prosecutor and defense counsel may submit evidence on 32450
the issue of the defendant's competence to stand trial. A written 32451
report of the evaluation of the defendant may be admitted into 32452
evidence at the hearing by stipulation, but, if either the 32453
prosecution or defense objects to its admission, the report may be 32454
admitted under sections 2317.36 to 2317.38 of the Revised Code or 32455
any other applicable statute or rule. 32456

(F) The court shall not find a defendant incompetent to stand 32457
trial solely because the defendant is receiving or has received 32458
treatment as a voluntary or involuntary mentally ill patient under 32459
Chapter 5122. or a voluntary or involuntary mentally retarded 32460
resident under Chapter 5123. of the Revised Code or because the 32461
defendant is receiving or has received psychotropic drugs or other 32462
medication, even if the defendant might become incompetent to 32463
stand trial without the drugs or medication. 32464

(G) A defendant is presumed to be competent to stand trial. 32465
If, after a hearing, the court finds by a preponderance of the 32466
evidence that, because of the defendant's present mental 32467
condition, the defendant is incapable of understanding the nature 32468
and objective of the proceedings against the defendant or of 32469
assisting in the defendant's defense, the court shall find the 32470
defendant incompetent to stand trial and shall enter an order 32471
authorized by section 2945.38 of the Revised Code. 32472

(H) Municipal courts shall follow the procedures set forth in 32473
sections 2945.37 to 2945.402 of the Revised Code. Except as 32474
provided in section 2945.371 of the Revised Code, a municipal 32475
court shall not order an evaluation of the defendant's competence 32476
to stand trial or the defendant's mental condition at the time of 32477
the commission of the offense to be conducted at any hospital 32478
operated by the department of ~~mental health~~ mental health and 32479
addiction services. Those evaluations shall be performed through 32480

community resources including, but not limited to, certified 32481
forensic centers, court probation departments, and community 32482
mental health ~~agencies~~ services providers. All expenses of the 32483
evaluations shall be borne by the legislative authority of the 32484
municipal court, as defined in section 1901.03 of the Revised 32485
Code, and shall be taxed as costs in the case. If a defendant is 32486
found incompetent to stand trial or not guilty by reason of 32487
insanity, a municipal court may commit the defendant as provided 32488
in sections 2945.38 to 2945.402 of the Revised Code. 32489

Sec. 2945.371. (A) If the issue of a defendant's competence 32490
to stand trial is raised or if a defendant enters a plea of not 32491
guilty by reason of insanity, the court may order one or more 32492
evaluations of the defendant's present mental condition or, in the 32493
case of a plea of not guilty by reason of insanity, of the 32494
defendant's mental condition at the time of the offense charged. 32495
An examiner shall conduct the evaluation. 32496

(B) If the court orders more than one evaluation under 32497
division (A) of this section, the prosecutor and the defendant may 32498
recommend to the court an examiner whom each prefers to perform 32499
one of the evaluations. If a defendant enters a plea of not guilty 32500
by reason of insanity and if the court does not designate an 32501
examiner recommended by the defendant, the court shall inform the 32502
defendant that the defendant may have independent expert 32503
evaluation and that, if the defendant is unable to obtain 32504
independent expert evaluation, it will be obtained for the 32505
defendant at public expense if the defendant is indigent. 32506

(C) If the court orders an evaluation under division (A) of 32507
this section, the defendant shall be available at the times and 32508
places established by the examiners who are to conduct the 32509
evaluation. The court may order a defendant who has been released 32510
on bail or recognizance to submit to an evaluation under this 32511

section. If a defendant who has been released on bail or 32512
recognizance refuses to submit to a complete evaluation, the court 32513
may amend the conditions of bail or recognizance and order the 32514
sheriff to take the defendant into custody and deliver the 32515
defendant to a center, program, or facility operated or certified 32516
by the department of ~~mental health~~ mental health and addiction 32517
services or the department of developmental disabilities where the 32518
defendant may be held for evaluation for a reasonable period of 32519
time not to exceed twenty days. 32520

(D) A defendant who has not been released on bail or 32521
recognizance may be evaluated at the defendant's place of 32522
detention. Upon the request of the examiner, the court may order 32523
the sheriff to transport the defendant to a program or facility 32524
operated or certified by the department of ~~mental health~~ mental 32525
health and addiction services or the department of developmental 32526
disabilities, where the defendant may be held for evaluation for a 32527
reasonable period of time not to exceed twenty days, and to return 32528
the defendant to the place of detention after the evaluation. A 32529
municipal court may make an order under this division only upon 32530
the request of a certified forensic center examiner. 32531

(E) If a court orders the evaluation to determine a 32532
defendant's mental condition at the time of the offense charged, 32533
the court shall inform the examiner of the offense with which the 32534
defendant is charged. 32535

(F) In conducting an evaluation of a defendant's mental 32536
condition at the time of the offense charged, the examiner shall 32537
consider all relevant evidence. If the offense charged involves 32538
the use of force against another person, the relevant evidence to 32539
be considered includes, but is not limited to, any evidence that 32540
the defendant suffered, at the time of the commission of the 32541
offense, from the "battered woman syndrome." 32542

(G) The examiner shall file a written report with the court 32543

within thirty days after entry of a court order for evaluation, 32544
and the court shall provide copies of the report to the prosecutor 32545
and defense counsel. The report shall include all of the 32546
following: 32547

(1) The examiner's findings; 32548

(2) The facts in reasonable detail on which the findings are 32549
based; 32550

(3) If the evaluation was ordered to determine the 32551
defendant's competence to stand trial, all of the following 32552
findings or recommendations that are applicable: 32553

(a) Whether the defendant is capable of understanding the 32554
nature and objective of the proceedings against the defendant or 32555
of assisting in the defendant's defense; 32556

(b) If the examiner's opinion is that the defendant is 32557
incapable of understanding the nature and objective of the 32558
proceedings against the defendant or of assisting in the 32559
defendant's defense, whether the defendant presently is mentally 32560
ill or mentally retarded and, if the examiner's opinion is that 32561
the defendant presently is mentally retarded, whether the 32562
defendant appears to be a mentally retarded person subject to 32563
institutionalization by court order; 32564

(c) If the examiner's opinion is that the defendant is 32565
incapable of understanding the nature and objective of the 32566
proceedings against the defendant or of assisting in the 32567
defendant's defense, the examiner's opinion as to the likelihood 32568
of the defendant becoming capable of understanding the nature and 32569
objective of the proceedings against the defendant and of 32570
assisting in the defendant's defense within one year if the 32571
defendant is provided with a course of treatment; 32572

(d) If the examiner's opinion is that the defendant is 32573
incapable of understanding the nature and objective of the 32574

proceedings against the defendant or of assisting in the 32575
defendant's defense and that the defendant presently is mentally 32576
ill or mentally retarded, the examiner's recommendation as to the 32577
least restrictive placement or commitment alternative, consistent 32578
with the defendant's treatment needs for restoration to competency 32579
and with the safety of the community. 32580

(4) If the evaluation was ordered to determine the 32581
defendant's mental condition at the time of the offense charged, 32582
the examiner's findings as to whether the defendant, at the time 32583
of the offense charged, did not know, as a result of a severe 32584
mental disease or defect, the wrongfulness of the defendant's acts 32585
charged. 32586

(H) If the examiner's report filed under division (G) of this 32587
section indicates that in the examiner's opinion the defendant is 32588
incapable of understanding the nature and objective of the 32589
proceedings against the defendant or of assisting in the 32590
defendant's defense and that in the examiner's opinion the 32591
defendant appears to be a mentally retarded person subject to 32592
institutionalization by court order, the court shall order the 32593
defendant to undergo a separate mental retardation evaluation 32594
conducted by a psychologist designated by the director of 32595
developmental disabilities. Divisions (C) to (F) of this section 32596
apply in relation to a separate mental retardation evaluation 32597
conducted under this division. The psychologist appointed under 32598
this division to conduct the separate mental retardation 32599
evaluation shall file a written report with the court within 32600
thirty days after the entry of the court order requiring the 32601
separate mental retardation evaluation, and the court shall 32602
provide copies of the report to the prosecutor and defense 32603
counsel. The report shall include all of the information described 32604
in divisions (G)(1) to (4) of this section. If the court orders a 32605
separate mental retardation evaluation of a defendant under this 32606

division, the court shall not conduct a hearing under divisions 32607
(B) to (H) of section 2945.37 of the Revised Code regarding that 32608
defendant until a report of the separate mental retardation 32609
evaluation conducted under this division has been filed. Upon the 32610
filing of that report, the court shall conduct the hearing within 32611
the period of time specified in division (C) of section 2945.37 of 32612
the Revised Code. 32613

(I) An examiner appointed under divisions (A) and (B) of this 32614
section or under division (H) of this section to evaluate a 32615
defendant to determine the defendant's competence to stand trial 32616
also may be appointed to evaluate a defendant who has entered a 32617
plea of not guilty by reason of insanity, but an examiner of that 32618
nature shall prepare separate reports on the issue of competence 32619
to stand trial and the defense of not guilty by reason of 32620
insanity. 32621

(J) No statement that a defendant makes in an evaluation or 32622
hearing under divisions (A) to (H) of this section relating to the 32623
defendant's competence to stand trial or to the defendant's mental 32624
condition at the time of the offense charged shall be used against 32625
the defendant on the issue of guilt in any criminal action or 32626
proceeding, but, in a criminal action or proceeding, the 32627
prosecutor or defense counsel may call as a witness any person who 32628
evaluated the defendant or prepared a report pursuant to a 32629
referral under this section. Neither the appointment nor the 32630
testimony of an examiner appointed under this section precludes 32631
the prosecutor or defense counsel from calling other witnesses or 32632
presenting other evidence on competency or insanity issues. 32633

(K) Persons appointed as examiners under divisions (A) and 32634
(B) of this section or under division (H) of this section shall be 32635
paid a reasonable amount for their services and expenses, as 32636
certified by the court. The certified amount shall be paid by the 32637
county in the case of county courts and courts of common pleas and 32638

by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.

Sec. 2945.38. (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the defendant's competence to stand trial, unless the defendant's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B)(1)(a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial and that there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order the defendant to undergo treatment. If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(b) The court order for the defendant to undergo treatment or 32671
continuing evaluation and treatment under division (B)(1)(a) of 32672
this section shall specify that the defendant, if determined to 32673
require mental health treatment or continuing evaluation and 32674
treatment, either shall be committed to the department of ~~mental~~ 32675
~~health~~ mental health and addiction services for treatment or 32676
continuing evaluation and treatment at a hospital, facility, or 32677
agency, as determined to be clinically appropriate by the 32678
department of ~~mental health~~ mental health and addiction services 32679
or shall be committed to a facility certified by the department of 32680
~~mental health~~ mental health and addiction services as being 32681
qualified to treat mental illness, to a public or community mental 32682
health facility, or to a psychiatrist or another mental health 32683
professional for treatment or continuing evaluation and treatment. 32684
Prior to placing the defendant, the department of ~~mental health~~ 32685
mental health and addiction services shall obtain court approval 32686
for that placement following a hearing. The court order for the 32687
defendant to undergo treatment or continuing evaluation and 32688
treatment under division (B)(1)(a) of this section shall specify 32689
that the defendant, if determined to require treatment or 32690
continuing evaluation and treatment for mental retardation, shall 32691
receive treatment or continuing evaluation and treatment at an 32692
institution or facility operated by the department of 32693
developmental disabilities, at a facility certified by the 32694
department of developmental disabilities as being qualified to 32695
treat mental retardation, at a public or private mental 32696
retardation facility, or by a psychiatrist or another mental 32697
retardation professional. In any case, the order may restrict the 32698
defendant's freedom of movement as the court considers necessary. 32699
The prosecutor in the defendant's case shall send to the chief 32700
clinical officer of the hospital, facility, or agency where the 32701
defendant is placed by the department of ~~mental health~~ mental 32702
health and addiction services, or to the managing officer of the 32703

institution, the director of the program or facility, or the 32704
person to which the defendant is committed, copies of relevant 32705
police reports and other background information that pertains to 32706
the defendant and is available to the prosecutor unless the 32707
prosecutor determines that the release of any of the information 32708
in the police reports or any of the other background information 32709
to unauthorized persons would interfere with the effective 32710
prosecution of any person or would create a substantial risk of 32711
harm to any person. 32712

In determining the place of commitment, the court shall 32713
consider the extent to which the person is a danger to the person 32714
and to others, the need for security, and the type of crime 32715
involved and shall order the least restrictive alternative 32716
available that is consistent with public safety and treatment 32717
goals. In weighing these factors, the court shall give preference 32718
to protecting public safety. 32719

(c) If the defendant is found incompetent to stand trial, if 32720
the chief clinical officer of the hospital, facility, or agency 32721
where the defendant is placed, or the managing officer of the 32722
institution, the director of the program or facility, or the 32723
person to which the defendant is committed for treatment or 32724
continuing evaluation and treatment under division (B)(1)(b) of 32725
this section determines that medication is necessary to restore 32726
the defendant's competency to stand trial, and if the defendant 32727
lacks the capacity to give informed consent or refuses medication, 32728
the chief clinical officer of the hospital, facility, or agency 32729
where the defendant is placed, or the managing officer of the 32730
institution, the director of the program or facility, or the 32731
person to which the defendant is committed for treatment or 32732
continuing evaluation and treatment may petition the court for 32733
authorization for the involuntary administration of medication. 32734
The court shall hold a hearing on the petition within five days of 32735

the filing of the petition if the petition was filed in a 32736
municipal court or a county court regarding an incompetent 32737
defendant charged with a misdemeanor or within ten days of the 32738
filing of the petition if the petition was filed in a court of 32739
common pleas regarding an incompetent defendant charged with a 32740
felony offense. Following the hearing, the court may authorize the 32741
involuntary administration of medication or may dismiss the 32742
petition. 32743

(2) If the court finds that the defendant is incompetent to 32744
stand trial and that, even if the defendant is provided with a 32745
course of treatment, there is not a substantial probability that 32746
the defendant will become competent to stand trial within one 32747
year, the court shall order the discharge of the defendant, unless 32748
upon motion of the prosecutor or on its own motion, the court 32749
either seeks to retain jurisdiction over the defendant pursuant to 32750
section 2945.39 of the Revised Code or files an affidavit in the 32751
probate court for the civil commitment of the defendant pursuant 32752
to Chapter 5122. or 5123. of the Revised Code alleging that the 32753
defendant is a mentally ill person subject to hospitalization by 32754
court order or a mentally retarded person subject to 32755
institutionalization by court order. If an affidavit is filed in 32756
the probate court, the trial court shall send to the probate court 32757
copies of all written reports of the defendant's mental condition 32758
that were prepared pursuant to section 2945.371 of the Revised 32759
Code. 32760

The trial court may issue the temporary order of detention 32761
that a probate court may issue under section 5122.11 or 5123.71 of 32762
the Revised Code, to remain in effect until the probable cause or 32763
initial hearing in the probate court. Further proceedings in the 32764
probate court are civil proceedings governed by Chapter 5122. or 32765
5123. of the Revised Code. 32766

(C) No defendant shall be required to undergo treatment, 32767

including any continuing evaluation and treatment, under division 32768
(B)(1) of this section for longer than whichever of the following 32769
periods is applicable: 32770

(1) One year, if the most serious offense with which the 32771
defendant is charged is one of the following offenses: 32772

(a) Aggravated murder, murder, or an offense of violence for 32773
which a sentence of death or life imprisonment may be imposed; 32774

(b) An offense of violence that is a felony of the first or 32775
second degree; 32776

(c) A conspiracy to commit, an attempt to commit, or 32777
complicity in the commission of an offense described in division 32778
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 32779
complicity is a felony of the first or second degree. 32780

(2) Six months, if the most serious offense with which the 32781
defendant is charged is a felony other than a felony described in 32782
division (C)(1) of this section; 32783

(3) Sixty days, if the most serious offense with which the 32784
defendant is charged is a misdemeanor of the first or second 32785
degree; 32786

(4) Thirty days, if the most serious offense with which the 32787
defendant is charged is a misdemeanor of the third or fourth 32788
degree, a minor misdemeanor, or an unclassified misdemeanor. 32789

(D) Any defendant who is committed pursuant to this section 32790
shall not voluntarily admit the defendant or be voluntarily 32791
admitted to a hospital or institution pursuant to section 5122.02, 32792
5122.15, 5123.69, or 5123.76 of the Revised Code. 32793

(E) Except as otherwise provided in this division, a 32794
defendant who is charged with an offense and is committed by the 32795
court under this section to the department of ~~mental health~~ mental 32796
health and addiction services or is committed to an institution or 32797

facility for the treatment of mental retardation shall not be 32798
granted unsupervised on-grounds movement, supervised off-grounds 32799
movement, or nonsecured status except in accordance with the court 32800
order. The court may grant a defendant supervised off-grounds 32801
movement to obtain medical treatment or specialized habilitation 32802
treatment services if the person who supervises the treatment or 32803
the continuing evaluation and treatment of the defendant ordered 32804
under division (B)(1)(a) of this section informs the court that 32805
the treatment or continuing evaluation and treatment cannot be 32806
provided at the hospital or facility where the defendant is placed 32807
by the department of ~~mental health~~ mental health and addiction 32808
services or the institution or facility to which the defendant is 32809
committed. The chief clinical officer of the hospital or facility 32810
where the defendant is placed by the department of ~~mental health~~ 32811
mental health and addiction services or the managing officer of 32812
the institution or director of the facility to which the defendant 32813
is committed, or a designee of any of those persons, may grant a 32814
defendant movement to a medical facility for an emergency medical 32815
situation with appropriate supervision to ensure the safety of the 32816
defendant, staff, and community during that emergency medical 32817
situation. The chief clinical officer of the hospital or facility 32818
where the defendant is placed by the department of ~~mental health~~ 32819
mental health and addiction services or the managing officer of 32820
the institution or director of the facility to which the defendant 32821
is committed shall notify the court within twenty-four hours of 32822
the defendant's movement to the medical facility for an emergency 32823
medical situation under this division. 32824

(F) The person who supervises the treatment or continuing 32825
evaluation and treatment of a defendant ordered to undergo 32826
treatment or continuing evaluation and treatment under division 32827
(B)(1)(a) of this section shall file a written report with the 32828
court at the following times: 32829

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or mentally retarded, and if the

maximum time for treatment as specified in division (C) of this 32862
section has not expired, the report also shall contain the 32863
examiner's recommendation as to the least restrictive placement or 32864
commitment alternative that is consistent with the defendant's 32865
treatment needs for restoration to competency and with the safety 32866
of the community. The court shall provide copies of the report to 32867
the prosecutor and defense counsel. 32868

(H) If a defendant is committed pursuant to division (B)(1) 32869
of this section, within ten days after the treating physician of 32870
the defendant or the examiner of the defendant who is employed or 32871
retained by the treating facility advises that there is not a 32872
substantial probability that the defendant will become capable of 32873
understanding the nature and objective of the proceedings against 32874
the defendant or of assisting in the defendant's defense even if 32875
the defendant is provided with a course of treatment, within ten 32876
days after the expiration of the maximum time for treatment as 32877
specified in division (C) of this section, within ten days after 32878
the expiration of the maximum time for continuing evaluation and 32879
treatment as specified in division (B)(1)(a) of this section, 32880
within thirty days after a defendant's request for a hearing that 32881
is made after six months of treatment, or within thirty days after 32882
being advised by the treating physician or examiner that the 32883
defendant is competent to stand trial, whichever is the earliest, 32884
the court shall conduct another hearing to determine if the 32885
defendant is competent to stand trial and shall do whichever of 32886
the following is applicable: 32887

(1) If the court finds that the defendant is competent to 32888
stand trial, the defendant shall be proceeded against as provided 32889
by law. 32890

(2) If the court finds that the defendant is incompetent to 32891
stand trial, but that there is a substantial probability that the 32892
defendant will become competent to stand trial if the defendant is 32893

provided with a course of treatment, and the maximum time for 32894
treatment as specified in division (C) of this section has not 32895
expired, the court, after consideration of the examiner's 32896
recommendation, shall order that treatment be continued, may 32897
change the facility or program at which the treatment is to be 32898
continued, and shall specify whether the treatment is to be 32899
continued at the same or a different facility or program. 32900

(3) If the court finds that the defendant is incompetent to 32901
stand trial, if the defendant is charged with an offense listed in 32902
division (C)(1) of this section, and if the court finds that there 32903
is not a substantial probability that the defendant will become 32904
competent to stand trial even if the defendant is provided with a 32905
course of treatment, or if the maximum time for treatment relative 32906
to that offense as specified in division (C) of this section has 32907
expired, further proceedings shall be as provided in sections 32908
2945.39, 2945.401, and 2945.402 of the Revised Code. 32909

(4) If the court finds that the defendant is incompetent to 32910
stand trial, if the most serious offense with which the defendant 32911
is charged is a misdemeanor or a felony other than a felony listed 32912
in division (C)(1) of this section, and if the court finds that 32913
there is not a substantial probability that the defendant will 32914
become competent to stand trial even if the defendant is provided 32915
with a course of treatment, or if the maximum time for treatment 32916
relative to that offense as specified in division (C) of this 32917
section has expired, the court shall dismiss the indictment, 32918
information, or complaint against the defendant. A dismissal under 32919
this division is not a bar to further prosecution based on the 32920
same conduct. The court shall discharge the defendant unless the 32921
court or prosecutor files an affidavit in probate court for civil 32922
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 32923
If an affidavit for civil commitment is filed, the court may 32924
detain the defendant for ten days pending civil commitment. All of 32925

the following provisions apply to persons charged with a 32926
misdemeanor or a felony other than a felony listed in division 32927
(C)(1) of this section who are committed by the probate court 32928
subsequent to the court's or prosecutor's filing of an affidavit 32929
for civil commitment under authority of this division: 32930

(a) The chief clinical officer of the entity, hospital, or 32931
facility, the managing officer of the institution, the director of 32932
the program, or the person to which the defendant is committed or 32933
admitted shall do all of the following: 32934

(i) Notify the prosecutor, in writing, of the discharge of 32935
the defendant, send the notice at least ten days prior to the 32936
discharge unless the discharge is by the probate court, and state 32937
in the notice the date on which the defendant will be discharged; 32938

(ii) Notify the prosecutor, in writing, when the defendant is 32939
absent without leave or is granted unsupervised, off-grounds 32940
movement, and send this notice promptly after the discovery of the 32941
absence without leave or prior to the granting of the 32942
unsupervised, off-grounds movement, whichever is applicable; 32943

(iii) Notify the prosecutor, in writing, of the change of the 32944
defendant's commitment or admission to voluntary status, send the 32945
notice promptly upon learning of the change to voluntary status, 32946
and state in the notice the date on which the defendant was 32947
committed or admitted on a voluntary status. 32948

(b) Upon receiving notice that the defendant will be granted 32949
unsupervised, off-grounds movement, the prosecutor either shall 32950
re-indict the defendant or promptly notify the court that the 32951
prosecutor does not intend to prosecute the charges against the 32952
defendant. 32953

(I) If a defendant is convicted of a crime and sentenced to a 32954
jail or workhouse, the defendant's sentence shall be reduced by 32955
the total number of days the defendant is confined for evaluation 32956

to determine the defendant's competence to stand trial or 32957
treatment under this section and sections 2945.37 and 2945.371 of 32958
the Revised Code or by the total number of days the defendant is 32959
confined for evaluation to determine the defendant's mental 32960
condition at the time of the offense charged. 32961

Sec. 2945.39. (A) If a defendant who is charged with an 32962
offense described in division (C)(1) of section 2945.38 of the 32963
Revised Code is found incompetent to stand trial, after the 32964
expiration of the maximum time for treatment as specified in 32965
division (C) of that section or after the court finds that there 32966
is not a substantial probability that the defendant will become 32967
competent to stand trial even if the defendant is provided with a 32968
course of treatment, one of the following applies: 32969

(1) The court or the prosecutor may file an affidavit in 32970
probate court for civil commitment of the defendant in the manner 32971
provided in Chapter 5122. or 5123. of the Revised Code. If the 32972
court or prosecutor files an affidavit for civil commitment, the 32973
court may detain the defendant for ten days pending civil 32974
commitment. If the probate court commits the defendant subsequent 32975
to the court's or prosecutor's filing of an affidavit for civil 32976
commitment, the chief clinical officer of the entity, hospital, or 32977
facility, the managing officer of the institution, the director of 32978
the program, or the person to which the defendant is committed or 32979
admitted shall send to the prosecutor the notices described in 32980
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 32981
Code within the periods of time and under the circumstances 32982
specified in those divisions. 32983

(2) On the motion of the prosecutor or on its own motion, the 32984
court may retain jurisdiction over the defendant if, at a hearing, 32985
the court finds both of the following by clear and convincing 32986
evidence: 32987

(a) The defendant committed the offense with which the defendant is charged. 32988
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(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. 32990
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(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the defendant, the court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense charged, and any history of the defendant that is relevant to the defendant's ability to conform to the law. 32993
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(C) If the court conducts a hearing as described in division (A)(2) of this section and if the court does not make both findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall dismiss the indictment, information, or complaint against the defendant. Upon the dismissal, the court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may order that the defendant be detained for up to ten days pending the civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions. A dismissal of charges under this division is 33000
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not a bar to further criminal proceedings based on the same 33020
conduct. 33021

(D)(1) If the court conducts a hearing as described in 33022
division (A)(2) of this section and if the court makes the 33023
findings described in divisions (A)(2)(a) and (b) of this section 33024
by clear and convincing evidence, the court shall commit the 33025
defendant, if determined to require mental health treatment, 33026
either to the department of ~~mental health~~ mental health and 33027
addiction services for treatment at a hospital, facility, or 33028
agency as determined clinically appropriate by the department of 33029
~~mental health~~ mental health and addiction services or to another 33030
medical or psychiatric facility, as appropriate. Prior to placing 33031
the defendant, the department of ~~mental health~~ mental health and 33032
addiction services shall obtain court approval for that placement. 33033
If the court conducts such a hearing and if it makes those 33034
findings by clear and convincing evidence, the court shall commit 33035
the defendant, if determined to require treatment for mental 33036
retardation, to a facility operated by the department of 33037
developmental disabilities, or another facility, as appropriate. 33038
In determining the place of commitment, the court shall consider 33039
the extent to which the person is a danger to the person and to 33040
others, the need for security, and the type of crime involved and 33041
shall order the least restrictive alternative available that is 33042
consistent with public safety and the welfare of the defendant. In 33043
weighing these factors, the court shall give preference to 33044
protecting public safety. 33045

(2) If a court makes a commitment of a defendant under 33046
division (D)(1) of this section, the prosecutor shall send to the 33047
hospital, facility, or agency where the defendant is placed by the 33048
department of ~~mental health~~ mental health and addiction services 33049
or to the defendant's place of commitment all reports of the 33050
defendant's current mental condition and, except as otherwise 33051

provided in this division, any other relevant information, 33052
including, but not limited to, a transcript of the hearing held 33053
pursuant to division (A)(2) of this section, copies of relevant 33054
police reports, and copies of any prior arrest and conviction 33055
records that pertain to the defendant and that the prosecutor 33056
possesses. The prosecutor shall send the reports of the 33057
defendant's current mental condition in every case of commitment, 33058
and, unless the prosecutor determines that the release of any of 33059
the other relevant information to unauthorized persons would 33060
interfere with the effective prosecution of any person or would 33061
create a substantial risk of harm to any person, the prosecutor 33062
also shall send the other relevant information. Upon admission of 33063
a defendant committed under division (D)(1) of this section, the 33064
place of commitment shall send to the board of alcohol, drug 33065
addiction, and mental health services or the community mental 33066
health board serving the county in which the charges against the 33067
defendant were filed a copy of all reports of the defendant's 33068
current mental condition and a copy of the other relevant 33069
information provided by the prosecutor under this division, 33070
including, if provided, a transcript of the hearing held pursuant 33071
to division (A)(2) of this section, the relevant police reports, 33072
and the prior arrest and conviction records that pertain to the 33073
defendant and that the prosecutor possesses. 33074

(3) If a court makes a commitment under division (D)(1) of 33075
this section, all further proceedings shall be in accordance with 33076
sections 2945.401 and 2945.402 of the Revised Code. 33077

Sec. 2945.40. (A) If a person is found not guilty by reason 33078
of insanity, the verdict shall state that finding, and the trial 33079
court shall conduct a full hearing to determine whether the person 33080
is a mentally ill person subject to hospitalization by court order 33081
or a mentally retarded person subject to institutionalization by 33082
court order. Prior to the hearing, if the trial judge believes 33083

that there is probable cause that the person found not guilty by 33084
reason of insanity is a mentally ill person subject to 33085
hospitalization by court order or mentally retarded person subject 33086
to institutionalization by court order, the trial judge may issue 33087
a temporary order of detention for that person to remain in effect 33088
for ten court days or until the hearing, whichever occurs first. 33089

Any person detained pursuant to a temporary order of 33090
detention issued under this division shall be held in a suitable 33091
facility, taking into consideration the place and type of 33092
confinement prior to and during trial. 33093

(B) The court shall hold the hearing under division (A) of 33094
this section to determine whether the person found not guilty by 33095
reason of insanity is a mentally ill person subject to 33096
hospitalization by court order or a mentally retarded person 33097
subject to institutionalization by court order within ten court 33098
days after the finding of not guilty by reason of insanity. 33099
Failure to conduct the hearing within the ten-day period shall 33100
cause the immediate discharge of the respondent, unless the judge 33101
grants a continuance for not longer than ten court days for good 33102
cause shown or for any period of time upon motion of the 33103
respondent. 33104

(C) If a person is found not guilty by reason of insanity, 33105
the person has the right to attend all hearings conducted pursuant 33106
to sections 2945.37 to 2945.402 of the Revised Code. At any 33107
hearing conducted pursuant to one of those sections, the court 33108
shall inform the person that the person has all of the following 33109
rights: 33110

(1) The right to be represented by counsel and to have that 33111
counsel provided at public expense if the person is indigent, with 33112
the counsel to be appointed by the court under Chapter 120. of the 33113
Revised Code or under the authority recognized in division (C) of 33114
section 120.06, division (E) of section 120.16, division (E) of 33115

section 120.26, or section 2941.51 of the Revised Code; 33116

(2) The right to have independent expert evaluation and to 33117
have that independent expert evaluation provided at public expense 33118
if the person is indigent; 33119

(3) The right to subpoena witnesses and documents, to present 33120
evidence on the person's behalf, and to cross-examine witnesses 33121
against the person; 33122

(4) The right to testify in the person's own behalf and to 33123
not be compelled to testify; 33124

(5) The right to have copies of any relevant medical or 33125
mental health document in the custody of the state or of any place 33126
of commitment other than a document for which the court finds that 33127
the release to the person of information contained in the document 33128
would create a substantial risk of harm to any person. 33129

(D) The hearing under division (A) of this section shall be 33130
open to the public, and the court shall conduct the hearing in 33131
accordance with the Rules of Civil Procedure. The court shall make 33132
and maintain a full transcript and record of the hearing 33133
proceedings. The court may consider all relevant evidence, 33134
including, but not limited to, any relevant psychiatric, 33135
psychological, or medical testimony or reports, the acts 33136
constituting the offense in relation to which the person was found 33137
not guilty by reason of insanity, and any history of the person 33138
that is relevant to the person's ability to conform to the law. 33139

(E) Upon completion of the hearing under division (A) of this 33140
section, if the court finds there is not clear and convincing 33141
evidence that the person is a mentally ill person subject to 33142
hospitalization by court order or a mentally retarded person 33143
subject to institutionalization by court order, the court shall 33144
discharge the person, unless a detainer has been placed upon the 33145
person by the department of rehabilitation and correction, in 33146

which case the person shall be returned to that department. 33147

(F) If, at the hearing under division (A) of this section, 33148
the court finds by clear and convincing evidence that the person 33149
is a mentally ill person subject to hospitalization by court 33150
order, the court shall commit the person either to the department 33151
of ~~mental health~~ mental health and addiction services for 33152
treatment in a hospital, facility, or agency as determined 33153
clinically appropriate by the department of ~~mental health~~ mental 33154
health and addiction services or to another medical or psychiatric 33155
facility, as appropriate. Prior to placing the defendant, the 33156
department of ~~mental health~~ mental health and addiction services 33157
shall obtain court approval for that placement. If, at the hearing 33158
under division (A) of this section, the court determines by clear 33159
and convincing evidence that the person requires treatment for 33160
mental retardation, it shall commit the person to a facility 33161
operated by the department of developmental disabilities or 33162
another facility, as appropriate. Further proceedings shall be in 33163
accordance with sections 2945.401 and 2945.402 of the Revised 33164
Code. In determining the place of commitment, the court shall 33165
consider the extent to which the person is a danger to the person 33166
and to others, the need for security, and the type of crime 33167
involved and shall order the least restrictive alternative 33168
available that is consistent with public safety and the welfare of 33169
the person. In weighing these factors, the court shall give 33170
preference to protecting public safety. 33171

(G) If a court makes a commitment of a person under division 33172
(F) of this section, the prosecutor shall send to the hospital, 33173
facility, or agency where the person is placed by the department 33174
of ~~mental health~~ mental health and addiction services or to the 33175
defendant's place of commitment all reports of the person's 33176
current mental condition, and, except as otherwise provided in 33177
this division, any other relevant information, including, but not 33178

limited to, a transcript of the hearing held pursuant to division 33179
(A) of this section, copies of relevant police reports, and copies 33180
of any prior arrest and conviction records that pertain to the 33181
person and that the prosecutor possesses. The prosecutor shall 33182
send the reports of the person's current mental condition in every 33183
case of commitment, and, unless the prosecutor determines that the 33184
release of any of the other relevant information to unauthorized 33185
persons would interfere with the effective prosecution of any 33186
person or would create a substantial risk of harm to any person, 33187
the prosecutor also shall send the other relevant information. 33188
Upon admission of a person committed under division (F) of this 33189
section, the place of commitment shall send to the board of 33190
alcohol, drug addiction, and mental health services or the 33191
community mental health board serving the county in which the 33192
charges against the person were filed a copy of all reports of the 33193
person's current mental condition and a copy of the other relevant 33194
information provided by the prosecutor under this division, 33195
including, if provided, a transcript of the hearing held pursuant 33196
to division (A) of this section, the relevant police reports, and 33197
the prior arrest and conviction records that pertain to the person 33198
and that the prosecutor possesses. 33199

(H) A person who is committed pursuant to this section shall 33200
not voluntarily admit the person or be voluntarily admitted to a 33201
hospital or institution pursuant to section 5122.02, 5122.15, 33202
5123.69, or 5123.76 of the Revised Code. 33203

Sec. 2945.401. (A) A defendant found incompetent to stand 33204
trial and committed pursuant to section 2945.39 of the Revised 33205
Code or a person found not guilty by reason of insanity and 33206
committed pursuant to section 2945.40 of the Revised Code shall 33207
remain subject to the jurisdiction of the trial court pursuant to 33208
that commitment, and to the provisions of this section, until the 33209
final termination of the commitment as described in division 33210

(J)(1) of this section. If the jurisdiction is terminated under 33211
this division because of the final termination of the commitment 33212
resulting from the expiration of the maximum prison term or term 33213
of imprisonment described in division (J)(1)(b) of this section, 33214
the court or prosecutor may file an affidavit for the civil 33215
commitment of the defendant or person pursuant to Chapter 5122. or 33216
5123. of the Revised Code. 33217

(B) A hearing conducted under any provision of sections 33218
2945.37 to 2945.402 of the Revised Code shall not be conducted in 33219
accordance with Chapters 5122. and 5123. of the Revised Code. Any 33220
person who is committed pursuant to section 2945.39 or 2945.40 of 33221
the Revised Code shall not voluntarily admit the person or be 33222
voluntarily admitted to a hospital or institution pursuant to 33223
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 33224
All other provisions of Chapters 5122. and 5123. of the Revised 33225
Code regarding hospitalization or institutionalization shall apply 33226
to the extent they are not in conflict with this chapter. A 33227
commitment under section 2945.39 or 2945.40 of the Revised Code 33228
shall not be terminated and the conditions of the commitment shall 33229
not be changed except as otherwise provided in division (D)(2) of 33230
this section with respect to a mentally retarded person subject to 33231
institutionalization by court order or except by order of the 33232
trial court. 33233

(C) The department of ~~mental health~~ mental health and 33234
addiction services or the institution, facility, or program to 33235
which a defendant or person has been committed under section 33236
2945.39 or 2945.40 of the Revised Code shall report in writing to 33237
the trial court, at the times specified in this division, as to 33238
whether the defendant or person remains a mentally ill person 33239
subject to hospitalization by court order or a mentally retarded 33240
person subject to institutionalization by court order and, in the 33241
case of a defendant committed under section 2945.39 of the Revised 33242

Code, as to whether the defendant remains incompetent to stand 33243
trial. The department, institution, facility, or program shall 33244
make the reports after the initial six months of treatment and 33245
every two years after the initial report is made. The trial court 33246
shall provide copies of the reports to the prosecutor and to the 33247
counsel for the defendant or person. Within thirty days after its 33248
receipt pursuant to this division of a report from the department, 33249
institution, facility, or program, the trial court shall hold a 33250
hearing on the continued commitment of the defendant or person or 33251
on any changes in the conditions of the commitment of the 33252
defendant or person. The defendant or person may request a change 33253
in the conditions of confinement, and the trial court shall 33254
conduct a hearing on that request if six months or more have 33255
elapsed since the most recent hearing was conducted under this 33256
section. 33257

(D)(1) Except as otherwise provided in division (D)(2) of 33258
this section, when a defendant or person has been committed under 33259
section 2945.39 or 2945.40 of the Revised Code, at any time after 33260
evaluating the risks to public safety and the welfare of the 33261
defendant or person, the designee of the department of ~~mental~~ 33262
~~health~~ mental health and addiction services or the managing 33263
officer of the institution or director of the facility or program 33264
to which the defendant or person is committed may recommend a 33265
termination of the defendant's or person's commitment or a change 33266
in the conditions of the defendant's or person's commitment. 33267

Except as otherwise provided in division (D)(2) of this 33268
section, if the designee of the department of ~~mental health~~ mental 33269
health and addiction services recommends on-grounds unsupervised 33270
movement, off-grounds supervised movement, or nonsecured status 33271
for the defendant or person or termination of the defendant's or 33272
person's commitment, the following provisions apply: 33273

(a) If the department's designee recommends on-grounds 33274

unsupervised movement or off-grounds supervised movement, the 33275
department's designee shall file with the trial court an 33276
application for approval of the movement and shall send a copy of 33277
the application to the prosecutor. Within fifteen days after 33278
receiving the application, the prosecutor may request a hearing on 33279
the application and, if a hearing is requested, shall so inform 33280
the department's designee. If the prosecutor does not request a 33281
hearing within the fifteen-day period, the trial court shall 33282
approve the application by entering its order approving the 33283
requested movement or, within five days after the expiration of 33284
the fifteen-day period, shall set a date for a hearing on the 33285
application. If the prosecutor requests a hearing on the 33286
application within the fifteen-day period, the trial court shall 33287
hold a hearing on the application within thirty days after the 33288
hearing is requested. If the trial court, within five days after 33289
the expiration of the fifteen-day period, sets a date for a 33290
hearing on the application, the trial court shall hold the hearing 33291
within thirty days after setting the hearing date. At least 33292
fifteen days before any hearing is held under this division, the 33293
trial court shall give the prosecutor written notice of the date, 33294
time, and place of the hearing. At the conclusion of each hearing 33295
conducted under this division, the trial court either shall 33296
approve or disapprove the application and shall enter its order 33297
accordingly. 33298

(b) If the department's designee recommends termination of 33299
the defendant's or person's commitment at any time or if the 33300
department's designee recommends the first of any nonsecured 33301
status for the defendant or person, the department's designee 33302
shall send written notice of this recommendation to the trial 33303
court and to the local forensic center. The local forensic center 33304
shall evaluate the committed defendant or person and, within 33305
thirty days after its receipt of the written notice, shall submit 33306
to the trial court and the department's designee a written report 33307

of the evaluation. The trial court shall provide a copy of the department's designee's written notice and of the local forensic center's written report to the prosecutor and to the counsel for the defendant or person. Upon the local forensic center's submission of the report to the trial court and the department's designee, all of the following apply:

(i) If the forensic center disagrees with the recommendation of the department's designee, it shall inform the department's designee and the trial court of its decision and the reasons for the decision. The department's designee, after consideration of the forensic center's decision, shall either withdraw, proceed with, or modify and proceed with the recommendation. If the department's designee proceeds with, or modifies and proceeds with, the recommendation, the department's designee shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(ii) If the forensic center agrees with the recommendation of the department's designee, it shall inform the department's designee and the trial court of its decision and the reasons for the decision, and the department's designee shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(iii) If the forensic center disagrees with the recommendation of the department's designee and the department's designee proceeds with, or modifies and proceeds with, the recommendation or if the forensic center agrees with the recommendation of the department's designee, the department's designee shall work with community mental health ~~agencies~~ services providers, programs, facilities, or boards of alcohol, drug addiction, and mental health services or community mental health boards to develop a plan to implement the recommendation. If the defendant or person is on medication, the plan shall include, but shall not be limited to, a system to monitor the defendant's or person's compliance with the prescribed medication treatment plan.

The system shall include a schedule that clearly states when the defendant or person shall report for a medication compliance check. The medication compliance checks shall be based upon the effective duration of the prescribed medication, taking into account the route by which it is taken, and shall be scheduled at intervals sufficiently close together to detect a potential increase in mental illness symptoms that the medication is intended to prevent.

The department's designee, after consultation with the board of alcohol, drug addiction, and mental health services or the community mental health board serving the area, shall send the recommendation and plan developed under division (D)(1)(b)(iii) of this section, in writing, to the trial court, the prosecutor, and the counsel for the committed defendant or person. The trial court shall conduct a hearing on the recommendation and plan developed under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) and (d) and (E) to (J) of this section apply regarding the hearing.

(c) If the department's designee's recommendation is for nonsecured status or termination of commitment, the prosecutor may obtain an independent expert evaluation of the defendant's or person's mental condition, and the trial court may continue the hearing on the recommendation for a period of not more than thirty days to permit time for the evaluation.

The prosecutor may introduce the evaluation report or present other evidence at the hearing in accordance with the Rules of Evidence.

(d) The trial court shall schedule the hearing on a department's designee's recommendation for nonsecured status or termination of commitment and shall give reasonable notice to the prosecutor and the counsel for the defendant or person. Unless continued for independent evaluation at the prosecutor's request

or for other good cause, the hearing shall be held within thirty 33372
days after the trial court's receipt of the recommendation and 33373
plan. 33374

(2)(a) Division (D)(1) of this section does not apply to 33375
on-grounds unsupervised movement of a defendant or person who has 33376
been committed under section 2945.39 or 2945.40 of the Revised 33377
Code, who is a mentally retarded person subject to 33378
institutionalization by court order, and who is being provided 33379
residential habilitation, care, and treatment in a facility 33380
operated by the department of developmental disabilities. 33381

(b) If, pursuant to section 2945.39 of the Revised Code, the 33382
trial court commits a defendant who is found incompetent to stand 33383
trial and who is a mentally retarded person subject to 33384
institutionalization by court order, if the defendant is being 33385
provided residential habilitation, care, and treatment in a 33386
facility operated by the department of developmental disabilities, 33387
if an individual who is conducting a survey for the department of 33388
health to determine the facility's compliance with the 33389
certification requirements of the medicaid program ~~under Chapter~~ 33390
~~5111. of the Revised Code and Title XIX of the "Social Security~~ 33391
~~Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ cites the 33392
defendant's receipt of the residential habilitation, care, and 33393
treatment in the facility as being inappropriate under the 33394
certification requirements, if the defendant's receipt of the 33395
residential habilitation, care, and treatment in the facility 33396
potentially jeopardizes the facility's continued receipt of 33397
federal medicaid moneys, and if as a result of the citation the 33398
chief clinical officer of the facility determines that the 33399
conditions of the defendant's commitment should be changed, the 33400
department of developmental disabilities may cause the defendant 33401
to be removed from the particular facility and, after evaluating 33402
the risks to public safety and the welfare of the defendant and 33403

after determining whether another type of placement is consistent 33404
with the certification requirements, may place the defendant in 33405
another facility that the department selects as an appropriate 33406
facility for the defendant's continued receipt of residential 33407
habilitation, care, and treatment and that is a no less secure 33408
setting than the facility in which the defendant had been placed 33409
at the time of the citation. Within three days after the 33410
defendant's removal and alternative placement under the 33411
circumstances described in division (D)(2)(b) of this section, the 33412
department of developmental disabilities shall notify the trial 33413
court and the prosecutor in writing of the removal and alternative 33414
placement. 33415

The trial court shall set a date for a hearing on the removal 33416
and alternative placement, and the hearing shall be held within 33417
twenty-one days after the trial court's receipt of the notice from 33418
the department of developmental disabilities. At least ten days 33419
before the hearing is held, the trial court shall give the 33420
prosecutor, the department of developmental disabilities, and the 33421
counsel for the defendant written notice of the date, time, and 33422
place of the hearing. At the hearing, the trial court shall 33423
consider the citation issued by the individual who conducted the 33424
survey for the department of health to be prima-facie evidence of 33425
the fact that the defendant's commitment to the particular 33426
facility was inappropriate under the certification requirements of 33427
the medicaid program ~~under Chapter 5111. of the Revised Code and~~ 33428
~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 33429
~~U.S.C.A. 301, as amended,~~ and potentially jeopardizes the 33430
particular facility's continued receipt of federal medicaid 33431
moneys. At the conclusion of the hearing, the trial court may 33432
approve or disapprove the defendant's removal and alternative 33433
placement. If the trial court approves the defendant's removal and 33434
alternative placement, the department of developmental 33435
disabilities may continue the defendant's alternative placement. 33436

If the trial court disapproves the defendant's removal and 33437
alternative placement, it shall enter an order modifying the 33438
defendant's removal and alternative placement, but that order 33439
shall not require the department of developmental disabilities to 33440
replace the defendant for purposes of continued residential 33441
habilitation, care, and treatment in the facility associated with 33442
the citation issued by the individual who conducted the survey for 33443
the department of health. 33444

(E) In making a determination under this section regarding 33445
nonsecured status or termination of commitment, the trial court 33446
shall consider all relevant factors, including, but not limited 33447
to, all of the following: 33448

(1) Whether, in the trial court's view, the defendant or 33449
person currently represents a substantial risk of physical harm to 33450
the defendant or person or others; 33451

(2) Psychiatric and medical testimony as to the current 33452
mental and physical condition of the defendant or person; 33453

(3) Whether the defendant or person has insight into the 33454
defendant's or person's condition so that the defendant or person 33455
will continue treatment as prescribed or seek professional 33456
assistance as needed; 33457

(4) The grounds upon which the state relies for the proposed 33458
commitment; 33459

(5) Any past history that is relevant to establish the 33460
defendant's or person's degree of conformity to the laws, rules, 33461
regulations, and values of society; 33462

(6) If there is evidence that the defendant's or person's 33463
mental illness is in a state of remission, the medically suggested 33464
cause and degree of the remission and the probability that the 33465
defendant or person will continue treatment to maintain the 33466
remissive state of the defendant's or person's illness should the 33467

defendant's or person's commitment conditions be altered. 33468

(F) At any hearing held pursuant to division (C) or (D)(1) or 33469
(2) of this section, the defendant or the person shall have all 33470
the rights of a defendant or person at a commitment hearing as 33471
described in section 2945.40 of the Revised Code. 33472

(G) In a hearing held pursuant to division (C) or (D)(1) of 33473
this section, the prosecutor has the burden of proof as follows: 33474

(1) For a recommendation of termination of commitment, to 33475
show by clear and convincing evidence that the defendant or person 33476
remains a mentally ill person subject to hospitalization by court 33477
order or a mentally retarded person subject to 33478
institutionalization by court order; 33479

(2) For a recommendation for a change in the conditions of 33480
the commitment to a less restrictive status, to show by clear and 33481
convincing evidence that the proposed change represents a threat 33482
to public safety or a threat to the safety of any person. 33483

(H) In a hearing held pursuant to division (C) or (D)(1) or 33484
(2) of this section, the prosecutor shall represent the state or 33485
the public interest. 33486

(I) At the conclusion of a hearing conducted under division 33487
(D)(1) of this section regarding a recommendation from the 33488
designee of the department of ~~mental health~~ mental health and 33489
addiction services, managing officer of the institution, or 33490
director of a facility or program, the trial court may approve, 33491
disapprove, or modify the recommendation and shall enter an order 33492
accordingly. 33493

(J)(1) A defendant or person who has been committed pursuant 33494
to section 2945.39 or 2945.40 of the Revised Code continues to be 33495
under the jurisdiction of the trial court until the final 33496
termination of the commitment. For purposes of division (J) of 33497
this section, the final termination of a commitment occurs upon 33498

the earlier of one of the following: 33499

(a) The defendant or person no longer is a mentally ill 33500
person subject to hospitalization by court order or a mentally 33501
retarded person subject to institutionalization by court order, as 33502
determined by the trial court; 33503

(b) The expiration of the maximum prison term or term of 33504
imprisonment that the defendant or person could have received if 33505
the defendant or person had been convicted of the most serious 33506
offense with which the defendant or person is charged or in 33507
relation to which the defendant or person was found not guilty by 33508
reason of insanity; 33509

(c) The trial court enters an order terminating the 33510
commitment under the circumstances described in division 33511
(J)(2)(a)(ii) of this section. 33512

(2)(a) If a defendant is found incompetent to stand trial and 33513
committed pursuant to section 2945.39 of the Revised Code, if 33514
neither of the circumstances described in divisions (J)(1)(a) and 33515
(b) of this section applies to that defendant, and if a report 33516
filed with the trial court pursuant to division (C) of this 33517
section indicates that the defendant presently is competent to 33518
stand trial or if, at any other time during the period of the 33519
defendant's commitment, the prosecutor, the counsel for the 33520
defendant, or the designee of the department of ~~mental health~~ 33521
mental health and addiction services or the managing officer of 33522
the institution or director of the facility or program to which 33523
the defendant is committed files an application with the trial 33524
court alleging that the defendant presently is competent to stand 33525
trial and requesting a hearing on the competency issue or the 33526
trial court otherwise has reasonable cause to believe that the 33527
defendant presently is competent to stand trial and determines on 33528
its own motion to hold a hearing on the competency issue, the 33529
trial court shall schedule a hearing on the competency of the 33530

defendant to stand trial, shall give the prosecutor, the counsel 33531
for the defendant, and the department's designee or the managing 33532
officer of the institution or the director of the facility to 33533
which the defendant is committed notice of the date, time, and 33534
place of the hearing at least fifteen days before the hearing, and 33535
shall conduct the hearing within thirty days of the filing of the 33536
application or of its own motion. If, at the conclusion of the 33537
hearing, the trial court determines that the defendant presently 33538
is capable of understanding the nature and objective of the 33539
proceedings against the defendant and of assisting in the 33540
defendant's defense, the trial court shall order that the 33541
defendant is competent to stand trial and shall be proceeded 33542
against as provided by law with respect to the applicable offenses 33543
described in division (C)(1) of section 2945.38 of the Revised 33544
Code and shall enter whichever of the following additional orders 33545
is appropriate: 33546

(i) If the trial court determines that the defendant remains 33547
a mentally ill person subject to hospitalization by court order or 33548
a mentally retarded person subject to institutionalization by 33549
court order, the trial court shall order that the defendant's 33550
commitment to the department of ~~mental health~~ mental health and 33551
addiction services or to an institution, facility, or program for 33552
the treatment of mental retardation be continued during the 33553
pendency of the trial on the applicable offenses described in 33554
division (C)(1) of section 2945.38 of the Revised Code. 33555

(ii) If the trial court determines that the defendant no 33556
longer is a mentally ill person subject to hospitalization by 33557
court order or a mentally retarded person subject to 33558
institutionalization by court order, the trial court shall order 33559
that the defendant's commitment to the department of ~~mental health~~ 33560
mental health and addiction services or to an institution, 33561
facility, or program for the treatment of mental retardation shall 33562

not be continued during the pendency of the trial on the 33563
applicable offenses described in division (C)(1) of section 33564
2945.38 of the Revised Code. This order shall be a final 33565
termination of the commitment for purposes of division (J)(1)(c) 33566
of this section. 33567

(b) If, at the conclusion of the hearing described in 33568
division (J)(2)(a) of this section, the trial court determines 33569
that the defendant remains incapable of understanding the nature 33570
and objective of the proceedings against the defendant or of 33571
assisting in the defendant's defense, the trial court shall order 33572
that the defendant continues to be incompetent to stand trial, 33573
that the defendant's commitment to the department of ~~mental health~~ 33574
mental health and addiction services or to an institution, 33575
facility, or program for the treatment of mental retardation shall 33576
be continued, and that the defendant remains subject to the 33577
jurisdiction of the trial court pursuant to that commitment, and 33578
to the provisions of this section, until the final termination of 33579
the commitment as described in division (J)(1) of this section. 33580

Sec. 2951.041. (A)(1) If an offender is charged with a 33581
criminal offense, including but not limited to a violation of 33582
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 of 33583
the Revised Code, and the court has reason to believe that drug or 33584
alcohol usage by the offender was a factor leading to the criminal 33585
offense with which the offender is charged or that, at the time of 33586
committing that offense, the offender had a mental illness or was 33587
a person with intellectual disability and that the mental illness 33588
or status as a person with intellectual disability was a factor 33589
leading to the offender's criminal behavior, the court may accept, 33590
prior to the entry of a guilty plea, the offender's request for 33591
intervention in lieu of conviction. The request shall include a 33592
statement from the offender as to whether the offender is alleging 33593
that drug or alcohol usage by the offender was a factor leading to 33594

the criminal offense with which the offender is charged or is 33595
alleging that, at the time of committing that offense, the 33596
offender had a mental illness or was a person with intellectual 33597
disability and that the mental illness or status as a person with 33598
intellectual disability was a factor leading to the criminal 33599
offense with which the offender is charged. The request also shall 33600
include a waiver of the defendant's right to a speedy trial, the 33601
preliminary hearing, the time period within which the grand jury 33602
may consider an indictment against the offender, and arraignment, 33603
unless the hearing, indictment, or arraignment has already 33604
occurred. The court may reject an offender's request without a 33605
hearing. If the court elects to consider an offender's request, 33606
the court shall conduct a hearing to determine whether the 33607
offender is eligible under this section for intervention in lieu 33608
of conviction and shall stay all criminal proceedings pending the 33609
outcome of the hearing. If the court schedules a hearing, the 33610
court shall order an assessment of the offender for the purpose of 33611
determining the offender's eligibility for intervention in lieu of 33612
conviction and recommending an appropriate intervention plan. 33613

If the offender alleges that drug or alcohol usage by the 33614
offender was a factor leading to the criminal offense with which 33615
the offender is charged, the court may order that the offender be 33616
assessed by ~~a program~~ an addiction services provider certified 33617
pursuant to section ~~3793.06~~ 5119.36 of the Revised Code or a 33618
properly credentialed professional for the purpose of determining 33619
the offender's eligibility for intervention in lieu of conviction 33620
and recommending an appropriate intervention plan. The ~~program~~ 33621
addiction services provider or the properly credentialed 33622
professional shall provide a written assessment of the offender to 33623
the court. 33624

(2) The victim notification provisions of division (C) of 33625
section 2930.08 of the Revised Code apply in relation to any 33626

hearing held under division (A)(1) of this section. 33627

(B) An offender is eligible for intervention in lieu of 33628
conviction if the court finds all of the following: 33629

(1) The offender previously has not been convicted of or 33630
pleaded guilty to a felony offense of violence or previously has 33631
been convicted of or pleaded guilty to any felony that is not an 33632
offense of violence and the prosecuting attorney recommends that 33633
the offender be found eligible for participation in intervention 33634
in lieu of treatment under this section, previously has not been 33635
through intervention in lieu of conviction under this section or 33636
any similar regimen, and is charged with a felony for which the 33637
court, upon conviction, would impose a community control sanction 33638
on the offender under division (B)(2) of section 2929.13 of the 33639
Revised Code or with a misdemeanor. 33640

(2) The offense is not a felony of the first, second, or 33641
third degree, is not an offense of violence, is not a violation of 33642
division (A)(1) or (2) of section 2903.06 of the Revised Code, is 33643
not a violation of division (A)(1) of section 2903.08 of the 33644
Revised Code, is not a violation of division (A) of section 33645
4511.19 of the Revised Code or a municipal ordinance that is 33646
substantially similar to that division, and is not an offense for 33647
which a sentencing court is required to impose a mandatory prison 33648
term, a mandatory term of local incarceration, or a mandatory term 33649
of imprisonment in a jail. 33650

(3) The offender is not charged with a violation of section 33651
2925.02, 2925.04, or 2925.06 of the Revised Code, is not charged 33652
with a violation of section 2925.03 of the Revised Code that is a 33653
felony of the first, second, third, or fourth degree, and is not 33654
charged with a violation of section 2925.11 of the Revised Code 33655
that is a felony of the first, second, or third degree. 33656

(4) If an offender alleges that drug or alcohol usage by the 33657

offender was a factor leading to the criminal offense with which 33658
the offender is charged, the court has ordered that the offender 33659
be assessed by ~~a program~~ an addiction services provider certified 33660
pursuant to section ~~3793.06~~ 5119.36 of the Revised Code or a 33661
properly credentialed professional for the purpose of determining 33662
the offender's eligibility for intervention in lieu of conviction 33663
and recommending an appropriate intervention plan, the offender 33664
has been assessed by ~~a program~~ an addiction services provider of 33665
that nature or a properly credentialed professional in accordance 33666
with the court's order, and the ~~program~~ addiction services 33667
provider or properly credentialed professional has filed the 33668
written assessment of the offender with the court. 33669

(5) If an offender alleges that, at the time of committing 33670
the criminal offense with which the offender is charged, the 33671
offender had a mental illness or was a person with intellectual 33672
disability and that the mental illness or status as a person with 33673
intellectual disability was a factor leading to that offense, the 33674
offender has been assessed by a psychiatrist, psychologist, 33675
independent social worker, or professional clinical counselor for 33676
the purpose of determining the offender's eligibility for 33677
intervention in lieu of conviction and recommending an appropriate 33678
intervention plan. 33679

(6) The offender's drug usage, alcohol usage, mental illness, 33680
or intellectual disability, whichever is applicable, was a factor 33681
leading to the criminal offense with which the offender is 33682
charged, intervention in lieu of conviction would not demean the 33683
seriousness of the offense, and intervention would substantially 33684
reduce the likelihood of any future criminal activity. 33685

(7) The alleged victim of the offense was not sixty-five 33686
years of age or older, permanently and totally disabled, under 33687
thirteen years of age, or a peace officer engaged in the officer's 33688
official duties at the time of the alleged offense. 33689

(8) If the offender is charged with a violation of section 2925.24 of the Revised Code, the alleged violation did not result in physical harm to any person, and the offender previously has not been treated for drug abuse.

(9) The offender is willing to comply with all terms and conditions imposed by the court pursuant to division (D) of this section.

(10) The offender is not charged with an offense that would result in the offender being disqualified under Chapter 4506. of the Revised Code from operating a commercial motor vehicle or would subject the offender to any other sanction under that chapter.

(C) At the conclusion of a hearing held pursuant to division (A) of this section, the court shall enter its determination as to whether the offender is eligible for intervention in lieu of conviction and as to whether to grant the offender's request. If the court finds under division (B) of this section that the offender is eligible for intervention in lieu of conviction and grants the offender's request, the court shall accept the offender's plea of guilty and waiver of the defendant's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the offender, and arraignment, unless the hearing, indictment, or arraignment has already occurred. In addition, the court then may stay all criminal proceedings and order the offender to comply with all terms and conditions imposed by the court pursuant to division (D) of this section. If the court finds that the offender is not eligible or does not grant the offender's request, the criminal proceedings against the offender shall proceed as if the offender's request for intervention in lieu of conviction had not been made.

(D) If the court grants an offender's request for

intervention in lieu of conviction, the court shall place the 33722
offender under the general control and supervision of the county 33723
probation department, the adult parole authority, or another 33724
appropriate local probation or court services agency, if one 33725
exists, as if the offender was subject to a community control 33726
sanction imposed under section 2929.15, 2929.18, or 2929.25 of the 33727
Revised Code. The court shall establish an intervention plan for 33728
the offender. The terms and conditions of the intervention plan 33729
shall require the offender, for at least one year from the date on 33730
which the court grants the order of intervention in lieu of 33731
conviction, to abstain from the use of illegal drugs and alcohol, 33732
to participate in treatment and recovery support services, and to 33733
submit to regular random testing for drug and alcohol use and may 33734
include any other treatment terms and conditions, or terms and 33735
conditions similar to community control sanctions, which may 33736
include community service or restitution, that are ordered by the 33737
court. 33738

(E) If the court grants an offender's request for 33739
intervention in lieu of conviction and the court finds that the 33740
offender has successfully completed the intervention plan for the 33741
offender, including the requirement that the offender abstain from 33742
using illegal drugs and alcohol for a period of at least one year 33743
from the date on which the court granted the order of intervention 33744
in lieu of conviction, the requirement that the offender 33745
participate in treatment and recovery support services, and all 33746
other terms and conditions ordered by the court, the court shall 33747
dismiss the proceedings against the offender. Successful 33748
completion of the intervention plan and period of abstinence under 33749
this section shall be without adjudication of guilt and is not a 33750
criminal conviction for purposes of any disqualification or 33751
disability imposed by law and upon conviction of a crime, and the 33752
court may order the sealing of records related to the offense in 33753
question in the manner provided in sections 2953.31 to 2953.36 of 33754

the Revised Code. 33755

(F) If the court grants an offender's request for 33756
intervention in lieu of conviction and the offender fails to 33757
comply with any term or condition imposed as part of the 33758
intervention plan for the offender, the supervising authority for 33759
the offender promptly shall advise the court of this failure, and 33760
the court shall hold a hearing to determine whether the offender 33761
failed to comply with any term or condition imposed as part of the 33762
plan. If the court determines that the offender has failed to 33763
comply with any of those terms and conditions, it shall enter a 33764
finding of guilty and shall impose an appropriate sanction under 33765
Chapter 2929. of the Revised Code. If the court sentences the 33766
offender to a prison term, the court, after consulting with the 33767
department of rehabilitation and correction regarding the 33768
availability of services, may order continued court-supervised 33769
activity and treatment of the offender during the prison term and, 33770
upon consideration of reports received from the department 33771
concerning the offender's progress in the program of activity and 33772
treatment, may consider judicial release under section 2929.20 of 33773
the Revised Code. 33774

(G) As used in this section: 33775

(1) "Community control sanction" has the same meaning as in 33776
section 2929.01 of the Revised Code. 33777

(2) "Intervention in lieu of conviction" means any 33778
court-supervised activity that complies with this section. 33779

(3) "Peace officer" has the same meaning as in section 33780
2935.01 of the Revised Code. 33781

(4) "Mental illness" and "psychiatrist" have the same 33782
meanings as in section 5122.01 of the Revised Code. 33783

(5) "Person with intellectual disability" means a person 33784
having significantly subaverage general intellectual functioning 33785

existing concurrently with deficiencies in adaptive behavior, 33786
manifested during the developmental period. 33787

(6) "Psychologist" has the same meaning as in section 4732.01 33788
of the Revised Code. 33789

(H) Whenever the term "mentally retarded person" is used in 33790
any statute, rule, contract, grant, or other document, the 33791
reference shall be deemed to include a "person with intellectual 33792
disability," as defined in this section. 33793

Sec. 2967.22. Whenever it is brought to the attention of the 33794
adult parole authority or a department of probation that a 33795
parolee, person under a community control sanction, person under 33796
transitional control, or releasee appears to be a mentally ill 33797
person subject to hospitalization by court order, as defined in 33798
section 5122.01 of the Revised Code, or a mentally retarded person 33799
subject to institutionalization by court order, as defined in 33800
section 5123.01 of the Revised Code, the parole or probation 33801
officer, subject to the approval of the chief of the adult parole 33802
authority, the designee of the chief of the adult parole 33803
authority, or the chief probation officer, may file an affidavit 33804
under section 5122.11 or 5123.71 of the Revised Code. A parolee, 33805
person under a community control sanction, or releasee who is 33806
involuntarily detained under Chapter 5122. or 5123. of the Revised 33807
Code shall receive credit against the period of parole or 33808
community control or the term of post-release control for the 33809
period of involuntary detention. 33810

If a parolee, person under a community control sanction, 33811
person under transitional control, or releasee escapes from an 33812
institution or facility within the department of ~~mental health~~ 33813
mental health and addiction services or the department of 33814
developmental disabilities, the superintendent of the institution 33815
immediately shall notify the chief of the adult parole authority 33816

or the chief probation officer. Notwithstanding the provisions of 33817
section 5122.26 of the Revised Code, the procedure for the 33818
apprehension, detention, and return of the parolee, person under a 33819
community control sanction, person under transitional control, or 33820
releasee is the same as that provided for the apprehension, 33821
detention, and return of persons who escape from institutions 33822
operated by the department of rehabilitation and correction. If 33823
the escaped parolee, person under transitional control, or 33824
releasee is not apprehended and returned to the custody of the 33825
department of ~~mental health~~ mental health and addiction services 33826
or the department of developmental disabilities within ninety days 33827
after the escape, the parolee, person under transitional control, 33828
or releasee shall be discharged from the custody of the department 33829
of ~~mental health~~ mental health and addiction services or the 33830
department of developmental disabilities and returned to the 33831
custody of the department of rehabilitation and correction. If the 33832
escaped person under a community control sanction is not 33833
apprehended and returned to the custody of the department of 33834
~~mental health~~ mental health and addiction services or the 33835
department of developmental disabilities within ninety days after 33836
the escape, the person under a community control sanction shall be 33837
discharged from the custody of the department of ~~mental health~~ 33838
mental health and addiction services or the department of 33839
developmental disabilities and returned to the custody of the 33840
court that sentenced that person. 33841

Sec. 2981.12. (A) Unclaimed or forfeited property in the 33842
custody of a law enforcement agency, other than property described 33843
in division (A)(2) of section 2981.11 of the Revised Code, shall 33844
be disposed of by order of any court of record that has 33845
territorial jurisdiction over the political subdivision that 33846
employs the law enforcement agency, as follows: 33847

(1) Drugs shall be disposed of pursuant to section 3719.11 of 33848

the Revised Code or placed in the custody of the secretary of the 33849
treasury of the United States for disposal or use for medical or 33850
scientific purposes under applicable federal law. 33851

(2) Firearms and dangerous ordnance suitable for police work 33852
may be given to a law enforcement agency for that purpose. 33853
Firearms suitable for sporting use or as museum pieces or 33854
collectors' items may be sold at public auction pursuant to 33855
division (B) of this section. The agency may sell other firearms 33856
and dangerous ordnance to a federally licensed firearms dealer in 33857
a manner that the court considers proper. The agency shall destroy 33858
any firearms or dangerous ordnance not given to a law enforcement 33859
agency or sold or shall send them to the bureau of criminal 33860
identification and investigation for destruction by the bureau. 33861

(3) Obscene materials shall be destroyed. 33862

(4) Beer, intoxicating liquor, or alcohol seized from a 33863
person who does not hold a permit issued under Chapters 4301. and 33864
4303. of the Revised Code or otherwise forfeited to the state for 33865
an offense under section 4301.45 or 4301.53 of the Revised Code 33866
shall be sold by the division of liquor control if the division 33867
determines that it is fit for sale or shall be placed in the 33868
custody of the investigations unit in the department of public 33869
safety and be used for training relating to law enforcement 33870
activities. The department, with the assistance of the division of 33871
liquor control, shall adopt rules in accordance with Chapter 119. 33872
of the Revised Code to provide for the distribution to state or 33873
local law enforcement agencies upon their request. If any tax 33874
imposed under Title XLIII of the Revised Code has not been paid in 33875
relation to the beer, intoxicating liquor, or alcohol, any moneys 33876
acquired from the sale shall first be used to pay the tax. All 33877
other money collected under this division shall be paid into the 33878
state treasury. Any beer, intoxicating liquor, or alcohol that the 33879
division determines to be unfit for sale shall be destroyed. 33880

(5) Money received by an inmate of a correctional institution 33881
from an unauthorized source or in an unauthorized manner shall be 33882
returned to the sender, if known, or deposited in the inmates' 33883
industrial and entertainment fund of the institution if the sender 33884
is not known. 33885

(6)(a) Any mobile instrumentality forfeited under this 33886
chapter may be given to the law enforcement agency that initially 33887
seized the mobile instrumentality for use in performing its 33888
duties, if the agency wants the mobile instrumentality. The agency 33889
shall take the mobile instrumentality subject to any security 33890
interest or lien on the mobile instrumentality. 33891

(b) Vehicles and vehicle parts forfeited under sections 33892
4549.61 to 4549.63 of the Revised Code may be given to a law 33893
enforcement agency for use in performing its duties. Those parts 33894
may be incorporated into any other official vehicle. Parts that do 33895
not bear vehicle identification numbers or derivatives of them may 33896
be sold or disposed of as provided by rules of the director of 33897
public safety. Parts from which a vehicle identification number or 33898
derivative of it has been removed, defaced, covered, altered, or 33899
destroyed and that are not suitable for police work or 33900
incorporation into an official vehicle shall be destroyed and sold 33901
as junk or scrap. 33902

(7) Computers, computer networks, computer systems, and 33903
computer software suitable for police work may be given to a law 33904
enforcement agency for that purpose or disposed of under division 33905
(B) of this section. 33906

(8) Money seized in connection with a violation of section 33907
2905.32, 2907.21, or 2907.22 of the Revised Code shall be 33908
deposited in the victims of human trafficking fund created by 33909
section 5101.87 of the Revised Code. 33910

(B) Unclaimed or forfeited property that is not described in 33911

division (A) of this section or division (A)(2) of section 2981.11 33912
of the Revised Code, with court approval, may be used by the law 33913
enforcement agency in possession of it. If it is not used by the 33914
agency, it may be sold without appraisal at a public auction to 33915
the highest bidder for cash or disposed of in another manner that 33916
the court considers proper. 33917

(C) Except as provided in divisions (A) and (F) of this 33918
section and after compliance with division (D) of this section 33919
when applicable, any moneys acquired from the sale of property 33920
disposed of pursuant to this section shall be placed in the 33921
general revenue fund of the state, or the general fund of the 33922
county, the township, or the municipal corporation of which the 33923
law enforcement agency involved is an agency. 33924

(D) If the property was in the possession of the law 33925
enforcement agency in relation to a delinquent child proceeding in 33926
a juvenile court, ten per cent of any moneys acquired from the 33927
sale of property disposed of under this section shall be applied 33928
to one or more ~~alcohol and drug~~ community addiction treatment 33929
~~programs~~ services providers that are certified by the department 33930
of ~~alcohol and drug addiction services~~ mental health and addiction 33931
services under section ~~3793.06~~ 5119.36 of the Revised Code. A 33932
juvenile court shall not specify a ~~program~~ services provider, 33933
except as provided in this division, unless the ~~program~~ services 33934
provider is in the same county as the court or in a contiguous 33935
county. If no certified ~~program~~ services provider is located in 33936
any of those counties, the juvenile court may specify a certified 33937
~~program~~ services provider anywhere in Ohio. The remaining ninety 33938
per cent of the proceeds or cash shall be applied as provided in 33939
division (C) of this section. 33940

Each ~~treatment program~~ services provider that receives in any 33941
calendar year forfeited money under this division shall file an 33942
annual report for that year with the attorney general and with the 33943

court of common pleas and board of county commissioners of the 33944
county in which the ~~program~~ services provider is located and of 33945
any other county from which the ~~program~~ services provider received 33946
forfeited money. The ~~program~~ services provider shall file the 33947
report on or before the first day of March in the calendar year 33948
following the calendar year in which the ~~program~~ services provider 33949
received the money. The report shall include statistics on the 33950
number of persons the ~~program~~ services provider served, identify 33951
the types of treatment services it provided to them, and include a 33952
specific accounting of the purposes for which it used the money so 33953
received. No information contained in the report shall identify, 33954
or enable a person to determine the identity of, any person served 33955
by the ~~program~~ services provider. 33956

(E) Each certified ~~alcohol and drug~~ community addiction 33957
~~treatment program~~ services provider that receives in any calendar 33958
year money under this section or under section 2981.13 of the 33959
Revised Code as the result of a juvenile forfeiture order shall 33960
file an annual report for that calendar year with the attorney 33961
general and with the court of common pleas and board of county 33962
commissioners of the county in which the ~~program~~ services provider 33963
is located and of any other county from which the ~~program~~ services 33964
provider received the money. The ~~program~~ services provider shall 33965
file the report on or before the first day of March in the 33966
calendar year following the year in which the ~~program~~ services 33967
provider received the money. The report shall include statistics 33968
on the number of persons served with the money, identify the types 33969
of treatment services provided, and specifically account for how 33970
the money was used. No information in the report shall identify or 33971
enable a person to determine the identity of anyone served by the 33972
~~program~~ services provider. 33973

As used in this division, "juvenile-related forfeiture order" 33974
means any forfeiture order issued by a juvenile court under 33975

section 2981.04 or 2981.05 of the Revised Code and any disposal of 33976
property ordered by a court under section 2981.11 of the Revised 33977
Code regarding property that was in the possession of a law 33978
enforcement agency in relation to a delinquent child proceeding in 33979
a juvenile court. 33980

(F) Each board of county commissioners that recognizes a 33981
citizens' reward program under section 9.92 of the Revised Code 33982
shall notify each law enforcement agency of that county and of a 33983
township or municipal corporation wholly located in that county of 33984
the recognition by filing a copy of its resolution conferring that 33985
recognition with each of those agencies. When the board recognizes 33986
a citizens' reward program and the county includes a part, but not 33987
all, of the territory of a municipal corporation, the board shall 33988
so notify the law enforcement agency of that municipal corporation 33989
of the recognition of the citizens' reward program only if the 33990
county contains the highest percentage of the municipal 33991
corporation's population. 33992

Upon being so notified, each law enforcement agency shall pay 33993
twenty-five per cent of any forfeited proceeds or cash derived 33994
from each sale of property disposed of pursuant to this section to 33995
the citizens' reward program for use exclusively to pay rewards. 33996
No part of the funds may be used to pay expenses associated with 33997
the program. If a citizens' reward program that operates in more 33998
than one county or in another state in addition to this state 33999
receives funds under this section, the funds shall be used to pay 34000
rewards only for tips and information to law enforcement agencies 34001
concerning offenses committed in the county from which the funds 34002
were received. 34003

Receiving funds under this section or section 2981.11 of the 34004
Revised Code does not make the citizens' reward program a 34005
governmental unit or public office for purposes of section 149.43 34006
of the Revised Code. 34007

(G) Any property forfeited under this chapter shall not be 34008
used to pay any fine imposed upon a person who is convicted of or 34009
pleads guilty to an underlying criminal offense or a different 34010
offense arising out of the same facts and circumstances. 34011

(H) Any moneys acquired from the sale of personal effects, 34012
tools, or other property seized because the personal effects, 34013
tools, or other property were used in the commission of a 34014
violation of section 2905.32, 2907.21, or 2907.22 of the Revised 34015
Code or derived from the proceeds of the commission of a violation 34016
of section 2905.32, 2907.21, or 2907.22 of the Revised Code and 34017
disposed of pursuant to this section shall be placed in the 34018
victims of human trafficking fund created by section 5101.87 of 34019
the Revised Code. 34020

Sec. 3101.051. (A) Except as provided in division (B) of this 34021
section, a probate court shall make available to any person for 34022
inspection the records pertaining to the issuance of marriage 34023
licenses as provided under section 149.43 of the Revised Code. 34024

(B) Before it makes available to a person any records 34025
pertaining to the issuance of a marriage license as described in 34026
division (A) of this section, subject to division (C) of this 34027
section, a probate court shall delete or otherwise remove any 34028
social security numbers of the parties to a marriage so that they 34029
are not available to the person inspecting the records. 34030

(C) Division (B) of this section does not apply in any of the 34031
following circumstances: 34032

(1) If the records in question are inspected by authorized 34033
personnel of the division of child support in the department of 34034
job and family services under section ~~5101.31~~ 5101.37 of the 34035
Revised Code; 34036

(2) If the records in question are inspected by law 34037

enforcement personnel for purposes of a criminal investigation; 34038

(3) If the records in question with the social security 34039
numbers are necessary for use in a civil or criminal trial and the 34040
release of the records with the social security numbers is ordered 34041
by a court with jurisdiction over the trial; 34042

(4) If the records in question are inspected by either party 34043
to the marriage to which the records pertain; 34044

(5) If the court possessed the records in question prior to 34045
the effective date of this section. 34046

Sec. 3107.083. Not later than ninety days after June 20, 34047
1996, the director of job and family services shall do all of the 34048
following: 34049

(A)(1) For a parent of a child who, if adopted, will be an 34050
adopted person as defined in section 3107.45 of the Revised Code, 34051
prescribe a form that has the following six components: 34052

(a) A component the parent signs under section 3107.071, 34053
3107.081, or 5103.151 of the Revised Code to indicate the 34054
requirements of section 3107.082 or 5103.152 of the Revised Code 34055
have been met. The component shall be as follows: 34056

"Statement Concerning Ohio Law and Adoption Materials 34057

By signing this component of this form, I acknowledge that it 34058
has been explained to me, and I understand, that, if I check the 34059
space on the next component of this form that indicates that I 34060
authorize the release, the adoption file maintained by the Ohio 34061
Department of Health, which contains identifying information about 34062
me at the time of my child's birth, will be released, on request, 34063
to the adoptive parent when the adoptee is at least age eighteen 34064
but younger than age twenty-one and to the adoptee when he or she 34065
is age twenty-one or older. It has also been explained to me, and 34066
I understand, that I may prohibit the release of identifying 34067

information about me contained in the adoption file by checking 34068
the space on the next component of this form that indicates that I 34069
do not authorize the release of the identifying information. It 34070
has additionally been explained to me, and I understand, that I 34071
may change my mind regarding the decision I make on the next 34072
component of this form at any time and as many times as I desire 34073
by signing, dating, and having filed with the Ohio Department of 34074
Health a denial of release form or authorization of release form 34075
prescribed and provided by the Department of Health and providing 34076
the Department two items of identification. 34077

By signing this component of this form, I also acknowledge 34078
that I have been provided a copy of written materials about 34079
adoption prepared by the Ohio Department of Job and Family 34080
Services, the adoption process and ramifications of consenting to 34081
adoption or entering into a voluntary permanent custody surrender 34082
agreement have been discussed with me, and I have been provided 34083
the opportunity to review the materials and ask questions about 34084
the materials and discussion. 34085

Signature of biological parent: 34086
Signature of witness: 34087
Date: " 34088

(b) A component the parent signs under section 3107.071, 34089
3107.081, or 5103.151 of the Revised Code regarding the parent's 34090
decision whether to allow identifying information about the parent 34091
contained in an adoption file maintained by the department of 34092
health to be released to the parent's child and adoptive parent 34093
pursuant to section 3107.47 of the Revised Code. The component 34094
shall be as follows: 34095

"Statement Regarding Release of Identifying Information 34096

The purpose of this component of this form is to allow a 34097
biological parent to decide whether to allow the Ohio Department 34098
of Health to provide an adoptee and adoptive parent identifying 34099

information about the adoptee's biological parent contained in an 34100
adoption file maintained by the Department. Please check one of 34101
the following spaces: 34102

..... YES, I authorize the Ohio Department of Health to 34103
release identifying information about me, on
request, to the adoptive parent when the adoptee is
at least age eighteen but younger than age
twenty-one and to the adoptee when he or she is age
twenty-one or older.

..... NO, I do not authorize the release of identifying 34104
information about me to the adoptive parent or
adoptee.

Signature of biological parent: 34105
Signature of witness: 34106
Date: " 34107

(c) A component the parent, if the mother of the child, 34108
completes and signs under section 3107.071, 3107.081, or 5103.151 34109
of the Revised Code to indicate, to the extent of the mother's 34110
knowledge, all of the following: 34111

(i) Whether the mother, during her pregnancy, was a recipient 34112
of the ~~medical assistance~~ medicaid program ~~established under~~ 34113
~~Chapter 5111. of the Revised Code~~ or other public health insurance 34114
program and, if so, the dates her eligibility began and ended; 34115

(ii) Whether the mother, during her pregnancy, was covered by 34116
private health insurance and, if so, the dates the coverage began 34117
and ended, the name of the insurance provider, the type of 34118
coverage, and the identification number of the coverage; 34119

(iii) The name and location of the hospital, freestanding 34120
~~birth~~ birthing center, or other place where the mother gave birth 34121
and, if different, received medical care immediately after giving 34122
birth; 34123

(iv) The expenses of the obstetrical and neonatal care;	34124
(v) Whether the mother has been informed that the adoptive parent or the agency or attorney arranging the adoption are to pay expenses involved in the adoption, including expenses the mother has paid and expects to receive or has received reimbursement, and, if so, what expenses are to be or have been paid and an estimate of the expenses;	34125 34126 34127 34128 34129 34130
(vi) Any other information related to expenses the department determines appropriate to be included in this component.	34131 34132
(d) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent materials, other than photographs of the parent, that the parent requests be given to the child or adoptive parent pursuant to section 3107.68 of the Revised Code.	34133 34134 34135 34136 34137
(e) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent photographs of the parent pursuant to section 3107.68 of the Revised Code.	34138 34139 34140 34141
(f) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent the first name of the parent pursuant to section 3107.68 of the Revised Code.	34142 34143 34144 34145
(2) State at the bottom of the form that the parent is to receive a copy of the form the parent signed.	34146 34147
(3) Provide copies of the form prescribed under this division to probate and juvenile courts, public children services agencies, private child placing agencies, private noncustodial agencies, attorneys, and persons authorized to take acknowledgments.	34148 34149 34150 34151
(B)(1) For a parent of a child who, if adopted, will become an adopted person as defined in section 3107.39 of the Revised	34152 34153

Code, prescribe a form that has the following five components: 34154

(a) A component the parent signs under section 3107.071, 34155
3107.081, or 5103.151 of the Revised Code to attest that the 34156
requirement of division (A) of section 3107.082 or division (A) of 34157
section 5103.152 of the Revised Code has been met; 34158

(b) A component the parent, if the mother of the child, 34159
completes and signs under section 3107.071, 3107.081, or 5103.151 34160
of the Revised Code to indicate, to the extent of the mother's 34161
knowledge, all of the following: 34162

(i) Whether the mother, during her pregnancy, was a recipient 34163
of the ~~medical assistance~~ medicaid program ~~established under~~ 34164
~~Chapter 5111. of the Revised Code~~ or other public health insurance 34165
program and, if so, the dates her eligibility began and ended; 34166

(ii) Whether the mother, during her pregnancy, was covered by 34167
private health insurance and, if so, the dates the coverage began 34168
and ended, the name of the insurance provider, the type of 34169
coverage, and the identification number of the coverage; 34170

(iii) The name and location of the hospital, freestanding 34171
~~birth~~ birthing center, or other place where the mother gave birth 34172
and, if different, received medical care immediately after giving 34173
birth; 34174

(iv) The expenses of the obstetrical and neonatal care; 34175

(v) Whether the mother has been informed that the adoptive 34176
parent or the agency or attorney arranging the adoption are to pay 34177
expenses involved in the adoption, including expenses the mother 34178
has paid and expects to receive or has received reimbursement for, 34179
and, if so, what expenses are to be or have been paid and an 34180
estimate of the expenses; 34181

(vi) Any other information related to expenses the department 34182
determines appropriate to be included in the component. 34183

(c) A component the parent may sign to authorize the agency 34184
or attorney arranging the adoption to provide to the child or 34185
adoptive parent materials, other than photographs of the parent, 34186
that the parent requests be given to the child or adoptive parent 34187
pursuant to section 3107.68 of the Revised Code. 34188

(d) A component the parent may sign to authorize the agency 34189
or attorney arranging the adoption to provide to the child or 34190
adoptive parent photographs of the parent pursuant to section 34191
3107.68 of the Revised Code. 34192

(e) A component the parent may sign to authorize the agency 34193
or attorney arranging the adoption to provide to the child or 34194
adoptive parent the first name of the parent pursuant to section 34195
3107.68 of the Revised Code. 34196

(2) State at the bottom of the form that the parent is to 34197
receive a copy of the form the parent signed. 34198

(3) Provide copies of the form prescribed under this division 34199
to probate and juvenile courts, public children services agencies, 34200
private child placing agencies, private noncustodial agencies, and 34201
attorneys. 34202

(C) Prepare the written materials about adoption that are 34203
required to be given to parents under division (A) of section 34204
3107.082 and division (A) of section 5103.152 of the Revised Code. 34205
The materials shall provide information about the adoption 34206
process, including ramifications of a parent consenting to a 34207
child's adoption or entering into a voluntary permanent custody 34208
surrender agreement. The materials also shall include referral 34209
information for professional counseling and adoption support 34210
organizations. The director shall provide the materials to 34211
assessors. 34212

(D) Adopt rules in accordance with Chapter 119. of the 34213
Revised Code specifying the documents that must be filed with a 34214

probate court under divisions (B) and (D) of section 3107.081 of 34215
the Revised Code and a juvenile court under divisions (C) and (E) 34216
of section 5103.151 of the Revised Code. 34217

Sec. 3109.15. There is hereby created within the department 34218
of job and family services the children's trust fund board 34219
consisting of fifteen members. The directors of ~~alcohol and drug~~ 34220
~~addiction services~~ mental health and addiction services, health, 34221
and job and family services shall be members of the board. Eight 34222
public members shall be appointed by the governor. These members 34223
shall be persons with demonstrated knowledge in programs for 34224
children, shall be representative of the demographic composition 34225
of this state, and, to the extent practicable, shall be 34226
representative of the following categories: the educational 34227
community; the legal community; the social work community; the 34228
medical community; the voluntary sector; and professional 34229
providers of child abuse and child neglect services. Five of these 34230
members shall be residents of metropolitan statistical areas as 34231
defined by the United States office of management and budget where 34232
the population exceeds four hundred thousand; no two such members 34233
shall be residents of the same metropolitan statistical area. Two 34234
members of the board shall be members of the house of 34235
representatives appointed by the speaker of the house of 34236
representatives and shall be members of two different political 34237
parties. Two members of the board shall be members of the senate 34238
appointed by the president of the senate and shall be members of 34239
two different political parties. All members of the board 34240
appointed by the speaker of the house of representatives or the 34241
president of the senate shall serve until the expiration of the 34242
sessions of the general assembly during which they were appointed. 34243
They may be reappointed to an unlimited number of successive terms 34244
of two years at the pleasure of the speaker of the house of 34245
representatives or president of the senate. Public members shall 34246

serve terms of three years. Each member shall serve until the 34247
member's successor is appointed, or until a period of sixty days 34248
has elapsed, whichever occurs first. No public member may serve 34249
more than two consecutive full terms. All vacancies on the board 34250
shall be filled for the balance of the unexpired term in the same 34251
manner as the original appointment. 34252

Any member of the board may be removed by the member's 34253
appointing authority for misconduct, incompetency, or neglect of 34254
duty after first being given the opportunity to be heard in the 34255
member's own behalf. Pursuant to section 3.17 of the Revised Code, 34256
a member, except a member of the general assembly or a judge of 34257
any court in the state, who fails to attend at least three-fifths 34258
of the regular and special meetings held by the board during any 34259
two-year period forfeits the member's position on the board. 34260

Each member of the board shall serve without compensation but 34261
shall be reimbursed for all actual and necessary expenses incurred 34262
in the performance of official duties. 34263

At the beginning of the first year of each even-numbered 34264
general assembly, the chairperson of the board shall be appointed 34265
by the speaker of the house of representatives from among members 34266
of the board who are members of the house of representatives. At 34267
the beginning of the first year of each odd-numbered general 34268
assembly, the chairperson of the board shall be appointed by the 34269
president of the senate from among the members of the board who 34270
are senate members. 34271

The board shall biennially select a vice-chair from among its 34272
nonlegislative members. 34273

Sec. 3111.04. (A) An action to determine the existence or 34274
nonexistence of the father and child relationship may be brought 34275
by the child or the child's personal representative, the child's 34276
mother or her personal representative, a man alleged or alleging 34277

himself to be the child's father, the child support enforcement 34278
agency of the county in which the child resides if the child's 34279
mother, father, or alleged father is a recipient of public 34280
assistance or of services under Title IV-D of the "Social Security 34281
Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the 34282
alleged father's personal representative. 34283

(B) An agreement does not bar an action under this section. 34284

(C) If an action under this section is brought before the 34285
birth of the child and if the action is contested, all 34286
proceedings, except service of process and the taking of 34287
depositions to perpetuate testimony, may be stayed until after the 34288
birth. 34289

(D) A recipient of public assistance or of services under 34290
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 34291
U.S.C.A. 651, as amended, shall cooperate with the child support 34292
enforcement agency of the county in which a child resides to 34293
obtain an administrative determination pursuant to sections 34294
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 34295
determination pursuant to sections 3111.01 to 3111.18 of the 34296
Revised Code, of the existence or nonexistence of a parent and 34297
child relationship between the father and the child. If the 34298
recipient fails to cooperate, the agency may commence an action to 34299
determine the existence or nonexistence of a parent and child 34300
relationship between the father and the child pursuant to sections 34301
3111.01 to 3111.18 of the Revised Code. 34302

(E) As used in this section, "public assistance" means all of 34303
the following: 34304

(1) ~~Medicaid under Chapter 5111. of the Revised Code;~~ 34305

(2) Ohio works first under Chapter 5107. of the Revised Code; 34306

(3) Disability financial assistance under Chapter 5115. of 34307

the Revised Code. 34308

Sec. 3111.72. The contract between the department of job and 34309
family services and a local hospital shall require all of the 34310
following: 34311

(A) That the hospital provide a staff person to meet with 34312
each unmarried mother who gave birth in or en route to the 34313
hospital within twenty-four hours of the birth or before the 34314
mother is released from the hospital; 34315

(B) That the staff person attempt to meet with the father of 34316
the unmarried mother's child if possible; 34317

(C) That the staff person explain to the unmarried mother and 34318
the father, if he is present, the benefit to the child of 34319
establishing a parent and child relationship between the father 34320
and the child and the various proper procedures for establishing a 34321
parent and child relationship; 34322

(D) That the staff person present to the unmarried mother 34323
and, if possible, the father, the pamphlet or statement regarding 34324
the rights and responsibilities of a natural parent that is 34325
prepared and provided by the department of job and family services 34326
pursuant to section 3111.32 of the Revised Code; 34327

(E) That the staff person provide the mother and, if 34328
possible, the father, all forms and statements necessary to 34329
voluntarily establish a parent and child relationship, including, 34330
but not limited to, the acknowledgment of paternity affidavit 34331
prepared by the department of job and family services pursuant to 34332
section 3111.31 of the Revised Code; 34333

(F) That the staff person, at the request of both the mother 34334
and father, help the mother and father complete any form or 34335
statement necessary to establish a parent and child relationship; 34336

(G) That the hospital provide a notary public to notarize an 34337

acknowledgment of paternity affidavit signed by the mother and 34338
father; 34339

(H) That the staff person present to an unmarried mother who 34340
is not participating in the Ohio works first program established 34341
under Chapter 5107. ~~of the Revised Code~~ or receiving ~~medical~~ 34342
~~assistance under Chapter 5111. of the Revised Code~~ medicaid an 34343
application for Title IV-D services; 34344

(I) That the staff person forward any completed 34345
acknowledgment of paternity, no later than ten days after it is 34346
completed, to the office of child support in the department of job 34347
and family services; 34348

(J) That the department of job and family services pay the 34349
hospital twenty dollars for every correctly signed and notarized 34350
acknowledgment of paternity affidavit from the hospital. 34351

Sec. 3119.29. (A) As used in this section and sections 34352
3119.30 to 3119.56 of the Revised Code: 34353

(1) "Cash medical support" means an amount ordered to be paid 34354
in a child support order toward the cost of health insurance 34355
provided by a public entity, another parent, or person with whom 34356
the child resides, through employment or otherwise, or for other 34357
medical cost not covered by insurance. 34358

(2) "Federal poverty line" has the same meaning as defined in 34359
section 5104.01 of the Revised Code. 34360

(3) "Health care" means such medical support that includes 34361
coverage under a health insurance plan, payment of costs of 34362
premiums, ~~co-payments~~ copayments, and deductibles, or payment for 34363
medical expenses incurred on behalf of the child. 34364

(4) "Health insurance coverage" means accessible private 34365
health insurance that provides primary care services within thirty 34366
miles from the residence of the child subject to the child support 34367

order. 34368

(5) "Health plan administrator" means any entity authorized 34369
under Title XXXIX of the Revised Code to engage in the business of 34370
insurance in this state, any health insuring corporation, any 34371
legal entity that is self-insured and provides benefits to its 34372
employees or members, and the administrator of any such entity or 34373
corporation. 34374

(6) "National medical support notice" means a form required 34375
by the "Child Support Performance and Incentive Act of 1998," P.L. 34376
105-200, 112 Stat. 659, 42 U.S.C. 666(a)(19), as amended, and 34377
jointly developed and promulgated by the secretary of health and 34378
human services and the secretary of labor in federal regulations 34379
adopted under that act as modified by the department of job and 34380
family services under section 3119.291 of the Revised Code. 34381

(7) "Person required to provide health insurance coverage" 34382
means the obligor, obligee, or both, required by the court under a 34383
court child support order or by the child support enforcement 34384
agency under an administrative child support order to provide 34385
health insurance coverage pursuant to section 3119.30 of the 34386
Revised Code. 34387

(8) Subject to division (B) of this section, "reasonable 34388
cost" means the contributing cost of private family health 34389
insurance to the person responsible for the health care of the 34390
children subject to the child support order that does not exceed 34391
an amount equal to five per cent of the annual gross income of 34392
that person. 34393

(9) "Title XIX" has the same meaning as ~~defined~~ in section 34394
~~5111.20~~ 5165.01 of the Revised Code. 34395

(B) If the United States secretary of health and human 34396
services issues a regulation defining "reasonable cost" or a 34397
similar term or phrase relevant to the provisions in child support 34398

orders relating to the provision of health care for children 34399
subject to the orders, and if that definition is substantively 34400
different from the meaning of "reasonable cost" as defined in 34401
division (A) of this section, "reasonable cost" as used in this 34402
section shall have the meaning as defined by the United States 34403
secretary of health and human services. 34404

Sec. 3119.54. A party to a child support order issued in 34405
accordance with section 3119.30 of the Revised Code shall notify 34406
any physician, hospital, or other provider of medical services 34407
that provides medical services to the child who is the subject of 34408
the child support order of the number of any health insurance or 34409
health care policy, contract, or plan that covers the child if the 34410
child is eligible for ~~medical assistance under Chapter 5111. of~~ 34411
~~the Revised Code~~ medicaid. The party shall include in the notice 34412
the name and address of the insurer. Any physician, hospital, or 34413
other provider of medical services ~~for which medical assistance is~~ 34414
~~available under Chapter 5111. of the Revised Code~~ covered by the 34415
medicaid program who is notified under this section of the 34416
existence of a health insurance or health care policy, contract, 34417
or plan with coverage for children who are eligible for ~~medical~~ 34418
~~assistance~~ medicaid shall first bill the insurer for any services 34419
provided for those children. If the insurer fails to pay all or 34420
any part of a claim filed under this section and the services for 34421
which the claim is filed are covered by ~~Chapter 5111. of the~~ 34422
~~Revised Code~~ the medicaid program, the physician, hospital, or 34423
other medical services provider shall bill the remaining unpaid 34424
costs of the services ~~in accordance with Chapter 5111. of the~~ 34425
~~Revised Code~~ to the medicaid program. 34426

Sec. 3121.441. (A) Notwithstanding the provisions of this 34427
chapter, Chapters 3119., 3123., and 3125., and sections 3770.071 34428
and 5107.20 of the Revised Code providing for the office of child 34429

support in the department of job and family services to collect, 34430
withhold, or deduct spousal support, when a court pursuant to 34431
section 3105.18 or 3105.65 of the Revised Code issues or modifies 34432
an order requiring an obligor to pay spousal support or grants or 34433
modifies a decree of dissolution of marriage incorporating a 34434
separation agreement that provides for spousal support, or at any 34435
time after the issuance, granting, or modification of an order or 34436
decree of that type, the court may permit the obligor to make the 34437
spousal support payments directly to the obligee instead of to the 34438
office if the obligee and the obligor have no minor children born 34439
as a result of their marriage and the obligee has not assigned the 34440
spousal support amounts to the department pursuant to section 34441
~~5101.59 or~~ 5107.20 or 5160.38 of the Revised Code. 34442

(B) A court that permits an obligor to make spousal support 34443
payments directly to the obligee pursuant to division (A) of this 34444
section shall order the obligor to make the spousal support 34445
payments as a check, as a money order, or in any other form that 34446
establishes a clear record of payment. 34447

(C) If a court permits an obligor to make spousal support 34448
payments directly to an obligee pursuant to division (A) of this 34449
section and the obligor is in default in making any spousal 34450
support payment to the obligee, the court, upon motion of the 34451
obligee or on its own motion, may rescind the permission granted 34452
under that division. After the rescission, the court shall 34453
determine the amount of arrearages in the spousal support payments 34454
and order the obligor to make to the office of child support in 34455
the department of job and family services any spousal support 34456
payments that are in arrears and any future spousal support 34457
payments. Upon the issuance of the order of the court under this 34458
division, the provisions of this chapter, Chapters 3119., 3123., 34459
and 3125., and sections 3770.071 and 5107.20 of the Revised Code 34460
apply with respect to the collection, withholding, or deduction of 34461

the obligor's spousal support payments that are the subject of 34462
that order of the court. 34463

Sec. 3121.89. As used in sections 3121.891 to 3121.8911 of 34464
the Revised Code: 34465

(A) "Contractor" means an individual who provides services to 34466
an employer as an independent contractor for compensation that is 34467
reported as income other than wages and who is an individual, the 34468
sole shareholder of a corporation, or the sole member of a limited 34469
liability company. "Contractor" does not include any of the 34470
following: 34471

(1) An individual performing intelligence or 34472
counterintelligence functions for a state agency if the head of 34473
the agency has determined that reporting pursuant to this section 34474
could endanger the safety of the individual or compromise an 34475
ongoing investigation or intelligence mission; 34476

(2) A professionally licensed person who is providing 34477
services to the employer under that license; 34478

(3) An individual who will receive for the services provided 34479
under the contract compensation of less than two thousand five 34480
hundred dollars per year or a greater amount that the director of 34481
job and family services establishes by rule adopted under section 34482
3121.896 of the Revised Code. 34483

(B) "Employee" means an individual who is employed to provide 34484
services to an employer for compensation that is reported as 34485
income from wages. "Employee" does not include an individual 34486
performing intelligence or counterintelligence functions for a 34487
state agency, if the head of the agency has determined that 34488
reporting pursuant to this section could endanger the safety of 34489
the employee or compromise an ongoing investigation or 34490
intelligence mission. 34491

(C) "Employer" means any person or governmental entity other than the federal government for which an individual performs any service, of whatever nature, as the employee or contractor of such person, except that:

(1) If the person for whom the individual performs services does not have control of the payment of compensation for the services, "employer" means the person having control of the payment of the compensation.

(2) In the case of a person paying compensation on behalf of a nonresident alien individual, foreign partnership, or foreign corporation not engaged in trade or business within the United States, "employer" means the person paying the compensation.

(3) In the case of compensation paid to a contractor, "employer" does not include any person or entity that lacks a federal employer identification number.

(D) "Newly hired employee" means either of the following:

(1) An employee who has not previously been employed by the employer;

(2) An employee who was previously employed by an employer but has been separated from that prior employment for at least sixty consecutive days.

(E) "Professionally licensed person" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 3121.891. (A) Except as provided in division (B) or (C) of this section, every employer shall make a new hire report to the department of job and family services regarding ~~the hiring, rehiring, or return to work as an~~ a newly hired employee or a contractor of a person who resides, works, or will be assigned to work in this state to whom the employer anticipates paying compensation.

(B) An employer with employees or contractors in two or more states that transmits new hire reports magnetically or electronically may make the new hire report to another state if the employer does both of the following:

(1) Notifies the Ohio department of job and family services and the United States secretary of health and human services in writing that the employer has designated another state as the state to which the employer will transmit the report;

(2) Transmits the report to that state in compliance with federal law.

(C) The department may by rule exempt employers from making new hire reports on any classification of contractors if the department determines that exempting the employer will assist the administration of the new hire reporting requirement.

Sec. 3121.892. (A) An employer shall include all of the following in each new hire report:

(1) For each employee, the employee's name, address, date of birth, social security number, and date of hire, ~~rehire, or return to work;~~

(2) For each contractor, the contractor's name, address, social security or tax identification number, the date payments begin, and the length of time the contractor will be performing services for the employer;

(3) The employer's name, address, and identification number.

(B) The department of job and family services may by rule require that additional information, specified in the rule, be included in each new hire report.

Sec. 3121.893. An employer shall make a new hire report for each newly hired employee or contractor in a manner prescribed by

the department of job and family services. The department may 34551
require that the report include or consist of the submission of a 34552
copy of the United States internal revenue service form W-4 34553
(employee's withholding allowance certificate) for the employee, a 34554
form provided by the department, or any other hiring document or 34555
data storage device or mechanism the department authorizes. An 34556
employer may make the new hire report by mail, fax, magnetic or 34557
electronic means, or other means the department authorizes. If an 34558
employer makes a new hire report by mail, the date of making the 34559
report is the postmark date if the report is mailed in the United 34560
States with first class postage and is addressed as the department 34561
authorizes. An employer shall make the new hire report not later 34562
than twenty days after the date on which the employer hires ~~or~~ 34563
~~rehires~~ an employee ~~or the employee returns to work~~ or the date on 34564
which the employer engages or re-engages the contractor or the 34565
contractor resumes providing services under the contract. 34566

Sec. 3121.898. The department of job and family services 34567
shall use the new hire reports it receives for any of the 34568
following purposes set forth in 42 U.S.C. 653a, as amended, 34569
including: 34570

(A) To locate individuals for the purposes of establishing 34571
paternity and for establishing, modifying, and enforcing child 34572
support orders. 34573

(B) As used in this division, "state agency" means every 34574
department, bureau, board, commission, office, or other organized 34575
body established by the constitution or laws of this state for the 34576
exercise of state government; every entity of county government 34577
that is subject to the rules of a state agency; and every 34578
contractual agent of a state agency. 34579

To make available to any state agency responsible for 34580

administering any of the following programs for purposes of 34581
verifying program eligibility: 34582

(1) Any Title IV-A program as defined in section 5101.80 of 34583
the Revised Code; 34584

(2) The medicaid program ~~authorized by Chapter 5111. of the~~ 34585
~~Revised Code;~~ 34586

(3) The unemployment compensation program authorized by 34587
Chapter 4141. of the Revised Code; 34588

(4) The supplemental nutrition assistance program authorized 34589
by section 5101.54 of the Revised Code; 34590

(5) Any other program authorized in 42 U.S.C. 1320b-7(b), as 34591
amended. 34592

(C) The administration of the employment security program 34593
under the director of job and family services. 34594

Sec. 3123.958. The office of child support ~~shall~~ may publish 34595
and distribute ~~the first~~ a set of posters throughout the state ~~not~~ 34596
~~later than October 1, 1992. The office shall publish and~~ 34597
~~distribute subsequent sets of posters not less than twice~~ 34598
annually. 34599

Sec. 3125.18. A child support enforcement agency shall 34600
administer a Title IV-A program identified under division 34601
(A)(4)(c) or ~~(f)~~ (g) of section 5101.80 of the Revised Code that 34602
the department of job and family services provides for the agency 34603
to administer under the department's supervision pursuant to 34604
section 5101.801 of the Revised Code. 34605

Sec. 3125.36. (A) Subject to division (B) of this section, 34606
all support orders that are administered by a child support 34607
enforcement agency designated under section 307.981 of the Revised 34608

Code or former section 2301.35 of the Revised Code and are 34609
eligible for Title IV-D services shall be Title IV-D cases under 34610
Title IV-D of the "Social Security Act." Subject to division (B) 34611
of this section, all obligees of support orders administered by 34612
the agency shall be considered to have filed a signed application 34613
for Title IV-D services. 34614

(B) Except as provided in division (D) of this section, a 34615
court that issues or modifies a support order shall require the 34616
obligee under the order to sign, at the time of the issuance or 34617
modification of the order, an application for Title IV-D services 34618
and to file, as soon as possible, the signed application with the 34619
child support enforcement agency that will administer the order. 34620
The application shall be on a form prescribed by the department of 34621
job and family services. Except as provided in division (D) of 34622
this section, a support order that is administered by a child 34623
support enforcement agency, and that is eligible for Title IV-D 34624
services shall be a Title IV-D case under Title IV-D of the 34625
"Social Security Act" only upon the filing of the signed 34626
application for Title IV-D services. 34627

(C) A child support enforcement agency shall make available 34628
an application for Title IV-D services to all persons requesting a 34629
child support enforcement agency's assistance in an action under 34630
sections 3111.01 to 3111.18 of the Revised Code or in an 34631
administrative proceeding brought to establish a parent and child 34632
relationship, to establish or modify an administrative support 34633
order, or to establish or modify an order to provide health 34634
insurance coverage for the children subject to a support order. 34635

(D) An obligee under a support order who has assigned the 34636
right to the support pursuant to section ~~5101.59~~ or 5107.20 or 34637
5160.38 of the Revised Code shall not be required to sign an 34638
application for Title IV-D services. The support order shall be 34639

considered a Title IV-D case. 34640

Sec. 3301.07. The state board of education shall exercise 34641
under the acts of the general assembly general supervision of the 34642
system of public education in the state. In addition to the powers 34643
otherwise imposed on the state board under the provisions of law, 34644
the board shall have the powers described in this section. 34645

(A) The state board shall exercise policy forming, planning, 34646
and evaluative functions for the public schools of the state 34647
except as otherwise provided by law. 34648

(B)(1) The state board shall exercise leadership in the 34649
improvement of public education in this state, and administer the 34650
educational policies of this state relating to public schools, and 34651
relating to instruction and instructional material, building and 34652
equipment, transportation of pupils, administrative 34653
responsibilities of school officials and personnel, and finance 34654
and organization of school districts, educational service centers, 34655
and territory. Consultative and advisory services in such matters 34656
shall be provided by the board to school districts and educational 34657
service centers of this state. 34658

(2) The state board also shall develop a standard of 34659
financial reporting which shall be used by each school district 34660
board of education and ~~educational service center~~ each governing 34661
board of an educational service center, each governing authority 34662
of a community school established under Chapter 3314., each 34663
governing body of a STEM school established under Chapter 3328., 34664
and each board of trustees of a college-preparatory boarding 34665
school established under Chapter 3328. of the Revised Code to make 34666
its financial information and annual budgets for each school 34667
building under its control available to the public in a format 34668
understandable by the average citizen. The format shall show, 34669
~~among other things, both~~ at the district and ~~educational service~~ 34670

~~center level or and at the school building level, as determined 34671
appropriate by the department of education, revenue by source; and 34672
expenditures for salaries, wages, and benefits of employees, 34673
showing such amounts separately for classroom teachers, other 34674
employees required to hold licenses issued pursuant to sections 34675
3319.22 to 3319.31 of the Revised Code, and all other employees; 34676
expenditures other than for personnel, by category, including 34677
utilities, textbooks and other educational materials, equipment, 34678
permanent improvements, pupil transportation, extracurricular 34679
athletics, and other extracurricular activities; and per pupil 34680
expenditures for both classroom and nonclassroom purposes, as 34681
defined by the standards adopted under section 3302.20 of the 34682
Revised Code in the aggregate and for each subgroup of students, 34683
as defined by section 3317.40 of the Revised Code, that receives 34684
services provided for by state or federal funding. The format 34685
shall also include information on total revenue and expenditures, 34686
as well as per pupil revenue and expenditures. 34687~~

(3) Each school district board, governing authority, 34688
governing body, or board of trustees, or its respective designee, 34689
shall annually report, to the department of education, all 34690
financial information required by the standards for financial 34691
reporting, as prescribed by division (B)(2) of this section and 34692
adopted by the state board. The department shall post these 34693
reports in a prominent location on its web site and shall notify 34694
each school when reports are made available. 34695

(C) The state board shall administer and supervise the 34696
allocation and distribution of all state and federal funds for 34697
public school education under the provisions of law, and may 34698
prescribe such systems of accounting as are necessary and proper 34699
to this function. It may require county auditors and treasurers, 34700
boards of education, educational service center governing boards, 34701
treasurers of such boards, teachers, and other school officers and 34702

employees, or other public officers or employees, to file with it 34703
such reports as it may prescribe relating to such funds, or to the 34704
management and condition of such funds. 34705

(D)(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, 34706
XLVII, and LI of the Revised Code a reference is made to standards 34707
prescribed under this section or division (D) of this section, 34708
that reference shall be construed to refer to the standards 34709
prescribed under division (D)(2) of this section, unless the 34710
context specifically indicates a different meaning or intent. 34711

(2) The state board shall formulate and prescribe minimum 34712
standards to be applied to all elementary and secondary schools in 34713
this state for the purpose of ~~requiring~~ providing children access 34714
to a general education of high quality according to the learning 34715
needs of each individual, including students with disabilities, 34716
economically disadvantaged students, limited English proficient 34717
students, and students identified as gifted. Such standards shall 34718
provide adequately for: the licensing of teachers, administrators, 34719
and other professional personnel and their assignment according to 34720
training and qualifications; efficient and effective instructional 34721
materials and equipment, including library facilities; the proper 34722
organization, administration, and supervision of each school, 34723
including regulations for preparing all necessary records and 34724
reports and the preparation of a statement of policies and 34725
objectives for each school; the provision of safe buildings, 34726
grounds, health and sanitary facilities and services; admission of 34727
pupils, and such requirements for their promotion from grade to 34728
grade as will assure that they are capable and prepared for the 34729
level of study to which they are certified; requirements for 34730
graduation; and such other factors as the board finds necessary. 34731

The state board shall base any standards governing the 34732
promotion of students or requirements for graduation on the 34733
ability of students, at any grade level, to earn credits or 34734

advance upon demonstration of mastery of knowledge and skills 34735
through competency-based learning models. Credits of grade level 34736
advancement shall not require a minimum number of days or hours in 34737
a classroom. 34738

The state board shall base any standards governing the 34739
assignment of staff on ensuring each school has a sufficient 34740
number of teachers to ensure a student has an appropriate level of 34741
interaction to meet each student's personal learning goals. 34742

In the formulation and administration of such standards for 34743
nonpublic schools the board shall also consider the particular 34744
needs, methods and objectives of those schools, provided they do 34745
not conflict with the provision of a general education of a high 34746
quality and provided that regular procedures shall be followed for 34747
promotion from grade to grade of pupils who have met the 34748
educational requirements prescribed. 34749

~~In the formulation and administration of such standards as~~ 34750
~~they relate to instructional materials and equipment in public~~ 34751
~~schools, including library materials, the board shall require that~~ 34752
~~the material and equipment be aligned with and promote skills~~ 34753
~~expected under the statewide academic standards adopted under~~ 34754
~~section 3301.079 of the Revised Code.~~ 34755

(3) In addition to the minimum standards required by division 34756
(D)(2) of this section, the state board may formulate and 34757
prescribe the following additional minimum operating standards for 34758
school districts: 34759

(a) Standards for the effective and efficient organization, 34760
administration, and supervision of each school district ~~so that it~~ 34761
~~becomes a thinking and learning organization according to~~ 34762
~~principles of systems design and collaborative professional~~ 34763
~~learning communities research as defined by the superintendent of~~ 34764
~~public instruction, including a focus on the personalized and~~ 34765

~~individualized needs of each student; a shared responsibility 34766
among school boards, administrators, faculty, and staff to develop 34767
a common vision, mission, and set of guiding principles; a shared 34768
responsibility among school boards, administrators, faculty, and 34769
staff to engage in a process of collective inquiry, action 34770
orientation, and experimentation to ensure the academic success of 34771
all students; commitment to teaching and learning strategies that 34772
utilize technological tools and emphasize inter disciplinary, 34773
real world, project based, and technology oriented learning 34774
experiences to meet the individual needs of every student; with a 34775
commitment to high expectations for every student based on the 34776
learning needs of each individual, including students with 34777
disabilities, economically disadvantaged students, limited English 34778
proficient students, and students identified as gifted, and 34779
commitment to closing the achievement gap without suppressing the 34780
achievement levels of higher achieving students so that all 34781
students achieve core knowledge and skills in accordance with the 34782
statewide academic standards adopted under section 3301.079 of the 34783
Revised Code; commitment to the use of assessments to diagnose the 34784
needs of each student; effective connections and relationships 34785
with families and others that support student success; and 34786
commitment to the use of positive behavior intervention supports 34787
throughout a district to ensure a safe and secure learning 34788
environment for all students;~~ 34789

(b) Standards for the establishment of business advisory 34790
councils under section 3313.82 of the Revised Code; 34791

(c) Standards for school district buildings that may require+ 34792

~~(i) The the effective and efficient organization, 34793
administration, and supervision of each school district building 34794
so that it becomes a thinking and learning organization according 34795
to principles of systems design and collaborative professional 34796
learning communities research as defined by the state 34797~~

~~superintendent, including a focus on the personalized and 34798
individualized needs of each student; a shared responsibility 34799
among building administrators, faculty, and staff to develop a 34800
common vision, mission, and set of guiding principles; a shared 34801
responsibility among building administrators, faculty, and staff 34802
to engage in a process of collective inquiry, action orientation, 34803
and experimentation to ensure the academic success of all 34804
students; commitment to job embedded professional development and 34805
professional mentoring and coaching; established periods of time 34806
for teachers to pursue planning time for the development of lesson 34807
plans, professional development, and shared learning; commitment 34808
to effective management strategies that allow administrators 34809
reasonable access to classrooms for observation and professional 34810
development experiences; commitment to teaching and learning 34811
strategies that utilize technological tools and emphasize 34812
inter disciplinary, real world, project based, and 34813
technology oriented learning experiences to meet the individual 34814
needs of every student; with a commitment to high expectations for 34815
every student based on the learning needs of each individual, 34816
including students with disabilities, economically disadvantaged 34817
students, limited English proficient students, and students 34818
identified as gifted, and commitment to closing the achievement 34819
gap without suppressing the achievement levels of higher achieving 34820
students so that all students achieve core knowledge and skills in 34821
accordance with the statewide academic standards adopted under 34822
section 3301.079 of the Revised Code; ~~commitment to the use of 34823
assessments to diagnose the needs of each student; effective 34824
connections and relationships with families and others that 34825
support student success; commitment to the use of positive 34826
behavior intervention supports throughout the building to ensure a 34827
safe and secure learning environment for all students;~~ 34828~~

~~(ii) A school building leadership team to coordinate positive 34829
behavior intervention supports, learning environments, thinking 34830~~

~~and learning systems, collaborative planning, planning time, 34831
student academic interventions, student extended learning 34832
opportunities, and other activities identified by the team and 34833
approved by the district board of education. The team shall 34834
include the building principal, representatives from each 34835
collective bargaining unit, a classroom teacher, parents, business 34836
representatives, and others that support student success. 34837~~

(E) The state board may require as part of the health 34838
curriculum information developed under section 2108.34 of the 34839
Revised Code promoting the donation of anatomical gifts pursuant 34840
to Chapter 2108. of the Revised Code and may provide the 34841
information to high schools, educational service centers, and 34842
joint vocational school district boards of education; 34843

(F) The state board shall prepare and submit annually to the 34844
governor and the general assembly a report on the status, needs, 34845
and major problems of the public schools of the state, with 34846
recommendations for necessary legislative action and a ten-year 34847
projection of the state's public and nonpublic school enrollment, 34848
by year and by grade level. 34849

(G) The state board shall prepare and submit to the director 34850
of budget and management the biennial budgetary requests of the 34851
state board of education, for its agencies and for the public 34852
schools of the state. 34853

(H) The state board shall cooperate with federal, state, and 34854
local agencies concerned with the health and welfare of children 34855
and youth of the state. 34856

(I) The state board shall require such reports from school 34857
districts and educational service centers, school officers, and 34858
employees as are necessary and desirable. The superintendents and 34859
treasurers of school districts and educational service centers 34860
shall certify as to the accuracy of all reports required by law or 34861

state board or state department of education rules to be submitted 34862
by the district or educational service center and which contain 34863
information necessary for calculation of state funding. Any 34864
superintendent who knowingly falsifies such report shall be 34865
subject to license revocation pursuant to section 3319.31 of the 34866
Revised Code. 34867

(J) In accordance with Chapter 119. of the Revised Code, the 34868
state board shall adopt procedures, standards, and guidelines for 34869
the education of children with disabilities pursuant to Chapter 34870
3323. of the Revised Code, including procedures, standards, and 34871
guidelines governing programs and services operated by county 34872
boards of developmental disabilities pursuant to section 3323.09 34873
of the Revised Code. 34874

(K) For the purpose of encouraging the development of special 34875
programs of education for academically gifted children, the state 34876
board shall employ competent persons to analyze and publish data, 34877
promote research, advise and counsel with boards of education, and 34878
encourage the training of teachers in the special instruction of 34879
gifted children. The board may provide financial assistance out of 34880
any funds appropriated for this purpose to boards of education and 34881
educational service center governing boards for developing and 34882
conducting programs of education for academically gifted children. 34883

(L) The state board shall require that all public schools 34884
emphasize and encourage, within existing units of study, the 34885
teaching of energy and resource conservation as recommended to 34886
each district board of education by leading business persons 34887
involved in energy production and conservation, beginning in the 34888
primary grades. 34889

(M) The state board shall formulate and prescribe ~~minimum~~ 34890
~~standards requiring the use of phonics as a technique in for~~ 34891
teaching of reading in grades kindergarten through three. In 34892
addition, the state board shall provide in-service training 34893

programs for teachers on the ~~use of phonics as a technique in the~~ 34894
teaching of reading in grades kindergarten through three. 34895

(N) The state board may adopt rules necessary for carrying 34896
out any function imposed on it by law, and may provide rules as 34897
are necessary for its government and the government of its 34898
employees, and may delegate to the superintendent of public 34899
instruction the management and administration of any function 34900
imposed on it by law. It may provide for the appointment of board 34901
members to serve on temporary committees established by the board 34902
for such purposes as are necessary. Permanent or standing 34903
committees shall not be created. 34904

(O) Upon application from the board of education of a school 34905
district, the superintendent of public instruction may issue a 34906
waiver exempting the district from compliance with the standards 34907
adopted under divisions (B)(2) and (D) of this section, as they 34908
relate to the operation of a school operated by the district. The 34909
state board shall adopt standards for the approval or disapproval 34910
of waivers under this division. The state superintendent shall 34911
consider every application for a waiver, and shall determine 34912
whether to grant or deny a waiver in accordance with the state 34913
board's standards. For each waiver granted, the state 34914
superintendent shall specify the period of time during which the 34915
waiver is in effect, which shall not exceed five years. A district 34916
board may apply to renew a waiver. 34917

Sec. 3301.0714. (A) The state board of education shall adopt 34918
rules for a statewide education management information system. The 34919
rules shall require the state board to establish guidelines for 34920
the establishment and maintenance of the system in accordance with 34921
this section and the rules adopted under this section. The 34922
guidelines shall include: 34923

(1) Standards identifying and defining the types of data in 34924

the system in accordance with divisions (B) and (C) of this section; 34925
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(2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section; 34927
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(3) Procedures for annually compiling the data in accordance with division (G) of this section; 34930
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(4) Procedures for annually reporting the data to the public in accordance with division (H) of this section. 34932
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(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following: 34934
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(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes: 34937
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(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for students with disabilities, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of disability. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional 34940
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services used in determining cost units pursuant to division	34956
(C)(3) of this section.	34957
(b) The numbers of students receiving support or	34958
extracurricular services for each of the support services or	34959
extracurricular programs offered by the school district, such as	34960
counseling services, health services, and extracurricular sports	34961
and fine arts programs. The categories of services required by the	34962
guidelines under this division shall be the same as the categories	34963
of services used in determining cost units pursuant to division	34964
(C)(4)(a) of this section.	34965
(c) Average student grades in each subject in grades nine	34966
through twelve;	34967
(d) Academic achievement levels as assessed under sections	34968
3301.0710, 3301.0711, and 3301.0712 of the Revised Code;	34969
(e) The number of students designated as having a disabling	34970
condition pursuant to division (C)(1) of section 3301.0711 of the	34971
Revised Code;	34972
(f) The numbers of students reported to the state board	34973
pursuant to division (C)(2) of section 3301.0711 of the Revised	34974
Code;	34975
(g) Attendance rates and the average daily attendance for the	34976
year. For purposes of this division, a student shall be counted as	34977
present for any field trip that is approved by the school	34978
administration.	34979
(h) Expulsion rates;	34980
(i) Suspension rates;	34981
(j) Dropout rates;	34982
(k) Rates of retention in grade;	34983
(l) For pupils in grades nine through twelve, the average	34984
number of carnegie units, as calculated in accordance with state	34985

board of education rules; 34986

(m) Graduation rates, to be calculated in a manner specified 34987
by the department of education that reflects the rate at which 34988
students who were in the ninth grade three years prior to the 34989
current year complete school and that is consistent with 34990
nationally accepted reporting requirements; 34991

(n) Results of diagnostic assessments administered to 34992
kindergarten students as required under section 3301.0715 of the 34993
Revised Code to permit a comparison of the academic readiness of 34994
kindergarten students. However, no district shall be required to 34995
report to the department the results of any diagnostic assessment 34996
administered to a kindergarten student if the parent of that 34997
student requests the district not to report those results. 34998

(2) Personnel and classroom enrollment data for each school 34999
district, including: 35000

(a) The total numbers of licensed employees and nonlicensed 35001
employees and the numbers of full-time equivalent licensed 35002
employees and nonlicensed employees providing each category of 35003
instructional service, instructional support service, and 35004
administrative support service used pursuant to division (C)(3) of 35005
this section. The guidelines adopted under this section shall 35006
require these categories of data to be maintained for the school 35007
district as a whole and, wherever applicable, for each grade in 35008
the school district as a whole, for each school building as a 35009
whole, and for each grade in each school building. 35010

(b) The total number of employees and the number of full-time 35011
equivalent employees providing each category of service used 35012
pursuant to divisions (C)(4)(a) and (b) of this section, and the 35013
total numbers of licensed employees and nonlicensed employees and 35014
the numbers of full-time equivalent licensed employees and 35015
nonlicensed employees providing each category used pursuant to 35016

division (C)(4)(c) of this section. The guidelines adopted under 35017
this section shall require these categories of data to be 35018
maintained for the school district as a whole and, wherever 35019
applicable, for each grade in the school district as a whole, for 35020
each school building as a whole, and for each grade in each school 35021
building. 35022

(c) The total number of regular classroom teachers teaching 35023
classes of regular education and the average number of pupils 35024
enrolled in each such class, in each of grades kindergarten 35025
through five in the district as a whole and in each school 35026
building in the school district. 35027

(d) The number of lead teachers employed by each school 35028
district and each school building. 35029

(3)(a) Student demographic data for each school district, 35030
including information regarding the gender ratio of the school 35031
district's pupils, the racial make-up of the school district's 35032
pupils, the number of limited English proficient students in the 35033
district, and an appropriate measure of the number of the school 35034
district's pupils who reside in economically disadvantaged 35035
households. The demographic data shall be collected in a manner to 35036
allow correlation with data collected under division (B)(1) of 35037
this section. Categories for data collected pursuant to division 35038
(B)(3) of this section shall conform, where appropriate, to 35039
standard practices of agencies of the federal government. 35040

(b) With respect to each student entering kindergarten, 35041
whether the student previously participated in a public preschool 35042
program, a private preschool program, or a head start program, and 35043
the number of years the student participated in each of these 35044
programs. 35045

(4) Any data required to be collected pursuant to federal 35046
law. 35047

(C) The education management information system shall include 35048
cost accounting data for each district as a whole and for each 35049
school building in each school district. The guidelines adopted 35050
under this section shall require the cost data for each school 35051
district to be maintained in a system of mutually exclusive cost 35052
units and shall require all of the costs of each school district 35053
to be divided among the cost units. The guidelines shall require 35054
the system of mutually exclusive cost units to include at least 35055
the following: 35056

(1) Administrative costs for the school district as a whole. 35057
The guidelines shall require the cost units under this division 35058
(C)(1) to be designed so that each of them may be compiled and 35059
reported in terms of average expenditure per pupil in formula ADM 35060
in the school district, as determined pursuant to section 3317.03 35061
of the Revised Code. 35062

(2) Administrative costs for each school building in the 35063
school district. The guidelines shall require the cost units under 35064
this division (C)(2) to be designed so that each of them may be 35065
compiled and reported in terms of average expenditure per 35066
full-time equivalent pupil receiving instructional or support 35067
services in each building. 35068

(3) Instructional services costs for each category of 35069
instructional service provided directly to students and required 35070
by guidelines adopted pursuant to division (B)(1)(a) of this 35071
section. The guidelines shall require the cost units under 35072
division (C)(3) of this section to be designed so that each of 35073
them may be compiled and reported in terms of average expenditure 35074
per pupil receiving the service in the school district as a whole 35075
and average expenditure per pupil receiving the service in each 35076
building in the school district and in terms of a total cost for 35077
each category of service and, as a breakdown of the total cost, a 35078
cost for each of the following components: 35079

(a) The cost of each instructional services category required 35080
by guidelines adopted under division (B)(1)(a) of this section 35081
that is provided directly to students by a classroom teacher; 35082

(b) The cost of the instructional support services, such as 35083
services provided by a speech-language pathologist, classroom 35084
aide, multimedia aide, or librarian, provided directly to students 35085
in conjunction with each instructional services category; 35086

(c) The cost of the administrative support services related 35087
to each instructional services category, such as the cost of 35088
personnel that develop the curriculum for the instructional 35089
services category and the cost of personnel supervising or 35090
coordinating the delivery of the instructional services category. 35091

(4) Support or extracurricular services costs for each 35092
category of service directly provided to students and required by 35093
guidelines adopted pursuant to division (B)(1)(b) of this section. 35094
The guidelines shall require the cost units under division (C)(4) 35095
of this section to be designed so that each of them may be 35096
compiled and reported in terms of average expenditure per pupil 35097
receiving the service in the school district as a whole and 35098
average expenditure per pupil receiving the service in each 35099
building in the school district and in terms of a total cost for 35100
each category of service and, as a breakdown of the total cost, a 35101
cost for each of the following components: 35102

(a) The cost of each support or extracurricular services 35103
category required by guidelines adopted under division (B)(1)(b) 35104
of this section that is provided directly to students by a 35105
licensed employee, such as services provided by a guidance 35106
counselor or any services provided by a licensed employee under a 35107
supplemental contract; 35108

(b) The cost of each such services category provided directly 35109
to students by a nonlicensed employee, such as janitorial 35110

services, cafeteria services, or services of a sports trainer; 35111

(c) The cost of the administrative services related to each 35112
services category in division (C)(4)(a) or (b) of this section, 35113
such as the cost of any licensed or nonlicensed employees that 35114
develop, supervise, coordinate, or otherwise are involved in 35115
administering or aiding the delivery of each services category. 35116

(D)(1) The guidelines adopted under this section shall 35117
require school districts to collect information about individual 35118
students, staff members, or both in connection with any data 35119
required by division (B) or (C) of this section or other reporting 35120
requirements established in the Revised Code. The guidelines may 35121
also require school districts to report information about 35122
individual staff members in connection with any data required by 35123
division (B) or (C) of this section or other reporting 35124
requirements established in the Revised Code. The guidelines shall 35125
not authorize school districts to request social security numbers 35126
of individual students. The guidelines shall prohibit the 35127
reporting under this section of a student's name, address, and 35128
social security number to the state board of education or the 35129
department of education. The guidelines shall also prohibit the 35130
reporting under this section of any personally identifiable 35131
information about any student, except for the purpose of assigning 35132
the data verification code required by division (D)(2) of this 35133
section, to any other person unless such person is employed by the 35134
school district or the information technology center operated 35135
under section 3301.075 of the Revised Code and is authorized by 35136
the district or technology center to have access to such 35137
information or is employed by an entity with which the department 35138
contracts for the scoring or the development of state assessments. 35139
The guidelines may require school districts to provide the social 35140
security numbers of individual staff members and the county of 35141
residence for a student. Nothing in this section prohibits the 35142

state board of education or department of education from providing 35143
a student's county of residence to the department of taxation to 35144
facilitate the distribution of tax revenue. 35145

(2)(a) The guidelines shall provide for each school district 35146
or community school to assign a data verification code that is 35147
unique on a statewide basis over time to each student whose 35148
initial Ohio enrollment is in that district or school and to 35149
report all required individual student data for that student 35150
utilizing such code. The guidelines shall also provide for 35151
assigning data verification codes to all students enrolled in 35152
districts or community schools on the effective date of the 35153
guidelines established under this section. The assignment of data 35154
verification codes for other entities, as described in division 35155
(D)(2)(c) of this section, the use of those codes, and the 35156
reporting and use of associated individual student data shall be 35157
coordinated by the department in accordance with state and federal 35158
law. 35159

School districts shall report individual student data to the 35160
department through the information technology centers utilizing 35161
the code. The entities described in division (D)(2)(c) of this 35162
section shall report individual student data to the department in 35163
the manner prescribed by the department. 35164

Except as provided in sections 3301.941, 3310.11, 3310.42, 35165
3310.63, 3313.978, and 3317.20 of the Revised Code, at no time 35166
shall the state board or the department have access to information 35167
that would enable any data verification code to be matched to 35168
personally identifiable student data. 35169

(b) Each school district and community school shall ensure 35170
that the data verification code is included in the student's 35171
records reported to any subsequent school district, community 35172
school, or state institution of higher education, as defined in 35173
section 3345.011 of the Revised Code, in which the student 35174

enrolls. Any such subsequent district or school shall utilize the 35175
same identifier in its reporting of data under this section. 35176

(c) The director of any state agency that administers a 35177
publicly funded program providing services to children who are 35178
younger than compulsory school age, as defined in section 3321.01 35179
of the Revised Code, including the directors of health, job and 35180
family services, ~~mental health~~ mental health and addiction 35181
services, and developmental disabilities, shall request and 35182
receive, pursuant to sections 3301.0723 and 3701.62 of the Revised 35183
Code, a data verification code for a child who is receiving those 35184
services. 35185

(E) The guidelines adopted under this section may require 35186
school districts to collect and report data, information, or 35187
reports other than that described in divisions (A), (B), and (C) 35188
of this section for the purpose of complying with other reporting 35189
requirements established in the Revised Code. The other data, 35190
information, or reports may be maintained in the education 35191
management information system but are not required to be compiled 35192
as part of the profile formats required under division (G) of this 35193
section or the annual statewide report required under division (H) 35194
of this section. 35195

(F) Beginning with the school year that begins July 1, 1991, 35196
the board of education of each school district shall annually 35197
collect and report to the state board, in accordance with the 35198
guidelines established by the board, the data required pursuant to 35199
this section. A school district may collect and report these data 35200
notwithstanding section 2151.357 or 3319.321 of the Revised Code. 35201

(G) The state board shall, in accordance with the procedures 35202
it adopts, annually compile the data reported by each school 35203
district pursuant to division (D) of this section. The state board 35204
shall design formats for profiling each school district as a whole 35205
and each school building within each district and shall compile 35206

the data in accordance with these formats. These profile formats shall: 35207
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(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district; 35209
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(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section. 35212
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(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district. 35215
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(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education. 35221
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(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are available and the 35228
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date on which the reports will be available. 35238

(I) Any data that is collected or maintained pursuant to this 35239
section and that identifies an individual pupil is not a public 35240
record for the purposes of section 149.43 of the Revised Code. 35241

(J) As used in this section: 35242

(1) "School district" means any city, local, exempted 35243
village, or joint vocational school district and, in accordance 35244
with section 3314.17 of the Revised Code, any community school. As 35245
used in division (L) of this section, "school district" also 35246
includes any educational service center or other educational 35247
entity required to submit data using the system established under 35248
this section. 35249

(2) "Cost" means any expenditure for operating expenses made 35250
by a school district excluding any expenditures for debt 35251
retirement except for payments made to any commercial lending 35252
institution for any loan approved pursuant to section 3313.483 of 35253
the Revised Code. 35254

(K) Any person who removes data from the information system 35255
established under this section for the purpose of releasing it to 35256
any person not entitled under law to have access to such 35257
information is subject to section 2913.42 of the Revised Code 35258
prohibiting tampering with data. 35259

(L)(1) In accordance with division (L)(2) of this section and 35260
the rules adopted under division (L)(10) of this section, the 35261
department of education may sanction any school district that 35262
reports incomplete or inaccurate data, reports data that does not 35263
conform to data requirements and descriptions published by the 35264
department, fails to report data in a timely manner, or otherwise 35265
does not make a good faith effort to report data as required by 35266
this section. 35267

(2) If the department decides to sanction a school district 35268

under this division, the department shall take the following sequential actions: 35269
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(a) Notify the district in writing that the department has determined that data has not been reported as required under this section and require the district to review its data submission and submit corrected data by a deadline established by the department. The department also may require the district to develop a corrective action plan, which shall include provisions for the district to provide mandatory staff training on data reporting procedures. 35271
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(b) Withhold up to ten per cent of the total amount of state funds due to the district for the current fiscal year and, if not previously required under division (L)(2)(a) of this section, require the district to develop a corrective action plan in accordance with that division; 35279
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(c) Withhold an additional amount of up to twenty per cent of the total amount of state funds due to the district for the current fiscal year; 35284
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(d) Direct department staff or an outside entity to investigate the district's data reporting practices and make recommendations for subsequent actions. The recommendations may include one or more of the following actions: 35287
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(i) Arrange for an audit of the district's data reporting practices by department staff or an outside entity; 35291
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(ii) Conduct a site visit and evaluation of the district; 35293

(iii) Withhold an additional amount of up to thirty per cent of the total amount of state funds due to the district for the current fiscal year; 35294
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(iv) Continue monitoring the district's data reporting; 35297

(v) Assign department staff to supervise the district's data 35298

management system; 35299

(vi) Conduct an investigation to determine whether to suspend 35300
or revoke the license of any district employee in accordance with 35301
division (N) of this section; 35302

(vii) If the district is issued a report card under section 35303
3302.03 of the Revised Code, indicate on the report card that the 35304
district has been sanctioned for failing to report data as 35305
required by this section; 35306

(viii) If the district is issued a report card under section 35307
3302.03 of the Revised Code and incomplete or inaccurate data 35308
submitted by the district likely caused the district to receive a 35309
higher performance rating than it deserved under that section, 35310
issue a revised report card for the district; 35311

(ix) Any other action designed to correct the district's data 35312
reporting problems. 35313

(3) Any time the department takes an action against a school 35314
district under division (L)(2) of this section, the department 35315
shall make a report of the circumstances that prompted the action. 35316
The department shall send a copy of the report to the district 35317
superintendent or chief administrator and maintain a copy of the 35318
report in its files. 35319

(4) If any action taken under division (L)(2) of this section 35320
resolves a school district's data reporting problems to the 35321
department's satisfaction, the department shall not take any 35322
further actions described by that division. If the department 35323
withheld funds from the district under that division, the 35324
department may release those funds to the district, except that if 35325
the department withheld funding under division (L)(2)(c) of this 35326
section, the department shall not release the funds withheld under 35327
division (L)(2)(b) of this section and, if the department withheld 35328
funding under division (L)(2)(d) of this section, the department 35329

shall not release the funds withheld under division (L)(2)(b) or 35330
(c) of this section. 35331

(5) Notwithstanding anything in this section to the contrary, 35332
the department may use its own staff or an outside entity to 35333
conduct an audit of a school district's data reporting practices 35334
any time the department has reason to believe the district has not 35335
made a good faith effort to report data as required by this 35336
section. If any audit conducted by an outside entity under 35337
division (L)(2)(d)(i) or (5) of this section confirms that a 35338
district has not made a good faith effort to report data as 35339
required by this section, the district shall reimburse the 35340
department for the full cost of the audit. The department may 35341
withhold state funds due to the district for this purpose. 35342

(6) Prior to issuing a revised report card for a school 35343
district under division (L)(2)(d)(viii) of this section, the 35344
department may hold a hearing to provide the district with an 35345
opportunity to demonstrate that it made a good faith effort to 35346
report data as required by this section. The hearing shall be 35347
conducted by a referee appointed by the department. Based on the 35348
information provided in the hearing, the referee shall recommend 35349
whether the department should issue a revised report card for the 35350
district. If the referee affirms the department's contention that 35351
the district did not make a good faith effort to report data as 35352
required by this section, the district shall bear the full cost of 35353
conducting the hearing and of issuing any revised report card. 35354

(7) If the department determines that any inaccurate data 35355
reported under this section caused a school district to receive 35356
excess state funds in any fiscal year, the district shall 35357
reimburse the department an amount equal to the excess funds, in 35358
accordance with a payment schedule determined by the department. 35359
The department may withhold state funds due to the district for 35360
this purpose. 35361

(8) Any school district that has funds withheld under 35362
division (L)(2) of this section may appeal the withholding in 35363
accordance with Chapter 119. of the Revised Code. 35364

(9) In all cases of a disagreement between the department and 35365
a school district regarding the appropriateness of an action taken 35366
under division (L)(2) of this section, the burden of proof shall 35367
be on the district to demonstrate that it made a good faith effort 35368
to report data as required by this section. 35369

(10) The state board of education shall adopt rules under 35370
Chapter 119. of the Revised Code to implement division (L) of this 35371
section. 35372

(M) No information technology center or school district shall 35373
acquire, change, or update its student administration software 35374
package to manage and report data required to be reported to the 35375
department unless it converts to a student software package that 35376
is certified by the department. 35377

(N) The state board of education, in accordance with sections 35378
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 35379
license as defined under division (A) of section 3319.31 of the 35380
Revised Code that has been issued to any school district employee 35381
found to have willfully reported erroneous, inaccurate, or 35382
incomplete data to the education management information system. 35383

(O) No person shall release or maintain any information about 35384
any student in violation of this section. Whoever violates this 35385
division is guilty of a misdemeanor of the fourth degree. 35386

(P) The department shall disaggregate the data collected 35387
under division (B)(1)(n) of this section according to the race and 35388
socioeconomic status of the students assessed. No data collected 35389
under that division shall be included on the report cards required 35390
by section 3302.03 of the Revised Code. 35391

(Q) If the department cannot compile any of the information 35392

required by division (H) of section 3302.03 of the Revised Code 35393
based upon the data collected under this section, the department 35394
shall develop a plan and a reasonable timeline for the collection 35395
of any data necessary to comply with that division. 35396

Sec. 3301.0715. (A) Except as otherwise required under 35397
division (B)(1) of section 3313.608 of the Revised Code, the board 35398
of education of each city, local, and exempted village school 35399
district shall administer each applicable diagnostic assessment 35400
developed and provided to the district in accordance with section 35401
3301.079 of the Revised Code to the following: 35402

(1) Any student who transfers into the district or to a 35403
different school within the district if each applicable diagnostic 35404
assessment was not administered by the district or school the 35405
student previously attended in the current school year, within 35406
thirty days after the date of transfer. If the district or school 35407
into which the student transfers cannot determine whether the 35408
student has taken any applicable diagnostic assessment in the 35409
current school year, the district or school may administer the 35410
diagnostic assessment to the student. 35411

(2) ~~Each~~ (a) Prior to July 1, 2014, each kindergarten 35412
student, not earlier than four weeks prior to the first day of 35413
school and not later than the first day of October. ~~For~~ 35414

(b) Beginning July 1, 2014, each kindergarten student, not 35415
earlier than the first day of the school year and not later than 35416
the first day of November, except that the language and reading 35417
skills portion of the assessment shall be administered by the 35418
thirtieth day of September to fulfill the requirements of division 35419
(B) of section 3313.608 of the Revised Code. 35420

~~For~~ the purpose of division (A)(2) of this section, the 35421
district shall administer the kindergarten readiness assessment 35422
provided by the department of education. In no case shall the 35423

results of the readiness assessment be used to prohibit a student 35424
from enrolling in kindergarten. 35425

(3) Each student enrolled in first, second, or third grade. 35426

(B) Each district board shall administer each diagnostic 35427
assessment when the board deems appropriate, provided the 35428
administration complies with section 3313.608 of the Revised Code. 35429
However, the board shall administer any diagnostic assessment at 35430
least once annually to all students in the appropriate grade 35431
level. A district board may administer any diagnostic assessment 35432
in the fall and spring of a school year to measure the amount of 35433
academic growth attributable to the instruction received by 35434
students during that school year. 35435

(C) Any district that received an excellent or effective 35436
rating for the immediately preceding school year, pursuant to 35437
section 3302.03 of the Revised Code as it existed prior to ~~the~~ 35438
~~effective date of this amendment~~ March 22, 2013, or the equivalent 35439
of such rating as determined by the department of education, may 35440
use different diagnostic assessments from those adopted under 35441
division (D) of section 3301.079 of the Revised Code in order to 35442
satisfy the requirements of division (A)(2) of this section. 35443

(D) Each district board shall utilize and score any 35444
diagnostic assessment administered under division (A) of this 35445
section in accordance with rules established by the department. 35446
After the administration of any diagnostic assessment, each 35447
district shall provide a student's completed diagnostic 35448
assessment, the results of such assessment, and any other 35449
accompanying documents used during the administration of the 35450
assessment to the parent of that student, and shall include all 35451
such documents and information in any plan developed for the 35452
student under division (C) of section 3313.608 of the Revised 35453
Code. Each district shall submit to the department, in the manner 35454
the department prescribes, the results of the diagnostic 35455

assessments administered under this section, regardless of the 35456
type of assessment used under section 3313.608 of the Revised 35457
Code. The department may issue reports with respect to the data 35458
collected. 35459

(E) Each district board shall provide intervention services 35460
to students whose diagnostic assessments show that they are 35461
failing to make satisfactory progress toward attaining the 35462
academic standards for their grade level. 35463

Sec. 3301.0723. (A) The independent contractor engaged by the 35464
department of education to create and maintain for school 35465
districts and community schools the student data verification 35466
codes required by division (D)(2) of section 3301.0714 of the 35467
Revised Code, upon request of the director of any state agency 35468
that administers a publicly funded program providing services to 35469
children who are younger than compulsory school age, as defined in 35470
section 3321.01 of the Revised Code, including the directors of 35471
health, job and family services, ~~mental health~~ mental health and 35472
addiction services, and developmental disabilities, shall assign a 35473
data verification code to a child who is receiving such services 35474
and shall provide that code to the director. The contractor also 35475
shall provide that code to the department of education. 35476

(B) The director of a state agency that receives a child's 35477
data verification code under division (A) of this section shall 35478
use that code to submit information for that child to the 35479
department of education in accordance with section 3301.0714 of 35480
the Revised Code. 35481

(C) A public school that receives from the independent 35482
contractor the data verification code for a child assigned under 35483
division (A) of this section shall not request or assign to that 35484
child another data verification code under division (D)(2) of 35485
section 3301.0714 of the Revised Code. That school and any other 35486

public school in which the child subsequently enrolls shall use 35487
the data verification code assigned under division (A) of this 35488
section to report data relative to that student required under 35489
section 3301.0714 of the Revised Code. 35490

Sec. 3301.15. The state board of education or its authorized 35491
representatives may inspect all institutions under the control of 35492
the department of job and family services, the department of 35493
~~mental health~~ mental health and addiction services, the department 35494
of developmental disabilities, and the department of 35495
rehabilitation and correction which employ teachers, and may make 35496
a report on the teaching, discipline, and school equipment in 35497
these institutions to the director of job and family services, the 35498
director of ~~mental health~~ mental health and addiction services, 35499
the director of developmental disabilities, the director of 35500
rehabilitation and correction, and the governor. 35501

Sec. 3301.41. All employees of the former eTech Ohio 35502
commission who transferred to the department of education upon the 35503
abolishment of the commission as prescribed by section 363.570 of 35504
H.B. 59 of the 130th general assembly and who when employed by 35505
that commission or a predecessor agency were included in a 35506
bargaining unit established under Chapter 4117. of the Revised 35507
Code, shall continue to be included in that bargaining unit, are 35508
public employees as defined in section 4117.01 of the Revised 35509
Code, and may collectively bargain with the state board of 35510
education in accordance with that chapter. Otherwise, any employee 35511
hired by the department after the abolishment of the commission, 35512
either to fill vacancies or to fill new positions related to the 35513
transferred employees' duties, shall be exempt from Chapter 4117. 35514
of the Revised Code and shall not be public employees as defined 35515
in section 4117.01 of the Revised Code. 35516

Sec. 3301.80. (A) The preparing students for education 35517
success grant program is established. Under the program, the 35518
superintendent of public instruction shall award grants to 35519
nonprofit corporations that are exempt from federal income 35520
taxation under 26 U.S.C. 501(c)(3) of the Internal Revenue Code, 35521
that provide charitable services to needy residents of this state, 35522
and that meet the following requirements: 35523

(1) The nonprofit corporation has at least two locations in 35524
the state that provide after-school programming for youth eighteen 35525
years of age or younger that holistically address areas affecting 35526
student academic success; and 35527

(2) The nonprofit corporation provides evidence that the 35528
students who served in the corporation's after-school programs 35529
have shown academic improvement. 35530

(B) A nonprofit corporation may apply for a grant under this 35531
section on the form prescribed by the superintendent. 35532

(C) The superintendent may award grants to qualified 35533
nonprofit corporations that submit an application that conveys a 35534
credible plan to use grant money for the following purposes: 35535

(1) To establish new after-school programs that will serve a 35536
high concentration of youth eighteen years of age or younger; and 35537

(2) To provide innovative, comprehensive after-school 35538
programs that improve educational outcomes and simultaneously 35539
reduce barriers to academic success through targeted programming 35540
that provides literacy achievement, homework assistance, tutoring, 35541
and high-yield learning activities, as well as character and 35542
self-esteem building that contribute to academic success and 35543
graduation completion, and a comprehensive health and wellness 35544
program. 35545

(D) The superintendent shall do anything necessary and proper 35546

to administer the grant program, including the prescription of an application form, the establishment of application deadlines, a schedule for evaluating applications received, criteria for selecting grantees, and a process to notify successful and unsuccessful applicants.

(E) The preparing students for education success fund is created in the state treasury. All moneys deposited into the fund shall be disbursed as grants under division (C) of this section.

(F) Each grant recipient shall submit an annual report that provides a detailed accounting of the use of the grant money to the superintendent and the general assembly.

Sec. 3302.01. As used in this chapter:

(A) "Performance index score" means the average of the totals derived from calculations for each subject area of English language arts, mathematics, science, and social studies of the weighted proportion of untested students and students scoring at each level of skill described in division (A)(2) of section 3301.0710 of the Revised Code on the assessments prescribed by divisions (A) and (B)(1) of that section. The department of education shall assign weights such that students who do not take an assessment receive a weight of zero and students who take an assessment receive progressively larger weights dependent upon the level of skill attained on the assessment. The department shall assign additional weights to students who have been permitted to pass over a subject in accordance with a student acceleration policy adopted under section 3324.10 of the Revised Code. If such a student attains the proficient score prescribed under division (A)(2)(c) of section 3301.0710 of the Revised Code or higher on an assessment, the department shall assign the student the weight prescribed for the next higher scoring level. If such a student attains the advanced score, prescribed under division (A)(2)(a) of

section 3301.0710 of the Revised Code, on an assessment, the 35578
department shall assign to the student an additional proportional 35579
weight, as approved by the state board. For each school year that 35580
such a student's score is included in the performance index score 35581
and the student attains the proficient score on an assessment, 35582
that additional weight shall be assigned to the student on a 35583
subject-by-subject basis. 35584

Students shall be included in the "performance index score" 35585
in accordance with division (K)(2) of section 3302.03 of the 35586
Revised Code. 35587

(B) "Subgroup" means a subset of the entire student 35588
population of the state, a school district, or a school building 35589
and includes each of the following: 35590

(1) Major racial and ethnic groups; 35591

(2) Students with disabilities; 35592

(3) Economically disadvantaged students; 35593

(4) Limited English proficient students; 35594

(5) Students identified as gifted in superior cognitive 35595
ability and specific academic ability fields under Chapter 3324. 35596
of the Revised Code. For students who are gifted in specific 35597
academic ability fields, the department shall use data for those 35598
students with specific academic ability in math and reading. If 35599
any other academic field is assessed, the department shall also 35600
include data for students with specific academic ability in that 35601
field. 35602

(6) Students in the lowest quintile for achievement 35603
statewide, as determined by a method prescribed by the state board 35604
of education. 35605

(C) "No Child Left Behind Act of 2001" includes the statutes 35606
codified at 20 U.S.C. 6301 et seq. and any amendments, waivers, or 35607

both thereto, rules and regulations promulgated pursuant to those 35608
statutes, guidance documents, and any other policy directives 35609
regarding implementation of that act issued by the United States 35610
department of education. 35611

(D) "Adequate yearly progress" means a measure of annual 35612
academic performance as calculated in accordance with the "No 35613
Child Left Behind Act of 2001." 35614

(E) "Supplemental educational services" means additional 35615
academic assistance, such as tutoring, remediation, or other 35616
educational enrichment activities, that is conducted outside of 35617
the regular school day by a provider approved by the department in 35618
accordance with the "No Child Left Behind Act of 2001." 35619

(F) "Value-added progress dimension" means a measure of 35620
academic gain for a student or group of students over a specific 35621
period of time that is calculated by applying a statistical 35622
methodology to individual student achievement data derived from 35623
the achievement assessments prescribed by section 3301.0710 of the 35624
Revised Code. The "value-added progress dimension" shall be 35625
developed and implemented in accordance with section 3302.021 of 35626
the Revised Code. 35627

(G)(1) "Four-year adjusted cohort graduation rate" means the 35628
number of students who graduate in four years or less with a 35629
regular high school diploma divided by the number of students who 35630
form the adjusted cohort for the graduating class. 35631

(2) "Five-year adjusted cohort graduation rate" means the 35632
number of students who graduate in five years with a regular high 35633
school diploma divided by the number of students who form the 35634
adjusted cohort for the four-year graduation rate. 35635

(H) "State institution of higher education" has the same 35636
meaning as in section 3345.011 of the Revised Code. 35637

(I) "Annual measurable objectives" means a measure of student 35638

progress determined in accordance with an agreement between the 35639
department of education and the United States department of 35640
education. 35641

Sec. 3302.03. Annually, not later than the fifteenth day of 35642
September or the preceding Friday when that day falls on a 35643
Saturday or Sunday, the department of education shall assign a 35644
letter grade for overall academic performance and for each 35645
separate performance measure for each school district, and each 35646
school building in a district, in accordance with this section. 35647
The state board shall adopt rules pursuant to Chapter 119. of the 35648
Revised Code to establish performance criteria for each letter 35649
grade and prescribe a method by which the department assigns each 35650
letter grade. For a school building to which any of the 35651
performance measures do not apply, due to grade levels served by 35652
the building, the state board shall designate the performance 35653
measures that are applicable to the building and that must be 35654
calculated separately and used to calculate the building's overall 35655
grade. The department shall issue annual report cards reflecting 35656
the performance of each school district, each building within each 35657
district, and for the state as a whole using the performance 35658
measures and letter grade system described in this section. The 35659
department shall include on the report card for each district and 35660
each building within each district the most recent two-year trend 35661
data in student achievement for each subject and each grade. 35662

(A)(1) For the 2012-2013 school year, the department shall 35663
issue grades as described in division (E) of this section for each 35664
of the following performance measures: 35665

(a) Annual measurable objectives; 35666

(b) Performance index score for a school district or 35667
building. Grades shall be awarded as a percentage of the total 35668
possible points on the performance index system as adopted by the 35669

state board. In adopting benchmarks for assigning letter grades 35670
under division (A)(1)(b) of this section, the state board of 35671
education shall designate ninety per cent or higher for an "A," at 35672
least seventy per cent but not more than eighty per cent for a 35673
"C," and less than fifty per cent for an "F." 35674

(c) The extent to which the school district or building meets 35675
each of the applicable performance indicators established by the 35676
state board under section 3302.02 of the Revised Code and the 35677
percentage of applicable performance indicators that have been 35678
achieved. In adopting benchmarks for assigning letter grades under 35679
division (A)(1)(c) of this section, the state board shall 35680
designate ninety per cent or higher for an "A." 35681

(d) The four- and five-year adjusted cohort graduation rates. 35682

In adopting benchmarks for assigning letter grades under 35683
division (A)(1)(d), (B)(1)(d), or (C)(1)(d) of this section, the 35684
department shall designate a four-year adjusted cohort graduation 35685
rate of ninety-three per cent or higher for an "A" and a five-year 35686
cohort graduation rate of ninety-five per cent or higher for an 35687
"A." 35688

(e) The overall score under the value-added progress 35689
dimension of a school district or building, for which the 35690
department shall use up to three years of value-added data as 35691
available. The letter grade assigned for this growth measure shall 35692
be as follows: 35693

(i) A score that is at least two standard errors of measure 35694
above the mean score shall be designated as an "A." 35695

(ii) A score that is at least one standard error of measure 35696
but less than two standard errors of measure above the mean score 35697
shall be designated as a "B." 35698

(iii) A score that is less than one standard error of measure 35699
above the mean score but greater than or equal to one standard 35700

error of measure below the mean score shall be designated as a 35701
"C." 35702

(iv) A score that is not greater than one standard error of 35703
measure below the mean score but is greater than or equal to two 35704
standard errors of measure below the mean score shall be 35705
designated as a "D." 35706

(v) A score that is not greater than two standard errors of 35707
measure below the mean score shall be designated as an "F." 35708

Whenever the value-added progress dimension is used as a 35709
graded performance measure, whether as an overall measure or as a 35710
measure of separate subgroups, the grades for the measure shall be 35711
calculated in the same manner as prescribed in division (A)(1)(e) 35712
of this section. 35713

(f) The value-added progress dimension score for a school 35714
district or building disaggregated for each of the following 35715
subgroups: students identified as gifted, students with 35716
disabilities, and students whose performance places them in the 35717
lowest quintile for achievement on a statewide basis. Each 35718
subgroup shall be a separate graded measure. 35719

(2) Not later than April 30, 2013, the state board of 35720
education shall adopt a resolution describing the performance 35721
measures, benchmarks, and grading system for the 2012-2013 school 35722
year and, not later than June 30, 2013, shall adopt rules in 35723
accordance with Chapter 119. of the Revised Code that prescribe 35724
the methods by which the performance measures under division 35725
(A)(1) of this section shall be assessed and assigned a letter 35726
grade, including performance benchmarks for each letter grade. 35727

At least forty-five days prior to the state board's adoption 35728
of rules to prescribe the methods by which the performance 35729
measures under division (A)(1) of this section shall be assessed 35730
and assigned a letter grade, the department shall conduct a public 35731

presentation before the standing committees of the house of 35732
representatives and the senate that consider education legislation 35733
describing such methods, including performance benchmarks. 35734

(3) There shall not be an overall letter grade for a school 35735
district or building for the 2012-2013 school year. 35736

(B)(1) For the 2013-2014 school year, the department shall 35737
issue grades as described in division (E) of this section for each 35738
of the following performance measures: 35739

(a) Annual measurable objectives; 35740

(b) Performance index score for a school district or 35741
building. Grades shall be awarded as a percentage of the total 35742
possible points on the performance index system as created by the 35743
department. In adopting benchmarks for assigning letter grades 35744
under division (B)(1)(b) of this section, the state board shall 35745
designate ninety per cent or higher for an "A," at least seventy 35746
per cent but not more than eighty per cent for a "C," and less 35747
than fifty per cent for an "F." 35748

(c) The extent to which the school district or building meets 35749
each of the applicable performance indicators established by the 35750
state board under section 3302.03 of the Revised Code and the 35751
percentage of applicable performance indicators that have been 35752
achieved. In adopting benchmarks for assigning letter grades under 35753
division (B)(1)(c) of this section, the state board shall 35754
designate ninety per cent or higher for an "A." 35755

(d) The four- and five-year adjusted cohort graduation rates; 35756

(e) The overall score under the value-added progress 35757
dimension of a school district or building, for which the 35758
department shall use up to three years of value-added data as 35759
available. 35760

(f) The value-added progress dimension score for a school 35761

district or building disaggregated for each of the following 35762
subgroups: students identified as gifted in superior cognitive 35763
ability and specific academic ability fields under Chapter 3324. 35764
of the Revised Code, students with disabilities, and students 35765
whose performance places them in the lowest quintile for 35766
achievement on a statewide basis. Each subgroup shall be a 35767
separate graded measure. 35768

(g) Whether a school district or building is making progress 35769
in improving literacy in grades kindergarten through three, as 35770
determined using a method prescribed by the state board. The state 35771
board shall adopt rules to prescribe benchmarks and standards for 35772
assigning grades to districts and buildings for purposes of 35773
division (B)(1)(j) of this section. In adopting benchmarks for 35774
assigning letter grades under divisions (B)(1)(g) and (C)(1)(g) of 35775
this section, the state board shall determine progress made based 35776
on the reduction in the percentage of students scoring below grade 35777
level, or below proficient, compared from year to year on the 35778
English language arts diagnostic assessments administered under 35779
section 3301.0715 of the Revised Code and the third grade English 35780
language arts assessment under section 3301.0710 of the Revised 35781
Code, as applicable. The state board shall designate for a "C" 35782
grade a value that is not lower than the statewide average value 35783
for this measure. No grade shall be issued under divisions 35784
(B)(1)(g) and (C)(1)(j) of this section for a district or building 35785
in which less than five per cent of students have scored below 35786
grade level on the diagnostic assessment administered to students 35787
in kindergarten under division (B)(1) of section 3313.608 of the 35788
Revised Code. 35789

(2) In addition to the graded measures in division (B)(1) of 35790
this section, the department shall include on a school district's 35791
or building's report card all of the following without an assigned 35792
letter grade: 35793

(a) The percentage of students enrolled in a district or building participating in advanced placement classes and the percentage of those students who received a score of three or better on advanced placement examinations; 35794
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(b) The number of a district's or building's students who have earned at least three college credits through dual enrollment programs, such as the post-secondary enrollment options program under Chapter 3365. of the Revised Code and state-approved career-technical courses offered through dual enrollment or statewide articulation, that appear on a student's transcript or other official document, either of which is issued by the institution of higher education from which the student earned the college credit. The credits earned that are reported under divisions (B)(2)(b) and (C)(2)(c) of this section shall not include any that are remedial or developmental and shall include those that count toward the curriculum requirements established for completion of a degree. 35798
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(c) The percentage of students enrolled in a district or building who have taken a national standardized test used for college admission determinations and the percentage of those students who are determined to be remediation-free in accordance with standards adopted under division (F) of section 3345.061 of the Revised Code; 35811
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(d) The percentage of the district's or the building's students who receive industry credentials. The state board shall adopt criteria for acceptable industry credentials. 35817
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(e) The percentage of students enrolled in a district or building who are participating in an international baccalaureate program and the percentage of those students who receive a score of four or better on the international baccalaureate examinations. 35820
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(f) The percentage of the district's or building's students 35824

who receive an honors diploma under division (B) of section 3313.61 of the Revised Code. 35825
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(3) Not later than December 31, 2013, the state board shall 35827
adopt rules in accordance with Chapter 119. of the Revised Code 35828
that prescribe the methods by which the performance measures under 35829
divisions (B)(1)(f) and (B)(1)(g) of this section will be assessed 35830
and assigned a letter grade, including performance benchmarks for 35831
each grade. 35832

At least forty-five days prior to the state board's adoption 35833
of rules to prescribe the methods by which the performance 35834
measures under division (B)(1) of this section shall be assessed 35835
and assigned a letter grade, the department shall conduct a public 35836
presentation before the standing committees of the house of 35837
representatives and the senate that consider education legislation 35838
describing such methods, including performance benchmarks. 35839

(4) There shall not be an overall letter grade for a school 35840
district or building for the 2013-2014 school year. 35841

(C)(1) For the 2014-2015 school year and each school year 35842
thereafter, the department shall issue grades as described in 35843
division (E) of this section for each of the following performance 35844
measures and an overall letter grade based on an aggregate of 35845
those measures: 35846

(a) Annual measurable objectives; 35847

(b) Performance index score for a school district or 35848
building. Grades shall be awarded as a percentage of the total 35849
possible points on the performance index system as created by the 35850
department. In adopting benchmarks for assigning letter grades 35851
under division (C)(1)(b) of this section, the state board shall 35852
designate ninety per cent or higher for an "A," at least seventy 35853
per cent but not more than eighty per cent for a "C," and less 35854
than fifty per cent for an "F." 35855

(c) The extent to which the school district or building meets 35856
each of the applicable performance indicators established by the 35857
state board under section 3302.03 of the Revised Code and the 35858
percentage of applicable performance indicators that have been 35859
achieved. In adopting benchmarks for assigning letter grades under 35860
division (C)(1)(c) of this section, the state board shall 35861
designate ninety per cent or higher for an "A." 35862

(d) The four- and five-year adjusted cohort graduation rates; 35863

(e) The overall score under the value-added progress 35864
dimension, or another measure of student academic progress if 35865
adopted by the state board, of a school district or building, for 35866
which the department shall use up to three years of value-added 35867
data as available. 35868

In adopting benchmarks for assigning letter grades for 35869
overall score on value-added progress dimension under division 35870
(C)(1)(e) of this section, the state board shall prohibit the 35871
assigning of a grade of "A" for that measure unless the district's 35872
or building's grade assigned for value-added progress dimension 35873
for all subgroups under division (C)(1)(i) of this section is a 35874
"B" or higher. 35875

For the metric prescribed by division (C)(1)(e) of this 35876
section, the state board may adopt a student academic progress 35877
measure to be used instead of the value-added progress dimension. 35878
If the state board adopts such a measure, it also shall prescribe 35879
a method for assigning letter grades for the new measure that is 35880
comparable to the method prescribed in division (A)(1)(e) of this 35881
section. 35882

(f) The value-added progress dimension score of a school 35883
district or building disaggregated for each of the following 35884
subgroups: students identified as gifted in superior cognitive 35885
ability and specific academic ability fields under Chapter 3324. 35886

of the Revised Code, students with disabilities, and students 35887
whose performance places them in the lowest quintile for 35888
achievement on a statewide basis, as determined by a method 35889
prescribed by the state board. Each subgroup shall be a separate 35890
graded measure. 35891

The state board may adopt student academic progress measures 35892
to be used instead of the value-added progress dimension. If the 35893
state board adopts such measures, it also shall prescribe a method 35894
for assigning letter grades for the new measures that is 35895
comparable to the method prescribed in division (A)(1)(e) of this 35896
section. 35897

(g) Whether a school district or building is making progress 35898
in improving literacy in grades kindergarten through three, as 35899
determined using a method prescribed by the state board. The state 35900
board shall adopt rules to prescribe benchmarks and standards for 35901
assigning grades to a district or building for purposes of 35902
division (C)(1)(j) of this section. The state board shall 35903
designate for a "C" grade a value that is not lower than the 35904
statewide average value for this measure. No grade shall be issued 35905
under division (C)(1)(g) of this section for a district or 35906
building in which less than five per cent of students have scored 35907
below grade level on the kindergarten diagnostic assessment under 35908
division (B)(1) of section 3313.608 of the Revised Code. 35909

(2) In addition to the graded measures in division (C)(1) of 35910
this section, the department shall include on a school district's 35911
or building's report card all of the following without an assigned 35912
letter grade: 35913

(a) The percentage of students enrolled in a district or 35914
building who have taken a national standardized test used for 35915
college admission determinations and the percentage of those 35916
students who are determined to be remediation-free in accordance 35917
with the standards adopted under division (F) of section 3345.061 35918

of the Revised Code; 35919

(b) The percentage of students enrolled in a district or 35920
building participating in advanced placement classes and the 35921
percentage of those students who received a score of three or 35922
better on advanced placement examinations; 35923

(c) The number of a district's or building's students who 35924
have earned at least three college credits through dual enrollment 35925
programs, such as the post-secondary enrollment options program 35926
under Chapter 3365. of the Revised Code and state-approved 35927
career-technical courses offered through dual enrollment or 35928
statewide articulation, that appear on a student's transcript or 35929
other official document, either of which is issued by the 35930
institution of higher education from which the student earned the 35931
college credit. The credits earned that are reported under 35932
divisions (B)(2)(b) and (C)(2)(c) of this section shall not 35933
include any that are remedial or developmental and shall include 35934
those that count toward the curriculum requirements established 35935
for completion of a degree. 35936

(d) The percentage of the district's or building's students 35937
who receive an honor's diploma under division (B) of section 35938
3313.61 of the Revised Code; 35939

(e) The percentage of the district's or building's students 35940
who receive industry credentials; 35941

(f) The percentage of students enrolled in a district or 35942
building who are participating in an international baccalaureate 35943
program and the percentage of those students who receive a score 35944
of four or better on the international baccalaureate examinations; 35945

(g) The results of the college and career-ready assessments 35946
administered under division (B)(1) of section 3301.0712 of the 35947
Revised Code. 35948

(3) The state board shall adopt rules pursuant to Chapter 35949

119. of the Revised Code that establish a method to assign an 35950
overall grade for a school district or school building for the 35951
2014-2015 school year and each school year thereafter. The rules 35952
shall group the performance measures in divisions (C)(1) and (2) 35953
of this section into the following components: 35954

(a) Gap closing, which shall include the performance measure 35955
in division (C)(1)(a) of this section; 35956

(b) Achievement, which shall include the performance measures 35957
in divisions (C)(1)(b) and (c) of this section; 35958

(c) Progress, which shall include the performance measures in 35959
divisions (C)(1)(e) and (i) of this section; 35960

(d) Graduation, which shall include the performance measure 35961
in division (C)(1)(d) of this section; 35962

(e) Kindergarten through third-grade literacy, which shall 35963
include the performance measure in division (C)(1)(k) of this 35964
section; 35965

(f) Prepared for success, which shall include the performance 35966
measures in divisions (C)(2)(a), (b), (c), (d), (e), and (f) of 35967
this section. The state board shall develop a method to determine 35968
a grade for the component in division (C)(3)(f) of this section 35969
using the performance measures in divisions (C)(2)(a), (b), (c), 35970
(d), (e), and (f) of this section. When available, the state board 35971
may incorporate the performance measure under division (C)(2)(g) 35972
of this section into the component under division (C)(3)(f) of 35973
this section. When determining the overall grade for the prepared 35974
for success component prescribed by division (C)(3)(f) of this 35975
section, no individual student shall be counted in more than one 35976
performance measure. However, if a student qualifies for more than 35977
one performance measure in the component, the state board may, in 35978
its method to determine a grade for the component, specify an 35979
additional weight for such a student that is not greater than or 35980

equal to 1.0. In determining the overall score under division 35981
(C)(3)(f) of this section, the state board shall ensure that the 35982
pool of students included in the performance measures aggregated 35983
under that division are all of the students included in the four- 35984
and five-year adjusted graduation cohort. 35985

In the rules adopted under division (C)(3) of this section, 35986
the state board shall adopt a method for determining a grade for 35987
each component in divisions (C)(3)(a) to (f) of this section. The 35988
state board also shall establish a method to assign an overall 35989
grade of "A," "B," "C," "D," or "F" using the grades assigned for 35990
each component. The method the state board adopts for assigning an 35991
overall grade shall give equal weight to the components in 35992
divisions (C)(3)(b) and (c) of this section. 35993

At least forty-five days prior to the state board's adoption 35994
of rules to prescribe the methods for calculating the overall 35995
grade for the report card, as required by this division, the 35996
department shall conduct a public presentation before the standing 35997
committees of the house of representatives and the senate that 35998
consider education legislation describing the format for the 35999
report card, weights that will be assigned to the components of 36000
the overall grade, and the method for calculating the overall 36001
grade. 36002

(D) Not later than July 1, 2015, the state board shall 36003
develop a measure of student academic progress for high school 36004
students. Beginning with the report card for the 2015-2016 school 36005
year, each school district and applicable school building shall be 36006
assigned a separate letter grade for this measure and the 36007
district's or building's grade for that measure shall be included 36008
in determining the district's or building's overall letter grade. 36009
This measure shall be included within the measure prescribed in 36010
division (C)(2)(c) of this section in the calculation for the 36011
overall letter grade. 36012

(E) The letter grades assigned to a school district or building under this section shall be as follows:	36013 36014
(1) "A" for a district or school making excellent progress;	36015
(2) "B" for a district or school making above average progress;	36016 36017
(3) "C" for a district or school making average progress;	36018
(4) "D" for a district or school making below average progress;	36019 36020
(5) "F" for a district or school failing to meet minimum progress.	36021 36022
(F) When reporting data on student achievement and progress, the department shall disaggregate that data according to the following categories:	36023 36024 36025
(1) Performance of students by grade-level;	36026
(2) Performance of students by race and ethnic group;	36027
(3) Performance of students by gender;	36028
(4) Performance of students grouped by those who have been enrolled in a district or school for three or more years;	36029 36030
(5) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;	36031 36032 36033
(6) Performance of students grouped by those who have been enrolled in a district or school for one year or less;	36034 36035
(7) Performance of students grouped by those who are economically disadvantaged;	36036 36037
(8) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;	36038 36039 36040

(9) Performance of students grouped by those who are classified as limited English proficient; 36041
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(10) Performance of students grouped by those who have disabilities; 36043
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(11) Performance of students grouped by those who are classified as migrants; 36045
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(12) Performance of students grouped by those who are identified as gifted in superior cognitive ability and the specific academic ability fields of reading and math pursuant to Chapter 3324. of the Revised Code. In disaggregating specific academic ability fields for gifted students, the department shall use data for those students with specific academic ability in math and reading. If any other academic field is assessed, the department shall also include data for students with specific academic ability in that field as well. 36047
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(13) Performance of students grouped by those who perform in the lowest quintile for achievement on a statewide basis, as determined by a method prescribed by the state board. 36056
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The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (F)(1) to (13) of this section that it deems relevant. 36059
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In reporting data pursuant to division (F) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (F) of this section that contains less than ten students. If the department does not report 36065
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student performance data for a group because it contains less than 36072
ten students, the department shall indicate on the report card 36073
that is why data was not reported. 36074

(G) The department may include with the report cards any 36075
additional education and fiscal performance data it deems 36076
valuable. 36077

(H) The department shall include on each report card a list 36078
of additional information collected by the department that is 36079
available regarding the district or building for which the report 36080
card is issued. When available, such additional information shall 36081
include student mobility data disaggregated by race and 36082
socioeconomic status, college enrollment data, and the reports 36083
prepared under section 3302.031 of the Revised Code. 36084

The department shall maintain a site on the world wide web. 36085
The report card shall include the address of the site and shall 36086
specify that such additional information is available to the 36087
public at that site. The department shall also provide a copy of 36088
each item on the list to the superintendent of each school 36089
district. The district superintendent shall provide a copy of any 36090
item on the list to anyone who requests it. 36091

(I) Division (I) of this section does not apply to conversion 36092
community schools that primarily enroll students between sixteen 36093
and twenty-two years of age who dropped out of high school or are 36094
at risk of dropping out of high school due to poor attendance, 36095
disciplinary problems, or suspensions. 36096

(1) For any district that sponsors a conversion community 36097
school under Chapter 3314. of the Revised Code, the department 36098
shall combine data regarding the academic performance of students 36099
enrolled in the community school with comparable data from the 36100
schools of the district for the purpose of determining the 36101
performance of the district as a whole on the report card issued 36102

for the district under this section or section 3302.033 of the Revised Code. 36103
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(2) Any district that leases a building to a community school located in the district or that enters into an agreement with a community school located in the district whereby the district and the school endorse each other's programs may elect to have data regarding the academic performance of students enrolled in the community school combined with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the district report card. Any district that so elects shall annually file a copy of the lease or agreement with the department. 36105
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(3) Any municipal school district, as defined in section 3311.71 of the Revised Code, that sponsors a community school located within the district's territory, or that enters into an agreement with a community school located within the district's territory whereby the district and the community school endorse each other's programs, may exercise either or both of the following elections: 36115
36116
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(a) To have data regarding the academic performance of students enrolled in that community school combined with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the district's report card; 36122
36123
36124
36125
36126

(b) To have the number of students attending that community school noted separately on the district's report card. 36127
36128

The election authorized under division (I)(3)(a) of this section is subject to approval by the governing authority of the community school. 36129
36130
36131

Any municipal school district that exercises an election to combine or include data under division (I)(3) of this section, by 36132
36133

the first day of October of each year, shall file with the 36134
department documentation indicating eligibility for that election, 36135
as required by the department. 36136

(J) The department shall include on each report card the 36137
percentage of teachers in the district or building who are highly 36138
qualified, as defined by the "No Child Left Behind Act of 2001," 36139
and a comparison of that percentage with the percentages of such 36140
teachers in similar districts and buildings. 36141

(K)(1) In calculating English language arts, mathematics, 36142
social studies, or science assessment passage rates used to 36143
determine school district or building performance under this 36144
section, the department shall include all students taking an 36145
assessment with accommodation or to whom an alternate assessment 36146
is administered pursuant to division (C)(1) or (3) of section 36147
3301.0711 of the Revised Code. 36148

(2) In calculating performance index scores, rates of 36149
achievement on the performance indicators established by the state 36150
board under section 3302.02 of the Revised Code, and annual 36151
measurable objectives for determining adequate yearly progress for 36152
school districts and buildings under this section, the department 36153
shall do all of the following: 36154

(a) Include for each district or building only those students 36155
who are included in the ADM certified for the first full school 36156
week of October and are continuously enrolled in the district or 36157
building through the time of the spring administration of any 36158
assessment prescribed by division (A)(1) or (B)(1) of section 36159
3301.0710 of the Revised Code that is administered to the 36160
student's grade level; 36161

(b) Include cumulative totals from both the fall and spring 36162
administrations of the third grade English language arts 36163
achievement assessment; 36164

(c) Except as required by the "No Child Left Behind Act of 2001," exclude for each district or building any limited English proficient student who has been enrolled in United States schools for less than one full school year.

(L) Beginning with the 2015-2016 school year and at least once every three years thereafter, the state board of education shall review and may adjust the benchmarks for assigning letter grades to the performance measures and components prescribed under divisions (C)(3) and (D) of this section.

Sec. 3302.22. (A) The governor's effective and efficient schools recognition program is hereby created. Each year, the governor shall recognize, in a manner deemed appropriate by the governor, the top ten per cent of all public schools in this state, including ~~schools of~~ city, exempted village, and local school districts, ~~or~~ joint vocational school districts, community schools established under Chapter 3314. ~~of the Revised Code~~, and STEM schools established under Chapter 3326. of the Revised Code.

(B) The top ten per cent of schools shall be determined by the department of education according to standards established by the department, in consultation with the governor's office of 21st century education. The standards for recognition for each type of school may vary depending upon the unique characteristics of that type of school. The standards shall include, but need not be limited to, both of the following, provided that sufficient data is available for each school:

(1) Student performance, as determined by factors ~~including that may include~~, but not be limited to, performance indicators under section 3302.02 of the Revised Code, report cards issued under section 3302.03 of the Revised Code, performance index score rankings under section 3302.21 of the Revised Code, and any other statewide or national assessment or student performance

recognition program the department selects; 36196

(2) Fiscal performance, including which may include 36197
cost-effective measures taken by the school. 36198

(C) If applicable, the standards under divisions (B)(1) and 36199
(2) of this section may be applied at the school building or 36200
district level, depending upon the quality and availability of 36201
data. 36202

Sec. 3302.26. (A) As used in this section: 36203

(1) "Expenditure per equivalent pupils" is the total 36204
operating expenditures of a school district divided by the measure 36205
of equivalent pupils. 36206

(2) "Measure of equivalent pupils" is the total number of 36207
students in a school district adjusted for the relative 36208
differences in costs associated with the unique characteristics 36209
and needs of each category of pupil. 36210

(B) The department of education shall create a performance 36211
management section on the department's public web site. The 36212
performance management section shall include information on 36213
academic and financial performance metrics for each school 36214
district to assist schools and districts in providing an effective 36215
and efficient delivery of educational services. The section shall 36216
include a graph that illustrates the relationship between a 36217
district's academic performance, as measured by the performance 36218
index score, and its expenditure per equivalent pupils as compared 36219
to similar districts. The section shall include statistics of 36220
academic and financial performance measures for each school 36221
district to allow for a comparison and benchmarking between 36222
districts. 36223

(C) The department may contract with an independent 36224
organization to develop and host the performance management 36225

section of its web site. 36226

Sec. 3304.231. There is hereby created a brain injury 36227
advisory committee, which shall advise the administrator of the 36228
rehabilitation services commission and the brain injury program 36229
with regard to unmet needs of survivors of brain injury, 36230
development of programs for survivors and their families, 36231
establishment of training programs for health care professionals, 36232
and any other matter within the province of the brain injury 36233
program. The committee shall consist of not fewer than ~~twenty~~ 36234
nineteen and not more than ~~twenty-two~~ twenty-one members as 36235
follows: 36236

(A) Not fewer than ten and not more than twelve members 36237
appointed by the administrator of the rehabilitation services 36238
commission, including all of the following: a survivor of brain 36239
injury, a relative of a survivor of brain injury, a licensed 36240
physician recommended by the Ohio chapter of the American college 36241
of emergency physicians, a licensed physician recommended by the 36242
Ohio state medical association, one other health care 36243
professional, a rehabilitation professional, an individual who 36244
represents the brain injury association of Ohio, and not fewer 36245
than three nor more than five individuals who shall represent the 36246
public; 36247

(B) The directors of the departments of health, ~~alcohol and~~ 36248
~~drug addiction services~~ mental health and drug addiction services, 36249
developmental disabilities, ~~mental health, job and family~~ 36250
~~services~~, aging, and public safety; the medicaid director; the 36251
administrator of workers' compensation; the superintendent of 36252
public instruction; and the administrator of the rehabilitation 36253
services commission. Any of the officials specified in this 36254
division may designate an individual to serve in the official's 36255
place as a member of the committee. 36256

Terms of office of the appointed members shall be two years. 36257
Members may be reappointed. Vacancies shall be filled in the 36258
manner provided for original appointments. Any member appointed to 36259
fill a vacancy occurring prior to the expiration date of the term 36260
for which the member's predecessor was appointed shall hold office 36261
as a member for the remainder of that term. 36262

Members of the committee shall serve without compensation, 36263
but shall be reimbursed for actual and necessary expenses incurred 36264
in the performance of their duties. 36265

Sec. 3307.51. (A) The state teachers retirement board shall 36266
have prepared annually by or under the supervision of an actuary 36267
an actuarial valuation of the pension assets, liabilities, and 36268
funding requirements of the STRS defined benefit plan. The actuary 36269
shall complete the valuation in accordance with actuarial 36270
standards of practice promulgated by the actuarial standards board 36271
of the American academy of actuaries and prepare a report of the 36272
valuation. The report shall include all of the following: 36273

(1) A summary of the benefit provisions evaluated; 36274

(2) A summary of the census data and financial information 36275
used in the valuation; 36276

(3) A description of the actuarial assumptions, actuarial 36277
cost method, and asset valuation method used in the valuation, 36278
including a statement of the assumed rate of payroll growth and 36279
assumed rate of growth or decline in the number of members 36280
contributing to the retirement system; 36281

(4) A summary of findings that includes a statement of the 36282
actuarial accrued pension liabilities and unfunded actuarial 36283
accrued pension liabilities; 36284

(5) A schedule showing the effect of any changes in the 36285
benefit provisions, actuarial assumptions, or cost methods since 36286

the last annual actuarial valuation; 36287

(6) A statement of whether contributions to the retirement 36288
system are expected to be sufficient to satisfy the funding 36289
objectives established by the board. 36290

The board shall submit the report to the Ohio retirement 36291
study council, the director of budget and management, and the 36292
standing committees of the house of representatives and the senate 36293
with primary responsibility for retirement legislation immediately 36294
upon its availability and not later than the first day of January 36295
following the year for which the valuation was made. 36296

(B) At such times as the state teachers retirement board 36297
determines, and at least once in each quinquennial period, the 36298
board shall have prepared by or under the supervision of an 36299
actuary an actuarial investigation of the mortality, service, and 36300
other experience of the members, retirants, and beneficiaries of 36301
the system, and other system retirants as defined in section 36302
3307.35 of the Revised Code to update the actuarial assumptions 36303
used in the actuarial valuation required by division (A) of this 36304
section. The actuary shall prepare a report of the actuarial 36305
investigation. The report shall be prepared and any recommended 36306
changes in actuarial assumptions shall be made in accordance with 36307
the actuarial standards of practice promulgated by the actuarial 36308
standards board of the American academy of actuaries. The report 36309
shall include all of the following: 36310

(1) A summary of relevant decrement and economic assumption 36311
experience observed over the period of the investigation; 36312

(2) Recommended changes in actuarial assumptions to be used 36313
in subsequent actuarial valuations required by division (A) of 36314
this section; 36315

(3) A measurement of the financial effect of the recommended 36316
changes in actuarial assumptions. 36317

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any other studies or actuarial valuations to determine the adequacy of the normal and deficiency rates of contribution provided by section 3307.28 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

(1) A summary of the statutory changes that are being evaluated;

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;

(3) A description of the participant group or groups included in the report;

(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period

not to exceed thirty years; 36349

(5) A statement of whether the scheduled contributions to the 36350
system after the proposed change is enacted are expected to be 36351
sufficient to satisfy the funding objectives established by the 36352
board. 36353

Not later than sixty days from the date of introduction of 36354
the legislation, the board shall submit a copy of the actuarial 36355
analysis to the legislative service commission, the standing 36356
committees of the house of representatives and the senate with 36357
primary responsibility for retirement legislation, and the Ohio 36358
retirement study council. 36359

(E) The board shall have prepared annually a report giving a 36360
full accounting of the revenues and costs relating to the 36361
provision of benefits under section 3307.39 of the Revised Code. 36362
The report shall be made as of June 30, 1997, and the thirtieth 36363
day of June of each year thereafter. The report shall include the 36364
following: 36365

(1) A description of the statutory authority for the benefits 36366
provided; 36367

(2) A summary of the benefits; 36368

(3) A summary of the eligibility requirements for the 36369
benefits; 36370

(4) A statement of the number of participants eligible for 36371
the benefits; 36372

(5) A description of the accounting, asset valuation, and 36373
funding method used to provide the benefits; 36374

(6) A statement of the net assets available for the 36375
provisions of benefits as of the last day of the fiscal year; 36376

(7) A statement of any changes in the net assets available 36377
for the provision of benefits, including participant and employer 36378

contributions, net investment income, administrative expenses, and 36379
benefits provided to participants, as of the last day of the 36380
fiscal year; 36381

(8) For the last six consecutive fiscal years, a schedule of 36382
the net assets available for the benefits, the annual cost of 36383
benefits, administrative expenses incurred, and annual employer 36384
contributions allocated for the provision of benefits; 36385

(9) A description of any significant changes that affect the 36386
comparability of the report required under this division; 36387

(10) A statement of the amount paid under division (B) of 36388
section 3307.39 of the Revised Code. 36389

The board shall submit the report to the Ohio retirement 36390
study council, the director of budget and management, and the 36391
standing committees of the house of representatives and the senate 36392
with primary responsibility for retirement legislation immediately 36393
upon its availability and not later than the thirty-first day of 36394
December following the year for which the report was made. 36395

Sec. 3309.21. (A) The school employees retirement board shall 36396
have prepared annually by or under the supervision of an actuary 36397
an actuarial valuation of the pension assets, liabilities, and 36398
funding requirements of the school employees retirement system as 36399
established pursuant to this chapter. The actuary shall complete 36400
the valuation in accordance with actuarial standards of practice 36401
promulgated by the actuarial standards board of the American 36402
academy of actuaries and prepare a report of the valuation. The 36403
report shall include all of the following: 36404

(1) A summary of the benefit provisions evaluated; 36405

(2) A summary of the census data and financial information 36406
used in the valuation; 36407

(3) A description of the actuarial assumptions, actuarial 36408

cost method, and asset valuation method used in the valuation, 36409
including a statement of the assumed rate of payroll growth and 36410
assumed rate of growth or decline in the number of members 36411
contributing to the retirement system; 36412

(4) A summary of findings that includes a statement of the 36413
actuarial accrued pension liabilities and unfunded actuarial 36414
accrued pension liabilities; 36415

(5) A schedule showing the effect of any changes in the 36416
benefit provisions, actuarial assumptions, or cost methods since 36417
the last annual actuarial valuation; 36418

(6) A statement of whether contributions to the retirement 36419
system are expected to be sufficient to satisfy the funding 36420
objectives established by the board. 36421

The board shall submit the report to the Ohio retirement 36422
study council, the director of budget and management, and the 36423
standing committees of the house of representatives and the senate 36424
with primary responsibility for retirement legislation immediately 36425
upon its availability and not later than the first day of May 36426
following the year for which the valuation was made. 36427

(B) At such times as the school employees retirement board 36428
determines, and at least once in each quinquennial period, the 36429
board shall have prepared by or under the supervision of an 36430
actuary an actuarial investigation of the mortality, service, and 36431
other experience of the members, retirants, and beneficiaries of 36432
the retirement system, and SERS retirants and other system 36433
retirants as defined in section 3309.341 of the Revised Code to 36434
update the actuarial assumptions used in the actuarial valuation 36435
required by division (A) of this section. The actuary shall 36436
prepare a report of the actuarial investigation. The report shall 36437
be prepared and any recommended changes in actuarial assumptions 36438
shall be made in accordance with the actuarial standards of 36439

practice promulgated by the actuarial standards board of the 36440
American academy of actuaries. The report shall include all of the 36441
following: 36442

(1) A summary of relevant decrement and economic assumption 36443
experience observed over the period of the investigation; 36444

(2) Recommended changes in actuarial assumptions to be used 36445
in subsequent actuarial valuations required by division (A) of 36446
this section; 36447

(3) A measurement of the financial effect of the recommended 36448
changes in actuarial assumptions. 36449

The board shall submit the report to the Ohio retirement 36450
study council and the standing committees of the house of 36451
representatives and the senate with primary responsibility for 36452
retirement legislation not later than the first day of May 36453
following the last fiscal year of the period the report covers. 36454

(C) The board may at any time request the actuary to make any 36455
studies or actuarial valuations to determine the adequacy of the 36456
rates of contribution as provided by section 3309.49 of the 36457
Revised Code, and those rates may be adjusted by the board, as 36458
recommended by the actuary, effective as of the first of any year 36459
thereafter. 36460

(D) The board shall have prepared by or under the supervision 36461
of an actuary an actuarial analysis of any introduced legislation 36462
expected to have a measurable financial impact on the retirement 36463
system. The actuarial analysis shall be completed in accordance 36464
with the actuarial standards of practice promulgated by the 36465
actuarial standards board of the American academy of actuaries. 36466
The actuary shall prepare a report of the actuarial analysis, 36467
which shall include all of the following: 36468

(1) A summary of the statutory changes that are being 36469
evaluated; 36470

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	36471 36472
(3) A description of the participant group or groups included in the report;	36473 36474
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;	36475 36476 36477 36478 36479 36480 36481
(5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.	36482 36483 36484 36485
Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.	36486 36487 36488 36489 36490 36491
(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under sections 3309.375 and 3309.69 of the Revised Code. The report shall be made as of June 30, 1997, and the thirtieth day of June of each year thereafter. The report shall include the following:	36492 36493 36494 36495 36496 36497
(1) A description of the statutory authority for the benefits provided;	36498 36499
(2) A summary of the benefits;	36500

(3) A summary of the eligibility requirements for the benefits;	36501 36502
(4) A statement of the number of participants eligible for the benefits;	36503 36504
(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;	36505 36506
(6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;	36507 36508
(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;	36509 36510 36511 36512 36513
(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;	36514 36515 36516 36517
(9) A description of any significant changes that affect the comparability of the report required under this division;	36518 36519
(10) A statement of the amount paid under division (E) of section 3309.69 of the Revised Code.	36520 36521
The board shall submit the report to the Ohio retirement study council, <u>the director of budget and management</u> , and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation <u>immediately upon its availability and</u> not later than the thirty-first day of December following the year for which the report was made.	36522 36523 36524 36525 36526 36527
Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the Revised Code:	36528 36529

(A) "Chartered nonpublic school" means a nonpublic school 36530
that holds a valid charter issued by the state board of education 36531
under section 3301.16 of the Revised Code and meets the standards 36532
established for such schools in rules adopted by the state board. 36533

(B) An "eligible student" is a student who satisfies the 36534
conditions specified in section 3310.03 or 3310.032 of the Revised 36535
Code. 36536

(C) "Parent" has the same meaning as in section 3313.98 of 36537
the Revised Code. 36538

(D) "Resident district" means the school district in which a 36539
student is entitled to attend school under section 3313.64 or 36540
3313.65 of the Revised Code. 36541

(E) "School year" has the same meaning as in section 3313.62 36542
of the Revised Code. 36543

Sec. 3310.02. (A) The educational choice scholarship pilot 36544
program is hereby established. Under the program, the department 36545
of education annually shall pay scholarships to attend chartered 36546
nonpublic schools in accordance with section 3310.08 of the 36547
Revised Code for up to the following number of eligible students: 36548

(1) Thirty thousand in the 2011-2012 school year; 36549

(2) Sixty thousand in the 2012-2013 school year and 36550
thereafter. 36551

(B) If the number of students who apply for a scholarship 36552
exceeds the number of scholarships available under division (A) of 36553
this section for the applicable school year, the department shall 36554
award scholarships in the following order of priority: 36555

(1) First, to eligible students who received scholarships in 36556
the prior school year; 36557

(2) Second, to eligible students with family incomes at or 36558

below two hundred per cent of the federal poverty guidelines, as 36559
defined in section 5101.46 of the Revised Code, who qualify under 36560
division (A) of section 3310.03 of the Revised Code. If the number 36561
of students described in division (B)(2) of this section who apply 36562
for a scholarship exceeds the number of available scholarships 36563
after awards are made under division (B)(1) of this section, the 36564
department shall select students described in division (B)(2) of 36565
this section by lot to receive any remaining scholarships. 36566

(3) Third, to other eligible students who qualify under 36567
division (A) of section 3310.03 of the Revised Code. If the number 36568
of students described in division (B)(3) of this section who apply 36569
for a scholarship exceeds the number of available scholarships 36570
after awards are made under divisions (B)(1) and (2) of this 36571
section, the department shall select students described in 36572
division (B)(3) of this section by lot to receive any remaining 36573
scholarships. 36574

(4) Fourth, to eligible students with family incomes at or 36575
below two hundred per cent of the federal poverty guidelines who 36576
qualify under division ~~(B)~~(D) of section 3310.03 of the Revised 36577
Code. If the number of students described in division (B)(4) of 36578
this section who apply for a scholarship exceeds the number of 36579
available scholarships after awards are made under divisions 36580
(B)(1) to (3) of this section, the department shall select 36581
students described in division (B)(4) of this section by lot to 36582
receive any remaining scholarships. 36583

(5) Fifth, to other eligible students who qualify under 36584
division ~~(B)~~(D) of section 3310.03 of the Revised Code. If the 36585
number of students described in division (B)(5) of this section 36586
who apply for a scholarship exceeds the number of available 36587
scholarships after awards are made under divisions (B)(1) to (4) 36588
of this section, the department shall select students described in 36589
division (B)(5) of this section by lot to receive any remaining 36590

scholarships. 36591

(6) Sixth, to eligible students with family incomes at or 36592
below two hundred per cent of the federal poverty guidelines who 36593
qualify under division (B) of section 3310.03 of the Revised Code. 36594
If the number of students described in division (B)(6) of this 36595
section who apply for a scholarship exceeds the number of 36596
available scholarships after awards are made under divisions 36597
(B)(1) to (5) of this section, the department shall select 36598
students described in division (B)(6) of this section by lot to 36599
receive any remaining scholarships. 36600

(7) Seventh, to other eligible students who qualify under 36601
division (B) of section 3310.03 of the Revised Code. If the number 36602
of students described in division (B)(7) of this section who apply 36603
for a scholarship exceeds the number of available scholarships 36604
after awards are made under divisions (B)(1) to (6) of this 36605
section, the department shall select students described in 36606
division (B)(7) of this section by lot to receive any remaining 36607
scholarships. 36608

Sec. 3310.03. A student is an "eligible student" for purposes 36609
of the educational choice scholarship pilot program if the 36610
student's resident district is not a school district in which the 36611
pilot project scholarship program is operating under sections 36612
3313.974 to 3313.979 of the Revised Code and the student satisfies 36613
one of the conditions in division (A), (B), ~~(C)~~, or (D) of this 36614
section: 36615

(A)(1) The student is enrolled in a school building operated 36616
by the student's resident district that, on the report card issued 36617
under section 3302.03 of the Revised Code published prior to the 36618
first day of July of the school year for which a scholarship is 36619
sought, did not receive a rating as described in division ~~(C)~~(H) 36620
of this section, and to which any or a combination of any of the 36621

following apply for two of the three most recent report cards 36622
published prior to the first day of July of the school year for 36623
which a scholarship is sought: 36624

(a) The building was declared to be in a state of academic 36625
emergency or academic watch under section 3302.03 of the Revised 36626
Code as that section existed prior to ~~the effective date of this~~ 36627
~~amendment~~ March 22, 2013. 36628

(b) The building received a grade of "D" or "F" for the 36629
performance index score under division (A)(1)(b) or (B)(1)(b) of 36630
section 3302.03 of the Revised Code and for the value-added 36631
progress dimension under division (A)(1)(e) or (B)(1)(e) of 36632
section 3302.03 of the Revised Code for the 2012-2013 or 2013-2014 36633
school year, or both; or if the building serves only grades ten 36634
through twelve, the building received a grade of "D" or "F" for 36635
the performance index score under division (A)(1)(b) or (B)(1)(b) 36636
of section 3302.03 of the Revised Code and had a four-year 36637
adjusted cohort graduation rate of less than seventy-five per 36638
cent. 36639

(c) The building received an overall grade of "D" or "F" 36640
under division (C)(3) of section 3302.03 of the Revised Code or a 36641
grade of "F" for the value-added progress dimension under division 36642
(C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 36643
school year or any school year thereafter. 36644

(2) The student is eligible to enroll in kindergarten in the 36645
school year for which a scholarship is sought and otherwise would 36646
be assigned under section 3319.01 of the Revised Code to a school 36647
building described in division (A)(1) of this section. 36648

(3) The student is enrolled in a community school established 36649
under Chapter 3314. of the Revised Code but otherwise would be 36650
assigned under section 3319.01 of the Revised Code to a building 36651
described in division (A)(1) of this section. 36652

(4) The student is enrolled in a school building operated by 36653
the student's resident district or in a community school 36654
established under Chapter 3314. of the Revised Code and otherwise 36655
would be assigned under section 3319.01 of the Revised Code to a 36656
school building described in division (A)(1) of this section in 36657
the school year for which the scholarship is sought. 36658

(5) The student is eligible to enroll in kindergarten in the 36659
school year for which a scholarship is sought, or is enrolled in a 36660
community school established under Chapter 3314. of the Revised 36661
Code, and all of the following apply to the student's resident 36662
district: 36663

(a) The district has in force an intradistrict open 36664
enrollment policy under which no student in kindergarten or the 36665
community school student's grade level, respectively, is 36666
automatically assigned to a particular school building; 36667

(b) In the most recent rating published prior to the first 36668
day of July of the school year for which scholarship is sought, 36669
the district did not receive a rating described in division ~~(G)~~(H) 36670
of this section, and in at least two of the three most recent 36671
report cards published prior to the first day of July of that 36672
school year, any or a combination of the following apply to the 36673
district: 36674

(i) The district was declared to be in a state of academic 36675
emergency under section 3302.03 of the Revised Code as it existed 36676
prior to ~~the effective date of this amendment~~ March 22, 2013. 36677

(ii) The district received a grade of "D" or "F" for the 36678
performance index score under division (A)(1)(b) or (B)(1)(b) of 36679
section 3302.03 of the Revised Code and for the value-added 36680
progress dimension under division (A)(1)(e) or (B)(1)(e) of 36681
section 3302.03 of the Revised Code for the 2012-2013 or 2013-2014 36682
school year, or both. 36683

(c) The district received an overall grade of "D" or "F" 36684
under division (C)(3) of section 3302.03 of the Revised Code or a 36685
grade of "F" for the value-added progress dimension under division 36686
(C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 36687
school year or any school year thereafter. 36688

(B)(1) The student is enrolled in a school building operated 36689
by the student's resident district and to which both of the 36690
following apply: 36691

(a) The building was ranked, for at least two of the three 36692
most recent rankings published under section 3302.21 of the 36693
Revised Code prior to the first day of July of the school year for 36694
which a scholarship is sought, in the lowest ten per cent of all 36695
public school buildings according to performance index score under 36696
section 3302.21 of the Revised Code. 36697

(b) The building was not declared to be excellent or 36698
effective, or the equivalent of such ratings as determined by the 36699
department of education, under section 3302.03 of the Revised Code 36700
in the most recent rating published prior to the first day of July 36701
of the school year for which a scholarship is sought. 36702

(2) The student is eligible to enroll in kindergarten in the 36703
school year for which a scholarship is sought and otherwise would 36704
be assigned under section 3319.01 of the Revised Code to a school 36705
building described in division (B)(1) of this section. 36706

(3) The student is enrolled in a community school established 36707
under Chapter 3314. of the Revised Code but otherwise would be 36708
assigned under section 3319.01 of the Revised Code to a building 36709
described in division (B)(1) of this section. 36710

(4) The student is enrolled in a school building operated by 36711
the student's resident district or in a community school 36712
established under Chapter 3314. of the Revised Code and otherwise 36713
would be assigned under section 3319.01 of the Revised Code to a 36714

school building described in division (B)(1) of this section in 36715
the school year for which the scholarship is sought. 36716

(C) The student is enrolled in a nonpublic school at the time 36717
the school is granted a charter by the state board of education 36718
under section 3301.16 of the Revised Code and the student meets 36719
the standards of division (B) of section 3310.031 of the Revised 36720
Code. 36721

(D) For the 2016-2017 school year and each school year 36722
thereafter, the student is in any of grades kindergarten through 36723
three, is enrolled in a school building that is operated by the 36724
student's resident district, and to which both of the following 36725
apply: 36726

(1) The building, in at least two of the three most recent 36727
ratings of school buildings published prior to the first day of 36728
July of the school year for which a scholarship is sought, 36729
received a grade of "D" or "F" for making progress in improving 36730
literacy in grades kindergarten through three under division 36731
(B)(1)(g) or (C)(1)(g) of section 3302.03 of the Revised Code; 36732

(2) The building did not receive a grade of "A" for making 36733
progress in improving literacy in grades kindergarten through 36734
three under division (B)(1)(g) or (C)(1)(g) of section 3302.03 of 36735
the Revised Code in the most recent rating published prior to the 36736
first day of July of the school year for which a scholarship is 36737
sought. 36738

(E) A student who receives a scholarship under the 36739
educational choice scholarship pilot program remains an eligible 36740
student and may continue to receive scholarships in subsequent 36741
school years until the student completes grade twelve, so long as 36742
all of the following apply: 36743

(1) The student's resident district remains the same, or the 36744
student transfers to a new resident district and otherwise would 36745

be assigned in the new resident district to a school building 36746
described in division (A)(1) ~~or~~, (B)(1), or (D) of this section; 36747

(2) The student takes each assessment prescribed for the 36748
student's grade level under section 3301.0710 or 3301.0712 of the 36749
Revised Code while enrolled in a chartered nonpublic school; 36750

(3) In each school year that the student is enrolled in a 36751
chartered nonpublic school, the student is absent from school for 36752
not more than twenty days that the school is open for instruction, 36753
not including excused absences. 36754

~~(E)~~(F)(1) The department shall cease awarding first-time 36755
scholarships pursuant to divisions (A)(1) to (4) of this section 36756
with respect to a school building that, in the most recent ratings 36757
of school buildings published under section 3302.03 of the Revised 36758
Code prior to the first day of July of the school year, ceases to 36759
meet the criteria in division (A)(1) of this section. The 36760
department shall cease awarding first-time scholarships pursuant 36761
to division (A)(5) of this section with respect to a school 36762
district that, in the most recent ratings of school districts 36763
published under section 3302.03 of the Revised Code prior to the 36764
first day of July of the school year, ceases to meet the criteria 36765
in division (A)(5) of this section. 36766

(2) The department shall cease awarding first-time 36767
scholarships pursuant to divisions (B)(1) to (4) of this section 36768
with respect to a school building that, in the most recent ratings 36769
of school buildings under section 3302.03 of the Revised Code 36770
prior to the first day of July of the school year, ceases to meet 36771
the criteria in division (B)(1) of this section. 36772

(3) The department shall cease awarding first-time 36773
scholarships pursuant to division (D) of this section with respect 36774
to a school building that, in the most recent ratings of school 36775
buildings under section 3302.03 of the Revised Code prior to the 36776

first day of July of the school year, ceases to meet the criteria 36777
in division (D) of this section. 36778

(4) However, students who have received scholarships in the 36779
prior school year remain eligible students pursuant to division 36780
~~(D)~~(E) of this section. 36781

~~(F)~~(G) The state board of education shall adopt rules 36782
defining excused absences for purposes of division ~~(D)~~(E)(3) of 36783
this section. 36784

~~(G)~~(H)(1) A student who satisfies only the conditions 36785
prescribed in divisions (A)(1) to (4) of this section shall not be 36786
eligible for a scholarship if the student's resident building 36787
meets any of the following in the most recent rating under section 36788
3302.03 of the Revised Code published prior to the first day of 36789
July of the school year for which a scholarship is sought: 36790

(a) The building has an overall designation of excellent or 36791
effective under section 3302.03 of the Revised Code as it existed 36792
prior to ~~the effective date of this amendment~~ March 22, 2013. 36793

(b) For the 2012-2013 or 2013-2014 school year or both, the 36794
building has a grade of "A" or "B" for the performance index score 36795
under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the 36796
Revised Code and for the value-added progress dimension under 36797
division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised 36798
Code; or if the building serves only grades ten through twelve, 36799
the building received a grade of "A" or "B" for the performance 36800
index score under division (A)(1)(b) or (B)(1)(b) of section 36801
3302.03 of the Revised Code and had a four-year adjusted cohort 36802
graduation rate of greater than or equal to seventy-five per cent. 36803

(c) For the 2014-2015 school year or any school year 36804
thereafter, the building has a grade of "A" or "B" under division 36805
(C)(3) of section 3302.03 of the Revised Code and a grade of "A" 36806
for the value-added progress dimension under division (C)(1)(e) of 36807

section 3302.03 of the Revised Code; or if the building serves 36808
only grades ten through twelve, the building received a grade of 36809
"A" or "B" for the performance index score under division 36810
(C)(1)(b) of section 3302.03 of the Revised Code and had a 36811
four-year adjusted cohort graduation rate of greater than or equal 36812
to seventy-five per cent. 36813

(2) A student who satisfies only the conditions prescribed in 36814
division (A)(5) of this section shall not be eligible for a 36815
scholarship if the student's resident district meets any of the 36816
following in the most recent rating under section 3302.03 of the 36817
Revised Code published prior to the first day of July of the 36818
school year for which a scholarship is sought: 36819

(a) The district has an overall designation of excellent or 36820
effective under section 3302.03 of the Revised Code as it existed 36821
prior to ~~the effective date of this amendment~~ March 22, 2013. 36822

(b) The district has a grade of "A" or "B" for the 36823
performance index score under division (A)(1)(b) or (B)(1)(b) of 36824
section 3302.03 of the Revised Code and for the value-added 36825
progress dimension under division (A)(1)(e) or (B)(1)(e) of 36826
section 3302.03 of the Revised Code for the 2012-2013 and 36827
2013-2014 school years. 36828

(c) The district has an overall grade of "A" or "B" under 36829
division (C)(3) of section 3302.03 of the Revised Code and a grade 36830
of "A" for the value-added progress dimension under division 36831
(C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 36832
school year or any school year thereafter. 36833

Sec. 3310.032. (A) A student is an "eligible student" for 36834
purposes of the expansion of the educational choice scholarship 36835
pilot program under this section if the student's resident 36836
district is not a school district in which the pilot project 36837
scholarship program is operating under sections 3313.974 to 36838

3313.979 of the Revised Code, the student is not eligible for an 36839
educational choice scholarship under section 3310.03 of the 36840
Revised Code, and the student's family income is at or below two 36841
hundred per cent of the federal poverty guidelines, as defined in 36842
section 5101.46 of the Revised Code. 36843

(B) In each fiscal year for which the general assembly 36844
appropriates funds for purposes of this section, the department of 36845
education shall pay scholarships to attend chartered nonpublic 36846
schools in accordance with section 3310.08 of the Revised Code. 36847
The number of scholarships awarded under this section shall not 36848
exceed the number that can be funded with appropriations made by 36849
the general assembly for this purpose. 36850

(C) Scholarships under this section shall be awarded as 36851
follows: 36852

(1) For the 2013-2014 school year, to eligible students who 36853
are entering kindergarten in that school year for the first time; 36854

(2) For each subsequent school year, scholarships shall be 36855
awarded to eligible students in the next grade level above the 36856
highest grade level awarded in the preceding school year, in 36857
addition to the grade levels for which students received 36858
scholarships in the preceding school year. 36859

(D) If the number of eligible students who apply for a 36860
scholarship under this section exceeds the scholarships available 36861
based on the appropriation for this section, the department shall 36862
award scholarships in the following order of priority: 36863

(1) First, to eligible students who received scholarships 36864
under this section in the prior school year; 36865

(2) Second, to eligible students with family incomes at or 36866
below one hundred per cent of the federal poverty guidelines. If 36867
the number of students described in division (D)(2) of this 36868

section who apply for a scholarship exceeds the number of 36869
available scholarships after awards are made under division (D)(1) 36870
of this section, the department shall select students described in 36871
division (D)(2) of this section by lot to receive any remaining 36872
scholarships. 36873

(3) Third, to other eligible students who qualify under this 36874
section. If the number of students described in division (D)(3) of 36875
this section exceeds the number of available scholarships after 36876
awards are made under divisions (D)(1) and (2) of this section, 36877
the department shall select students described in division (D)(3) 36878
of this section by lot to receive any remaining scholarships. 36879

(E) A student who receives a scholarship under this section 36880
remains an eligible student and may continue to receive 36881
scholarships under this section in subsequent school years until 36882
the student completes grade twelve, so long as the student 36883
satisfies the conditions specified in divisions (E)(2) and (3) of 36884
section 3310.03 of the Revised Code. 36885

Once a scholarship is awarded under this section, the student 36886
shall remain eligible for that scholarship for the current school 36887
year and subsequent school years even if the student's family 36888
income rises above the amount specified in division (A) of this 36889
section, provided the student remains enrolled in a chartered 36890
nonpublic school. 36891

Sec. 3310.035. (A) A student who is eligible for an 36892
educational choice scholarship under both sections 3310.03 and 36893
3310.032 of the Revised Code, and applies for a scholarship for 36894
the first time after the effective date of this section shall 36895
receive a scholarship under section 3310.03 of the Revised Code. 36896

(B) A student who is eligible under both sections 3310.03 and 36897
3310.032 of the Revised Code and received a scholarship in the 36898
previous school year shall continue to receive the scholarship 36899

under the section from which the student received the scholarship 36900
in the previous school year, so long as: 36901

(1) The number of students who apply for a scholarship does 36902
not exceed the number of scholarships available under division (A) 36903
of section 3310.02 of the Revised Code. 36904

(2) A student who receives a scholarship under section 36905
3310.03 of the Revised Code satisfies with the conditions 36906
specified in divisions (E)(1) to (3) of that section, and a 36907
student who receives a scholarship under section 3310.032 36908
satisfies with the conditions specified in divisions (E)(2) and 36909
(3) of section 3310.03 of the Revised Code. 36910

Sec. 3310.05. A scholarship under the educational choice 36911
scholarship pilot program is not available for any student whose 36912
resident district is a school district in which the pilot project 36913
scholarship program is operating under sections 3313.974 to 36914
3313.979 of the Revised Code. The two pilot programs are separate 36915
and distinct, with differing eligibility criteria. The pilot 36916
project scholarship program operating under sections 3313.974 to 36917
3313.979 of the Revised Code is a district-wide program that may 36918
award scholarships to students who do not attend district schools 36919
that face academic challenges, whereas the educational choice 36920
scholarship pilot program established under sections 3310.01 to 36921
3310.17 of the Revised Code is limited to students of individual 36922
district school buildings that face academic challenges and to 36923
students from low-income families. 36924

Sec. 3310.06. It is the policy adopted by the general 36925
assembly that the educational choice scholarship pilot program 36926
shall be construed as one of several educational options available 36927
for students enrolled in persistently low-performing school 36928
buildings or for students from low-income families. Students may 36929

be enrolled in the schools of the student's resident district, in 36930
a community school established under Chapter 3314. of the Revised 36931
Code, in the schools of another school district pursuant to an 36932
open enrollment policy adopted under section 3313.98 of the 36933
Revised Code, in a chartered nonpublic school with or without a 36934
scholarship under the educational choice scholarship pilot 36935
program, or in other schools as the law may provide. 36936

Sec. 3310.08. (A) The amount paid for an eligible student 36937
under the educational choice scholarship pilot program shall be 36938
the lesser of the tuition of the chartered nonpublic school in 36939
which the student is enrolled or the maximum amount prescribed in 36940
section 3310.09 of the Revised Code. 36941

(B)(1) The department of education shall pay to the parent of 36942
each eligible student for whom a scholarship is awarded under the 36943
program, or to the student if at least eighteen years of age, 36944
periodic partial payments of the scholarship. 36945

(2) The department shall proportionately reduce or terminate 36946
the payments for any student who withdraws from a chartered 36947
nonpublic school prior to the end of the school year. 36948

(C)(1) The department shall deduct from the payments made to 36949
each school district under Chapter 3317., and if necessary, 36950
sections 321.24 and 323.156 of the Revised Code, the amount paid 36951
under division (B) of this section for each eligible student 36952
awarded who qualifies for a scholarship under the program section 36953
3310.03 of the Revised Code and who is entitled under section 36954
3313.64 or 3313.65 of the Revised Code to attend school in the 36955
district. In the case of a student entitled to attend school in a 36956
school district under division (B)(2)(a) of section 3313.64 or 36957
division (C) of section 3313.65 of the Revised Code, the 36958
department shall deduct the payments from the school district that 36959

includes the student in its average daily membership as reported 36960
to the department under section 3317.03 of the Revised Code, as 36961
determined by the department. 36962

(2) If the department reduces or terminates payments to a 36963
parent or a student, as prescribed in division (B)(2) of this 36964
section, and the student enrolls in the schools of the student's 36965
resident district or in a community school, established under 36966
Chapter 3314. of the Revised Code, before the end of the school 36967
year, the department shall proportionally restore to the resident 36968
district the amount deducted for that student under division 36969
(C)(1) of this section. 36970

Sec. 3310.56. (A) The amount of the scholarship awarded and 36971
paid to an eligible applicant for services for a qualified special 36972
education child under the Jon Peterson special needs scholarship 36973
program in each school year shall be the least of the amounts 36974
prescribed in divisions (A)(1), (2), ~~or~~ and (3) of this section, 36975
as follows: 36976

(1) The amount of fees charged for that school year by the 36977
alternative public provider or registered private provider; 36978

(2) The sum of the amounts calculated under divisions 36979
(A)(2)(a) and (b) of this section: 36980

(a) ~~The sum of the formula amount plus the per pupil amount~~ 36981
~~of the base funding supplements specified in divisions (C)(1) to~~ 36982
~~(4) of section 3317.012 of the Revised Code for fiscal year 2009;~~ 36983

(b) An amount equal to ~~\$5,732~~ the formula amount times the 36984
following multiple prescribed for the child's disability: 36985

(i) For a student in category one, ~~0.2892~~ the multiple 36986
specified in division (A) of section 3317.013 of the Revised Code; 36987

(ii) For a student in category two, ~~0.3691~~ the multiple 36988
specified in division (B) of section 3317.013 of the Revised Code; 36989

(iii) For a student in category three, ~~1.7695~~ the multiple 36990
specified in division (C) of section 3317.013 of the Revised Code; 36991

(iv) For a student in category four, ~~2.3646~~ the multiple 36992
specified in division (D) of section 3317.013 of the Revised Code; 36993

(v) For a student in category five, ~~3.1129~~ the multiple 36994
specified in division (E) of section 3317.013 of the Revised Code; 36995

(vi) For a student in category six, ~~4.7342~~ the multiple 36996
specified in division (F) of section 3317.013 of the Revised Code. 36997

~~Before applying the multiples specified in divisions~~ 36998
~~(A)(2)(b)(i) to (vi) of this section, they first shall be adjusted~~ 36999
~~by multiplying them by 0.90.~~ 37000

(3) Twenty thousand dollars. 37001

(B) As used in division (A)(2)(b) of this section, a child 37002
with a disability is in: 37003

(1) "Category one" if the ~~child's primary or only identified~~ 37004
~~disability is a speech and language disability, as this term is~~ 37005
~~defined pursuant to Chapter 3323. child is receiving special~~ 37006
~~education services for a disability specified in division (A) of~~ 37007
~~section 3317.013 of the Revised Code;~~ 37008

(2) "Category two" if the child is ~~identified as specific~~ 37009
~~learning disabled or developmentally disabled, as these terms are~~ 37010
~~defined pursuant to Chapter 3323. of the Revised Code, or as~~ 37011
~~having an other health impairment minor, as defined in section~~ 37012
~~3317.02 receiving special education services for a disability~~ 37013
~~specified in division (B) of section 3317.013 of the Revised Code;~~ 37014

(3) "Category three" if the child is ~~identified as vision~~ 37015
~~impaired, hearing disabled, or severe behavior disabled, as these~~ 37016
~~terms are defined pursuant to Chapter 3323. receiving special~~ 37017
~~education services for a disability specified in division (C) of~~ 37018
~~section 3317.013 of the Revised Code;~~ 37019

(4) "Category four" if the child is ~~identified as~~ 37020
~~orthopedically disabled, as this term is defined pursuant to~~ 37021
~~Chapter 3323. of the Revised Code, or as having an other health~~ 37022
~~impairment major, as defined in section 3317.02~~ receiving special 37023
education services for a disability specified in division (D) of 37024
section 3317.013 of the Revised Code; 37025

(5) "Category five" if the child is ~~identified as having~~ 37026
~~multiple disabilities, as this term is defined pursuant to Chapter~~ 37027
~~3323. receiving special education services for a disability~~ 37028
specified in division (E) of section 3317.013 of the Revised Code; 37029

(6) "Category six" if the child is ~~identified as autistic,~~ 37030
~~having traumatic brain injuries, or both visually and hearing~~ 37031
~~impaired, as these terms are defined pursuant to Chapter 3323.~~ 37032
receiving special education services for a disability specified in 37033
division (F) of section 3317.013 of the Revised Code. 37034

Sec. 3311.0510. (A) If all of the client school districts of 37035
an educational service center have terminated their agreements 37036
with the service center under division (D) of section 3313.843 of 37037
the Revised Code, upon the latest effective date of the 37038
terminations, the governing board of that service center shall be 37039
abolished and such service center shall be dissolved by order of 37040
the superintendent of public instruction. The superintendent's 37041
order shall provide for the equitable division and disposition of 37042
the assets, property, debts, and obligations of the service center 37043
among the school districts that were client school districts of 37044
the service center for the service center's last fiscal year of 37045
operation. The superintendent's order shall provide that the tax 37046
duplicate of each of those school districts shall be bound for and 37047
assume the district's equitable share of the outstanding 37048
indebtedness of the service center. The superintendent's order is 37049
final and is not appealable. 37050

Immediately upon the abolishment of the service center 37051
governing board pursuant to this section, the superintendent of 37052
public instruction shall appoint a qualified individual to 37053
administer the dissolution of the service center and to implement 37054
the terms of the superintendent's dissolution order. 37055

Prior to distributing assets to any school district under 37056
this section, but after paying in full other debts and obligations 37057
of the service center under this section, the superintendent of 37058
public instruction may assess against the remaining assets of the 37059
service center the amount of the costs incurred by the department 37060
of education in performing the superintendent's duties under this 37061
division, including the fees, if any, owed to the individual 37062
appointed to administer the superintendent's dissolution order. 37063
Any excess cost incurred by the department under this division 37064
shall be divided equitably among the school districts that were 37065
client school districts of the service center for the service 37066
center's last fiscal year of operation. Each district's share of 37067
that excess cost shall be bound against the tax duplicate of that 37068
district. 37069

(B) A final audit of the former service center shall be 37070
performed in accordance with procedures established by the auditor 37071
of state. 37072

(C) The public records of an educational service center that 37073
is dissolved under this section shall be transferred in accordance 37074
with this division. Public records maintained by the service 37075
center in connection with services provided by the service center 37076
to local school districts of which the territory of the service 37077
center is or previously was made up shall be transferred to each 37078
of the respective local school districts. Public records 37079
maintained by the service center in connection with services 37080
provided to client school districts shall be transferred to each 37081
of the respective client school districts. All other public 37082

records maintained by the service center at the time the service 37083
center ceases operations shall be transferred to the Ohio 37084
historical society for analysis and disposition by the society in 37085
its capacity as archives administrator for the state and its 37086
political subdivisions pursuant to division (C) of section 149.30 37087
and section 149.31 of the Revised Code. 37088

(D) As used in this section, "client school district" ~~has the~~ 37089
~~same meaning as in section 3317.11 of the Revised Code~~ means a 37090
city, exempted village, or local school district that has entered 37091
into an agreement under section 3313.843 or 3313.845 of the 37092
Revised Code to receive any services from an educational service 37093
center. 37094

Sec. 3311.22. A governing board of an educational service 37095
center may propose, by resolution adopted by majority vote of its 37096
full membership, or qualified electors of the area affected equal 37097
in number to at least fifty-five per cent of the qualified 37098
electors voting at the last general election residing within that 37099
portion of a school district, or districts proposed to be 37100
transferred may propose, by petition, the transfer of a part or 37101
all of one or more local school districts to another local school 37102
district or districts within the territory of the educational 37103
service center. Such transfers may be made only to local school 37104
districts adjoining the school district that is proposed to be 37105
transferred, unless the board of education of the district 37106
proposed to be transferred has entered into an agreement pursuant 37107
to section 3313.42 of the Revised Code, in which case such 37108
transfers may be made to any local school district within the 37109
territory of the educational service center. 37110

When a governing board of an educational service center 37111
adopts a resolution proposing a transfer of school territory it 37112
shall forthwith file a copy of such resolution, together with an 37113

accurate map of the territory described in the resolution, with 37114
the board of education of each school district whose boundaries 37115
would be altered by such proposal. A governing board of an 37116
educational service center proposing a transfer of territory under 37117
the provisions of this section shall at its next regular meeting 37118
that occurs not earlier than thirty days after the adoption by the 37119
governing board of a resolution proposing such transfer, adopt a 37120
resolution making the transfer effective at any time prior to the 37121
next succeeding first day of July, unless, prior to the expiration 37122
of such thirty-day period, qualified electors residing in the area 37123
proposed to be transferred, equal in number to a majority of the 37124
qualified electors voting at the last general election, file a 37125
petition of referendum against such transfer. 37126

Any petition of transfer or petition of referendum filed 37127
under the provisions of this section shall be filed at the office 37128
of the educational service center superintendent. The person 37129
presenting the petition shall be given a receipt containing 37130
thereon the time of day, the date, and the purpose of the 37131
petition. 37132

The educational service center superintendent shall cause the 37133
board of elections to check the sufficiency of signatures on any 37134
petition of transfer or petition of referendum filed under this 37135
section and, if found to be sufficient, the superintendent shall 37136
present the petition to the educational service center governing 37137
board at a meeting of the board which shall occur not later than 37138
thirty days following the filing of the petition. 37139

Upon presentation to the educational service center governing 37140
board of a proposal to transfer territory as requested by petition 37141
of fifty-five per cent of the qualified electors voting at the 37142
last general election or a petition of referendum against a 37143
proposal of the county board to transfer territory, the governing 37144
board shall promptly certify the proposal to the board of 37145

elections for the purpose of having the proposal placed on the 37146
ballot at the next general or primary election which occurs not 37147
less than ninety days after the date of such certification, or at 37148
a special election, the date of which shall be specified in the 37149
certification, which date shall not be less than ninety days after 37150
the date of such certification. Signatures on a petition of 37151
transfer or petition of referendum may be withdrawn up to and 37152
including the above mentioned meeting of the educational service 37153
center governing board only by order of the board upon testimony 37154
of the petitioner concerned under oath before the board that the 37155
petitioner's signature was obtained by fraud, duress, or 37156
misrepresentation. 37157

If a petition is filed with the educational service center 37158
governing board which proposes the transfer of a part or all of 37159
the territory included in a resolution of transfer previously 37160
adopted by the educational service center governing board, no 37161
action shall be taken on such petition if within the thirty-day 37162
period after the adoption of the resolution of transfer a 37163
referendum petition is filed. After the election, if the proposed 37164
transfer fails to receive a majority vote, action on such petition 37165
shall then be processed under this section as though originally 37166
filed under the provisions hereof. If no referendum petition is 37167
filed within the thirty-day period after the adoption of the 37168
resolution of transfer, no action shall be taken on such petition. 37169

If a petition is filed with the educational service center 37170
governing board which proposes the transfer of a part or all of 37171
the territory included in a petition previously filed by electors 37172
no action shall be taken on such new petition. 37173

Upon certification of a proposal to the board or boards of 37174
elections pursuant to this section, the board or boards of 37175
elections shall make the necessary arrangements for the submission 37176
of such question to the electors of the county or counties 37177

qualified to vote thereon, and the election shall be conducted and 37178
canvassed and the results shall be certified in the same manner as 37179
in regular elections for the election of members of a board of 37180
education. 37181

The persons qualified to vote upon a proposal are the 37182
electors residing in the district or districts containing 37183
territory that is proposed to be transferred. If the proposed 37184
transfer be approved by at least a majority of the electors voting 37185
on the proposal, the educational service center governing board 37186
shall make such transfer at any time prior to the next succeeding 37187
first day of July. If the proposed transfer is not approved by at 37188
least a majority of the electors voting on the proposal, the 37189
question of transferring any property included in the territory 37190
covered by the proposal shall not be submitted to electors at any 37191
election prior to the first general election the date of which is 37192
at least two years after the date of the original election, or the 37193
first primary election held in an even-numbered year the date of 37194
which is at least two years after the date of the original 37195
election. A transfer shall be subject to the approval of the 37196
receiving board or boards of education, unless the proposal was 37197
initiated by the educational service center governing board, in 37198
which case, if the transfer is opposed by the board of education 37199
offered the territory, the local board may, within thirty days, 37200
following the receipt of the notice of transfer, appeal to the 37201
state board of education which shall then either approve or 37202
disapprove the transfer. 37203

Following an election upon a proposed transfer initiated by a 37204
petition the board of education that is offered territory shall, 37205
within thirty days following receipt of the proposal, either 37206
accept or reject the transfer. 37207

When an entire school district is proposed to be transferred 37208
to two or more school districts and the offer is rejected by any 37209

one of the receiving boards of education, none of the territory 37210
included in the proposal shall be transferred. 37211

Upon the acceptance of territory by the receiving board or 37212
boards of education the educational service center governing board 37213
offering the territory shall file with the county auditor and with 37214
the state board of education an accurate map showing the 37215
boundaries of the territory transferred. 37216

Upon the making of such transfer, the net indebtedness of the 37217
former district from which territory was transferred shall be 37218
apportioned between the acquiring school district and that portion 37219
of the former school district remaining after the transfer in the 37220
ratio which the assessed valuation of the territory transferred to 37221
the acquiring school district bears to the assessed valuation of 37222
the original school district as of the effective date of the 37223
transfer. As used in this section "net indebtedness" means the 37224
difference between the par value of the outstanding and unpaid 37225
bonds and notes of the school district and the amount held in the 37226
sinking fund and other indebtedness retirement funds for their 37227
redemption. 37228

~~If an entire district is transferred, any indebtedness of the 37229
former district incurred as a result of a loan made under section 37230
3317.64 of the Revised Code is hereby canceled and such 37231
indebtedness shall not be apportioned among any districts 37232
acquiring the territory. 37233~~

Upon the making of any transfer under this section, the funds 37234
of the district from which territory was transferred shall be 37235
divided equitably by the educational service center governing 37236
board between the acquiring district and any part of the original 37237
district remaining after the transfer. 37238

If an entire district is transferred the board of education 37239
of such district is thereby abolished or if a member of the board 37240

of education lives in that part of a school district transferred 37241
the member becomes a nonresident of the school district from which 37242
the territory was transferred and such member ceases to be a 37243
member of the board of education of such district. 37244

The legal title of all property of the board of education in 37245
the territory transferred shall become vested in the board of 37246
education of the school district to which such territory is 37247
transferred. 37248

Subsequent to June 30, 1959, if an entire district is 37249
transferred, foundation program moneys accruing to a district 37250
accepting school territory under the provisions of this section or 37251
former section 3311.22 of the Revised Code, shall not be less, in 37252
any year during the next succeeding three years following the 37253
transfer, than the sum of the amounts received by the districts 37254
separately in the year in which the transfer was consummated. 37255

Sec. 3311.231. A governing board of an educational service 37256
center may propose, by resolution adopted by majority vote of its 37257
full membership, or qualified electors of the area affected equal 37258
in number to not less than fifty-five per cent of the qualified 37259
electors voting at the last general election residing within that 37260
portion of a school district proposed to be transferred may 37261
propose, by petition, the transfer of a part or all of one or more 37262
local school districts within the territory of the center to an 37263
adjoining educational service center or to an adjoining city or 37264
exempted village school district. 37265

A governing board of an educational service center adopting a 37266
resolution proposing a transfer of school territory under this 37267
section shall file a copy of such resolution together with an 37268
accurate map of the territory described in the resolution, with 37269
the board of education of each school district whose boundaries 37270
would be altered by such proposal. Where a transfer of territory 37271

is proposed by a governing board of an educational service center 37272
under this section, the governing board shall, at its next regular 37273
meeting that occurs not earlier than the thirtieth day after the 37274
adoption by the governing board of the resolution proposing such 37275
transfer, adopt a resolution making the transfer as originally 37276
proposed, effective at any time prior to the next succeeding first 37277
day of July, unless, prior to the expiration of such thirty-day 37278
period, qualified electors residing in the area proposed to be 37279
transferred, equal in number to a majority of the qualified 37280
electors voting at the last general election, file a petition of 37281
referendum against such transfer. 37282

Any petition of transfer or petition of referendum under the 37283
provisions of this section shall be filed at the office of the 37284
educational service center superintendent. The person presenting 37285
the petition shall be given a receipt containing thereon the time 37286
of day, the date, and the purpose of the petition. 37287

The educational service center superintendent shall cause the 37288
board of elections to check the sufficiency of signatures on any 37289
such petition, and, if found to be sufficient, the superintendent 37290
shall present the petition to the educational service center 37291
governing board at a meeting of said governing board which shall 37292
occur not later than thirty days following the filing of said 37293
petition. 37294

The educational service center governing board shall promptly 37295
certify the proposal to the board of elections of such counties in 37296
which school districts whose boundaries would be altered by such 37297
proposal are located for the purpose of having the proposal placed 37298
on the ballot at the next general or primary election which occurs 37299
not less than ninety days after the date of such certification or 37300
at a special election, the date of which shall be specified in the 37301
certification, which date shall not be less than ninety days after 37302
the date of such certification. 37303

Signatures on a petition of transfer or petition of 37304
referendum may be withdrawn up to and including the above 37305
mentioned meeting of the educational service center governing 37306
board only by order of the governing board upon testimony of the 37307
petitioner concerned under oath before the board that the 37308
petitioner's signature was obtained by fraud, duress, or 37309
misrepresentation. 37310

If a petition is filed with the educational service center 37311
governing board which proposes the transfer of a part or all of 37312
the territory included either in a petition previously filed by 37313
electors or in a resolution of transfer previously adopted by the 37314
educational service center governing board, no action shall be 37315
taken on such new petition as long as the previously initiated 37316
proposal is pending before the governing board or is subject to an 37317
election. 37318

Upon certification of a proposal to the board or boards of 37319
elections pursuant to this section, the board or boards of 37320
elections shall make the necessary arrangements for the submission 37321
of such question to the electors of the county or counties 37322
qualified to vote thereon, and the election shall be conducted and 37323
canvassed and the results shall be certified in the same manner as 37324
in regular elections for the election of members of a board of 37325
education. 37326

The persons qualified to vote upon a proposal are the 37327
electors residing in the district or districts containing 37328
territory that is proposed to be transferred. If the proposed 37329
transfer is approved by at least a majority of the electors voting 37330
on the proposal, the educational service center governing board 37331
shall make such transfer at any time prior to the next succeeding 37332
first day of July, subject to the approval of the receiving board 37333
of education in case of a transfer to a city or exempted village 37334
school district, and subject to the approval of the educational 37335

service center governing board of the receiving center, in case of 37336
a transfer to an educational service center. If the proposed 37337
transfer is not approved by at least a majority of the electors 37338
voting on the proposal, the question of transferring any property 37339
included in the territory covered by the proposal shall not be 37340
submitted to electors at any election prior to the first general 37341
election the date of which is at least two years after the date of 37342
the original election, or the first primary election held in an 37343
even-numbered year the date of which is at least two years after 37344
the date of the original election. 37345

Where a territory is transferred under this section to a city 37346
or exempted village school district, the board of education of 37347
such district shall, and where territory is transferred to an 37348
educational service center the governing board of such educational 37349
service center shall, within thirty days following receipt of the 37350
proposal, either accept or reject the transfer. 37351

Where a governing board of an educational service center 37352
adopts a resolution accepting territory transferred to the 37353
educational service center under the provisions of sections 37354
3311.231 and 3311.24 of the Revised Code, the governing board 37355
shall, at the time of the adoption of the resolution accepting the 37356
territory, designate the school district to which the accepted 37357
territory shall be annexed. 37358

When an entire school district is proposed to be transferred 37359
to two or more adjoining school districts and the offer is 37360
rejected by any one of the receiving boards of education, none of 37361
the territory included in the proposal shall be transferred. 37362

Upon the acceptance of territory by the receiving board or 37363
boards of education the educational service center governing board 37364
offering the territory shall file with the county auditor of each 37365
county affected by the transfer and with the state board of 37366
education an accurate map showing the boundaries of the territory 37367

transferred. 37368

Upon the making of such transfer, the net indebtedness of the 37369
former district from which territory was transferred shall be 37370
apportioned between the acquiring school district and the portion 37371
of the former school district remaining after the transfer in the 37372
ratio which the assessed valuation of the territory transferred to 37373
the acquiring school district bears to the assessed valuation of 37374
the original school district as of the effective date of the 37375
transfer. As used in this section "net indebtedness" means the 37376
difference between the par value of the outstanding and unpaid 37377
bonds and notes of the school district and the amount held in the 37378
sinking fund and other indebtedness retirement funds for their 37379
redemption. 37380

~~If an entire district is transferred, any indebtedness of the 37381
former district incurred as a result of a loan made under section 37382
3317.64 of the Revised Code is hereby canceled and such 37383
indebtedness shall not be apportioned among any districts 37384
acquiring the territory. 37385~~

Upon the making of any transfer under this section, the funds 37386
of the district from which territory was transferred shall be 37387
divided equitably by the educational service center governing 37388
board, between the acquiring district and any part of the original 37389
district remaining after the transfer. 37390

If an entire district is transferred the board of education 37391
of such district is thereby abolished or if a member of the board 37392
of education lives in that part of a school district transferred 37393
the member becomes a nonresident of the school district from which 37394
the territory was transferred and such member ceases to be a 37395
member of the board of education of such district. 37396

The legal title of all property of the board of education in 37397
the territory transferred shall become vested in the board of 37398

education of the school district to which such territory is 37399
transferred. 37400

If an entire district is transferred, foundation program 37401
moneys accruing to a district receiving school territory under the 37402
provisions of this section shall not be less, in any year during 37403
the next succeeding three years following the transfer, than the 37404
sum of the amounts received by the districts separately in the 37405
year in which the transfer was consummated. 37406

Sec. 3311.38. The state board of education may conduct, or 37407
may direct the superintendent of public instruction to conduct, 37408
studies where there is evidence of need for transfer of local, 37409
exempted village, or city school districts, or parts of any such 37410
districts, to contiguous or noncontiguous local, exempted village, 37411
or city school districts. Such studies shall include a study of 37412
the effect of any proposal upon any portion of a school district 37413
remaining after such proposed transfer. The state board, in 37414
conducting such studies and in making recommendations as a result 37415
thereof, shall consider the possibility of improving school 37416
district organization as well as the desires of the residents of 37417
the school districts which would be affected. 37418

(A) After the adoption of recommendations growing out of any 37419
such study, or upon receipt of a resolution adopted by majority 37420
vote of the full membership of the board of any city, local, or 37421
exempted village school district requesting that the entire 37422
district be transferred to another city, local, or exempted 37423
village school district, the state board may propose by resolution 37424
the transfer of territory, which may consist of part or all of the 37425
territory of a local, exempted village, or city school district to 37426
a contiguous local, exempted village, or city school district. 37427

The state board shall thereupon file a copy of such proposal 37428
with the board of education of each school district whose 37429

boundaries would be altered by the proposal and with the governing 37430
board of any educational service center in which such school 37431
district is located. 37432

The state board may, not less than thirty days following the 37433
adoption of the resolution proposing the transfer of territory, 37434
certify the proposal to the board of elections of the county or 37435
counties in which any of the territory of the proposed district is 37436
located, for the purpose of having the proposal placed on the 37437
ballot at the next general election or at a primary election 37438
occurring not less than ninety days after the adoption of such 37439
resolution. 37440

If any proposal has been previously initiated pursuant to 37441
section 3311.22, 3311.231, or 3311.26 of the Revised Code which 37442
affects any of the territory affected by the proposal of the state 37443
board, the proposal of the state board shall not be placed on the 37444
ballot while the previously initiated proposal is subject to an 37445
election. 37446

Upon certification of a proposal to the board of elections of 37447
any county pursuant to this section, the board of elections of 37448
such county shall make the necessary arrangements for the 37449
submission of such question to the electors of the county 37450
qualified to vote thereon, and the election shall be counted and 37451
canvassed and the results shall be certified in the same manner as 37452
in regular elections for the election of members of a board of 37453
education. 37454

The electors qualified to vote upon a proposal are the 37455
electors residing in the local, exempted village, or city school 37456
districts, containing territory proposed to be transferred. 37457

If the proposed transfer be approved by a majority of the 37458
electors voting on the proposal, the state board, subject to the 37459
approval of the board of education of the district to which the 37460

territory would be transferred, shall make such transfer prior to 37461
the next succeeding July 1. 37462

(B) If a study conducted in accordance with this section 37463
involves a school district with less than four thousand dollars of 37464
assessed value for each pupil in the total student count 37465
determined under section 3317.03 of the Revised Code, the state 37466
board of education, with the approval of the educational service 37467
center governing board, and upon recommendation by the state 37468
superintendent of public instruction, may by resolution transfer 37469
all or any part of such a school district to any city, exempted 37470
village, or local school district which has more than twenty-five 37471
thousand pupils in average daily membership. Such resolution of 37472
transfer shall be adopted only after the board of education of the 37473
receiving school district has adopted a resolution approving the 37474
proposed transfer. For the purposes of this division, the assessed 37475
value shall be as certified in accordance with section 3317.021 of 37476
the Revised Code. 37477

(C) Upon the making of a transfer of an entire school 37478
district pursuant to this section, the indebtedness of the 37479
district transferred shall be assumed in full by the acquiring 37480
district and the funds of the district transferred shall be paid 37481
over in full to the acquiring district, ~~except that any~~ 37482
~~indebtedness of the transferred district incurred as a result of a~~ 37483
~~loan made under section 3317.64 of the Revised Code is hereby~~ 37484
~~anceled and shall not be assumed by the acquiring district.~~ 37485

(D) Upon the making of a transfer pursuant to this section, 37486
when only part of a district is transferred, the net indebtedness 37487
of each original district of which only a part is taken by the 37488
acquiring district shall be apportioned between the acquiring 37489
district and the original district in the ratio which the assessed 37490
valuation of the part taken by the acquiring district bears to the 37491
assessed valuation of the original district as of the effective 37492

date of the transfer. As used in this section "net indebtedness" 37493
means the difference between the par value of the outstanding and 37494
unpaid bonds and notes of the school district and the amount held 37495
in the sinking fund and other indebtedness retirement funds for 37496
their redemption. 37497

(E) Upon the making of a transfer pursuant to this section, 37498
when only part of a district is transferred, the funds of the 37499
district from which territory was transferred shall be divided 37500
equitably by the state board between the acquiring district and 37501
that part of the former district remaining after the transfer. 37502

(F) If an entire school district is transferred, the board of 37503
education of such district is thereby abolished. If part of a 37504
school district is transferred, any member of the board of 37505
education who is a legal resident of that part which is 37506
transferred shall thereby cease to be a member of that board. 37507

If an entire school district is transferred, foundation 37508
program moneys accruing to a district accepting school territory 37509
under the provisions of this section shall not be less, in any 37510
year during the next succeeding three years following the 37511
transfer, than the sum of the amounts received by the districts 37512
separately in the year in which the transfer became effective. 37513

Sec. 3311.78. Notwithstanding any provision of the Revised 37514
Code to the contrary, a municipal school district shall be subject 37515
to this section instead of sections ~~3317.13~~, 3317.14~~7~~ and 3317.141 37516
of the Revised Code. 37517

(A) As used in this section, "principal" includes an 37518
assistant principal. 37519

(B) The board of education of each municipal school district 37520
annually shall adopt a differentiated salary schedule for teachers 37521
based upon performance as described in division (D) of this 37522

section. The board also annually shall adopt a differentiated 37523
salary schedule for principals based upon performance as described 37524
in division (D) of this section. 37525

For each teacher or principal hired on or after ~~the effective~~ 37526
~~date of this section~~ October 1, 2012, the board shall determine 37527
the teacher's or principal's initial placement on the applicable 37528
salary schedule based on years of experience and area of licensure 37529
and any other factors the board considers appropriate. For each 37530
teacher hired prior to ~~the effective date of this section~~ October 37531
1, 2012, the board shall initially place the teacher on the 37532
applicable salary schedule so that the teacher's annual salary on 37533
the schedule is comparable to the teacher's annual salary for the 37534
school year immediately prior to the school year covered by the 37535
schedule. For each principal hired prior to ~~the effective date of~~ 37536
~~this section~~ October 1, 2012, the board shall initially place the 37537
principal on the applicable salary schedule consistent with the 37538
principal's employment contract. 37539

(C) The salary of a teacher shall not be reduced unless such 37540
reduction is accomplished as part of a negotiated collective 37541
bargaining agreement. The salary of a principal shall not be 37542
reduced during the term of the principal's employment contract 37543
unless such reduction is by mutual agreement of the board and the 37544
principal or is part of a uniform plan affecting the entire 37545
district. 37546

(D) For purposes of the schedules, the board shall measure a 37547
teacher's or principal's performance by considering all of the 37548
following: 37549

(1) The level of license issued under section 3319.22 of the 37550
Revised Code that the teacher or principal holds; 37551

(2) Whether the teacher or principal is a highly qualified 37552
teacher, as defined in section 3319.074 of the Revised Code; 37553

(3) Ratings received by the teacher or principal on performance evaluations conducted under section 3311.80 or 3311.84 of the Revised Code; 37554
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(4) Any specialized training and experience in the assigned position. 37557
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(E) The salary schedules adopted under this section may provide for additional compensation for teachers or principals who perform duties, not contracted for under a supplemental contract, that the board determines warrant additional compensation. Those duties may include, but are not limited to, assignment to a school building eligible for funding under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301 et seq.; assignment to a building in "school improvement" status under the "No Child Left Behind Act of 2001," as defined in section 3302.01 of the Revised Code; teaching in a grade level or subject area in which the board has determined there is a shortage within the district; assignment to a hard-to-staff school, as determined by the board; or teaching in a school with an extended school day or school year. 37559
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(F) The chief executive officer of the district, or the chief executive officer's designee, annually shall review the salary of each teacher and principal and make a recommendation to the board. Based on the recommendation, the board may increase a teacher's or principal's salary based on the teacher's or principal's performance and duties as provided for in divisions (D) and (E) of this section. The performance-based increase for a teacher or principal rated as accomplished shall be greater than the performance-based increase for a teacher or principal rated as proficient. Notwithstanding division (C) of this section, division (C) of section 3319.02, and section 3319.12 of the Revised Code, the board may decrease the teacher's or principal's salary if the teacher or principal will perform fewer or different duties 37573
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described in division (E) of this section in the school year for 37586
which the salary is decreased. 37587

(G) Notwithstanding any provision to the contrary in Chapter 37588
4117. of the Revised Code, the requirements of this section 37589
prevail over any conflicting provisions of a collective bargaining 37590
agreement entered into on or after ~~the effective date of this~~ 37591
~~section~~ October 1, 2012. However, the board and the teachers' 37592
labor organization shall negotiate the implementation of the 37593
differentiated salary schedule for teachers and may negotiate 37594
additional factors regarding teacher salaries, provided those 37595
factors are consistent with this section. 37596

Sec. 3312.08. Each fiscal agent selected by the department of 37597
education pursuant to section 3312.07 of the Revised Code shall do 37598
all of the following: 37599

(A) Enter into performance contracts with the department in 37600
accordance with section 3312.09 of the Revised Code for the 37601
implementation of state and regional education initiatives and 37602
school improvement efforts; 37603

(B) Receive federal and state funds, including federal funds 37604
for the provision of special education and related services, as 37605
specified in the performance contracts, and disburse those funds 37606
as specified in the performance contracts to educational service 37607
centers, information technology centers, and other regional 37608
service providers. However, any funds owed to an educational 37609
service center in accordance with an agreement entered into under 37610
section ~~3317.11~~ 3313.843, 3313.844, or 3313.845 of the Revised 37611
Code shall be paid directly to the service center by the 37612
department ~~in accordance with that section~~ and any operating funds 37613
appropriated for an information technology center shall be paid 37614
directly to the information technology center by the department 37615
pursuant to section 3301.075 of the Revised Code. 37616

(C) Implement any expenditure of funds recommended by the 37617
advisory council for the region pursuant to section 3312.04 of the 37618
Revised Code or required by the terms of any performance contract, 37619
unless there are insufficient funds available to the region to pay 37620
for the expenditure or the expenditure violates a provision of the 37621
Revised Code, a rule of the state board of education regarding 37622
such expenditure, or the terms of a performance contract; 37623

(D) Exercise fiscal oversight of the implementation of state 37624
and regional education initiatives and school improvement efforts. 37625

Sec. 3313.372. (A) As used in this section, "energy 37626
conservation measure" means an installation or modification of an 37627
installation in, or remodeling of, a building, to reduce energy 37628
consumption. It includes: 37629

(1) Insulation of the building structure and systems within 37630
the building; 37631

(2) Storm windows and doors, multiglazed windows and doors, 37632
heat absorbing or heat reflective glazed and coated window and 37633
door systems, additional glazing, reductions in glass area, and 37634
other window and door system modifications that reduce energy 37635
consumption; 37636

(3) Automatic energy control systems; 37637

(4) Heating, ventilating, or air conditioning system 37638
modifications or replacements; 37639

(5) Caulking and weatherstripping; 37640

(6) Replacement or modification of lighting fixtures to 37641
increase the energy efficiency of the system without increasing 37642
the overall illumination of a facility, unless such increase in 37643
illumination is necessary to conform to the applicable state or 37644
local building code for the proposed lighting system; 37645

(7) Energy recovery systems; 37646

(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings; 37647
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(9) Any other modification, installation, or remodeling approved by the Ohio school facilities commission as an energy conservation measure. 37650
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(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms: 37653
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(1) Not less than one-fifteenth of the costs thereof shall be paid within two years from the date of purchase. 37660
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(2) The remaining balance of the costs thereof shall be paid within fifteen years from the date of purchase. 37662
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The provisions of any installment payment contract entered into pursuant to this section shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, be stated as a percentage of calculated energy, water, or waste water cost savings, avoided operating costs, and avoided capital costs attributable to the one or more measures over a defined period of time. Those payments shall be made only to the extent that the savings described in this division actually occur. The contractor shall warrant and guarantee that the energy conservation measures shall realize guaranteed savings. In order to ensure payment of any savings shortfall, the contractor shall provide an energy guarantee bond for the full term of the contract, including any partial guarantee year. 37664
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The commission may reduce the term of any installment payment contract entered into under this section on or after the effective date of this amendment to three years. 37678
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An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B)(3) of that section. 37681
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(C) The board may issue the notes of the school district signed by the president and the treasurer of the board and specifying the terms of the purchase and securing the deferred payments provided in this section, payable at the times provided and bearing interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. In the resolution authorizing the notes, the board may provide, without the vote of the electors of the district, for annually levying and collecting taxes in amounts sufficient to pay the interest on and retire the notes, except that the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation. Revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the district, may be applied to the payment of interest and the retirement of such notes. The notes may be sold at private sale or given to the contractor under the installment payment contract authorized by division (B) of this section. 37688
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(D) Debt incurred under this section shall not be included in 37709

the calculation of the net indebtedness of a school district under 37710
section 133.06 of the Revised Code. 37711

(E) No school district board shall enter into an installment 37712
payment contract under division (B) of this section unless it 37713
first obtains a report of the costs of the energy conservation 37714
measures and the savings thereof as described under division (G) 37715
of section 133.06 of the Revised Code as a requirement for issuing 37716
energy securities, makes a finding that the amount spent on such 37717
measures is not likely to exceed the amount of money it would save 37718
in energy costs and resultant operational and maintenance costs as 37719
described in that division, except that that finding shall cover 37720
the ensuing fifteen years, and the Ohio school facilities 37721
commission determines that the district board's findings are 37722
reasonable and approves the contract as described in that 37723
division. 37724

The district board shall monitor the savings and maintain a 37725
report of those savings, which shall be submitted to the 37726
commission in the same manner as required by division (G) of 37727
section 133.06 of the Revised Code in the case of energy 37728
securities. 37729

Sec. 3313.376. As used in this section, "client school 37730
district" ~~has the same meaning as in section 3317.11 of the~~ 37731
~~Revised Code~~ means a city, exempted village, or local school 37732
district that has entered into an agreement under section 3313.843 37733
or 3313.845 of the Revised Code to receive any services from an 37734
educational service center. 37735

For the purpose of obtaining quantity discounts in purchasing 37736
textbooks; computer equipment, including computer software; school 37737
buses; and natural gas, electricity, and other utility services, 37738
the governing boards of two or more educational service centers 37739
may enter into agreements, including installment purchase and 37740

lease-purchase contracts, to jointly purchase such commodities to 37741
be utilized by client school districts of the educational service 37742
centers. 37743

Sec. 3313.42. (A) When in the judgment of a board of 37744
education of any school district in this state, lying adjacent to 37745
a school district of another state, the best interests of the 37746
public schools can be promoted by purchasing school grounds, 37747
repairing or erecting a schoolhouse, and maintaining them jointly 37748
between the two adjacent school districts, the board of education 37749
of the school district of this state so situated may enter into an 37750
agreement with the school authorities of said adjacent school 37751
district for the purpose of purchasing school grounds, repairing 37752
or constructing a school building, purchasing school furniture, 37753
equipment, appliances, fuel, employing teachers, and maintaining a 37754
school. The board of education of this state may levy taxes and 37755
perform such other duties in maintaining such joint school as are 37756
otherwise provided by law for maintaining the public schools in 37757
this state. 37758

In carrying out this section the school district shall pay 37759
such proportion of the cost of purchasing school grounds, 37760
repairing or erecting a building, and in maintaining the joint 37761
school as is equitable and just in the judgment of the board of 37762
education and trustees of the two adjacent school districts. 37763

~~(B) In any school district that has entered into an agreement 37764
under division (A) of this section, the state minimum teacher 37765
salary requirements prescribed by section 3317.13 of the Revised 37766
Code do not apply if the total expenditures by the school district 37767
for teacher salaries in any school year equals or exceeds the 37768
total minimum expenditures that would have been required in that 37769
year if such minimum teacher salary requirements did apply. 37770~~

~~(C) Notwithstanding sections 3319.01, 3319.02, and 3313.22 of 37771~~

the Revised Code, the board of education of a local school 37772
district that has entered into an agreement with an adjacent 37773
school district in another state under division (A) of this 37774
section may contract with the educational service center within 37775
which the local school district is located for the service center 37776
to provide any administrative services specified in the agreement 37777
to the local school district and the adjacent district. If such an 37778
agreement provides for the duties of a district treasurer, 37779
superintendent, or principals to be performed by the service 37780
center, the local school district is not required to employ 37781
persons to perform such duties. 37782

Sec. 3313.48. (A) The board of education of each city, 37783
exempted village, local, and joint vocational school district 37784
shall provide for the free education of the youth of school age 37785
within the district under its jurisdiction, at such places as will 37786
be most convenient for the attendance of the largest number 37787
thereof. ~~Except as provided in section 3313.481 of the Revised~~ 37788
~~Code, each~~ Each school so provided and each chartered nonpublic 37789
school shall be open for instruction with pupils in attendance, 37790
including scheduled classes, supervised activities, and approved 37791
education options but excluding lunch and breakfast periods and 37792
extracurricular activities, for not less than ~~one hundred~~ 37793
~~eighty two days~~ four hundred fifty-five hours in the case of 37794
pupils in kindergarten unless such pupils are provided all-day 37795
kindergarten, as defined in section 3321.05 of the Revised Code, 37796
in which case the pupils shall be in attendance for nine hundred 37797
ten hours; nine hundred ten hours in the case of pupils in grades 37798
one through six; and one thousand one hours in the case of pupils 37799
in grades seven through twelve in each school year, which may 37800
include all of the following: 37801

~~(A)(1) Up to four~~ the equivalent of two school days per year 37802
~~in which classes are dismissed one half day early or the~~ 37803

~~equivalent amount of time during a different number of days during~~ 37804
~~which pupils would otherwise be in attendance but are not required~~ 37805
~~to attend~~ for the purpose of individualized parent-teacher 37806
conferences and reporting periods; 37807

~~(B)(2) Up to the equivalent of two school days per year~~ 37808
~~during which pupils would otherwise be in attendance but are not~~ 37809
~~required to attend~~ for professional meetings of teachers ~~when such~~ 37810
~~days occur during a regular school week and schools are not in~~ 37811
~~session;~~ 37812

~~(C) The number of days the school is closed as a result of~~ 37813
~~public calamity, as provided in section 3317.01 of the Revised~~ 37814
Code (3) Morning and afternoon recess periods of not more than 37815
fifteen minutes duration per period for pupils in grades 37816
kindergarten through six. 37817

~~The state board of education shall adopt standards for~~ 37818
~~defining "school day" as used in sections 3313.48 and 3317.01 of~~ 37819
~~the Revised Code.~~ 37820

~~Except as otherwise provided in this section, each day for~~ 37821
~~grades seven through twelve shall consist of not less than five~~ 37822
~~clock hours with pupils in attendance, except in such emergency~~ 37823
~~situations, including lack of classroom space, as are approved by~~ 37824
~~the state board of education. Except as otherwise provided in this~~ 37825
~~section, each day for grades one through six shall consist of not~~ 37826
~~less than five clock hours with pupils in attendance which may~~ 37827
~~include fifteen minute morning and afternoon recess periods,~~ 37828
~~except in such emergency situations, including lack of classroom~~ 37829
~~space, as are approved by the state board of education.~~ 37830

(B) Not later than thirty days prior to adopting a school 37831
calendar, the board of education of each city, exempted village, 37832
and local school district shall hold a public hearing on the 37833
school calendar, addressing topics that include, but are not 37834

limited to, the total number of hours in a school year, length of 37835
school day, and beginning and end dates of instruction. Each board 37836
shall publish notice of the hearing in a newspaper of general 37837
circulation in the district not later than thirty days prior to 37838
the hearing. 37839

(C) No school operated by a city, exempted village, local, or 37840
joint vocational school district shall reduce the number of hours 37841
in each school year that the school is scheduled to be open for 37842
instruction from the number of hours per year the school was open 37843
for instruction during the previous school year unless the 37844
reduction is approved by a resolution adopted by the district 37845
board of education. Any reduction so approved shall not result in 37846
fewer hours of instruction per school year than the applicable 37847
number of hours required under division (A) of this section. 37848

(D) Prior to making any change in the hours or days in which 37849
a high school under its jurisdiction is open for instruction, the 37850
board of education of each city, exempted village, and local 37851
school district shall consider the compatibility of the proposed 37852
change with the scheduling needs of any joint vocational school 37853
district in which any of the high school's students are also 37854
enrolled. The board shall consider the impact of the proposed 37855
change on student access to the instructional programs offered by 37856
the joint vocational school district, incentives for students to 37857
participate in career-technical education, transportation, and the 37858
timing of graduation. The board shall provide the joint vocational 37859
school district board with advance notice of the proposed change 37860
and the two boards shall enter into a written agreement 37861
prescribing reasonable accommodations to meet the scheduling needs 37862
of the joint vocational school district prior to implementation of 37863
the change. 37864

(E) Prior to making any change in the hours or days in which 37865
a school under its jurisdiction is open for instruction, the board 37866

of education of each city, exempted village, and local school 37867
district shall consider the compatibility of the proposed change 37868
with the scheduling needs of any community school established 37869
under Chapter 3314. of the Revised Code to which the district is 37870
required to transport students under sections 3314.09 and 3327.01 37871
of the Revised Code. The board shall consider the impact of the 37872
proposed change on student access to the instructional programs 37873
offered by the community school, transportation, and the timing of 37874
graduation. The board shall provide the sponsor, governing 37875
authority, and operator of the community school with advance 37876
notice of the proposed change, and the board and the governing 37877
authority, or operator if such authority is delegated to the 37878
operator, shall enter into a written agreement prescribing 37879
reasonable accommodations to meet the scheduling needs of the 37880
community school prior to implementation of the change. 37881

(F) Prior to making any change in the hours or days in which 37882
the schools under its jurisdiction are open for instruction, the 37883
board of education of each city, exempted village, and local 37884
school district shall consult with the chartered nonpublic schools 37885
to which the district is required to transport students under 37886
section 3327.01 of the Revised Code and shall consider the effect 37887
of the proposed change on the schedule for transportation of those 37888
students to their nonpublic schools. The governing authority of a 37889
chartered nonpublic school shall consult with each school district 37890
board of education that transports students to the chartered 37891
nonpublic school under section 3327.01 of the Revised Code prior 37892
to making any change in the hours or days in which the nonpublic 37893
school is open for instruction. 37894

(G) The state board of education shall not adopt or enforce 37895
any rule or standard that imposes on chartered nonpublic schools 37896
the procedural requirements imposed on school districts by 37897
divisions (B), (C), (D), and (E) of this section. 37898

Sec. 3313.481. Wherever in Title XXXIII of the Revised Code 37899
the term "school day" is used, unless otherwise specified, that 37900
term shall be construed to mean the time during a calendar day 37901
that a school is open for instruction pursuant to the schedule 37902
adopted by the board of education of the school district or the 37903
governing authority of the chartered nonpublic school in 37904
accordance with section 3313.48 of the Revised Code. 37905

Sec. 3313.483. (A) A board of education, upon the adoption of 37906
a resolution stating that it may be financially unable to open on 37907
the day or to remain open for instruction on all days set forth in 37908
its adopted school calendar and pay all obligated expenses, or the 37909
superintendent of public instruction upon the issuance of written 37910
notification under division (B) of section 3313.489 of the Revised 37911
Code, shall request the auditor of state to determine whether such 37912
situation exists. The auditor shall deliver a copy of each request 37913
from a board of education to the superintendent of public 37914
instruction. In the case of a school district not under a fiscal 37915
emergency pursuant to Chapter 3316. of the Revised Code the 37916
auditor shall not issue a finding under this section until written 37917
notification is received from the superintendent pursuant to 37918
section 3313.487 of the Revised Code. 37919

(B) If the auditor of state finds that the board of education 37920
has attempted to avail itself to the fullest extent authorized by 37921
law of all lawful revenue sources available to it except those 37922
authorized by section 5705.21 of the Revised Code, the auditor 37923
shall certify that finding to the superintendent of public 37924
instruction and the state board of education and shall certify the 37925
operating deficit the district will have at the end of the fiscal 37926
year if it commences or continues operating its instructional 37927
program in accordance with its adopted school calendar and pays 37928
all obligated expenses. 37929

(C) No board of education may delay the opening of its schools or close its schools for financial reasons. Upon the request of the superintendent of public instruction, the attorney general shall seek injunctive relief and any other relief required to enforce this prohibition in the court of common pleas of Franklin county. The court of common pleas of Franklin county has exclusive original jurisdiction over all such actions.

(D) Upon the receipt of any certification of an operating deficit from the auditor of state, a board of education shall make application to a commercial bank, underwriter, or other prospective lender or purchaser of its obligations for a loan in an amount sufficient to enable the district to open or remain open for instruction on all days set forth in its adopted school calendar but not to exceed the amount of the deficit certified.

(E)(1) Any board of education that has applied for and been denied a loan from a commercial bank, underwriter, or other prospective lender or purchaser of its obligations pursuant to division (D) of this section shall submit to the superintendent of public instruction a plan for implementing reductions in the school district's budget; apply for a loan from a commercial bank, underwriter, or other prospective lender or purchaser of its obligations in an amount not to exceed its certified deficit; and provide the superintendent such information as the superintendent requires concerning its application for such a loan. The board of education of a school district declared to be under a fiscal watch pursuant to division (A) of section 3316.03 of the Revised Code may, upon approval of the superintendent, utilize the financial plan required by section 3316.04 of the Revised Code, or applicable parts thereof, as the plan required under this division. The board of education of a school district declared to be under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code may utilize the financial recovery

plan for the district, or applicable parts thereof, as the plan 37962
required under this division. Except for the plan of a school 37963
district under a fiscal emergency, the superintendent shall 37964
evaluate, make recommendations concerning, and approve or 37965
disapprove each plan. When a plan is submitted, the superintendent 37966
shall immediately notify the members of the general assembly whose 37967
legislative districts include any or all of the territory of the 37968
school district submitting the plan. 37969

(2) The superintendent shall submit to the controlling board 37970
a copy of each plan the superintendent approves, or each plan 37971
submitted by a district under a fiscal emergency pursuant to 37972
division (B) of section 3316.03 of the Revised Code, and the 37973
general terms of each proposed loan, and shall make 37974
recommendations regarding the plan and whether a proposed loan to 37975
the board of education should be approved for payment as provided 37976
in division (E)(3) of this section. The controlling board shall 37977
approve or disapprove the plan and the proposed loan presented to 37978
it by the superintendent. In the case of a district not under a 37979
fiscal emergency pursuant to division (B) of section 3316.03 of 37980
the Revised Code, the controlling board may require a board of 37981
education to implement the superintendent's recommendations for 37982
expenditure reductions or impose other requirements. Loan 37983
repayments shall be in accordance with a schedule approved by the 37984
superintendent, except that the principal amount of the loan shall 37985
be payable in monthly, semiannual, or annual installments of 37986
principal and interest that are substantially equal principal and 37987
interest installments. Except as otherwise provided in division 37988
(E)(2) of this section, repayment shall be made no later than the 37989
fifteenth day of June of the second fiscal year following the 37990
approval of the loan. A school district with a certified deficit 37991
in excess of either twenty-five million dollars or fifteen per 37992
cent of the general fund expenditures of the district during the 37993
fiscal year shall repay the loan no later than the fifteenth day 37994

of June of the tenth fiscal year following the approval of the 37995
loan. In deciding whether to approve or disapprove a proposed 37996
loan, the controlling board shall consider the deficit certified 37997
by the auditor of state pursuant to this section. A board of 37998
education that has an outstanding loan approved pursuant to this 37999
section with a repayment date of more than two fiscal years after 38000
the date of approval of such loan may not apply for another loan 38001
with such a repayment date until the outstanding loan has been 38002
repaid. 38003

(3) If a board of education has submitted and received 38004
controlling board approval of a plan and proposed loan in 38005
accordance with this section, the superintendent of public 38006
instruction shall report to the controlling board the actual 38007
amounts loaned to the board of education. Such board of education 38008
shall request the superintendent to pay any funds the board of 38009
education would otherwise receive pursuant to Chapter 3306. of the 38010
Revised Code first directly to the holders of the board of 38011
education's notes, or an agent thereof, such amounts as are 38012
specified under the terms of the loan. Such payments shall be made 38013
only from and to the extent of money appropriated by the general 38014
assembly for purposes of such sections. No note or other 38015
obligation of the board of education under the loan constitutes an 38016
obligation nor a debt or a pledge of the faith, credit, or taxing 38017
power of the state, and the holder or owner of such note or 38018
obligation has no right to have taxes levied by the general 38019
assembly for the payment of such note or obligation, and such note 38020
or obligation shall contain a statement to that effect. 38021

(4) Pursuant to the terms of such a loan, a board of 38022
education may issue its notes in anticipation of the collection of 38023
its voted levies for current expenses or its receipt of such state 38024
funds or both. Such notes shall be issued in accordance with 38025
division (E) of section 133.10 of the Revised Code and constitute 38026

Chapter 133. securities to the extent such division and the 38027
otherwise applicable provisions of Chapter 133. of the Revised 38028
Code are not inconsistent with this section, provided that in any 38029
event sections 133.24 and 5705.21 and divisions (A), (B), (C), and 38030
(E)(2) of section 133.10 of the Revised Code do not apply to such 38031
notes. 38032

(5) Notwithstanding section 133.36 or 3313.17, any other 38033
section of the Revised Code, or any other provision of law, a 38034
board of education that has received a loan under this section may 38035
not declare bankruptcy, so long as any portion of such loan 38036
remains unpaid. 38037

(F) Under this section and ~~sections~~ section 3313.4810 and 38038
~~3313.4811~~, "board of education" or "district board" includes the 38039
financial planning and supervision commission of a school district 38040
under a fiscal emergency pursuant to Chapter 3316. of the Revised 38041
Code where such commission chooses to exercise the powers and 38042
duties otherwise required of the district board of education under 38043
this section and ~~sections~~ section 3313.4810 and ~~3313.4811~~ of the 38044
Revised Code. 38045

Sec. 3313.484. No loan shall be approved under sections 38046
3313.483 to ~~3313.4811~~ 3313.4810 of the Revised Code after March 1, 38047
1998. 38048

By the last day of June each year, the department of 38049
education shall calculate and pay a subsidy to every school 38050
district that during the current fiscal year paid and was 38051
obligated to pay interest on a loan under sections 3313.483 to 38052
~~3313.4811~~ 3313.4810 of the Revised Code in excess of two per cent 38053
simple interest. The amount of the subsidy shall equal the 38054
difference between the amount of interest the district paid and 38055
was obligated to pay during the year and the interest that the 38056
district would have been obligated to pay if the interest rate on 38057

the loan had been two per cent per year. 38058

Sec. 3313.488. (A) Within fifteen days ~~of~~ after the date a 38059
~~board of education requests that its school district be made~~ 38060
~~subject to this section as authorized by section 3317.62 of the~~ 38061
~~Revised Code, or~~ the state board of education ~~has issued~~ issues an 38062
order under section 3313.487 of the Revised Code making a school 38063
district subject to this section, the district's board of 38064
education shall prepare a fiscal statement of expenses and 38065
expenditures for the remainder of the current fiscal year. The 38066
fiscal statement shall be submitted to the superintendent of 38067
public instruction and shall set forth all revenues to be received 38068
by the district during the remainder of the fiscal year and their 38069
sources, the expenses to be incurred by the district during the 38070
remainder of the fiscal year, the outstanding and unpaid expenses 38071
at the time the fiscal statement is prepared and the date or dates 38072
by which such expenses must be paid, and such other information as 38073
the superintendent requires to enable the superintendent to ensure 38074
that during the remainder of the fiscal year, the district will 38075
not incur any expenses that will further impair its ability to 38076
operate an instructional program that meets or exceeds the minimum 38077
standards of the state board of education and requirements of the 38078
Revised Code during the current and ensuing fiscal years with the 38079
revenue available to it from existing revenue sources. The fiscal 38080
statement shall be presented in such detail and form as the 38081
superintendent prescribes. Beginning the tenth day after the 38082
fiscal statement is submitted and for the remainder of the fiscal 38083
year, the board shall not make any expenditure of money, make any 38084
employment, purchase, or rental contract, give any order involving 38085
the expenditure of money, or increase any wage or salary schedule 38086
unless the superintendent of public instruction has approved the 38087
fiscal statement in writing and the expenditure, contract, order, 38088
or schedule has been approved in writing by the superintendent as 38089

being in conformity with the fiscal statement. 38090

Any contract or expenditure made, order given, or schedule 38091
adopted or put into effect without the written approval of the 38092
superintendent of public instruction is void, and no warrant shall 38093
be issued in payment of any amount due thereon. 38094

(B) A board of education subject to division (A) of this 38095
section shall prepare a fiscal statement of expenses and 38096
expenditures for the ensuing fiscal year. The fiscal statement 38097
shall be submitted to the superintendent of public instruction and 38098
shall set forth all revenues to be received by the district during 38099
such year and their source, the expenses to be incurred by the 38100
district during such year, the outstanding and unpaid expenses on 38101
the first day of such fiscal year, the date or dates by which such 38102
expenses must be paid, and such other information as the 38103
superintendent requires to enable the superintendent to ensure 38104
that during such year, the district will not incur any expenses 38105
that will further impair its ability to operate an instructional 38106
program that meets or exceeds the minimum standards of the state 38107
board of education and requirements of the Revised Code during 38108
such year with the revenue available to it from existing revenue 38109
sources. The fiscal statement shall be presented at the time and 38110
in such detail and form as the superintendent prescribes. During 38111
the fiscal year following the year in which a board of education 38112
first becomes subject to division (A) of this section it shall not 38113
make any expenditure of money, make any employment, purchase, or 38114
rental contract, give any order involving the expenditure of 38115
money, or increase any wage or salary schedule unless the 38116
superintendent of public instruction has approved the fiscal 38117
statement submitted under this division in writing and has 38118
approved the expenditure, contract, order, or schedule in writing 38119
as being in conformity with the fiscal statement. 38120

Any contract or expenditure made, order given, or schedule 38121

adopted or put into effect without the written approval of the 38122
superintendent of public instruction is void, and no warrant shall 38123
be issued in payment of any amount due thereon. 38124

(C) The state board of education shall examine any fiscal 38125
statement presented to and approved by the superintendent of 38126
public instruction under division (B) of this section and shall 38127
determine whether the data set forth in the fiscal statement are 38128
factual and based upon assumptions that in its judgment are 38129
reasonable expectations consistent with acceptable governmental 38130
budget and accounting practices. If the state board so determines 38131
and finds that the revenues and expenditures in the fiscal 38132
statement are in balance for the fiscal year and the fiscal 38133
statement will enable the district to operate during such year 38134
without interrupting its school calendar, it shall certify its 38135
determination and finding to the district at least thirty days 38136
prior to the beginning of the fiscal year, and the district shall 38137
thereupon cease to be subject to this section. If the state board 38138
does not make such a determination and finding, the board of 38139
education and school district are subject to this division and 38140
division (B) of this section in the ensuing fiscal year and each 38141
fiscal year thereafter until the state board makes a 38142
determination, finding, and certification under this division. 38143

(D) Any officer, employee, or other person who knowingly 38144
expends or authorizes the expenditure of any public funds or 38145
knowingly authorizes or executes any contract, order, or schedule 38146
contrary to division (A) or (B) of this section or who knowingly 38147
expends or authorizes the expenditure of any public funds on any 38148
such void contract, order, or schedule is jointly and severally 38149
liable in person and upon any official bond that the officer, 38150
employee, or other person has given to such school district to the 38151
extent of any payments on the void claim, not to exceed twenty 38152
thousand dollars. The attorney general at the written request of 38153

the superintendent of public instruction shall enforce this 38154
liability by civil action brought in any court of appropriate 38155
jurisdiction in the name of and on behalf of the school district. 38156

(E) During each month that a board of education is subject to 38157
division (A), (B), or (C) of this section, the superintendent of 38158
public instruction shall submit a report to the speaker of the 38159
house of representatives and the president of the senate on the 38160
financial condition of the school district. The report shall 38161
contain the date by which the superintendent anticipates the 38162
district will cease to be subject to such divisions, the 38163
district's plans for becoming exempt from such section, and such 38164
other information the superintendent determines appropriate or the 38165
speaker of the house of representatives or president of the senate 38166
requests. 38167

In addition to the other reports required under this 38168
division, on the thirty-first day of each school district fiscal 38169
year following a fiscal year in which a school district first 38170
becomes subject to this section, the superintendent shall submit a 38171
written report to the speaker of the house of representatives and 38172
the president of the senate. The report shall include 38173
recommendations to the general assembly for strengthening the 38174
financial condition of school districts based upon the experiences 38175
of the superintendent and the state board in exercising their 38176
powers under this section and sections 3313.483 and 3313.487 of 38177
the Revised Code. 38178

(F) This section does not apply to a school district declared 38179
to be under a fiscal emergency pursuant to division (B) of section 38180
3316.03 of the Revised Code. 38181

Sec. 3313.4810. Any school district receiving a loan under 38182
section 3313.483 ~~or 3317.64~~ of the Revised Code in excess of seven 38183
per cent of the general fund expenditures of the district during 38184

the fiscal year in which the loan is received and that has 38185
received a loan under that section within the last five years is 38186
subject to section 3313.488 of the Revised Code for the duration 38187
of the fiscal year in which the district receives the loan and 38188
during the ensuing two fiscal years. The controlling board may not 38189
relieve a school district to which this section applies from any 38190
requirements imposed under section 3313.483 ~~or 3317.64~~ of the 38191
Revised Code to implement recommendations of the superintendent of 38192
public instruction for expenditure reduction and may not modify 38193
any other requirements imposed under such section upon such a 38194
district as a condition for receiving the loan unless expressly 38195
authorized to do so by law. The superintendent of public 38196
instruction shall, among any recommendations ~~he~~ the superintendent 38197
makes for expenditure reduction under section 3313.483 ~~or 3317.63~~ 38198
of the Revised Code affecting the number of employees of a school 38199
district to which this section applies, provide wherever possible 38200
for the retention of teachers who are actually involved in the 38201
daily teaching of students in the classroom. 38202

Sec. 3313.533. (A) The board of education of a city, exempted 38203
village, or local school district may adopt a resolution to 38204
establish and maintain an alternative school in accordance with 38205
this section. The resolution shall specify, but not necessarily be 38206
limited to, all of the following: 38207

(1) The purpose of the school, which purpose shall be to 38208
serve students who are on suspension, who are having truancy 38209
problems, who are experiencing academic failure, who have a 38210
history of class disruption, who are exhibiting other academic or 38211
behavioral problems specified in the resolution, or who have been 38212
discharged or released from the custody of the department of youth 38213
services under section 5139.51 of the Revised Code; 38214

(2) The grades served by the school, which may include any of 38215

grades kindergarten through twelve; 38216

(3) A requirement that the school be operated in accordance 38217
with this section. The board of education adopting the resolution 38218
under division (A) of this section shall be the governing board of 38219
the alternative school. The board shall develop and implement a 38220
plan for the school in accordance with the resolution establishing 38221
the school and in accordance with this section. Each plan shall 38222
include, but not necessarily be limited to, all of the following: 38223

(a) Specification of the reasons for which students will be 38224
accepted for assignment to the school and any criteria for 38225
admission that are to be used by the board to approve or 38226
disapprove the assignment of students to the school; 38227

(b) Specification of the criteria and procedures that will be 38228
used for returning students who have been assigned to the school 38229
back to the regular education program of the district; 38230

(c) An evaluation plan for assessing the effectiveness of the 38231
school and its educational program and reporting the results of 38232
the evaluation to the public. 38233

(B) Notwithstanding any provision of Title XXXIII of the 38234
Revised Code to the contrary, the alternative school plan may 38235
include any of the following: 38236

(1) A requirement that on each school day students must 38237
attend school or participate in other programs specified in the 38238
plan or by the chief administrative officer of the school for a 38239
period equal to the minimum school day set by the ~~state~~ board of 38240
education under section 3313.48 of the Revised Code plus any 38241
additional time required in the plan or by the chief 38242
administrative officer; 38243

(2) Restrictions on student participation in extracurricular 38244
or interscholastic activities; 38245

(3) A requirement that students wear uniforms prescribed by 38246
the district board of education. 38247

(C) In accordance with the alternative school plan, the 38248
district board of education may employ teachers and nonteaching 38249
employees necessary to carry out its duties and fulfill its 38250
responsibilities or may contract with a nonprofit or for profit 38251
entity to operate the alternative school, including the provision 38252
of personnel, supplies, equipment, or facilities. 38253

(D) An alternative school may be established in all or part 38254
of a school building. 38255

(E) If a district board of education elects under this 38256
section, or is required by section 3313.534 of the Revised Code, 38257
to establish an alternative school, the district board may join 38258
with the board of education of one or more other districts to form 38259
a joint alternative school by forming a cooperative education 38260
school district under section 3311.52 or 3311.521 of the Revised 38261
Code, or a joint educational program under section 3313.842 of the 38262
Revised Code. The authority to employ personnel or to contract 38263
with a nonprofit or for profit entity under division (C) of this 38264
section applies to any alternative school program established 38265
under this division. 38266

(F) Any individual employed as a teacher at an alternative 38267
school operated by a nonprofit or for profit entity under this 38268
section shall be licensed and shall be subject to background 38269
checks, as described in section 3319.39 of the Revised Code, in 38270
the same manner as an individual employed by a school district. 38271

(G) Division (G) of this section applies only to any 38272
alternative school that is operated by a nonprofit or for profit 38273
entity under contract with the school district. 38274

(1) In addition to the specifications authorized under 38275
division (B) of this section, any plan adopted under that division 38276

for an alternative school to which division (G) of this section	38277
also applies shall include the following:	38278
(a) A description of the educational program provided at the	38279
alternative school, which shall include:	38280
(i) Provisions for the school to be configured in clusters or	38281
small learning communities;	38282
(ii) Provisions for the incorporation of education technology	38283
into the curriculum;	38284
(iii) Provisions for accelerated learning programs in reading	38285
and mathematics.	38286
(b) A method to determine the reading and mathematics level	38287
of each student assigned to the alternative school and a method to	38288
continuously monitor each student's progress in those areas. The	38289
methods employed under this division shall be aligned with the	38290
curriculum adopted by the school district board of education under	38291
section 3313.60 of the Revised Code.	38292
(c) A plan for social services to be provided at the	38293
alternative school, such as, but not limited to, counseling	38294
services, psychological support services, and enrichment programs;	38295
(d) A plan for a student's transition from the alternative	38296
school back to a school operated by the school district;	38297
(e) A requirement that the alternative school maintain	38298
financial records in a manner that is compatible with the form	38299
prescribed for school districts by the auditor of state to enable	38300
the district to comply with any rules adopted by the auditor of	38301
state.	38302
(2) Notwithstanding division (A)(2) of this section, any	38303
alternative school to which division (G) of this section applies	38304
shall include only grades six through twelve.	38305
(3) Notwithstanding anything in division (A)(3)(a) of this	38306

section to the contrary, the characteristics of students who may 38307
be assigned to an alternative school to which division (G) of this 38308
section applies shall include only disruptive and low-performing 38309
students. 38310

(H) When any district board of education determines to 38311
contract with a nonprofit or for profit entity to operate an 38312
alternative school under this section, the board shall use the 38313
procedure set forth in this division. 38314

(1) The board shall publish notice of a request for proposals 38315
in a newspaper of general circulation in the district once each 38316
week for a period of two consecutive weeks, or as provided in 38317
section 7.16 of the Revised Code, prior to the date specified by 38318
the board for receiving proposals. Notices of requests for 38319
proposals shall contain a general description of the subject of 38320
the proposed contract and the location where the request for 38321
proposals may be obtained. The request for proposals shall include 38322
all of the following information: 38323

(a) Instructions and information to respondents concerning 38324
the submission of proposals, including the name and address of the 38325
office where proposals are to be submitted; 38326

(b) Instructions regarding communications, including at least 38327
the names, titles, and telephone numbers of persons to whom 38328
questions concerning a proposal may be directed; 38329

(c) A description of the performance criteria that will be 38330
used to evaluate whether a respondent to which a contract is 38331
awarded is meeting the district's educational standards or the 38332
method by which such performance criteria will be determined; 38333

(d) Factors and criteria to be considered in evaluating 38334
proposals, the relative importance of each factor or criterion, 38335
and a description of the evaluation procedures to be followed; 38336

(e) Any terms or conditions of the proposed contract, 38337

including any requirement for a bond and the amount of such bond; 38338

(f) Documents that may be incorporated by reference into the 38339
request for proposals, provided that the request for proposals 38340
specifies where such documents may be obtained and that such 38341
documents are readily available to all interested parties. 38342

(2) After the date specified for receiving proposals, the 38343
board shall evaluate the submitted proposals and may hold 38344
discussions with any respondent to ensure a complete understanding 38345
of the proposal and the qualifications of such respondent to 38346
execute the proposed contract. Such qualifications shall include, 38347
but are not limited to, all of the following: 38348

(a) Demonstrated competence in performance of the required 38349
services as indicated by effective implementation of educational 38350
programs in reading and mathematics and at least three years of 38351
experience successfully serving a student population similar to 38352
the student population assigned to the alternative school; 38353

(b) Demonstrated performance in the areas of cost 38354
containment, the provision of educational services of a high 38355
quality, and any other areas determined by the board; 38356

(c) Whether the respondent has the resources to undertake the 38357
operation of the alternative school and to provide qualified 38358
personnel to staff the school; 38359

(d) Financial responsibility. 38360

(3) The board shall select for further review at least three 38361
proposals from respondents the board considers qualified to 38362
operate the alternative school in the best interests of the 38363
students and the district. If fewer than three proposals are 38364
submitted, the board shall select each proposal submitted. The 38365
board may cancel a request for proposals or reject all proposals 38366
at any time prior to the execution of a contract. 38367

The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract.

(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract.

(6) Any respondent may request in writing that the board not disclose confidential or proprietary information or trade secrets contained in the proposal submitted by the respondent to the board. Any such request shall be accompanied by an offer of indemnification from the respondent to the board. The board shall determine whether to agree to the request and shall inform the respondent in writing of its decision. If the board agrees to nondisclosure of specified information in a proposal, such information shall not become a public record under section 149.43 of the Revised Code. If the respondent withdraws its proposal at any time prior to the execution of a contract, the proposal shall not be a public record under section 149.43 of the Revised Code.

(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state

board of education may revoke the charter of any alternative 38400
school operated by a school district that violates this section. 38401

Sec. 3313.539. (A) As used in this section, ~~"physician":~~ 38402

"Physician" means a person authorized under Chapter 4731. of 38403
the Revised Code to practice medicine and surgery or osteopathic 38404
medicine and surgery. 38405

"Chiropractor" means a person licensed under Chapter 4734. of 38406
the Revised Code to practice chiropractic. 38407

(B) No school district board of education or governing 38408
authority of a chartered or nonchartered nonpublic school shall 38409
permit a student to practice for or compete in interscholastic 38410
athletics until the student has submitted, to a school official 38411
designated by the board or governing authority, a form signed by 38412
the parent, guardian, or other person having care or charge of the 38413
student stating that the student and the parent, guardian, or 38414
other person having care or charge of the student have received 38415
the concussion and head injury information sheet required by 38416
section 3707.52 of the Revised Code. A completed form shall be 38417
submitted each school year, as defined in section 3313.62 of the 38418
Revised Code, for each sport or other category of interscholastic 38419
athletics for or in which the student practices or competes. 38420

(C)(1) No school district board of education or governing 38421
authority of a chartered or nonchartered nonpublic school shall 38422
permit an individual to coach interscholastic athletics unless the 38423
individual holds a pupil-activity program permit issued under 38424
section 3319.303 of the Revised Code for coaching interscholastic 38425
athletics. 38426

(2) No school district board of education or governing 38427
authority of a chartered or nonchartered nonpublic school shall 38428
permit an individual to referee interscholastic athletics unless 38429

the individual holds a pupil-activity program permit issued under 38430
section 3319.303 of the Revised Code for coaching interscholastic 38431
athletics or presents evidence that the individual has 38432
successfully completed, within the previous three years, a 38433
training program in recognizing the symptoms of concussions and 38434
head injuries to which the department of health has provided a 38435
link on its internet web site under section 3707.52 of the Revised 38436
Code or a training program authorized and required by an 38437
organization that regulates interscholastic conferences or events. 38438

(D) If a student practicing for or competing in an 38439
interscholastic athletic event exhibits signs, symptoms, or 38440
behaviors consistent with having sustained a concussion or head 38441
injury while participating in the practice or competition, the 38442
student shall be removed from the practice or competition by 38443
either of the following: 38444

(1) The individual who is serving as the student's coach 38445
during that practice or competition; 38446

(2) An individual who is serving as a referee during that 38447
practice or competition. 38448

(E)(1) If a student is removed from practice or competition 38449
under division (D) of this section, the coach or referee who 38450
removed the student shall not allow the student, on the same day 38451
the student is removed, to return to that practice or competition 38452
or to participate in any other practice or competition for which 38453
the coach or referee is responsible. Thereafter, the coach or 38454
referee shall not allow the student to return to that practice or 38455
competition or to participate in any other practice or competition 38456
for which the coach or referee is responsible until both of the 38457
following conditions are satisfied: 38458

(a) The student's condition is assessed by ~~either~~ any of the 38459
following: 38460

(i) A physician; 38461

(ii) A chiropractor; 38462

(iii) Any other licensed health care provider the school 38463
district board of education or governing authority of the 38464
chartered or nonchartered nonpublic school, pursuant to division 38465
(E)(2) of this section, authorizes to assess a student who has 38466
been removed from practice or competition under division (D) of 38467
this section. 38468

(b) The student receives written clearance that it is safe 38469
for the student to return to practice or competition from a 38470
physician, chiropractor, or ~~from~~ another licensed health care 38471
provider authorized pursuant to division (E)(2) of this section to 38472
grant the clearance. 38473

(2) A school district board of education or governing 38474
authority of a chartered or nonchartered nonpublic school may 38475
authorize a licensed health care provider who is not a physician 38476
or a chiropractor to make an assessment or grant a clearance for 38477
purposes of division (E)(1) of this section only if the provider 38478
is acting in accordance with one of the following, as applicable 38479
to the provider's authority to practice in this state: 38480

(a) In consultation with a physician; 38481

(b) Pursuant to the referral of a physician; 38482

(c) In collaboration with a physician; 38483

(d) Under the supervision of a physician. 38484

(3) A physician, chiropractor, or other licensed health care 38485
provider who makes an assessment or grants a clearance for 38486
purposes of division (E)(1) of this section may be a volunteer. 38487

(F) A school district board of education or governing 38488
authority of a chartered or nonchartered nonpublic school that is 38489
subject to the rules of an interscholastic conference or an 38490

organization that regulates interscholastic conferences or events 38491
shall be considered to be in compliance with divisions (B), (D), 38492
and (E) of this section, as long as the requirements of those 38493
rules are substantially similar to the requirements of divisions 38494
(B), (D), and (E) of this section. 38495

(G)(1) A school district, member of a school district board 38496
of education, or school district employee or volunteer, including 38497
a coach or referee, is not liable in damages in a civil action for 38498
injury, death, or loss to person or property allegedly arising 38499
from providing services or performing duties under this section, 38500
unless the act or omission constitutes willful or wanton 38501
misconduct. 38502

This section does not eliminate, limit, or reduce any other 38503
immunity or defense that a school district, member of a school 38504
district board of education, or school district employee or 38505
volunteer, including a coach or referee, may be entitled to under 38506
Chapter 2744. or any other provision of the Revised Code or under 38507
the common law of this state. 38508

(2) A chartered or nonchartered nonpublic school or any 38509
officer, director, employee, or volunteer of the school, including 38510
a coach or referee, is not liable in damages in a civil action for 38511
injury, death, or loss to person or property allegedly arising 38512
from providing services or performing duties under this section, 38513
unless the act or omission constitutes willful or wanton 38514
misconduct. 38515

Sec. 3313.5311. (A) As used in this section and in section 38516
3313.5312 of the Revised Code, "extracurricular activity" has the 38517
same meaning as in section 3313.537 of the Revised Code. 38518

(B) If the nonpublic school in which the student is enrolled 38519
does not offer the extracurricular activity, a student enrolled in 38520
a chartered or nonchartered nonpublic school shall be afforded, by 38521

the superintendent of the school district in which the student is 38522
entitled to attend school under section 3313.64 or 3313.65 of the 38523
Revised Code, the opportunity to participate in that 38524
extracurricular activity at the district school to which the 38525
student otherwise would be assigned during that school year. If 38526
more than one school operated by the school district serves the 38527
student's grade level, as determined by the district 38528
superintendent based on the student's age and academic 38529
performance, the student shall be afforded the opportunity to 38530
participate in that extracurricular activity at the school to 38531
which the student would be assigned by the superintendent under 38532
section 3319.01 of the Revised Code. 38533

(C) The superintendent of any school district may afford any 38534
student enrolled in a nonpublic school, and who is not entitled to 38535
attend school in the district under section 3313.64 or 3313.65 of 38536
the Revised Code, the opportunity to participate in an 38537
extracurricular activity offered by a school of the district, if 38538
both of the following apply: 38539

(1) The nonpublic school in which the student is enrolled 38540
does not offer the extracurricular activity; 38541

(2) The extracurricular activity is not interscholastic 38542
athletics or interscholastic contests or competition in music, 38543
drama, or forensics. 38544

(D) In order to participate in an extracurricular activity 38545
under this section, the student shall be of the appropriate age 38546
and grade level, as determined by the superintendent of the 38547
district, for the school that offers the extracurricular activity, 38548
and shall fulfill the same academic, nonacademic, and financial 38549
requirements as any other participant. 38550

(E) No school district shall impose additional rules on a 38551
student to participate under this section that do not apply to 38552

other students participating in the same extracurricular activity. 38553
No district shall impose additional fees for a student to 38554
participate under this section that exceed any fees charged to 38555
other students participating in the same extracurricular activity. 38556

(F) No school district, interscholastic conference, or 38557
organization that regulates interscholastic conferences or events 38558
shall require a student who is eligible to participate in 38559
interscholastic extracurricular activities under this section to 38560
meet eligibility requirements that conflict with this section. 38561

Sec. 3313.5312. (A) A student who is receiving home 38562
instruction in accordance with division (A)(2) of section 3321.04 38563
of the Revised Code shall be afforded, by the superintendent of 38564
the school district in which the student is entitled to attend 38565
school under section 3313.64 or 3313.65 of the Revised Code, the 38566
opportunity to participate in any extracurricular activity offered 38567
at the district school to which the student otherwise would be 38568
assigned during that school year. If more than one school operated 38569
by the school district serves the student's grade level, as 38570
determined by the district superintendent based on the student's 38571
age and academic performance, the student shall be afforded the 38572
opportunity to participate in extracurricular activities at the 38573
school to which the student would be assigned by the 38574
superintendent under section 3319.01 of the Revised Code. If a 38575
student who is afforded the opportunity to participate in 38576
extracurricular activities under division (A) of this section 38577
wishes to participate in an activity that is offered by the 38578
district, the student shall not participate in that activity at 38579
another school or school district to which the student is not 38580
entitled to attend. 38581

(B) The superintendent of any school district may afford any 38582
student who receives home instruction under division (A)(2) of 38583

section 3321.04 of the Revised Code, and who is not entitled to 38584
attend school in the district under section 3313.64 or 3313.65 of 38585
the Revised Code, the opportunity to participate in any 38586
extracurricular activity offered by a school of the district, if 38587
the district to which the student is entitled to attend does not 38588
offer that extracurricular activity. 38589

(C) In order to participate in an extracurricular activity 38590
under this section, the student shall be of the appropriate age 38591
and grade level, as determined by the superintendent of the 38592
district, for the school that offers the extracurricular activity, 38593
shall fulfill the same nonacademic and financial requirements as 38594
any other participant, and shall fulfill either of the following 38595
academic requirements: 38596

(1) If the student received home instruction in the preceding 38597
grading period, the student shall meet any academic requirements 38598
established by the state board of education for the continuation 38599
of home instruction. 38600

(2) If the student did not receive home instruction in the 38601
preceding grading period, the student's academic performance 38602
during the preceding grading period shall have met any academic 38603
standards for eligibility to participate in the program 38604
established by the school district. 38605

(D) Eligibility for a student who leaves a school district 38606
mid-year for home instruction shall be determined based on an 38607
interim academic assessment issued by the district in which the 38608
student was enrolled based on the student's work while enrolled in 38609
that district. 38610

(E) Any student who commences home instruction after the 38611
beginning of a school year and who is, at the time home 38612
instruction commences, ineligible to participate in an 38613
extracurricular activity due to failure to meet academic standards 38614

or any other requirements of the district shall not participate in 38615
the extracurricular activity under this section until the student 38616
meets the academic requirements established by the state board of 38617
education for continuation of home instruction as verified by the 38618
superintendent of the district. No student under this section 38619
shall be eligible to participate in the same semester in which the 38620
student was determined ineligible. 38621

(F) No school district shall impose additional rules on a 38622
student to participate under this section that do not apply to 38623
other students participating in the same extracurricular activity. 38624
No district shall impose fees for a student to participate under 38625
this section that exceed any fees charged to other students 38626
participating in the same extracurricular activity. 38627

(G) No school district, interscholastic conference, or 38628
organization that regulates interscholastic conferences or events 38629
shall require a student who is eligible to participate in 38630
interscholastic extracurricular activities under this section to 38631
meet eligibility requirements that conflict with this section. 38632

Sec. 3313.603. (A) As used in this section: 38633

(1) "One unit" means a minimum of one hundred twenty hours of 38634
course instruction, except that for a laboratory course, "one 38635
unit" means a minimum of one hundred fifty hours of course 38636
instruction. 38637

(2) "One-half unit" means a minimum of sixty hours of course 38638
instruction, except that for physical education courses, "one-half 38639
unit" means a minimum of one hundred twenty hours of course 38640
instruction. 38641

(B) Beginning September 15, 2001, except as required in 38642
division (C) of this section and division (C) of section 3313.614 38643
of the Revised Code, the requirements for graduation from every 38644

high school shall include twenty units earned in grades nine 38645
through twelve and shall be distributed as follows: 38646

- (1) English language arts, four units; 38647
- (2) Health, one-half unit; 38648
- (3) Mathematics, three units; 38649
- (4) Physical education, one-half unit; 38650
- (5) Science, two units until September 15, 2003, and three 38651
units thereafter, which at all times shall include both of the 38652
following: 38653

 - (a) Biological sciences, one unit; 38654
 - (b) Physical sciences, one unit. 38655

- (6) History and government, one unit, which shall comply with 38656
division (M) of this section and shall include both of the 38657
following: 38658

 - (a) American history, one-half unit; 38659
 - (b) American government, one-half unit. 38660

- (7) Social studies, two units. 38661
- (8) Elective units, seven units until September 15, 2003, and 38662
six units thereafter. 38663

Each student's electives shall include at least one unit, or 38664
two half units, chosen from among the areas of 38665
business/technology, fine arts, and/or foreign language. 38666

(C) Beginning with students who enter ninth grade for the 38667
first time on or after July 1, 2010, except as provided in 38668
divisions (D) to (F) of this section, the requirements for 38669
graduation from every public and chartered nonpublic high school 38670
shall include twenty units that are designed to prepare students 38671
for the workforce and college. The units shall be distributed as 38672
follows: 38673

(1) English language arts, four units;	38674
(2) Health, one-half unit, which shall include instruction in nutrition and the benefits of nutritious foods and physical activity for overall health;	38675 38676 38677
(3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II;	38678 38679
(4) Physical education, one-half unit;	38680
(5) Science, three units with inquiry-based laboratory experience that engages students in asking valid scientific questions and gathering and analyzing information, which shall include the following, or their equivalent:	38681 38682 38683 38684
(a) Physical sciences, one unit;	38685
(b) Life sciences, one unit;	38686
(c) Advanced study in one or more of the following sciences, one unit:	38687 38688
(i) Chemistry, physics, or other physical science;	38689
(ii) Advanced biology or other life science;	38690
(iii) Astronomy, physical geology, or other earth or space science.	38691 38692
(6) History and government, one unit, which shall comply with division (M) of this section and shall include both of the following:	38693 38694 38695
(a) American history, one-half unit;	38696
(b) American government, one-half unit.	38697
(7) Social studies, two units.	38698
Each school shall integrate the study of economics and financial literacy, as expressed in the social studies academic content standards adopted by the state board of education under	38699 38700 38701

division (A)(1) of section 3301.079 of the Revised Code and the 38702
academic content standards for financial literacy and 38703
entrepreneurship adopted under division (A)(2) of that section, 38704
into one or more existing social studies credits required under 38705
division (C)(7) of this section, or into the content of another 38706
class, so that every high school student receives instruction in 38707
those concepts. In developing the curriculum required by this 38708
paragraph, schools shall use available public-private partnerships 38709
and resources and materials that exist in business, industry, and 38710
through the centers for economics education at institutions of 38711
higher education in the state. 38712

(8) Five units consisting of one or any combination of 38713
foreign language, fine arts, business, career-technical education, 38714
family and consumer sciences, technology, agricultural education, 38715
a junior reserve officer training corps (JROTC) program approved 38716
by the congress of the United States under title 10 of the United 38717
States Code, or English language arts, mathematics, science, or 38718
social studies courses not otherwise required under division (C) 38719
of this section. 38720

Ohioans must be prepared to apply increased knowledge and 38721
skills in the workplace and to adapt their knowledge and skills 38722
quickly to meet the rapidly changing conditions of the 38723
twenty-first century. National studies indicate that all high 38724
school graduates need the same academic foundation, regardless of 38725
the opportunities they pursue after graduation. The goal of Ohio's 38726
system of elementary and secondary education is to prepare all 38727
students for and seamlessly connect all students to success in 38728
life beyond high school graduation, regardless of whether the next 38729
step is entering the workforce, beginning an apprenticeship, 38730
engaging in post-secondary training, serving in the military, or 38731
pursuing a college degree. 38732

The Ohio core curriculum is the standard expectation for all 38733

students entering ninth grade for the first time at a public or 38734
chartered nonpublic high school on or after July 1, 2010. A 38735
student may satisfy this expectation through a variety of methods, 38736
including, but not limited to, integrated, applied, 38737
career-technical, and traditional coursework. 38738

Whereas teacher quality is essential for student success in 38739
completing the Ohio core curriculum, the general assembly shall 38740
appropriate funds for strategic initiatives designed to strengthen 38741
schools' capacities to hire and retain highly qualified teachers 38742
in the subject areas required by the curriculum. Such initiatives 38743
are expected to require an investment of \$120,000,000 over five 38744
years. 38745

Stronger coordination between high schools and institutions 38746
of higher education is necessary to prepare students for more 38747
challenging academic endeavors and to lessen the need for academic 38748
remediation in college, thereby reducing the costs of higher 38749
education for Ohio's students, families, and the state. The state 38750
board and the chancellor of the Ohio board of regents shall 38751
develop policies to ensure that only in rare instances will 38752
students who complete the Ohio core curriculum require academic 38753
remediation after high school. 38754

School districts, community schools, and chartered nonpublic 38755
schools shall integrate technology into learning experiences 38756
across the curriculum in order to maximize efficiency, enhance 38757
learning, and prepare students for success in the 38758
technology-driven twenty-first century. Districts and schools 38759
shall use distance and web-based course delivery as a method of 38760
providing or augmenting all instruction required under this 38761
division, including laboratory experience in science. Districts 38762
and schools shall utilize technology access and electronic 38763
learning opportunities provided by the ~~eTech Ohio commission~~ 38764
chancellor, the Ohio learning network, education technology 38765

centers, public television stations, and other public and private 38766
providers. 38767

(D) Except as provided in division (E) of this section, a 38768
student who enters ninth grade on or after July 1, 2010, and 38769
before July 1, 2014, may qualify for graduation from a public or 38770
chartered nonpublic high school even though the student has not 38771
completed the Ohio core curriculum prescribed in division (C) of 38772
this section if all of the following conditions are satisfied: 38773

(1) After the student has attended high school for two years, 38774
as determined by the school, the student and the student's parent, 38775
guardian, or custodian sign and file with the school a written 38776
statement asserting the parent's, guardian's, or custodian's 38777
consent to the student's graduating without completing the Ohio 38778
core curriculum and acknowledging that one consequence of not 38779
completing the Ohio core curriculum is ineligibility to enroll in 38780
most state universities in Ohio without further coursework. 38781

(2) The student and parent, guardian, or custodian fulfill 38782
any procedural requirements the school stipulates to ensure the 38783
student's and parent's, guardian's, or custodian's informed 38784
consent and to facilitate orderly filing of statements under 38785
division (D)(1) of this section. 38786

(3) The student and the student's parent, guardian, or 38787
custodian and a representative of the student's high school 38788
jointly develop an individual career plan for the student that 38789
specifies the student matriculating to a two-year degree program, 38790
acquiring a business and industry credential, or entering an 38791
apprenticeship. 38792

(4) The student's high school provides counseling and support 38793
for the student related to the plan developed under division 38794
(D)(3) of this section during the remainder of the student's high 38795
school experience. 38796

(5) The student successfully completes, at a minimum, the curriculum prescribed in division (B) of this section. 38797
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The department of education, in collaboration with the chancellor, shall analyze student performance data to determine if there are mitigating factors that warrant extending the exception permitted by division (D) of this section to high school classes beyond those entering ninth grade before July 1, 2014. The department shall submit its findings and any recommendations not later than August 1, 2014, to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the chairpersons and ranking minority members of the standing committees of the house of representatives and the senate that consider education legislation, the state board of education, and the superintendent of public instruction. 38799
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(E) Each school district and chartered nonpublic school retains the authority to require an even more rigorous minimum curriculum for high school graduation than specified in division (B) or (C) of this section. A school district board of education, through the adoption of a resolution, or the governing authority of a chartered nonpublic school may stipulate any of the following: 38811
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(1) A minimum high school curriculum that requires more than twenty units of academic credit to graduate; 38818
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(2) An exception to the district's or school's minimum high school curriculum that is comparable to the exception provided in division (D) of this section but with additional requirements, which may include a requirement that the student successfully complete more than the minimum curriculum prescribed in division (B) of this section; 38820
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(3) That no exception comparable to that provided in division (D) of this section is available. 38826
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(F) A student enrolled in a dropout prevention and recovery program, which program has received a waiver from the department, may qualify for graduation from high school by successfully completing a competency-based instructional program administered by the dropout prevention and recovery program in lieu of completing the Ohio core curriculum prescribed in division (C) of this section. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board under division (D)(6) of section 3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (F)(4) of this section during the remainder of the student's high school experience.

(6) The program requires the student and the student's parent, guardian, or custodian to sign and file, in accordance with procedural requirements stipulated by the program, a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(7) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(G) Every high school may permit students below the ninth grade to take advanced work. If a high school so permits, it shall award high school credit for successful completion of the advanced work and shall count such advanced work toward the graduation requirements of division (B) or (C) of this section if the advanced work was both:

(1) Taught by a person who possesses a license or certificate issued under section 3301.071, 3319.22, or 3319.222 of the Revised Code that is valid for teaching high school;

(2) Designated by the board of education of the city, local, or exempted village school district, the board of the cooperative education school district, or the governing authority of the chartered nonpublic school as meeting the high school curriculum requirements.

Each high school shall record on the student's high school

transcript all high school credit awarded under division (G) of 38890
this section. In addition, if the student completed a seventh- or 38891
eighth-grade fine arts course described in division (K) of this 38892
section and the course qualified for high school credit under that 38893
division, the high school shall record that course on the 38894
student's high school transcript. 38895

(H) The department shall make its individual academic career 38896
plan available through its Ohio career information system web site 38897
for districts and schools to use as a tool for communicating with 38898
and providing guidance to students and families in selecting high 38899
school courses. 38900

(I) Units earned in English language arts, mathematics, 38901
science, and social studies that are delivered through integrated 38902
academic and career-technical instruction are eligible to meet the 38903
graduation requirements of division (B) or (C) of this section. 38904

(J) The state board, in consultation with the chancellor, 38905
shall adopt a statewide plan implementing methods for students to 38906
earn units of high school credit based on a demonstration of 38907
subject area competency, instead of or in combination with 38908
completing hours of classroom instruction. The state board shall 38909
adopt the plan not later than March 31, 2009, and commence phasing 38910
in the plan during the 2009-2010 school year. The plan shall 38911
include a standard method for recording demonstrated proficiency 38912
on high school transcripts. Each school district and community 38913
school shall comply with the state board's plan adopted under this 38914
division and award units of high school credit in accordance with 38915
the plan. The state board may adopt existing methods for earning 38916
high school credit based on a demonstration of subject area 38917
competency as necessary prior to the 2009-2010 school year. 38918

(K) This division does not apply to students who qualify for 38919
graduation from high school under division (D) or (F) of this 38920
section, or to students pursuing a career-technical instructional 38921

track as determined by the school district board of education or 38922
the chartered nonpublic school's governing authority. 38923
Nevertheless, the general assembly encourages such students to 38924
consider enrolling in a fine arts course as an elective. 38925

Beginning with students who enter ninth grade for the first 38926
time on or after July 1, 2010, each student enrolled in a public 38927
or chartered nonpublic high school shall complete two semesters or 38928
the equivalent of fine arts to graduate from high school. The 38929
coursework may be completed in any of grades seven to twelve. Each 38930
student who completes a fine arts course in grade seven or eight 38931
may elect to count that course toward the five units of electives 38932
required for graduation under division (C)(8) of this section, if 38933
the course satisfied the requirements of division (G) of this 38934
section. In that case, the high school shall award the student 38935
high school credit for the course and count the course toward the 38936
five units required under division (C)(8) of this section. If the 38937
course in grade seven or eight did not satisfy the requirements of 38938
division (G) of this section, the high school shall not award the 38939
student high school credit for the course but shall count the 38940
course toward the two semesters or the equivalent of fine arts 38941
required by this division. 38942

(L) Notwithstanding anything to the contrary in this section, 38943
the board of education of each school district and the governing 38944
authority of each chartered nonpublic school may adopt a policy to 38945
excuse from the high school physical education requirement each 38946
student who, during high school, has participated in 38947
interscholastic athletics, marching band, or cheerleading for at 38948
least two full seasons or in the junior reserve officer training 38949
corps for at least two full school years. If the board or 38950
authority adopts such a policy, the board or authority shall not 38951
require the student to complete any physical education course as a 38952
condition to graduate. However, the student shall be required to 38953

complete one-half unit, consisting of at least sixty hours of 38954
instruction, in another course of study. In the case of a student 38955
who has participated in the junior reserve officer training corps 38956
for at least two full school years, credit received for that 38957
participation may be used to satisfy the requirement to complete 38958
one-half unit in another course of study. 38959

(M) It is important that high school students learn and 38960
understand United States history and the governments of both the 38961
United States and the state of Ohio. Therefore, beginning with 38962
students who enter ninth grade for the first time on or after July 38963
1, 2012, the study of American history and American government 38964
required by divisions (B)(6) and (C)(6) of this section shall 38965
include the study of all of the following documents: 38966

(1) The Declaration of Independence; 38967

(2) The Northwest Ordinance; 38968

(3) The Constitution of the United States with emphasis on 38969
the Bill of Rights; 38970

(4) The Ohio Constitution. 38971

The study of each of the documents prescribed in divisions 38972
(M)(1) to (4) of this section shall include study of that document 38973
in its original context. 38974

The study of American history and government required by 38975
divisions (B)(6) and (C)(6) of this section shall include the 38976
historical evidence of the role of documents such as the 38977
Federalist Papers and the Anti-Federalist Papers to firmly 38978
establish the historical background leading to the establishment 38979
of the provisions of the Constitution and Bill of Rights. 38980

Sec. 3313.6013. (A) As used in this section, "dual enrollment 38981
program" means a program that enables a student to earn credit 38982
toward a degree from an institution of higher education while 38983

enrolled in high school or that enables a student to complete 38984
coursework while enrolled in high school that may earn credit 38985
toward a degree from an institution of higher education upon the 38986
student's attainment of a specified score on an examination 38987
covering the coursework. Dual enrollment programs may include any 38988
of the following: 38989

(1) The post-secondary enrollment options program established 38990
under Chapter 3365. of the Revised Code; 38991

(2) Advanced placement courses; 38992

(3) Any similar program established pursuant to an agreement 38993
between a school district or chartered nonpublic high school and 38994
an institution of higher education; 38995

(4) Early college high schools. 38996

(B) Each city, local, exempted village, and joint vocational 38997
school district and each chartered nonpublic high school shall 38998
provide students enrolled in grades nine through twelve with the 38999
opportunity to participate in a dual enrollment program. For this 39000
purpose, each school district and chartered nonpublic high school 39001
shall offer at least one dual enrollment program in accordance 39002
with division (B)(1) or (2) of this section, as applicable. 39003

(1) A city, local, or exempted village school district meets 39004
the requirements of this division through its mandatory 39005
participation in the post-secondary enrollment options program 39006
established under Chapter 3365. of the Revised Code. However, a 39007
city, local, or exempted village school district may offer any 39008
other dual enrollment program, in addition to the post-secondary 39009
enrollment options program, and each joint vocational school 39010
district shall offer at least one other dual enrollment program, 39011
to students in good standing, as defined by the partnership for 39012
continued learning under section 3301.42 of the Revised Code as it 39013
existed prior to October 16, 2009, or as subsequently defined by 39014

the department of education. 39015

(2) A chartered nonpublic high school that elects to 39016
participate in the post-secondary enrollment options program 39017
established under Chapter 3365. of the Revised Code meets the 39018
requirements of this division. Each chartered nonpublic high 39019
school that elects not to participate in the post-secondary 39020
enrollment options program instead shall offer at least one other 39021
dual enrollment program to students in good standing, as defined 39022
by the partnership for continued learning under section 3301.42 of 39023
the Revised Code as it existed prior to October 16, 2009, or as 39024
subsequently defined by the department of education. 39025

(C) Each school district and each chartered nonpublic high 39026
school shall provide information about the dual enrollment 39027
programs offered by the district or school to all students 39028
enrolled in grades eight through eleven. 39029

Sec. 3313.6016. (A) Beginning in the 2011-2012 school year, 39030
the department of education shall administer a pilot program 39031
requiring daily physical activity for students. Any school 39032
district; community school established under Chapter 3314. of the 39033
Revised Code; science, technology, engineering, and mathematics 39034
school established under Chapter 3326. of the Revised Code; or 39035
chartered nonpublic school annually may elect to participate in 39036
the pilot program by notifying the department of its interest by a 39037
date established by the department. If a school district elects to 39038
participate in the pilot program, ~~each school building operated by~~ 39039
~~the district shall be required~~ the district shall select one or 39040
more school buildings to participate in the program. To the 39041
maximum extent possible, the department shall seek to include in 39042
the pilot program districts and schools that are located in urban, 39043
suburban, and rural areas distributed geographically throughout 39044
the state. The department shall administer the pilot program in 39045

accordance with this section. 39046

(B) Except as provided in division (C) of this section, each 39047
district or school participating in the pilot program shall 39048
require all students in ~~each of grades kindergarten through twelve~~ 39049
the school building selected under division (A) of this section to 39050
engage in at least thirty minutes of moderate to rigorous physical 39051
activity each school day or at least one hundred fifty minutes of 39052
moderate to rigorous physical activity each week, exclusive of 39053
recess. Physical activity engaged in during the following may 39054
count toward the daily requirement: 39055

(1) A physical education course; 39056

(2) A program or activity occurring before or after the 39057
regular school day, as defined in section 3313.814 of the Revised 39058
Code, that is sponsored or approved by the school of attendance, 39059
provided school officials are able to monitor students' 39060
participation to ensure compliance with the requirement. 39061

(C) None of the following shall be subject to the requirement 39062
of division (B) of this section: 39063

(1) Any student enrolled in the post-secondary enrollment 39064
options program established under Chapter 3365. of the Revised 39065
Code; 39066

(2) Any student enrolled in a career-technical education 39067
program operated by the district or school; 39068

(3) Any student enrolled in a dropout prevention and recovery 39069
program operated by the district or school. 39070

(D) For any period in which a student is participating in 39071
interscholastic athletics, marching band, cheerleading, or a 39072
junior reserve officer training corps program, the district or 39073
school may excuse the student from the requirement of division (B) 39074
of this section. 39075

(E) The district or school may excuse any kindergarten student who is not enrolled in all-day kindergarten, as defined in section 3321.05 of the Revised Code, from the requirement of division (B) of this section.

(F) Each district or school annually shall report to the department, in the manner prescribed by the department, how the district or school implemented the thirty minutes of daily physical activity and the financial costs of implementation. The department shall issue an annual report of the data collected under this division.

Sec. 3313.62. The school year shall begin on the first day of July of each calendar year and close on the thirtieth day of June of the succeeding calendar year. ~~A school week shall consist of five days, and a school month of four school weeks.~~ A chartered nonpublic school may be open for instruction with pupils in attendance on any day of the week, including Saturday or Sunday.

Sec. 3313.64. (A) As used in this section and in section 3313.65 of the Revised Code:

(1)(a) Except as provided in division (A)(1)(b) of this section, "parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. When a child is in the legal custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent with residual parental rights, privileges, and responsibilities. When a child is in the permanent custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent who was divested of parental rights and responsibilities for the care of the child and

the right to have the child live with the parent and be the legal 39106
custodian of the child and all residual parental rights, 39107
privileges, and responsibilities. 39108

(b) When a child is the subject of a power of attorney 39109
executed under sections 3109.51 to 3109.62 of the Revised Code, 39110
"parent" means the grandparent designated as attorney in fact 39111
under the power of attorney. When a child is the subject of a 39112
caretaker authorization affidavit executed under sections 3109.64 39113
to 3109.73 of the Revised Code, "parent" means the grandparent 39114
that executed the affidavit. 39115

(2) "Legal custody," "permanent custody," and "residual 39116
parental rights, privileges, and responsibilities" have the same 39117
meanings as in section 2151.011 of the Revised Code. 39118

(3) "School district" or "district" means a city, local, or 39119
exempted village school district and excludes any school operated 39120
in an institution maintained by the department of youth services. 39121

(4) Except as used in division (C)(2) of this section, "home" 39122
means a home, institution, foster home, group home, or other 39123
residential facility in this state that receives and cares for 39124
children, to which any of the following applies: 39125

(a) The home is licensed, certified, or approved for such 39126
purpose by the state or is maintained by the department of youth 39127
services. 39128

(b) The home is operated by a person who is licensed, 39129
certified, or approved by the state to operate the home for such 39130
purpose. 39131

(c) The home accepted the child through a placement by a 39132
person licensed, certified, or approved to place a child in such a 39133
home by the state. 39134

(d) The home is a children's home created under section 39135

5153.21 or 5153.36 of the Revised Code.	39136
(5) "Agency" means all of the following:	39137
(a) A public children services agency;	39138
(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;	39139 39140 39141 39142 39143 39144
(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.	39145 39146 39147 39148
(6) A child is placed for adoption if either of the following occurs:	39149 39150
(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.	39151 39152 39153 39154
(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.	39155 39156 39157
(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.	39158 39159
(8) "Child," unless otherwise indicated, includes preschool children with disabilities.	39160 39161
(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.	39162 39163 39164 39165

(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least five but under twenty-two years of age and any preschool child with a disability shall be admitted to school as provided in this division.

(1) A child shall be admitted to the schools of the school district in which the child's parent resides.

(2) A Except as provided in division (B) of section 2151.362 and section 3317.30 of the Revised Code, a child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies:

(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent.

(b) The child resides in a home.

(c) The child requires special education.

(3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies:

(a) The placement for adoption has been terminated.

(b) Another school district is required to admit the child under division (B)(1) of this section.

Division (B) of this section does not prohibit the board of education of a school district from placing a child with a disability who resides in the district in a special education program outside of the district or its schools in compliance with

Chapter 3323. of the Revised Code.	39196
(C) A district shall not charge tuition for children admitted under division (B)(1) or (3) of this section. If the district admits a child under division (B)(2) of this section, tuition shall be paid to the district that admits the child as provided in divisions (C)(1) to (3) of this section, unless division (C)(4) of this section applies to the child:	39197 39198 39199 39200 39201 39202
(1) If the child receives special education in accordance with Chapter 3323. of the Revised Code, the school district of residence, as defined in section 3323.01 of the Revised Code, shall pay tuition for the child in accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code regardless of who has custody of the child or whether the child resides in a home.	39203 39204 39205 39206 39207 39208 39209
(2) For a child that does not receive special education in accordance with Chapter 3323. of the Revised Code, except as otherwise provided in division (C)(2)(d) of this section, if the child is in the permanent or legal custody of a government agency or person other than the child's parent, tuition shall be paid by:	39210 39211 39212 39213 39214
(a) The district in which the child's parent resided at the time the court removed the child from home or at the time the court vested legal or permanent custody of the child in the person or government agency, whichever occurred first;	39215 39216 39217 39218
(b) If the parent's residence at the time the court removed the child from home or placed the child in the legal or permanent custody of the person or government agency is unknown, tuition shall be paid by the district in which the child resided at the time the child was removed from home or placed in legal or permanent custody, whichever occurred first;	39219 39220 39221 39222 39223 39224
(c) If a school district cannot be established under division (C)(2)(a) or (b) of this section, tuition shall be paid by the	39225 39226

district determined as required by section 2151.362 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the department of education has determined, pursuant to division (A)(2) of section 2151.362 of the Revised Code, that a school district other than the one named in the court's initial order, or in a prior determination of the department, is responsible to bear the cost of educating the child, the district so determined shall be responsible for that cost.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(4) Division (C)(4) of this section applies to any child who is admitted to a school district under division (B)(2) of this section, resides in a home that is not a foster home ~~or~~, a home maintained by the department of youth services, a detention facility established under section 2152.41 of the Revised Code, or

a juvenile facility established under section 2151.65 of the 39258
Revised Code, receives educational services at the home or 39259
facility in which the child resides pursuant to a contract between 39260
the home or facility and the school district providing those 39261
services, and does not receive special education. 39262

In the case of a child to which division (C)(4) of this 39263
section applies, the total educational cost to be paid for the 39264
child shall be determined by a formula approved by the department 39265
of education, which formula shall be designed to calculate a per 39266
diem cost for the educational services provided to the child for 39267
each day the child is served and shall reflect the total actual 39268
cost incurred in providing those services. The department shall 39269
certify the total educational cost to be paid for the child to 39270
both the school district providing the educational services and, 39271
if different, the school district that is responsible to pay 39272
tuition for the child. The department shall deduct the certified 39273
amount from the state basic aid funds payable under Chapter 3317. 39274
of the Revised Code to the district responsible to pay tuition and 39275
shall pay that amount to the district providing the educational 39276
services to the child. 39277

(D) Tuition required to be paid under divisions (C)(2) and 39278
(3)(a) of this section shall be computed in accordance with 39279
section 3317.08 of the Revised Code. Tuition required to be paid 39280
under division (C)(3)(b) of this section shall be computed in 39281
accordance with section 3317.081 of the Revised Code. If a home 39282
fails to pay the tuition required by division (C)(3)(b) of this 39283
section, the board of education providing the education may 39284
recover in a civil action the tuition and the expenses incurred in 39285
prosecuting the action, including court costs and reasonable 39286
attorney's fees. If the prosecuting attorney or city director of 39287
law represents the board in such action, costs and reasonable 39288
attorney's fees awarded by the court, based upon the prosecuting 39289

attorney's, director's, or one of their designee's time spent 39290
preparing and presenting the case, shall be deposited in the 39291
county or city general fund. 39292

(E) A board of education may enroll a child free of any 39293
tuition obligation for a period not to exceed sixty days, on the 39294
sworn statement of an adult resident of the district that the 39295
resident has initiated legal proceedings for custody of the child. 39296

(F) In the case of any individual entitled to attend school 39297
under this division, no tuition shall be charged by the school 39298
district of attendance and no other school district shall be 39299
required to pay tuition for the individual's attendance. 39300
Notwithstanding division (B), (C), or (E) of this section: 39301

(1) All persons at least eighteen but under twenty-two years 39302
of age who live apart from their parents, support themselves by 39303
their own labor, and have not successfully completed the high 39304
school curriculum or the individualized education program 39305
developed for the person by the high school pursuant to section 39306
3323.08 of the Revised Code, are entitled to attend school in the 39307
district in which they reside. 39308

(2) Any child under eighteen years of age who is married is 39309
entitled to attend school in the child's district of residence. 39310

(3) A child is entitled to attend school in the district in 39311
which either of the child's parents is employed if the child has a 39312
medical condition that may require emergency medical attention. 39313
The parent of a child entitled to attend school under division 39314
(F)(3) of this section shall submit to the board of education of 39315
the district in which the parent is employed a statement from the 39316
child's physician certifying that the child's medical condition 39317
may require emergency medical attention. The statement shall be 39318
supported by such other evidence as the board may require. 39319

(4) Any child residing with a person other than the child's 39320

parent is entitled, for a period not to exceed twelve months, to attend school in the district in which that person resides if the child's parent files an affidavit with the superintendent of the district in which the person with whom the child is living resides stating all of the following:

(a) That the parent is serving outside of the state in the armed services of the United States;

(b) That the parent intends to reside in the district upon returning to this state;

(c) The name and address of the person with whom the child is living while the parent is outside the state.

(5) Any child under the age of twenty-two years who, after the death of a parent, resides in a school district other than the district in which the child attended school at the time of the parent's death is entitled to continue to attend school in the district in which the child attended school at the time of the parent's death for the remainder of the school year, subject to approval of that district board.

(6) A child under the age of twenty-two years who resides with a parent who is having a new house built in a school district outside the district where the parent is residing is entitled to attend school for a period of time in the district where the new house is being built. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being built, and stating the parent's intention to reside there upon its completion;

(b) A statement from the builder confirming that a new house is being built for the parent and that the house is at the location indicated in the parent's statement.

(7) A child under the age of twenty-two years residing with a parent who has a contract to purchase a house in a school district outside the district where the parent is residing and who is waiting upon the date of closing of the mortgage loan for the purchase of such house is entitled to attend school for a period of time in the district where the house is being purchased. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being purchased, and stating the parent's intent to reside there;

(b) A statement from a real estate broker or bank officer confirming that the parent has a contract to purchase the house, that the parent is waiting upon the date of closing of the mortgage loan, and that the house is at the location indicated in the parent's statement.

The district superintendent shall establish a period of time not to exceed ninety days during which the child entitled to attend school under division (F)(6) or (7) of this section may attend without tuition obligation. A student attending a school under division (F)(6) or (7) of this section shall be eligible to participate in interscholastic athletics under the auspices of that school, provided the board of education of the school district where the student's parent resides, by a formal action, releases the student to participate in interscholastic athletics at the school where the student is attending, and provided the student receives any authorization required by a public agency or private organization of which the school district is a member exercising authority over interscholastic sports.

(8) A child whose parent is a full-time employee of a city, local, or exempted village school district, or of an educational service center, may be admitted to the schools of the district

where the child's parent is employed, or in the case of a child 39384
whose parent is employed by an educational service center, in the 39385
district that serves the location where the parent's job is 39386
primarily located, provided the district board of education 39387
establishes such an admission policy by resolution adopted by a 39388
majority of its members. Any such policy shall take effect on the 39389
first day of the school year and the effective date of any 39390
amendment or repeal may not be prior to the first day of the 39391
subsequent school year. The policy shall be uniformly applied to 39392
all such children and shall provide for the admission of any such 39393
child upon request of the parent. No child may be admitted under 39394
this policy after the first day of classes of any school year. 39395

(9) A child who is with the child's parent under the care of 39396
a shelter for victims of domestic violence, as defined in section 39397
3113.33 of the Revised Code, is entitled to attend school free in 39398
the district in which the child is with the child's parent, and no 39399
other school district shall be required to pay tuition for the 39400
child's attendance in that school district. 39401

The enrollment of a child in a school district under this 39402
division shall not be denied due to a delay in the school 39403
district's receipt of any records required under section 3313.672 39404
of the Revised Code or any other records required for enrollment. 39405
Any days of attendance and any credits earned by a child while 39406
enrolled in a school district under this division shall be 39407
transferred to and accepted by any school district in which the 39408
child subsequently enrolls. The state board of education shall 39409
adopt rules to ensure compliance with this division. 39410

(10) Any child under the age of twenty-two years whose parent 39411
has moved out of the school district after the commencement of 39412
classes in the child's senior year of high school is entitled, 39413
subject to the approval of that district board, to attend school 39414
in the district in which the child attended school at the time of 39415

the parental move for the remainder of the school year and for one 39416
additional semester or equivalent term. A district board may also 39417
adopt a policy specifying extenuating circumstances under which a 39418
student may continue to attend school under division (F)(10) of 39419
this section for an additional period of time in order to 39420
successfully complete the high school curriculum for the 39421
individualized education program developed for the student by the 39422
high school pursuant to section 3323.08 of the Revised Code. 39423

(11) As used in this division, "grandparent" means a parent 39424
of a parent of a child. A child under the age of twenty-two years 39425
who is in the custody of the child's parent, resides with a 39426
grandparent, and does not require special education is entitled to 39427
attend the schools of the district in which the child's 39428
grandparent resides, provided that, prior to such attendance in 39429
any school year, the board of education of the school district in 39430
which the child's grandparent resides and the board of education 39431
of the school district in which the child's parent resides enter 39432
into a written agreement specifying that good cause exists for 39433
such attendance, describing the nature of this good cause, and 39434
consenting to such attendance. 39435

In lieu of a consent form signed by a parent, a board of 39436
education may request the grandparent of a child attending school 39437
in the district in which the grandparent resides pursuant to 39438
division (F)(11) of this section to complete any consent form 39439
required by the district, including any authorization required by 39440
sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised 39441
Code. Upon request, the grandparent shall complete any consent 39442
form required by the district. A school district shall not incur 39443
any liability solely because of its receipt of a consent form from 39444
a grandparent in lieu of a parent. 39445

Division (F)(11) of this section does not create, and shall 39446
not be construed as creating, a new cause of action or substantive 39447

legal right against a school district, a member of a board of 39448
education, or an employee of a school district. This section does 39449
not affect, and shall not be construed as affecting, any 39450
immunities from defenses to tort liability created or recognized 39451
by Chapter 2744. of the Revised Code for a school district, 39452
member, or employee. 39453

(12) A child under the age of twenty-two years is entitled to 39454
attend school in a school district other than the district in 39455
which the child is entitled to attend school under division (B), 39456
(C), or (E) of this section provided that, prior to such 39457
attendance in any school year, both of the following occur: 39458

(a) The superintendent of the district in which the child is 39459
entitled to attend school under division (B), (C), or (E) of this 39460
section contacts the superintendent of another district for 39461
purposes of this division; 39462

(b) The superintendents of both districts enter into a 39463
written agreement that consents to the attendance and specifies 39464
that the purpose of such attendance is to protect the student's 39465
physical or mental well-being or to deal with other extenuating 39466
circumstances deemed appropriate by the superintendents. 39467

While an agreement is in effect under this division for a 39468
student who is not receiving special education under Chapter 3323. 39469
of the Revised Code and notwithstanding Chapter 3327. of the 39470
Revised Code, the board of education of neither school district 39471
involved in the agreement is required to provide transportation 39472
for the student to and from the school where the student attends. 39473

A student attending a school of a district pursuant to this 39474
division shall be allowed to participate in all student 39475
activities, including interscholastic athletics, at the school 39476
where the student is attending on the same basis as any student 39477
who has always attended the schools of that district while of 39478

compulsory school age. 39479

(13) All school districts shall comply with the 39480
"McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et 39481
seq., for the education of homeless children. Each city, local, 39482
and exempted village school district shall comply with the 39483
requirements of that act governing the provision of a free, 39484
appropriate public education, including public preschool, to each 39485
homeless child. 39486

When a child loses permanent housing and becomes a homeless 39487
person, as defined in 42 U.S.C.A. 11481(5), or when a child who is 39488
such a homeless person changes temporary living arrangements, the 39489
child's parent or guardian shall have the option of enrolling the 39490
child in either of the following: 39491

(a) The child's school of origin, as defined in 42 U.S.C.A. 39492
11432(g)(3)(C); 39493

(b) The school that is operated by the school district in 39494
which the shelter where the child currently resides is located and 39495
that serves the geographic area in which the shelter is located. 39496

(14) A child under the age of twenty-two years who resides 39497
with a person other than the child's parent is entitled to attend 39498
school in the school district in which that person resides if both 39499
of the following apply: 39500

(a) That person has been appointed, through a military power 39501
of attorney executed under section 574(a) of the "National Defense 39502
Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 39503
U.S.C. 1044b, or through a comparable document necessary to 39504
complete a family care plan, as the parent's agent for the care, 39505
custody, and control of the child while the parent is on active 39506
duty as a member of the national guard or a reserve unit of the 39507
armed forces of the United States or because the parent is a 39508
member of the armed forces of the United States and is on a duty 39509

assignment away from the parent's residence. 39510

(b) The military power of attorney or comparable document 39511
includes at least the authority to enroll the child in school. 39512

The entitlement to attend school in the district in which the 39513
parent's agent under the military power of attorney or comparable 39514
document resides applies until the end of the school year in which 39515
the military power of attorney or comparable document expires. 39516

(G) A board of education, after approving admission, may 39517
waive tuition for students who will temporarily reside in the 39518
district and who are either of the following: 39519

(1) Residents or domiciliaries of a foreign nation who 39520
request admission as foreign exchange students; 39521

(2) Residents or domiciliaries of the United States but not 39522
of Ohio who request admission as participants in an exchange 39523
program operated by a student exchange organization. 39524

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 39525
3327.04, and 3327.06 of the Revised Code, a child may attend 39526
school or participate in a special education program in a school 39527
district other than in the district where the child is entitled to 39528
attend school under division (B) of this section. 39529

(I)(1) Notwithstanding anything to the contrary in this 39530
section or section 3313.65 of the Revised Code, a child under 39531
twenty-two years of age may attend school in the school district 39532
in which the child, at the end of the first full week of October 39533
of the school year, was entitled to attend school as otherwise 39534
provided under this section or section 3313.65 of the Revised 39535
Code, if at that time the child was enrolled in the schools of the 39536
district but since that time the child or the child's parent has 39537
relocated to a new address located outside of that school district 39538
and within the same county as the child's or parent's address 39539
immediately prior to the relocation. The child may continue to 39540

attend school in the district, and at the school to which the 39541
child was assigned at the end of the first full week of October of 39542
the current school year, for the balance of the school year. 39543
Division (I)(1) of this section applies only if both of the 39544
following conditions are satisfied: 39545

(a) The board of education of the school district in which 39546
the child was entitled to attend school at the end of the first 39547
full week in October and of the district to which the child or 39548
child's parent has relocated each has adopted a policy to enroll 39549
children described in division (I)(1) of this section. 39550

(b) The child's parent provides written notification of the 39551
relocation outside of the school district to the superintendent of 39552
each of the two school districts. 39553

(2) At the beginning of the school year following the school 39554
year in which the child or the child's parent relocated outside of 39555
the school district as described in division (I)(1) of this 39556
section, the child is not entitled to attend school in the school 39557
district under that division. 39558

(3) Any person or entity owing tuition to the school district 39559
on behalf of the child at the end of the first full week in 39560
October, as provided in division (C) of this section, shall 39561
continue to owe such tuition to the district for the child's 39562
attendance under division (I)(1) of this section for the lesser of 39563
the balance of the school year or the balance of the time that the 39564
child attends school in the district under division (I)(1) of this 39565
section. 39566

(4) A pupil who may attend school in the district under 39567
division (I)(1) of this section shall be entitled to 39568
transportation services pursuant to an agreement between the 39569
district and the district in which the child or child's parent has 39570
relocated unless the districts have not entered into such 39571

agreement, in which case the child shall be entitled to 39572
transportation services in the same manner as a pupil attending 39573
school in the district under interdistrict open enrollment as 39574
described in division (H) of section 3313.981 of the Revised Code, 39575
regardless of whether the district has adopted an open enrollment 39576
policy as described in division (B)(1)(b) or (c) of section 39577
3313.98 of the Revised Code. 39578

(J) This division does not apply to a child receiving special 39579
education. 39580

A school district required to pay tuition pursuant to 39581
division (C)(2) or (3) of this section or section 3313.65 of the 39582
Revised Code shall have an amount deducted under division (C) of 39583
section 3317.023 of the Revised Code equal to its own tuition rate 39584
for the same period of attendance. A school district entitled to 39585
receive tuition pursuant to division (C)(2) or (3) of this section 39586
or section 3313.65 of the Revised Code shall have an amount 39587
credited under division (C) of section 3317.023 of the Revised 39588
Code equal to its own tuition rate for the same period of 39589
attendance. If the tuition rate credited to the district of 39590
attendance exceeds the rate deducted from the district required to 39591
pay tuition, the department of education shall pay the district of 39592
attendance the difference from amounts deducted from all 39593
districts' payments under division (C) of section 3317.023 of the 39594
Revised Code but not credited to other school districts under such 39595
division and from appropriations made for such purpose. The 39596
treasurer of each school district shall, by the fifteenth day of 39597
January and July, furnish the superintendent of public instruction 39598
a report of the names of each child who attended the district's 39599
schools under divisions (C)(2) and (3) of this section or section 39600
3313.65 of the Revised Code during the preceding six calendar 39601
months, the duration of the attendance of those children, the 39602
school district responsible for tuition on behalf of the child, 39603

and any other information that the superintendent requires. 39604

Upon receipt of the report the superintendent, pursuant to 39605
division (C) of section 3317.023 of the Revised Code, shall deduct 39606
each district's tuition obligations under divisions (C)(2) and (3) 39607
of this section or section 3313.65 of the Revised Code and pay to 39608
the district of attendance that amount plus any amount required to 39609
be paid by the state. 39610

(K) In the event of a disagreement, the superintendent of 39611
public instruction shall determine the school district in which 39612
the parent resides. 39613

(L) Nothing in this section requires or authorizes, or shall 39614
be construed to require or authorize, the admission to a public 39615
school in this state of a pupil who has been permanently excluded 39616
from public school attendance by the superintendent of public 39617
instruction pursuant to sections 3301.121 and 3313.662 of the 39618
Revised Code. 39619

(M) In accordance with division (B)(1) of this section, a 39620
child whose parent is a member of the national guard or a reserve 39621
unit of the armed forces of the United States and is called to 39622
active duty, or a child whose parent is a member of the armed 39623
forces of the United States and is ordered to a temporary duty 39624
assignment outside of the district, may continue to attend school 39625
in the district in which the child's parent lived before being 39626
called to active duty or ordered to a temporary duty assignment 39627
outside of the district, as long as the child's parent continues 39628
to be a resident of that district, and regardless of where the 39629
child lives as a result of the parent's active duty status or 39630
temporary duty assignment. However, the district is not 39631
responsible for providing transportation for the child if the 39632
child lives outside of the district as a result of the parent's 39633
active duty status or temporary duty assignment. 39634

Sec. 3313.646. (A) The board of education of a school 39635
district, except a cooperative education district established 39636
pursuant to section 3311.521 of the Revised Code, may establish 39637
and operate a ~~preschool~~ program to provide services to 39638
preschool-age children, provided the board has demonstrated a need 39639
for the program. A board may use school funds in support of 39640
preschool programs. The board shall maintain, operate, and admit 39641
children to any such program pursuant to rules adopted by such 39642
board and the rules of the state board of education adopted under 39643
sections 3301.52 to 3301.57 of the Revised Code. 39644

A board of education may establish fees or tuition, which may 39645
be graduated in proportion to family income, for participation in 39646
a preschool program. In cases where payment of fees or tuition 39647
would create a hardship for the child's parent or guardian, the 39648
board may waive any such fees or tuition. 39649

(B) No board of education that is not receiving funds under 39650
the "Head Start Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, on 39651
March 17, 1989, shall compete for funds under the "Head Start Act" 39652
with any grantee receiving funds under that act. 39653

(C) A board of education may contract with any of the 39654
following preschool providers to provide ~~preschool programs~~ 39655
services to preschool-age children, other than ~~programs for units~~ 39656
~~described by divisions (B) and (C) of those services for which the~~ 39657
district is eligible to receive funding under section 3317.05 39658
3317.0213 of the Revised Code, ~~for children of the school~~ 39659
~~district:~~ 39660

(1) Any organization receiving funds under the "Head Start 39661
Act"; 39662

(2) Any nonsectarian eligible nonpublic school as defined in 39663
division (H) of section 3301.52 of the Revised Code; 39664

(3) Any child care provider licensed under Chapter 5104. of 39665
the Revised Code. 39666

Boards may contract to provide ~~preschool programs~~ services to 39667
preschool-age children only with such organizations whose staff 39668
meet the requirements of rules adopted under section 3301.53 of 39669
the Revised Code or those of the child development associate 39670
credential established by the national association for the 39671
education of young children. 39672

(D) A contract entered into under division (C) of this 39673
section may provide for the board of education to lease school 39674
facilities to the preschool provider or to furnish transportation, 39675
utilities, or staff for the preschool program. 39676

(E) The treasurer of any board of education operating a 39677
preschool program pursuant to this section shall keep an account 39678
of all funds used to operate the program in the same manner as the 39679
treasurer would any other funds of the district pursuant to this 39680
chapter. 39681

Sec. 3313.65. (A) As used in this section and section 3313.64 39682
of the Revised Code: 39683

(1) A person is "in a residential facility" if the person is 39684
a resident or a resident patient of an institution, home, or other 39685
residential facility that is: 39686

(a) Licensed as a nursing home, residential care facility, or 39687
home for the aging by the director of health under section 3721.02 39688
of the Revised Code; 39689

(b) Maintained as a county home or district home by the board 39690
of county commissioners or a joint board of county commissioners 39691
under Chapter 5155. of the Revised Code; 39692

(c) Operated or administered by a board of alcohol, drug 39693
addiction, and mental health services under section 340.03 ~~or~~ 39694

340.06 of the Revised Code, or provides residential care pursuant	39695
to contracts made under section 340.03 or 340.033 of the Revised	39696
Code;	39697
(d) Maintained as a state institution for the mentally ill	39698
under Chapter 5119. of the Revised Code;	39699
(e) Licensed by the department of mental health <u>mental health</u>	39700
<u>and addiction services</u> under section 5119.20 <u>5119.33</u> or 5119.22	39701
<u>5119.34</u> of the Revised Code;	39702
(f) Licensed as a residential facility by the department of	39703
developmental disabilities under section 5123.19 of the Revised	39704
Code;	39705
(g) Operated by the veteran's administration or another	39706
agency of the United States government;	39707
(h) Operated by the Ohio veterans' home.	39708
(2) A person is "in a correctional facility" if any of the	39709
following apply:	39710
(a) The person is an Ohio resident and is:	39711
(i) Imprisoned, as defined in section 1.05 of the Revised	39712
Code;	39713
(ii) Serving a term in a community-based correctional	39714
facility or a district community-based correctional facility;	39715
(iii) Required, as a condition of parole, a post-release	39716
control sanction, a community control sanction, transitional	39717
control, or early release from imprisonment, as a condition of	39718
shock parole or shock probation granted under the law in effect	39719
prior to July 1, 1996, or as a condition of a furlough granted	39720
under the version of section 2967.26 of the Revised Code in effect	39721
prior to March 17, 1998, to reside in a halfway house or other	39722
community residential center licensed under section 2967.14 of the	39723
Revised Code or a similar facility designated by the court of	39724

common pleas that established the condition or by the adult parole authority. 39725
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(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned. 39727
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(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the place the person resided at the time the person became subject to the court's jurisdiction in the matter that resulted in the person's removal. 39731
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(4) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 39737
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(5) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 39739
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(B) If the circumstances described in division (C) of this section apply, the determination of what school district must admit a child to its schools and what district, if any, is liable for tuition shall be made in accordance with this section, rather than section 3313.64 of the Revised Code. 39741
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(C) A child who does not reside in the school district in which the child's parent resides and for whom a tuition obligation previously has not been established under division (C)(2) of section 3313.64 of the Revised Code shall be admitted to the schools of the district in which the child resides if at least one of the child's parents is in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, is not known to reside in this state. 39746
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(D) Regardless of who has custody or care of the child, 39755

whether the child resides in a home, or whether the child receives 39756
special education, if a district admits a child under division (C) 39757
of this section, tuition shall be paid to that district as 39758
follows: 39759

(1) If the child's parent is in a juvenile residential 39760
placement, by the district in which the child's parent resided at 39761
the time the parent became subject to the jurisdiction of the 39762
juvenile court; 39763

(2) If the child's parent is in a correctional facility, by 39764
the district in which the child's parent resided at the time the 39765
sentence was imposed; 39766

(3) If the child's parent is in a residential facility, by 39767
the district in which the parent resided at the time the parent 39768
was admitted to the residential facility, except that if the 39769
parent was transferred from another residential facility, tuition 39770
shall be paid by the district in which the parent resided at the 39771
time the parent was admitted to the facility from which the parent 39772
first was transferred; 39773

(4) In the event of a disagreement as to which school 39774
district is liable for tuition under division (C)(1), (2), or (3) 39775
of this section, the superintendent of public instruction shall 39776
determine which district shall pay tuition. 39777

(E) If a child covered by division (D) of this section 39778
receives special education in accordance with Chapter 3323. of the 39779
Revised Code, the tuition shall be paid in accordance with section 39780
3323.13 or 3323.14 of the Revised Code. Tuition for children who 39781
do not receive special education shall be paid in accordance with 39782
division (J) of section 3313.64 of the Revised Code. 39783

Sec. 3313.714. (A) As used in this section: 39784

(1) "Board of education" means the board of education of a 39785

city, local, exempted village, or joint vocational school 39786
district. 39787

(2) "Healthcheck" means the early and periodic screening, 39788
diagnosis, and treatment program, a component of the ~~medical~~ 39789
~~assistance~~ medicaid program established under Title XIX of the 39790
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 302, as 39791
~~amended, and Chapter 5111. of the Revised Code.~~ 39792

(3) "Pupil" means a person under age twenty-two enrolled in 39793
the schools of a city, local, exempted village, or joint 39794
vocational school district. 39795

(4) "Parent" means either parent with the following 39796
exceptions: 39797

(a) If one parent has custody by court order, "parent" means 39798
the parent with custody. 39799

(b) If neither parent has legal custody, "parent" means the 39800
person or government entity with legal custody. 39801

(c) The child's legal guardian or a person who has accepted 39802
responsibility for the health, safety, and welfare of the child. 39803

(B) At the request of the department of ~~job and family~~ 39804
~~services~~ medicaid, a board of education shall establish and 39805
conduct a healthcheck program for pupils enrolled in the schools 39806
of the district who are medicaid recipients ~~of medical assistance~~ 39807
~~under Chapter 5111. of the Revised Code.~~ At the request of a board 39808
of education, the department may authorize the board to establish 39809
a healthcheck program. A board that establishes a healthcheck 39810
program shall enter into a ~~medical assistance~~ medicaid provider 39811
agreement with the department. 39812

A healthcheck program established by a board of education 39813
shall be conducted in accordance with rules adopted by the 39814
medicaid director ~~of job and family services~~ under division (F) of 39815

this section. The healthcheck program shall include all of the 39816
following components: 39817

- (1) A comprehensive health and development history; 39818
- (2) A comprehensive physical examination; 39819
- (3) A developmental assessment; 39820
- (4) A nutritional assessment; 39821
- (5) A vision assessment; 39822
- (6) A hearing assessment; 39823
- (7) An immunization assessment; 39824
- (8) Lead screening and laboratory tests ordered by a doctor 39825
of medicine or osteopathic medicine as part of one of the other 39826
components; 39827
- (9) Such other assessment as may be required by the 39828
department of ~~job and family services~~ medicaid in accordance with 39829
the requirements of the healthcheck program. 39830

All services included in a board of education's healthcheck 39831
program that the board provided under sections 3313.67, 3313.673, 39832
3313.68, 3313.69, and 3313.71 of the Revised Code during the 39833
1990-1991 school year shall continue to be provided to ~~medical~~ 39834
~~assistance~~ medicaid recipients by the board pursuant to those 39835
sections. The services shall be considered part of the healthcheck 39836
program for medicaid recipients ~~of medical assistance~~, and the 39837
board shall be eligible for ~~reimbursement~~ payment from the ~~state~~ 39838
department in accordance with this division for providing the 39839
services. 39840

The department shall ~~reimburse~~ pay boards of education for 39841
healthcheck program services provided under this division at the 39842
rates paid under the ~~medical assistance~~ medicaid program to 39843
physicians, dentists, nurses, and other providers of healthcheck 39844
services. 39845

(C) Each board of education that conducts a healthcheck program shall determine for each pupil enrolled in the schools of the district whether the pupil is a ~~medical assistance~~ medicaid recipient. The department of ~~job and family services~~ medicaid and county departments of ~~human services~~ job and family services shall assist the board in making these determinations. Except as necessary to carry out the purposes of this section, all information received by a board under this division shall be confidential.

Before the first day of October of each year, each board that conducts a healthcheck program shall send the parent of each pupil who is under age eighteen and a medicaid recipient ~~of medical assistance~~ notice that the pupil will be examined under the district's healthcheck program unless the parent notifies the board that the parent denies consent for the examination. The notice shall include a form to be used by the parent to indicate that the parent denies consent. The denial shall be effective only if the form is signed by the parent and returned to the board or the school in which the pupil is enrolled. If the parent does not return a signed form indicating denial of consent within two weeks after the date the notice is sent, the school district and the department of ~~job and family services~~ medicaid shall deem the parent to have consented to examination of the parent's child under the healthcheck program. In the case of a pupil age eighteen or older, the notice shall be given to the pupil, and the school district and the department of ~~job and family services~~ medicaid shall deem the pupil to have consented to examination unless the pupil returns the signed form indicating the pupil's denial of consent.

(D)(1) As used in this division:

(a) "Nonfederal share" means the portion of expenditures for services that is required under the ~~medical assistance~~ medicaid

program to be paid for with state or local government funds. 39878

(b) "Federal financial participation" means the portion of 39879
expenditures for services that is ~~reimbursed~~ payable under the 39880
~~medical assistance~~ medicaid program with federal funds. 39881

(2) At the request of a board of education, the state 39882
department may enter into an agreement with the board under which 39883
the board provides medical services to a medicaid recipient ~~of~~ 39884
~~medical assistance~~ that are ~~reimbursable~~ payable under the ~~medical~~ 39885
~~assistance~~ medicaid program but not under the healthcheck program. 39886
The agreement may be for a term specified in the agreement and 39887
renewable by mutual consent of the board and the department, or 39888
may continue in force as long as agreeable to the board and the 39889
department. 39890

The board shall use state or local funds of the district to 39891
pay the nonfederal share of expenditures for services provided 39892
under this division. Prior to entering into or renewing an 39893
agreement and at any other time requested by the department while 39894
the agreement is in force, the board shall certify to the 39895
department in accordance with the rules adopted under division (F) 39896
of this section that it will have sufficient state or local funds 39897
to pay the nonfederal share of expenditures under this division. 39898
If the board fails to make the certification, the department shall 39899
not enter into or renew the agreement. If an agreement has been 39900
entered into, it shall be void unless the board makes the 39901
certification not later than fifteen days after receiving notice 39902
from the department that the certification is due. The board shall 39903
report to the department, in accordance with the rules, the amount 39904
of state or local funds it spends to provide services under this 39905
division. 39906

The department shall ~~reimburse~~ pay the board the federal 39907
financial participation allowed for the board's expenditures for 39908
services under this division. The total of the nonfederal share 39909

spent by the board and the federal financial participation 39910
~~reimbursed paid~~ by the department for a service rendered under 39911
this division shall be an amount agreed to by the board and the 39912
department, but shall not exceed the maximum ~~reimbursable payable~~ 39913
~~amount~~ for that service under rules adopted ~~by the director of job~~ 39914
~~and family services~~ under ~~Chapter 5111.~~ section 5164.02 of the 39915
Revised Code. The rules adopted under division (F) of this section 39916
shall include procedures under which the department will recover 39917
from a board overpayments and subsequent federal audit 39918
disallowances of federal financial participation ~~reimbursed paid~~ 39919
by the department. 39920

(E) A board of education shall provide services under 39921
division (D) of this section and under its healthcheck program as 39922
provided in division (E)(1), (2), or (3) of this section: 39923

(1) By having the services performed by physicians, dentists, 39924
and nurses employed by the board; 39925

(2) By contracting with physicians, dentists, nurses, and 39926
other providers of services who have ~~medical assistance~~ medicaid 39927
provider agreements with the department of ~~job and family services~~ 39928
medicaid; 39929

(3) By having some of the services performed by persons 39930
described in division (E)(1) of this section and others performed 39931
by persons described in division (E)(2) of this section. 39932

(F) The medicaid ~~director of job and family services~~ shall 39933
adopt rules in accordance with Chapter 119. of the Revised Code 39934
governing healthcheck programs conducted under this section and 39935
services provided under division (D) of this section. 39936

Sec. 3313.715. The board of education of a school district 39937
may request from the director of developmental disabilities the 39938
appropriate identification numbers for all students residing in 39939

the district who are ~~medical assistance~~ medicaid recipients under 39940
~~Chapter 5111. of the Revised Code.~~ The director shall furnish such 39941
numbers upon receipt of lists of student names furnished by the 39942
district board, in such form as the director may require. 39943

The medicaid director ~~of job and family services~~ shall 39944
provide the director of developmental disabilities with the data 39945
necessary for compliance with this section. 39946

Section 3319.321 of the Revised Code does not apply to the 39947
release of student names or other data to the director of 39948
developmental disabilities for the purposes of this section. 39949
Chapter 1347. of the Revised Code does not apply to information 39950
required to be kept by a school board or the departments of ~~job~~ 39951
~~and family services~~ medicaid or developmental disabilities to the 39952
extent necessary to comply with this section and section 3313.714 39953
of the Revised Code. However, any such information or data shall 39954
be used only for the specific legal purposes of such boards and 39955
departments and shall not be released to any unauthorized person. 39956

Sec. 3313.83. (A)(1) For the purpose of pooling resources, 39957
operating more cost effectively, minimizing administrative 39958
overhead, encouraging the sharing of resource development, and 39959
diminishing duplication, the boards of education of two or more 39960
city, local, or exempted village school districts each having a 39961
majority of its territory in a county with a population greater 39962
than one million two hundred thousand, by adopting identical 39963
resolutions, may enter into an agreement providing for the 39964
creation of a regional student education district for the purpose 39965
of funding the following for students enrolled in those school 39966
districts, including students diagnosed as autistic and students 39967
with special needs, and their immediate family members: 39968

(a) Special education services; 39969

(b) Behavioral health services for persons with special 39970

needs. 39971

If more than eight boards of education adopt resolutions to 39972
form a regional student education district, the boards may meet at 39973
facilities of the educational service center of the county to 39974
discuss membership in the district. 39975

(2) The territory of a regional student education district at 39976
any time shall be composed of the combined territories of the 39977
school districts that are parties to the agreement at that time. 39978
Services funded by a regional student education district shall be 39979
available to all individuals enrolled in a school district that is 39980
a part of the regional student education district and members of 39981
their immediate family. 39982

(3) The agreement may be amended pursuant to terms and 39983
procedures mutually agreed to by the boards of education that are 39984
parties to the agreement. 39985

(B) Each regional student education district shall be 39986
governed by a board of directors. The superintendent of each board 39987
of education that is a party to the agreement shall serve on the 39988
board of directors. The agreement shall provide for the terms of 39989
office of directors. Directors shall receive no compensation, but 39990
shall be reimbursed, from the special fund of the regional student 39991
education district, for the reasonable and necessary expenses they 39992
incur in the performance of their duties for the district. The 39993
agreement shall provide for the conduct of the board's initial 39994
organizational meeting and for the frequency of subsequent 39995
meetings and quorum requirements. At its first meeting, the board 39996
shall designate from among its members a president and secretary 39997
in the manner provided in the agreement. 39998

The board of directors of a regional student education 39999
district is a body corporate and politic, is capable of suing and 40000
being sued, is capable of contracting within the limits of this 40001

section and the agreement governing the district, and is capable 40002
of accepting gifts, donations, bequests, or other grants of money 40003
for use in paying its expenses. The district is a public office 40004
and its directors are public officials within the meaning of 40005
section 117.01 of the Revised Code, the board of directors is a 40006
public body within the meaning of section 121.22 of the Revised 40007
Code, and records of the board and of the district are public 40008
records within the meaning of section 149.43 of the Revised Code. 40009

The agreement shall require the board to designate a 40010
permanent location for its offices and meeting place, and may 40011
provide for the use of such facilities and property for the 40012
provision of services by the agencies with which the board 40013
contracts under division (C) of this section. 40014

(C)(1) To provide the services identified in division (A)(1) 40015
of this section, the board of directors of a regional student 40016
education district shall provide for the hiring of employees or 40017
shall contract with one or more entities. Except as provided in 40018
division (C)(2) of this section, any entity with which the board 40019
of directors contracts to provide the services identified in 40020
division (A)(1)(b) of this section shall be a qualified nonprofit, 40021
nationally accredited agency to which both of the following apply: 40022

(a) The agency is licensed or certified by the departments of 40023
~~mental health, mental health and addiction services and~~ job and 40024
family services, ~~and alcohol and drug addiction services.~~ 40025

(b) The agency provides school-based behavioral health 40026
services. 40027

(2) The board of directors may contract with an entity that 40028
does not meet the conditions stated in division (C)(1) of this 40029
section if the services to be provided by the entity are only 40030
incidental to the services identified in division (A)(1)(b) of 40031
this section. 40032

(3) The board of directors may levy a tax throughout the district as provided in section 5705.2111 of the Revised Code. The board of directors shall provide for the creation of a special fund to hold the proceeds of any tax levied under section 5705.2111 of the Revised Code and any gifts, donations, bequests, or other grants of money coming into the possession of the district. A regional student education district is a subdivision, and the board of directors is a governing body, within the meaning of section 135.01 of the Revised Code. The board of directors may not issue securities or otherwise incur indebtedness.

(4) The adoption or rejection by electors of a tax levy to fund a regional student education district pursuant to section 5705.2111 of the Revised Code does not alter the duty of each school district member of the regional student education district to provide special education and related services as required under Chapter 3323. of the Revised Code. On the expiration of a regional student education district levy, the state, member school districts of the regional student education district, and any other governmental entity shall not be obligated to provide replacement funding for the revenues under the expired levy. The tax levy, in whole or in part, shall not be considered a levy for current operating expenses pursuant to division (A) of section 3317.01 of the Revised Code for any of the school districts that are members of the regional student education district.

(D)(1) The agreement shall provide for the manner of appointing an individual or entity to perform the duties of fiscal officer of the regional student education district. The agreement shall specify the length of time the individual or entity shall perform those duties and whether the individual or entity may be reappointed upon the completion of a term. The fiscal officer may receive compensation for performing the duties of the position and be reimbursed for reasonable expenses of performing those duties

from the regional student education district's special fund. 40065

(2) The legal advisor of the board of directors of a regional 40066
student education district shall be the prosecuting attorney of 40067
the most populous county containing a school district that is a 40068
member of the regional student education district. The prosecuting 40069
attorney shall prosecute all actions against a member of the board 40070
of directors for malfeasance or misfeasance in office and shall be 40071
the legal counsel for the board and its members in all other 40072
actions brought by or against them and shall conduct those actions 40073
in the prosecuting attorney's official capacity. No compensation 40074
in addition to the prosecuting attorney's regular salary shall be 40075
allowed. 40076

(E) The board of directors of a regional student education 40077
district shall procure a policy or policies of insurance insuring 40078
the board, the fiscal officer, and the legal representative 40079
against liability on account of damage or injury to persons and 40080
property. Before procuring such insurance the board shall adopt a 40081
resolution setting forth the amount of insurance to be purchased, 40082
the necessity of the insurance, and a statement of its estimated 40083
premium cost. Insurance procured pursuant to this section shall be 40084
from one or more recognized insurance companies authorized to do 40085
business in this state. The cost of the insurance shall be paid 40086
from the district's special fund. 40087

A regional student education district is a political 40088
subdivision within the meaning of section 2744.01 of the Revised 40089
Code. 40090

(F)(1) The board of education of a school district having a 40091
majority of its territory in the county may join an existing 40092
regional student education district by adopting a resolution 40093
requesting to join as a party to the agreement and upon approval 40094
by the boards of education that currently are parties to the 40095
agreement. If a tax is levied in the regional student education 40096

district under section 5705.2111 of the Revised Code, a board of 40097
education may join the district only after a majority of qualified 40098
electors in the school district voting on the question vote in 40099
favor of levying the tax throughout the school district. A board 40100
of education joining an existing district shall have the same 40101
powers, rights, and obligations under the agreement as other 40102
boards of education that are parties to the agreement. 40103

(2) A board of education that is a party to an agreement 40104
under this section may withdraw the school district from a 40105
regional student education district by adopting a resolution. The 40106
withdrawal shall take effect on the date provided in the 40107
resolution. If a tax is levied in the regional student education 40108
district under section 5705.2111 of the Revised Code, the 40109
resolution shall take effect not later than the first day of 40110
January following adoption of the resolution. Beginning with the 40111
first day of January following adoption of the resolution, any tax 40112
levied under section 5705.2111 of the Revised Code shall not be 40113
levied within the territory of the withdrawing school district. 40114
Any collection of tax levied in the territory of the withdrawing 40115
school district under that section that has not been settled and 40116
distributed when the resolution takes effect shall be credited to 40117
the district's special fund. 40118

(G) An agreement entered into under this section shall 40119
provide for the manner of the regional student education 40120
district's dissolution. The district shall cease to exist when not 40121
more than one school district remains in the district, and the 40122
levy of any tax under section 5705.2111 of the Revised Code shall 40123
not be extended on the tax lists in any tax year beginning after 40124
the dissolution of the district. The agreement shall provide that, 40125
upon dissolution of the district, any unexpended balance in the 40126
district's special fund shall be divided among the school 40127
districts that are parties to the agreement immediately before 40128

dissolution in proportion to the taxable valuation of taxable 40129
property in the districts, and credited to their respective 40130
general funds. 40131

Sec. 3313.841. The boards of education and governing boards 40132
of two or more city, local, joint vocational, or exempted village 40133
school districts or educational service centers may contract in 40134
accordance with the terms of this section for the sharing on a 40135
cooperative basis of the services of supervisory teachers, special 40136
instruction teachers, special education teachers, and other 40137
licensed personnel necessary to conduct approved cooperative 40138
classes for special education and related services and gifted 40139
education. 40140

The boards of two or more districts or service centers 40141
desiring to enroll students in such classes shall each adopt 40142
resolutions indicating such desire and designating one of the 40143
participating districts or service centers as the funding agent 40144
for purposes of this section. The district or service center 40145
designated as the funding agent shall enter into an employment 40146
contract with each licensed teacher whose services are to be 40147
shared among the participating districts and service centers. In 40148
turn, the funding agent shall enter into contracts with each of 40149
the districts and service centers which have adopted resolutions 40150
agreeing to participate in the cooperative program upon terms 40151
agreed to by all parties to such contract. Such contracts between 40152
districts and service centers shall set forth the services to be 40153
provided by the licensed teacher employed by the funding agent 40154
whose services are to be shared by the participating districts and 40155
service centers and the basis for computing the amounts to be paid 40156
for such services to the funding agent by the participating 40157
districts and service centers. 40158

For purposes of ~~division (B) of section 3317.05~~ 3317.0213 of 40159

the Revised Code, the funding agent shall count all pupils 40160
enrolled in cooperative programs for pupils with disabilities as 40161
pupils enrolled in such programs in the funding agent district. 40162
Upon receipt of payment for such programs, the funding agent 40163
district shall credit the account of districts participating in 40164
the cooperative program for the amounts due under contracts 40165
entered into under the terms of this section in proportion to the 40166
number of resident students enrolled in the cooperative program 40167
from each participating district and service center. 40168

In determining the terms of the contract entered into by the 40169
funding agent district or service center and the participating 40170
districts and service centers, the superintendent of schools of 40171
each participating board of education and governing board shall 40172
serve as a committee which shall recommend such terms to such 40173
boards. 40174

Sec. 3313.843. (A) Notwithstanding division (D) of section 40175
3311.52 of the Revised Code, this section does not apply to any 40176
cooperative education school district. 40177

(B)(1) The board of education of each city, exempted village, 40178
or local school district with an average daily student enrollment 40179
of sixteen thousand or less, reported for the district on the most 40180
recent report card issued under section 3302.03 of the Revised 40181
Code, shall enter into an agreement with the governing board of an 40182
educational service center, under which the educational service 40183
center governing board will provide services to the district. 40184

(2) The board of education of a city, exempted village, or 40185
local school district with an average daily student enrollment of 40186
more than sixteen thousand may enter into an agreement with the 40187
governing board of an educational service center, under which the 40188
educational service center governing board will provide services 40189
to the district. 40190

(3) Services provided under an agreement entered into under 40191
division (B)(1) or (2) of this section shall be specified in the 40192
agreement, and may include any of the following: supervisory 40193
teachers; in-service and continuing education programs for 40194
district personnel; curriculum services; research and development 40195
programs; academic instruction for which the governing board 40196
employs teachers pursuant to section 3319.02 of the Revised Code; 40197
assistance in the provision of special accommodations and classes 40198
for students with disabilities; or any other services the district 40199
board and service center governing board agree can be better 40200
provided by the service center and are not provided under an 40201
agreement entered into under section 3313.845 of the Revised Code. 40202
Services included in the agreement shall be provided to the 40203
district in the manner specified in the agreement. The district 40204
board of education shall reimburse the educational service center 40205
governing board pursuant to ~~section 3317.11 of the Revised Code~~ 40206
terms specified in the agreement entered into under this section. 40207

~~Beginning with the 2012-2013 school year, the board of any 40208
district described in division (B)(2) of this section may elect 40209
not to receive the supervisory services for which supervisory 40210
units are paid under division (B) of section 3317.11 of the 40211
Revised Code, provided that election is specified in the 40212
agreement.~~ 40213

(C) Any agreement entered into pursuant to this section shall 40214
be filed with the department of education by the first day of July 40215
of the school year for which the agreement is in effect. 40216

(D)(1) An agreement for services from an educational service 40217
center entered into under this section may be terminated by the 40218
school district board of education, at its option, by notifying 40219
the governing board of the service center by March 1, 2012, or by 40220
the first day of January of any odd-numbered year thereafter, that 40221
the district board intends to terminate the agreement in that 40222

year, and that termination shall be effective on the thirtieth day of June of that year. The failure of a district board to notify an educational service center of its intent to terminate an agreement by March 1, 2012, shall result in renewal of the existing agreement for the following school year. Thereafter, the failure of a district board to notify an educational service center of its intent to terminate an agreement by the first day of January of an odd-numbered year shall result in renewal of the existing agreement for the following two school years.

(2) If the school district that terminates an agreement for services under division (D)(1) of this section is also subject to the requirement of division (B)(1) of this section, the district board shall enter into a new agreement with any educational service center so that the new agreement is effective on the first day of July of that same year.

(3) If all moneys owed by a school district to an educational service center under an agreement for services terminated under division (D)(1) of this section have been paid in full by the effective date of the termination, the governing board of the service center shall submit an affidavit to the department certifying that fact not later than fifteen days after the termination's effective date. Notwithstanding anything in the Revised Code to the contrary, until the department receives such an affidavit, it shall not make any payments to any other educational service center with which the district enters into an agreement under this section for services that the educational service center provides to the district.

(E) An educational service center may apply to any state or federal agency for competitive grants. It may also apply to any private entity for additional funds.

(F) Not later than January 1, 2014, each educational service center shall post on its web site a list of all of the services

that it provides and the corresponding cost for each of those 40255
services. 40256

(G)(1) For purposes of this division, "total student count" 40257
has the same meaning as in section 3301.011 of the Revised Code. 40258

(2) For purposes of calculating any state subsidy to be paid 40259
to an educational service center for services provided to a school 40260
district, the service center's student count shall be the sum of 40261
the total student counts of all of an educational service center's 40262
client school districts, except that the count shall not include 40263
any student entitled to attend school in one of those districts 40264
who is enrolled in a community school at the time the total 40265
student count is reported. 40266

(3) When a district enters into a new agreement with a new 40267
educational service center, the department of education shall 40268
ensure that the state subsidy for services provided to the 40269
district is paid to the new educational service center and that 40270
the educational service center with which the district previously 40271
had an agreement is no longer paid a state subsidy for providing 40272
services to that district. 40273

Sec. 3313.845. The board of education of a city, exempted 40274
village, or local school district and the governing board of an 40275
educational service center may enter into an agreement under which 40276
the educational service center will provide services to the school 40277
district. Services provided under the agreement and the amount to 40278
be paid for such services shall be mutually agreed to by the 40279
district board of education and the service center governing 40280
board, and shall be specified in the agreement. Payment for 40281
services specified in the agreement shall be made pursuant to 40282
~~division (D) of section 3317.11 of the Revised Code and shall not~~ 40283
~~include any deduction under division (B), (C), or (F) of that~~ 40284
~~section~~ the terms of that agreement. Any agreement entered into 40285

pursuant to this section shall be valid only if a copy is filed 40286
with the department of education. 40287

The authority granted under this section to the boards of 40288
education of city, exempted village, and local school districts is 40289
in addition to the authority granted to such boards under section 40290
3313.843 of the Revised Code. 40291

Sec. 3313.88. (A)(1) Prior to the first day of August of each 40292
school year, the board of education of any school district or the 40293
governing authority of any chartered nonpublic school may submit 40294
to the department of education a plan to require students to 40295
access and complete classroom lessons posted on the district's or 40296
nonpublic school's web portal or web site in order to make up days 40297
in that school year on which it is necessary to close schools for 40298
any of the reasons specified in division (B) of section 3317.01 of 40299
the Revised Code in excess of the number of days permitted under 40300
sections 3313.48, 3313.481, and 3317.01 of the Revised Code. 40301
40302

Prior to the first day of August of each school year, the 40303
governing authority of any community school established under 40304
Chapter 3314. that is not an internet- or computer-based community 40305
school, as defined in section 3314.02 of the Revised Code, may 40306
submit to the department a plan to require students to access and 40307
complete classroom lessons posted on the school's web portal or 40308
web site in order to make up days or hours in that school year on 40309
which it is necessary to close the school for any of the reasons 40310
specified in division ~~(L)~~(H)(4) of section 3314.08 of the Revised 40311
Code so that the school is in compliance with the minimum number 40312
of hours required under Chapter 3314. of the Revised Code. 40313

A plan submitted by a school district board or chartered 40314
nonpublic school governing authority shall provide for making up 40315

any number of days, up to a maximum of three days. A plan 40316
submitted by a community school governing authority shall provide 40317
for making up any number of hours, up to a maximum of the 40318
equivalent of three days. Provided the plan meets all requirements 40319
of this section, the department shall permit the board or 40320
governing authority to implement the plan for the applicable 40321
school year. 40322

(2) Each plan submitted under this section by a school 40323
district board of education shall include the written consent of 40324
the teachers' employee representative designated under division 40325
(B) of section 4117.04 of the Revised Code. 40326

(3) Each plan submitted under this section shall provide for 40327
the following: 40328

(a) Not later than the first day of November of the school 40329
year, each classroom teacher shall develop a sufficient number of 40330
lessons for each course taught by the teacher that school year to 40331
cover the number of make-up days or hours specified in the plan. 40332
The teacher shall designate the order in which the lessons are to 40333
be posted on the district's, community school's, or nonpublic 40334
school's web portal or web site in the event of a school closure. 40335
Teachers may be granted up to one professional development day to 40336
create lesson plans for those lessons. 40337

(b) To the extent possible and necessary, a classroom teacher 40338
shall update or replace, based on current instructional progress, 40339
one or more of the lesson plans developed under division (A)(3)(a) 40340
of this section before they are posted on the web portal or web 40341
site under division (A)(3)(c) of this section or distributed under 40342
division (B) of this section. 40343

(c) As soon as practicable after a school closure, a district 40344
or school employee responsible for web portal or web site 40345
operations shall make the designated lessons available to students 40346

on the district's, community school's, or nonpublic school's 40347
portal or site. A lesson shall be posted for each course that was 40348
scheduled to meet on the day or hours of the closure. 40349

(d) Each student enrolled in a course for which a lesson is 40350
posted on the portal or site shall be granted a two-week period 40351
from the date of posting to complete the lesson. The student's 40352
classroom teacher shall grade the lesson in the same manner as 40353
other lessons. The student may receive an incomplete or failing 40354
grade if the lesson is not completed on time. 40355

(e) If a student does not have access to a computer at the 40356
student's residence and the plan does not include blizzard bags 40357
under division (B) of this section, the student shall be permitted 40358
to work on the posted lessons at school after the student's school 40359
reopens. If the lessons were posted prior to the reopening, the 40360
student shall be granted a two-week period from the date of the 40361
reopening, rather than from the date of posting as otherwise 40362
required under division (A)(3)(d) of this section, to complete the 40363
lessons. The district board or community school or nonpublic 40364
school governing authority may provide the student access to a 40365
computer before, during, or after the regularly scheduled school 40366
day or may provide a substantially similar paper lesson in order 40367
to complete the lessons. 40368

(B)(1) In addition to posting classroom lessons online under 40369
division (A) of this section, the board of education of any school 40370
district or governing authority of any community or chartered 40371
nonpublic school may include in the plan distribution of "blizzard 40372
bags," which are paper copies of the lessons posted online. 40373

(2) If a school opts to use blizzard bags, teachers shall 40374
prepare paper copies in conjunction with the lessons to be posted 40375
online and update the paper copies whenever the teacher updates 40376
the online lesson plans. 40377

(3) The board of education of any school district or governing authority of any community or chartered nonpublic school that opts to use blizzard bags shall specify in the plan the method of distribution of blizzard bag lessons, which may include, but not be limited to, requiring distribution by a specific deadline or requiring distribution prior to anticipated school closure as directed by the superintendent of a school district or the principal, director, chief administrative officer, or the equivalent, of a school.

(4) Students shall turn in completed lessons in accordance with division (A)(3)(d) of this section.

(C)(1) No school district that implements a plan in accordance with this section shall be considered to have failed to comply with division (B) of section 3317.01 of the Revised Code with respect to the number of make-up days specified in the plan.

(2) No community school that implements a plan in accordance with this section shall be considered to have failed to comply with the minimum number of hours required under Chapter 3314. of the Revised Code with respect to the number of make-up hours specified in the plan.

Sec. 3313.978. (A) Annually by the first day of November, the superintendent of public instruction shall notify the pilot project school district of the number of initial scholarships that the state superintendent will be awarding in each of grades kindergarten through twelve.

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for the selection of students to receive scholarships from among all those applying

prior to the deadline, which criteria shall give preference to 40409
students from low-income families. The state superintendent shall 40410
notify students of their selection prior to the fifteenth day of 40411
January. 40412

(1) A student receiving a pilot project scholarship may 40413
utilize it at an alternative public school by notifying the 40414
district superintendent, at any time before the beginning of the 40415
school year, of the name of the public school in an adjacent 40416
school district to which the student has been accepted pursuant to 40417
section 3327.06 of the Revised Code. 40418

(2) A student may decide to utilize a pilot project 40419
scholarship at a registered private school in the district if all 40420
of the following conditions are met: 40421

(a) By the fifteenth day of February of the preceding school 40422
year, or at any time prior to the start of the school year, the 40423
parent makes an application on behalf of the student to a 40424
registered private school. 40425

(b) The registered private school notifies the parent and the 40426
state superintendent as follows that the student has been 40427
admitted: 40428

(i) By the fifteenth day of March of the preceding school 40429
year if the student filed an application by the fifteenth day of 40430
February and was admitted by the school pursuant to division (A) 40431
of section 3313.977 of the Revised Code; 40432

(ii) Within one week of the decision to admit the student if 40433
the student is admitted pursuant to division (C) of section 40434
3313.977 of the Revised Code. 40435

(c) The student actually enrolls in the registered private 40436
school to which the student was first admitted or in another 40437
registered private school in the district or in a public school in 40438
an adjacent school district. 40439

(B) The state superintendent shall also award in any school year tutorial assistance grants to a number of students equal to the number of students who receive scholarships under division (A) of this section. Tutorial assistance grants shall be awarded solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project. Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish.

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the net tuition charges of the alternative school the scholarship recipient attends or ~~three thousand dollars before fiscal year 2007, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and~~ four thousand two hundred fifty dollars in fiscal year 2012 and thereafter.

In the case of basic scholarships for students in grades nine through twelve, the scholarship amount shall not exceed the lesser of the net tuition charges of the alternative school the scholarship recipient attends or ~~two thousand seven hundred dollars before fiscal year 2007, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and~~ five thousand dollars in fiscal year 2012 and ~~thereafter~~ fiscal year 2013, and five thousand seven hundred dollars in fiscal year 2014 and thereafter.

The net tuition and fees charged to a student shall be the

tuition amount specified by the alternative school minus all other 40472
financial aid, discounts, and adjustments received for the 40473
student. In cases where discounts are offered for multiple 40474
students from the same family, and not all students in the same 40475
family are scholarship recipients, the net tuition amount 40476
attributable to the scholarship recipient shall be the lowest net 40477
tuition to which the family is entitled. 40478

(2) The state superintendent shall provide for an increase in 40479
the basic scholarship amount in the case of any student who is a 40480
mainstreamed student with a disability and shall further increase 40481
such amount in the case of any separately educated student with a 40482
disability. Such increases shall take into account the 40483
instruction, related services, and transportation costs of 40484
educating such students. 40485

(3) In the case of tutorial assistance grants, the grant 40486
amount shall not exceed the lesser of the provider's actual 40487
charges for such assistance or: 40488

(a) Before fiscal year 2007, a percentage established by the 40489
state superintendent, not to exceed twenty per cent, of the amount 40490
of the pilot project school district's average basic scholarship 40491
amount; 40492

(b) In fiscal year 2007 and thereafter, four hundred dollars. 40493

(D)(1) Annually by the first day of November, the state 40494
superintendent shall estimate the maximum per-pupil scholarship 40495
amounts for the ensuing school year. The state superintendent 40496
shall make this estimate available to the general public at the 40497
offices of the district board of education together with the forms 40498
required by division (D)(2) of this section. 40499

(2) Annually by the fifteenth day of January, the chief 40500
administrator of each registered private school located in the 40501
pilot project district and the principal of each public school in 40502

such district shall complete a parental information form and 40503
forward it to the president of the board of education. The 40504
parental information form shall be prescribed by the department of 40505
education and shall provide information about the grade levels 40506
offered, the numbers of students, tuition amounts, achievement 40507
test results, and any sectarian or other organizational 40508
affiliations. 40509

(E)(1) Only for the purpose of administering the pilot 40510
project scholarship program, the department may request from any 40511
of the following entities the data verification code assigned 40512
under division (D)(2) of section 3301.0714 of the Revised Code to 40513
any student who is seeking a scholarship under the program: 40514

(a) The school district in which the student is entitled to 40515
attend school under section 3313.64 or 3313.65 of the Revised 40516
Code; 40517

(b) If applicable, the community school in which the student 40518
is enrolled; 40519

(c) The independent contractor engaged to create and maintain 40520
data verification codes. 40521

(2) Upon a request by the department under division (E)(1) of 40522
this section for the data verification code of a student seeking a 40523
scholarship or a request by the student's parent for that code, 40524
the school district or community school shall submit that code to 40525
the department or parent in the manner specified by the 40526
department. If the student has not been assigned a code, because 40527
the student will be entering kindergarten during the school year 40528
for which the scholarship is sought, the district shall assign a 40529
code to that student and submit the code to the department or 40530
parent by a date specified by the department. If the district does 40531
not assign a code to the student by the specified date, the 40532
department shall assign a code to the student. 40533

The department annually shall submit to each school district the name and data verification code of each student residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law.

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:

(a) Grade level;

(b) Race and ethnicity;	40565
(c) Gender;	40566
(d) Students who have participated in the scholarship program for three or more years;	40567 40568
(e) Students who have participated in the scholarship program for more than one year and less than three years;	40569 40570
(f) Students who have participated in the scholarship program for one year or less;	40571 40572
(g) Economically disadvantaged students.	40573
(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.	40574 40575 40576 40577 40578 40579 40580 40581 40582 40583
(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and socioeconomic status.	40584 40585 40586 40587 40588 40589 40590 40591 40592 40593
Sec. 3313.98. Notwithstanding division (D) of section 3311.19	40594

and division (D) of section 3311.52 of the Revised Code, the 40595
provisions of this section and sections 3313.981 to 3313.983 of 40596
the Revised Code that apply to a city school district do not apply 40597
to a joint vocational or cooperative education school district 40598
unless expressly specified. 40599

(A) As used in this section and sections 3313.981 to 3313.983 40600
of the Revised Code: 40601

(1) "Parent" means either of the natural or adoptive parents 40602
of a student, except under the following conditions: 40603

(a) When the marriage of the natural or adoptive parents of 40604
the student has been terminated by a divorce, dissolution of 40605
marriage, or annulment or the natural or adoptive parents of the 40606
student are living separate and apart under a legal separation 40607
decree and the court has issued an order allocating the parental 40608
rights and responsibilities with respect to the student, "parent" 40609
means the residential parent as designated by the court except 40610
that "parent" means either parent when the court issues a shared 40611
parenting decree. 40612

(b) When a court has granted temporary or permanent custody 40613
of the student to an individual or agency other than either of the 40614
natural or adoptive parents of the student, "parent" means the 40615
legal custodian of the child. 40616

(c) When a court has appointed a guardian for the student, 40617
"parent" means the guardian of the student. 40618

(2) "Native student" means a student entitled under section 40619
3313.64 or 3313.65 of the Revised Code to attend school in a 40620
district adopting a resolution under this section. 40621

(3) "Adjacent district" means a city, exempted village, or 40622
local school district having territory that abuts the territory of 40623
a district adopting a resolution under this section. 40624

(4) "Adjacent district student" means a student entitled 40625
under section 3313.64 or 3313.65 of the Revised Code to attend 40626
school in an adjacent district. 40627

(5) "Adjacent district joint vocational student" means an 40628
adjacent district student who enrolls in a city, exempted village, 40629
or local school district pursuant to this section and who also 40630
enrolls in a joint vocational school district that does not 40631
contain the territory of the district for which that student is a 40632
native student and does contain the territory of the city, 40633
exempted village, or local district in which the student enrolls. 40634

(6) "Formula amount" has the same meaning as in section 40635
3317.02 of the Revised Code. 40636

~~(7) "Adjusted formula amount" means the sum of the formula 40637
amount plus the per pupil amount of the base funding supplements 40638
specified in divisions (C)(1) to (4) of section 3317.012 of the 40639
Revised Code for fiscal year 2009. 40640~~

~~(8)~~ "Poverty line" means the poverty line established by the 40641
director of the United States office of management and budget as 40642
revised by the ~~director~~ secretary of the ~~office of community 40643
health and human~~ services in accordance with section 673(2) of the 40644
"Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 40645
9902, as amended. 40646

~~(9)~~(8) "IEP" has the same meaning as in section 3323.01 of 40647
the Revised Code. 40648

~~(10)~~(9) "Other district" means a city, exempted village, or 40649
local school district having territory outside of the territory of 40650
a district adopting a resolution under this section. 40651

~~(11)~~(10) "Other district student" means a student entitled 40652
under section 3313.64 or 3313.65 of the Revised Code to attend 40653
school in an other district. 40654

~~(12)~~(11) "Other district joint vocational student" means a student who is enrolled in any city, exempted village, or local school district and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student in accordance with a policy adopted under section 3313.983 of the Revised Code.

(B)(1) The board of education of each city, local, and exempted village school district shall adopt a resolution establishing for the school district one of the following policies:

(a) A policy that entirely prohibits the enrollment of students from adjacent districts or other districts, other than students for whom tuition is paid in accordance with section 3317.08 of the Revised Code;

(b) A policy that permits enrollment of students from all adjacent districts in accordance with policy statements contained in the resolution;

(c) A policy that permits enrollment of students from all other districts in accordance with policy statements contained in the resolution.

(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following:

(a) Application procedures, including deadlines for application and for notification of students and the superintendent of the applicable district whenever an adjacent or other district student's application is approved.

(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to:

(i) The establishment of district capacity limits by grade level, school building, and education program; 40685
40686

(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants; 40687
40688
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40690

(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools. 40691
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(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district students, as applicable, shall not include: 40693
40694
40695

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills; 40696
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(2) Limitations on admitting applicants because of disability, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools; 40698
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(3) A requirement that the student be proficient in the English language; 40703
40704

(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant. 40705
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(D)(1) Each school board permitting only enrollment of adjacent district students shall provide information about the policy adopted under this section, including the application 40712
40713
40714

procedures and deadlines, to the superintendent and the board of 40715
education of each adjacent district and, upon request, to the 40716
parent of any adjacent district student. 40717

(2) Each school board permitting enrollment of other district 40718
students shall provide information about the policy adopted under 40719
this section, including the application procedures and deadlines, 40720
upon request, to the board of education of any other school 40721
district or to the parent of any student anywhere in the state. 40722

(E) Any school board shall accept all credits toward 40723
graduation earned in adjacent or other district schools by an 40724
adjacent or other district student or a native student. 40725

(F)(1) No board of education may adopt a policy discouraging 40726
or prohibiting its native students from applying to enroll in the 40727
schools of an adjacent or any other district that has adopted a 40728
policy permitting such enrollment, except that: 40729

(a) A district may object to the enrollment of a native 40730
student in an adjacent or other district in order to maintain an 40731
appropriate racial balance. 40732

(b) The board of education of a district receiving funds 40733
under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, 40734
may adopt a resolution objecting to the enrollment of its native 40735
students in adjacent or other districts if at least ten per cent 40736
of its students are included in the determination of the United 40737
States secretary of education made under section 20 U.S.C.A. 40738
238(a). 40739

(2) If a board objects to enrollment of native students under 40740
this division, any adjacent or other district shall refuse to 40741
enroll such native students unless tuition is paid for the 40742
students in accordance with section 3317.08 of the Revised Code. 40743
An adjacent or other district enrolling such students may not 40744
receive funding for those students in accordance with section 40745

3313.981 of the Revised Code. 40746

(G) The state board of education shall monitor school 40747
districts to ensure compliance with this section and the 40748
districts' policies. The board may adopt rules requiring uniform 40749
application procedures, deadlines for application, notification 40750
procedures, and record-keeping requirements for all school boards 40751
that adopt policies permitting the enrollment of adjacent or other 40752
district students, as applicable. If the state board adopts such 40753
rules, no school board shall adopt a policy that conflicts with 40754
those rules. 40755

(H) A resolution adopted by a board of education under this 40756
section that entirely prohibits the enrollment of students from 40757
adjacent and from other school districts does not abrogate any 40758
agreement entered into under section 3313.841 or 3313.92 of the 40759
Revised Code or any contract entered into under section 3313.90 of 40760
the Revised Code between the board of education adopting the 40761
resolution and the board of education of any adjacent or other 40762
district or prohibit these boards of education from entering into 40763
any such agreement or contract. 40764

(I) Nothing in this section shall be construed to permit or 40765
require the board of education of a city, exempted village, or 40766
local school district to exclude any native student of the 40767
district from enrolling in the district. 40768

Sec. 3313.981. (A) The state board of education shall adopt 40769
rules requiring all of the following: 40770

(1) The board of education of each city, exempted village, 40771
and local school district to annually report to the department of 40772
education all of the following: 40773

(a) The number of adjacent district or other district 40774
students, as applicable, and adjacent district or other district 40775

joint vocational students, as applicable, enrolled in the district 40776
and the number of native students enrolled in adjacent or other 40777
districts, in accordance with a policy adopted under division (B) 40778
of section 3313.98 of the Revised Code; 40779

(b) Each adjacent district or other district student's or 40780
adjacent district or other district joint vocational student's 40781
date of enrollment in the district; 40782

(c) The full-time equivalent number of adjacent district or 40783
other district students enrolled in ~~vocational~~ each of the 40784
categories of career-technical education programs or classes 40785
described in ~~division (A) of~~ section 3317.014 of the Revised Code 40786
and the full-time equivalent number of such students enrolled in 40787
~~vocational education programs or classes described in division (B)~~ 40788
~~of that section;~~ 40789

(d) Each native student's date of enrollment in an adjacent 40790
or other district. 40791

(2) The board of education of each joint vocational school 40792
district to annually report to the department all of the 40793
following: 40794

(a) The number of adjacent district or other district joint 40795
vocational students, as applicable, enrolled in the district; 40796

(b) The full-time equivalent number of adjacent district or 40797
other district joint vocational students enrolled in ~~vocational~~ 40798
each category of career-technical education programs or classes 40799
described in ~~division (A) of~~ section 3317.014 of the Revised Code 40800
and the full-time equivalent number of such students enrolled in 40801
~~vocational education programs or classes described in division (B)~~ 40802
~~of that section;~~ 40803

(c) For each adjacent district or other district joint 40804
vocational student, the city, exempted village, or local school 40805
district in which the student is also enrolled. 40806

(3) Prior to the first full school week in October each year, 40807
the superintendent of each city, local, or exempted village school 40808
district that admits adjacent district or other district students 40809
or adjacent district or other district joint vocational students 40810
in accordance with a policy adopted under division (B) of section 40811
3313.98 of the Revised Code to notify each adjacent or other 40812
district where those students are entitled to attend school under 40813
section 3313.64 or 3313.65 of the Revised Code of the number of 40814
the adjacent or other district's native students who are enrolled 40815
in the superintendent's district under the policy. 40816

The rules shall provide for the method of counting students 40817
who are enrolled for part of a school year in an adjacent or other 40818
district or as an adjacent district or other district joint 40819
vocational student. 40820

(B) From the payments made to a city, exempted village, or 40821
local school district under Chapter 3317. of the Revised Code and, 40822
if necessary, from the payments made to the district under 40823
sections 321.24 and 323.156 of the Revised Code, the department of 40824
education shall annually subtract both of the following: 40825

(1) An amount equal to the number of the district's native 40826
students reported under division (A)(1) of this section who are 40827
enrolled in adjacent or other school districts pursuant to 40828
policies adopted by such districts under division (B) of section 40829
3313.98 of the Revised Code multiplied by the ~~adjusted~~ formula 40830
amount; 40831

(2) The excess costs computed in accordance with division (E) 40832
of this section for any such native students receiving special 40833
education and related services in adjacent or other school 40834
districts or as an adjacent district or other district joint 40835
vocational student; 40836

(3) For the full-time equivalent number the formula amount of 40837

the district's native students reported under division (A)(1)(c) 40838
or (2)(b) of this section as enrolled in ~~vocational~~ 40839
career-technical education programs or classes described in 40840
section 3317.014 of the Revised Code, an amount equal to ~~\$5,732~~ 40841
the formula amount times the applicable multiple prescribed by 40842
that section. 40843

(C) To the payments made to a city, exempted village, or 40844
local school district under Chapter 3317. of the Revised Code, the 40845
department of education shall annually add all of the following: 40846

(1) An amount equal to the ~~adjusted~~ formula amount multiplied 40847
by the remainder obtained by subtracting the number of adjacent 40848
district or other district joint vocational students from the 40849
number of adjacent district or other district students enrolled in 40850
the district, as reported under division (A)(1) of this section; 40851

(2) The excess costs computed in accordance with division (E) 40852
of this section for any adjacent district or other district 40853
students, except for any adjacent or other district joint 40854
vocational students, receiving special education and related 40855
services in the district; 40856

(3) For the full-time equivalent number of the adjacent or 40857
other district students who are not adjacent district or other 40858
district joint vocational students and are reported under division 40859
(A)(1)(c) of this section as enrolled in ~~vocational~~ 40860
career-technical education programs or classes described in 40861
section 3317.014 of the Revised Code, an amount equal to ~~\$5,732~~ 40862
the formula amount times the applicable multiple prescribed by 40863
that section; 40864

(4) An amount equal to the number of adjacent district or 40865
other district joint vocational students reported under division 40866
(A)(1) of this section multiplied by an amount equal to twenty per 40867
cent of the ~~adjusted~~ formula amount. 40868

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) The ~~adjusted~~ formula amount;

(2) An amount equal to the full-time equivalent number of students reported pursuant to division (A)(2)(b) of this section times ~~\$5,732~~ the formula amount times the applicable multiple prescribed by section 3317.014 of the Revised Code.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the ~~adjusted~~ formula amount from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter 3317. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of

the Revised Code, no joint vocational school district shall count 40899
any adjacent or other district joint vocational student enrolled 40900
in the district in its formula ADM certified under section 3317.03 40901
of the Revised Code. 40902

(G) No city, exempted village, or local school district shall 40903
receive a payment under division (C) of this section for a 40904
student, and no joint vocational school district shall receive a 40905
payment under division (D) of this section for a student, if for 40906
the same school year that student is counted in the district's 40907
formula ADM certified under section 3317.03 of the Revised Code. 40908

(H) Upon request of a parent, and provided the board offers 40909
transportation to native students of the same grade level and 40910
distance from school under section 3327.01 of the Revised Code, a 40911
city, exempted village, or local school board enrolling an 40912
adjacent or other district student shall provide transportation 40913
for the student within the boundaries of the board's district, 40914
except that the board shall be required to pick up and drop off a 40915
nonhandicapped student only at a regular school bus stop 40916
designated in accordance with the board's transportation policy. 40917
Pursuant to rules of the state board of education, such board may 40918
reimburse the parent from funds received for pupil transportation 40919
under section 3317.0212 of the Revised Code, or other provisions 40920
of law, for the reasonable cost of transportation from the 40921
student's home to the designated school bus stop if the student's 40922
family has an income below the federal poverty line. 40923

Sec. 3314.015. (A) The department of education shall be 40924
responsible for the oversight of any and all sponsors of the 40925
community schools established under this chapter and shall provide 40926
technical assistance to schools and sponsors in their compliance 40927
with applicable laws and the terms of the contracts entered into 40928
under section 3314.03 of the Revised Code and in the development 40929

and start-up activities of those schools. In carrying out its 40930
duties under this section, the department shall do all of the 40931
following: 40932

(1) In providing technical assistance to proposing parties, 40933
governing authorities, and sponsors, conduct training sessions and 40934
distribute informational materials; 40935

(2) Approve entities to be sponsors of community schools; 40936

(3) Monitor and evaluate, as required under section 3314.016 40937
of the Revised Code, the effectiveness of any and all sponsors in 40938
their oversight of the schools with which they have contracted; 40939

(4) By December thirty-first of each year, issue a report to 40940
the governor, the speaker of the house of representatives, the 40941
president of the senate, and the chairpersons of the house and 40942
senate committees principally responsible for education matters 40943
regarding the effectiveness of academic programs, operations, and 40944
legal compliance and of the financial condition of all community 40945
schools established under this chapter and on the performance of 40946
community school sponsors; 40947

(5) From time to time, make legislative recommendations to 40948
the general assembly designed to enhance the operation and 40949
performance of community schools. 40950

(B)(1) Except as provided in sections 3314.021 and 3314.027 40951
of the Revised Code, no entity listed in division (C)(1) of 40952
section 3314.02 of the Revised Code shall enter into a preliminary 40953
agreement under division (C)(2) of section 3314.02 of the Revised 40954
Code until it has received approval from the department of 40955
education to sponsor community schools under this chapter and has 40956
entered into a written agreement with the department regarding the 40957
manner in which the entity will conduct such sponsorship. The 40958
department shall adopt in accordance with Chapter 119. of the 40959
Revised Code rules containing criteria, procedures, and deadlines 40960

for processing applications for such approval, for oversight of 40961
sponsors, for notifying a sponsor of noncompliance with applicable 40962
laws and administrative rules under division (F) of this section, 40963
for revocation of the approval of sponsors under division (C) of 40964
this section, and for entering into written agreements with 40965
sponsors. The rules shall require an entity to submit evidence of 40966
the entity's ability and willingness to comply with the provisions 40967
of division (D) of section 3314.03 of the Revised Code. The rules 40968
also shall require entities approved as sponsors on and after June 40969
30, 2005, to demonstrate a record of financial responsibility and 40970
successful implementation of educational programs. If an entity 40971
seeking approval on or after June 30, 2005, to sponsor community 40972
schools in this state sponsors or operates schools in another 40973
state, at least one of the schools sponsored or operated by the 40974
entity must be comparable to or better than the performance of 40975
Ohio schools in need of continuous improvement under section 40976
3302.03 of the Revised Code, as determined by the department. 40977

Subject to section 3314.016 of the Revised Code, an entity 40978
that sponsors community schools may enter into preliminary 40979
agreements and sponsor up to one hundred schools, provided each 40980
school and the contract for sponsorship meets the requirements of 40981
this chapter. 40982

(2) The state board of education shall determine, pursuant to 40983
criteria specified in rules adopted in accordance with Chapter 40984
119. of the Revised Code, whether the mission proposed to be 40985
specified in the contract of a community school to be sponsored by 40986
a state university board of trustees or the board's designee under 40987
division (C)(1)(e) of section 3314.02 of the Revised Code complies 40988
with the requirements of that division. Such determination of the 40989
state board is final. 40990

(3) The state board of education shall determine, pursuant to 40991
criteria specified in rules adopted in accordance with Chapter 40992

119. of the Revised Code, if any tax-exempt entity under section 40993
501(c)(3) of the Internal Revenue Code that is proposed to be a 40994
sponsor of a community school is an education-oriented entity for 40995
purpose of satisfying the condition prescribed in division 40996
(C)(1)(f)(iii) of section 3314.02 of the Revised Code. Such 40997
determination of the state board is final. 40998

(C) If at any time the state board of education finds that a 40999
sponsor is not in compliance or is no longer willing to comply 41000
with its contract with any community school or with the 41001
department's rules for sponsorship, the state board or designee 41002
shall conduct a hearing in accordance with Chapter 119. of the 41003
Revised Code on that matter. If after the hearing, the state board 41004
or designee has confirmed the original finding, the department of 41005
education may revoke the sponsor's approval to sponsor community 41006
schools. In that case, the department's office of Ohio school 41007
sponsorship, established under section 3314.029 of the Revised 41008
Code, may assume the sponsorship of any schools with which the 41009
sponsor has contracted until the earlier of the expiration of two 41010
school years or until a new sponsor as described in division 41011
(C)(1) of section 3314.02 of the Revised Code is secured by the 41012
school's governing authority. The office of Ohio school 41013
sponsorship may extend the term of the contract in the case of a 41014
school for which it has assumed sponsorship under this division as 41015
necessary to accommodate the term of the department's 41016
authorization to sponsor the school specified in this division. 41017
Community schools sponsored under this division shall not apply to 41018
the limit on directly authorized community schools under division 41019
(A)(3) of section 3314.029 of the Revised Code. However, nothing 41020
in this division shall preclude a community school affected by 41021
this division from applying for sponsorship under that section. 41022

(D) The decision of the department to disapprove an entity 41023
for sponsorship of a community school or to revoke approval for 41024

such sponsorship under division (C) of this section, may be 41025
appealed by the entity in accordance with section 119.12 of the 41026
Revised Code. 41027

(E) The department shall adopt procedures for use by a 41028
community school governing authority and sponsor when the school 41029
permanently closes and ceases operation, which shall include at 41030
least procedures for data reporting to the department, handling of 41031
student records, distribution of assets in accordance with section 41032
3314.074 of the Revised Code, and other matters related to ceasing 41033
operation of the school. 41034

(F)(1) In lieu of revoking a sponsor's authority to sponsor 41035
community schools under division (C) of this section, if the 41036
department finds that a sponsor is not in compliance with 41037
applicable laws and administrative rules, the department shall 41038
declare in a written notice to the sponsor the specific laws or 41039
rules, or both, for which the sponsor is noncompliant. A sponsor 41040
notified under division (F)(1) of this section shall respond to 41041
the department not later than fourteen days after the notification 41042
with a plan to remedy the conditions for which the sponsor was 41043
found to be noncompliant. Not later than sixty days after 41044
receiving a notification of noncompliance from the department, the 41045
sponsor shall implement the compliance plan. If a sponsor does not 41046
respond to the department or implement a compliance plan by the 41047
deadlines prescribed by division (F)(1) of this section, the 41048
department shall declare in written notice to the school that the 41049
school is in probationary status, and may limit the sponsor's 41050
ability to sponsor additional schools. 41051

(2) A sponsor that has been placed on probationary status 41052
under division (F)(1) of this section may apply to the department 41053
for its probationary status to be lifted. The application for a 41054
sponsor's probationary status to be lifted shall include evidence, 41055
occurring after the initial notification of noncompliance, of the 41056

sponsor's compliance with applicable laws and administrative 41057
rules. Not later than fourteen days after receiving an application 41058
from the sponsor, the department shall decide whether or not to 41059
remove the sponsor's probationary status. 41060

(G) In carrying out its duties under this chapter, the 41061
department shall not impose requirements on community schools or 41062
their sponsors that are not permitted by law or duly adopted 41063
rules. 41064

(H) This section applies to entities that sponsor conversion 41065
community schools and new start-up schools. 41066

Sec. 3314.017. (A) The state board of education shall 41067
prescribe by rules, adopted in accordance with Chapter 119. of the 41068
Revised Code, an academic performance rating and report card 41069
system that satisfies the requirements of this section for 41070
community schools that primarily serve students enrolled in 41071
dropout prevention and recovery programs as described in division 41072
(A)(4)(a) of section 3314.35 of the Revised Code, to be used in 41073
lieu of the system prescribed under sections 3302.03 and 3314.012 41074
of the Revised Code beginning with the 2012-2013 school year. Each 41075
such school shall comply with the testing and reporting 41076
requirements of the system as prescribed by the state board. 41077

(B) Nothing in this section shall at any time relieve a 41078
school from its obligations under the "No Child Left Behind Act of 41079
2001" to make "adequate yearly progress," as both that act and 41080
that term are defined in section 3302.01 of the Revised Code, or a 41081
school's amenability to the provisions of section 3302.04 or 41082
3302.041 of the Revised Code. The department shall continue to 41083
report each school's performance as required by the act and to 41084
enforce applicable sanctions under section 3302.04 or 3302.041 of 41085
the Revised Code. 41086

(C) The rules adopted by the state board shall prescribe the 41087

following performance indicators for the rating and report card system required by this section:	41088
	41089
(1) Graduation rate for each of the following student cohorts:	41090
	41091
(a) The number of students who graduate in four years or less with a regular high school diploma divided by the number of students who form the adjusted cohort for the graduating class;	41092
	41093
	41094
(b) The number of students who graduate in five years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate;	41095
	41096
	41097
(c) The number of students who graduate in six years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate;	41098
	41099
	41100
(d) The number of students who graduate in seven years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate;	41101
	41102
	41103
(e) The number of students who graduate in eight years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate.	41104
	41105
	41106
(2) The percentage of twelfth-grade students currently enrolled in the school who have attained the designated passing score on all of the applicable state high school achievement assessments required under division (B)(1) or (2) of section 3301.0710 of the Revised Code and other students enrolled in the school, regardless of grade level, who are within three months of their twenty-second birthday and have attained the designated passing score on all of the applicable state high school achievement assessments by their twenty-second birthday;	41107
	41108
	41109
	41110
	41111
	41112
	41113
	41114
	41115
(3) Annual measurable objectives as defined in section 3302.01 of the Revised Code;	41116
	41117

(4) Growth in student achievement in reading, or mathematics, 41118
or both as measured by separate nationally norm-referenced 41119
assessments that have developed appropriate standards for students 41120
enrolled in dropout prevention and recovery programs, adopted or 41121
approved by the state board. 41122

(D)(1) The state board's rules shall prescribe the expected 41123
performance levels and benchmarks for each of the indicators 41124
prescribed by division (C) of this section based on the data 41125
gathered by the department under division (F) of this section. 41126
Based on a school's level of attainment or nonattainment of the 41127
expected performance levels and benchmarks for each of the 41128
indicators, the department shall rate each school in one of the 41129
following categories: 41130

(a) Exceeds standards; 41131

(b) Meets standards; 41132

(c) Does not meet standards. 41133

(2) The state board's rules shall establish all of the 41134
following: 41135

(a) Not later than June 30, 2013, performance levels and 41136
benchmarks for the indicators described in divisions (C)(1) to (3) 41137
of this section; 41138

(b) Not later than December 31, 2014, both of the following: 41139

(i) Performance levels and benchmarks for the indicator 41140
described in division (C)(4) of this section; 41141

(ii) Standards for awarding a community school described in 41142
division (A)(4)(a) of section 3314.35 of the Revised Code an 41143
overall designation, which shall be calculated as follows: 41144

(I) Thirty per cent of the score shall be based on the 41145
indicators described in division (C)(1) of this section that are 41146
applicable to the school year for which the overall designation is 41147

granted. 41148

(II) Thirty per cent of the score shall be based on the 41149
indicators described in division (C)(4) of this section. 41150

(III) Twenty per cent of the score shall be based on the 41151
indicators described in division (C)(2) of this section. 41152

(IV) Twenty per cent of the score shall be based on the 41153
indicators described in division (C)(3) of this section. 41154

(3) If both of the indicators described in divisions (C)(1) 41155
and (2) of this section improve by ten per cent for two 41156
consecutive years, a school shall be rated ~~as~~ not less than "meets 41157
standards." 41158

The rating and the relevant performance data for each school 41159
shall be posted on the department's web site, and a copy of the 41160
rating and data shall be provided to the governing authority of 41161
the community school. 41162

(E)(1) For the 2012-2013 school year, the department shall 41163
issue a report card including the following performance measures, 41164
but without a performance rating as described in divisions 41165
(D)(1)(a) to (c) of this section, for each community school 41166
described in division (A)(4)(a) of section 3314.35 of the Revised 41167
Code: 41168

(a) The graduation rates as described in divisions (C)(1)(a) 41169
to (c) of this section; 41170

(b) The percentage of twelfth-grade students and other 41171
students who have attained a designated passing score on high 41172
school achievement assessments as described in division (C)(2) of 41173
this section; 41174

(c) The statewide average for the graduation rates and 41175
assessment passage rates described in divisions (C)(1)(a) to (c) 41176
and (C)(2) of this section; 41177

(d) Annual measurable objectives described in division (C)(3) of this section.	41178 41179
(2) For the 2013-2014 school year, the department shall issue a report card including the following performance measures for each community school described in division (A)(4) of section 3314.35 of the Revised Code:	41180 41181 41182 41183
(a) The graduation rates described in divisions (C)(1)(a) to (d) of this section, including a performance rating as described in divisions (D)(1)(a) to (c) of this section;	41184 41185 41186
(b) The percentage of twelfth-grade students and other students who have attained a designated passing score on high school achievement assessments as described in division (C)(2) of this section, including a performance rating as described in divisions (D)(1)(a) to (c) of this section;	41187 41188 41189 41190 41191
(c) Annual measurable objectives described in division (C)(3) of this section, including a performance rating as described in divisions (D)(1)(a) to (c) of this section;	41192 41193 41194
(d) Both of the following without an assigned rating:	41195
(i) Growth in annual student achievement in reading and mathematics described in division (C)(4) of this section, if available;	41196 41197 41198
(ii) Student outcome data, including postsecondary credit earned, nationally recognized career or technical certification, military enlistment, job placement, and attendance rate.	41199 41200 41201
(3) Beginning with the 2014-2015 school year, and annually thereafter, the department shall issue a report card for each community school described in division (A)(4)(a) of section 3314.35 of the Revised Code that includes all of the following performance measures, including a performance rating for each measure as described in divisions (D)(1)(a) to (c) of this	41202 41203 41204 41205 41206 41207

section:	41208
(a) The graduation rates as described in division (C)(1) of this section;	41209 41210
(b) The percentage of twelfth-grade students and other students who have attained a designated passing score on high school achievement assessments as described in division (C)(2) of this section;	41211 41212 41213 41214
(c) Annual measurable objectives described in division (C)(3) of this section, including a performance rating as described in divisions (D)(1)(a) to (c) of this section;	41215 41216 41217
(d) Growth in annual student achievement in reading and mathematics as described in division (C)(4) of this section;	41218 41219
(e) An overall performance designation for the school calculated under rules adopted under division (D)(2) of this section.	41220 41221 41222
The department shall also include student outcome data, including postsecondary credit earned, nationally recognized career or technical certification, military enlistment, job placement, attendance rate, and progress on closing achievement gaps for each school. This information shall not be included in the calculation of a school's performance rating.	41223 41224 41225 41226 41227 41228
(F) In developing the rating and report card system required by this section, during the 2012-2013 and 2013-2014 school years, the department shall gather and analyze data as determined necessary from each community school described in division (A)(4)(a) of section 3314.35 of the Revised Code. Each such school shall cooperate with the department by supplying requested data and administering required assessments, including sample assessments for purposes of measuring student achievement growth as described in division (C)(4) of this section. The department shall consult with stakeholder groups in performing its duties	41229 41230 41231 41232 41233 41234 41235 41236 41237 41238

under this division. 41239

The department shall also identify one or more states that 41240
have established or are in the process of establishing similar 41241
academic performance rating systems for dropout prevention and 41242
recovery programs and consult with the departments of education of 41243
those states in developing the system required by this section. 41244

Sec. 3314.029. This section establishes the Ohio school 41245
sponsorship program. The department of education shall establish 41246
an office of Ohio school sponsorship to perform the department's 41247
duties prescribed by this section. 41248

(A)(1) Notwithstanding anything to the contrary in this 41249
chapter, but subject to section 3314.20 of the Revised Code, any 41250
person, group of individuals, or entity may apply to the 41251
department for direct authorization to establish a community 41252
school and, upon approval of the application, may establish the 41253
school. Notwithstanding anything to the contrary in this chapter, 41254
the governing authority of an existing community school, upon the 41255
expiration or termination of its contract with the school's 41256
sponsor entered into under section 3314.03 of the Revised Code, 41257
may apply to the department for direct authorization to continue 41258
operating the school and, upon approval of the application, may 41259
continue to operate the school. 41260

Each application submitted to the department shall include 41261
the following: 41262

(a) Evidence that the applicant will be able to comply with 41263
division (C) of this section; 41264

(b) A statement indicating that the applicant agrees to 41265
comply with all applicable provisions of this chapter, including 41266
the requirement to be established as a nonprofit corporation or 41267
public benefit corporation in accordance with division (A)(1) of 41268

section 3314.03 of the Revised Code; 41269

(c) A statement attesting that no unresolved finding of 41270
recovery has been issued by the auditor of state against any 41271
person, group of individuals, or entity that is a party to the 41272
application and that no person who is party to the application has 41273
been a member of the governing authority of any community school 41274
that has permanently closed and against which an unresolved 41275
finding of recovery has been issued by the auditor of state. In 41276
the case of an application submitted by the governing authority of 41277
an existing community school, a person who is party to the 41278
application shall include each individual member of that governing 41279
authority. 41280

(d) A statement that the school will be nonsectarian in its 41281
programs, admission policies, employment practices, and all other 41282
operations, and will not be operated by a sectarian school or 41283
religious institution; 41284

(e) A statement of whether the school is to be created by 41285
converting all or part of an existing public school or educational 41286
service center building or is to be a new start-up school. If it 41287
is a converted public school or service center building, the 41288
statement shall include a specification of any duties or 41289
responsibilities of an employer that the board of education or 41290
service center governing board that operated the school or 41291
building before conversion is delegating to the governing 41292
authority of the community school with respect to all or any 41293
specified group of employees, provided the delegation is not 41294
prohibited by a collective bargaining agreement applicable to such 41295
employees. 41296

(f) A statement that the school's teachers will be licensed 41297
in the manner prescribed by division (A)(10) of section 3314.03 of 41298
the Revised Code; 41299

(g) A statement that the school will comply with all of the provisions of law enumerated in divisions (A)(11)(d) and (e) of section 3314.03 of the Revised Code and of division (A)(11)(h) of that section, if applicable;	41300 41301 41302 41303
(h) A statement that the school's graduation and curriculum requirements will comply with division (A)(11)(f) of section 3314.03 of the Revised Code;	41304 41305 41306
(i) A description of each of the following:	41307
(i) The school's mission and educational program, the characteristics of the students the school is expected to attract, the ages and grade levels of students, and the focus of the curriculum;	41308 41309 41310 41311
(ii) The school's governing authority, which shall be in compliance with division (E) of section 3314.02 of the Revised Code;	41312 41313 41314
(iii) The school's admission and dismissal policies, which shall be in compliance with divisions (A)(5) and (6) of section 3314.03 of the Revised Code;	41315 41316 41317
(iv) The school's business plan, including a five-year financial forecast;	41318 41319
(v) In the case of an application to establish a community school, the applicant's resources and capacity to establish and operate the school;	41320 41321 41322
(vi) The school's academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;	41323 41324 41325 41326
(vii) The facilities to be used by the school and their locations;	41327 41328
(viii) A description of the learning opportunities that will	41329

be offered to students including both classroom-based and 41330
nonclassroom-based learning opportunities that are in compliance 41331
with criteria for student participation established by the 41332
department under division ~~(L)~~(H)(2) of section 3314.08 of the 41333
Revised Code. 41334

(2) Subject to division (A)(3) of this section, the 41335
department shall approve each application, unless, within thirty 41336
days after receipt of the application, the department determines 41337
that the application does not satisfy the requirements of division 41338
(A)(1) of this section and provides the applicant a written 41339
explanation of the reasons for the determination. In that case, 41340
the department shall grant the applicant thirty days to correct 41341
the insufficiencies in the application. If the department 41342
determines that the insufficiencies have been corrected, it shall 41343
approve the application. If the department determines that the 41344
insufficiencies have not been corrected, it shall deny the 41345
application and provide the applicant with a written explanation 41346
of the reasons for the denial. The denial of an application may be 41347
appealed in accordance with section 119.12 of the Revised Code. 41348

(3) For each of five school years, beginning with the school 41349
year that begins in the calendar year in which this section takes 41350
effect, the department may approve up to twenty applications for 41351
community schools to be established or to continue operation under 41352
division (A) of this section; however, of the twenty applications 41353
that may be approved each school year, only up to five may be for 41354
the establishment of new schools. 41355

(4) Notwithstanding division (A)(2) of this section, the 41356
department may deny an application submitted by the governing 41357
authority of an existing community school, if a previous sponsor 41358
of that school did not renew its contract with the school entered 41359
into under section 3314.03 of the Revised Code. 41360

(B) The department and the governing authority of each 41361

community school authorized under this section shall enter into a contract under section 3314.03 of the Revised Code. Notwithstanding division (A)(13) of that section, the contract with an existing community school may begin at any time during the academic year. The length of the initial contract of any community school under this section may be for any term up to five years. The contract may be renewed in accordance with division (E) of that section. The contract may provide for the school's governing authority to pay a fee for oversight and monitoring of the school that does not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(C) The department may require a community school authorized under this section to post and file with the superintendent of public instruction a bond payable to the state or to file with the state superintendent a guarantee, which shall be used to pay the state any moneys owed by the community school in the event the school closes.

(D) Except as otherwise provided in this section, a community school authorized under this section shall comply with all applicable provisions of this chapter. The department may take any action that a sponsor may take under this chapter to enforce the school's compliance with this division and the terms of the contract entered into under division (B) of this section.

(E) Not later than December 31, 2012, and annually thereafter, the department shall issue a report on the program, including information about the number of community schools participating in the program and their compliance with the provisions of this chapter. In its fifth report, the department shall include a complete evaluation of the program and recommendations regarding the program's continuation. Each report shall be provided to the general assembly, in accordance with

section 101.68 of the Revised Code, and to the governor. 41394

Sec. 3314.03. A copy of every contract entered into under 41395
this section shall be filed with the superintendent of public 41396
instruction. The department of education shall make available on 41397
its web site a copy of every approved, executed contract filed 41398
with the superintendent under this section. 41399

(A) Each contract entered into between a sponsor and the 41400
governing authority of a community school shall specify the 41401
following: 41402

(1) That the school shall be established as either of the 41403
following: 41404

(a) A nonprofit corporation established under Chapter 1702. 41405
of the Revised Code, if established prior to April 8, 2003; 41406

(b) A public benefit corporation established under Chapter 41407
1702. of the Revised Code, if established after April 8, 2003. 41408

(2) The education program of the school, including the 41409
school's mission, the characteristics of the students the school 41410
is expected to attract, the ages and grades of students, and the 41411
focus of the curriculum; 41412

(3) The academic goals to be achieved and the method of 41413
measurement that will be used to determine progress toward those 41414
goals, which shall include the statewide achievement assessments; 41415

(4) Performance standards by which the success of the school 41416
will be evaluated by the sponsor; 41417

(5) The admission standards of section 3314.06 of the Revised 41418
Code and, if applicable, section 3314.061 of the Revised Code; 41419

(6)(a) Dismissal procedures; 41420

(b) A requirement that the governing authority adopt an 41421
attendance policy that includes a procedure for automatically 41422

withdrawing a student from the school if the student without a 41423
legitimate excuse fails to participate in one hundred five 41424
consecutive hours of the learning opportunities offered to the 41425
student. 41426

(7) The ways by which the school will achieve racial and 41427
ethnic balance reflective of the community it serves; 41428

(8) Requirements for financial audits by the auditor of 41429
state. The contract shall require financial records of the school 41430
to be maintained in the same manner as are financial records of 41431
school districts, pursuant to rules of the auditor of state. 41432
Audits shall be conducted in accordance with section 117.10 of the 41433
Revised Code. 41434

(9) The facilities to be used and their locations; 41435

(10) Qualifications of teachers, including ~~the following:~~ 41436

~~(a) A~~ a requirement that the school's classroom teachers be 41437
licensed in accordance with sections 3319.22 to 3319.31 of the 41438
Revised Code, except that a community school may engage 41439
noncertificated persons to teach up to twelve hours per week 41440
pursuant to section 3319.301 of the Revised Code; 41441

~~(b) A requirement that each classroom teacher initially hired 41442
by the school on or after July 1, 2013, and employed to provide 41443
instruction in physical education hold a valid license issued 41444
pursuant to section 3319.22 of the Revised Code for teaching 41445
physical education. 41446~~

(11) That the school will comply with the following 41447
requirements: 41448

(a) The school will provide learning opportunities to a 41449
minimum of twenty-five students for a minimum of nine hundred 41450
twenty hours per school year. 41451

(b) The governing authority will purchase liability 41452

insurance, or otherwise provide for the potential liability of the school. 41453
41454

(c) The school will be nonsectarian in its programs, 41455
admission policies, employment practices, and all other 41456
operations, and will not be operated by a sectarian school or 41457
religious institution. 41458

(d) The school will comply with sections 9.90, 9.91, 109.65, 41459
121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 41460
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.539, 41461
3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 41462
3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 41463
3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 41464
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.814, 41465
3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 41466
3319.391, 3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 41467
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 41468
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 41469
4123., 4141., and 4167. of the Revised Code as if it were a school 41470
district and will comply with section 3301.0714 of the Revised 41471
Code in the manner specified in section 3314.17 of the Revised 41472
Code. 41473

(e) The school shall comply with Chapter 102. and section 41474
2921.42 of the Revised Code. 41475

(f) The school will comply with sections 3313.61, 3313.611, 41476
and 3313.614 of the Revised Code, except that for students who 41477
enter ninth grade for the first time before July 1, 2010, the 41478
requirement in sections 3313.61 and 3313.611 of the Revised Code 41479
that a person must successfully complete the curriculum in any 41480
high school prior to receiving a high school diploma may be met by 41481
completing the curriculum adopted by the governing authority of 41482
the community school rather than the curriculum specified in Title 41483
XXXIII of the Revised Code or any rules of the state board of 41484

education. Beginning with students who enter ninth grade for the 41485
first time on or after July 1, 2010, the requirement in sections 41486
3313.61 and 3313.611 of the Revised Code that a person must 41487
successfully complete the curriculum of a high school prior to 41488
receiving a high school diploma shall be met by completing the 41489
Ohio core curriculum prescribed in division (C) of section 41490
3313.603 of the Revised Code, unless the person qualifies under 41491
division (D) or (F) of that section. Each school shall comply with 41492
the plan for awarding high school credit based on demonstration of 41493
subject area competency, adopted by the state board of education 41494
under division (J) of section 3313.603 of the Revised Code. 41495

(g) The school governing authority will submit within four 41496
months after the end of each school year a report of its 41497
activities and progress in meeting the goals and standards of 41498
divisions (A)(3) and (4) of this section and its financial status 41499
to the sponsor and the parents of all students enrolled in the 41500
school. 41501

(h) The school, unless it is an internet- or computer-based 41502
community school, will comply with section 3313.801 of the Revised 41503
Code as if it were a school district. 41504

(i) If the school is the recipient of moneys from a grant 41505
awarded under the federal race to the top program, Division (A), 41506
Title XIV, Sections 14005 and 14006 of the "American Recovery and 41507
Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the 41508
school will pay teachers based upon performance in accordance with 41509
section 3317.141 and will comply with section 3319.111 of the 41510
Revised Code as if it were a school district. 41511

(12) Arrangements for providing health and other benefits to 41512
employees; 41513

(13) The length of the contract, which shall begin at the 41514
beginning of an academic year. No contract shall exceed five years 41515

unless such contract has been renewed pursuant to division (E) of 41516
this section. 41517

(14) The governing authority of the school, which shall be 41518
responsible for carrying out the provisions of the contract; 41519

(15) A financial plan detailing an estimated school budget 41520
for each year of the period of the contract and specifying the 41521
total estimated per pupil expenditure amount for each such year. 41522
~~The plan shall specify for each year the base formula amount that 41523
will be used for purposes of funding calculations under section 41524
3314.08 of the Revised Code. This base formula amount for any year 41525
shall not exceed the formula amount defined under section 3317.02 41526
of the Revised Code. The plan may also specify for any year a 41527
percentage figure to be used for reducing the per pupil amount of 41528
the subsidy calculated pursuant to section 3317.029 of the Revised 41529
Code the school is to receive that year under section 3314.08 of 41530
the Revised Code. 41531~~

(16) Requirements and procedures regarding the disposition of 41532
employees of the school in the event the contract is terminated or 41533
not renewed pursuant to section 3314.07 of the Revised Code; 41534

(17) Whether the school is to be created by converting all or 41535
part of an existing public school or educational service center 41536
building or is to be a new start-up school, and if it is a 41537
converted public school or service center building, specification 41538
of any duties or responsibilities of an employer that the board of 41539
education or service center governing board that operated the 41540
school or building before conversion is delegating to the 41541
governing authority of the community school with respect to all or 41542
any specified group of employees provided the delegation is not 41543
prohibited by a collective bargaining agreement applicable to such 41544
employees; 41545

(18) Provisions establishing procedures for resolving 41546

disputes or differences of opinion between the sponsor and the 41547
governing authority of the community school; 41548

(19) A provision requiring the governing authority to adopt a 41549
policy regarding the admission of students who reside outside the 41550
district in which the school is located. That policy shall comply 41551
with the admissions procedures specified in sections 3314.06 and 41552
3314.061 of the Revised Code and, at the sole discretion of the 41553
authority, shall do one of the following: 41554

(a) Prohibit the enrollment of students who reside outside 41555
the district in which the school is located; 41556

(b) Permit the enrollment of students who reside in districts 41557
adjacent to the district in which the school is located; 41558

(c) Permit the enrollment of students who reside in any other 41559
district in the state. 41560

(20) A provision recognizing the authority of the department 41561
of education to take over the sponsorship of the school in 41562
accordance with the provisions of division (C) of section 3314.015 41563
of the Revised Code; 41564

(21) A provision recognizing the sponsor's authority to 41565
assume the operation of a school under the conditions specified in 41566
division (B) of section 3314.073 of the Revised Code; 41567

(22) A provision recognizing both of the following: 41568

(a) The authority of public health and safety officials to 41569
inspect the facilities of the school and to order the facilities 41570
closed if those officials find that the facilities are not in 41571
compliance with health and safety laws and regulations; 41572

(b) The authority of the department of education as the 41573
community school oversight body to suspend the operation of the 41574
school under section 3314.072 of the Revised Code if the 41575
department has evidence of conditions or violations of law at the 41576

school that pose an imminent danger to the health and safety of 41577
the school's students and employees and the sponsor refuses to 41578
take such action. 41579

(23) A description of the learning opportunities that will be 41580
offered to students including both classroom-based and 41581
non-classroom-based learning opportunities that is in compliance 41582
with criteria for student participation established by the 41583
department under division ~~(L)~~(H)(2) of section 3314.08 of the 41584
Revised Code; 41585

(24) The school will comply with sections 3302.04 and 41586
3302.041 of the Revised Code, except that any action required to 41587
be taken by a school district pursuant to those sections shall be 41588
taken by the sponsor of the school. However, the sponsor shall not 41589
be required to take any action described in division (F) of 41590
section 3302.04 of the Revised Code. 41591

(25) Beginning in the 2006-2007 school year, the school will 41592
open for operation not later than the thirtieth day of September 41593
each school year, unless the mission of the school as specified 41594
under division (A)(2) of this section is solely to serve dropouts. 41595
In its initial year of operation, if the school fails to open by 41596
the thirtieth day of September, or within one year after the 41597
adoption of the contract pursuant to division (D) of section 41598
3314.02 of the Revised Code if the mission of the school is solely 41599
to serve dropouts, the contract shall be void. 41600

(B) The community school shall also submit to the sponsor a 41601
comprehensive plan for the school. The plan shall specify the 41602
following: 41603

(1) The process by which the governing authority of the 41604
school will be selected in the future; 41605

(2) The management and administration of the school; 41606

(3) If the community school is a currently existing public 41607

school or educational service center building, alternative 41608
arrangements for current public school students who choose not to 41609
attend the converted school and for teachers who choose not to 41610
teach in the school or building after conversion; 41611

(4) The instructional program and educational philosophy of 41612
the school; 41613

(5) Internal financial controls. 41614

(C) A contract entered into under section 3314.02 of the 41615
Revised Code between a sponsor and the governing authority of a 41616
community school may provide for the community school governing 41617
authority to make payments to the sponsor, which is hereby 41618
authorized to receive such payments as set forth in the contract 41619
between the governing authority and the sponsor. The total amount 41620
of such payments for oversight and monitoring of the school shall 41621
not exceed three per cent of the total amount of payments for 41622
operating expenses that the school receives from the state. 41623

(D) The contract shall specify the duties of the sponsor 41624
which shall be in accordance with the written agreement entered 41625
into with the department of education under division (B) of 41626
section 3314.015 of the Revised Code and shall include the 41627
following: 41628

(1) Monitor the community school's compliance with all laws 41629
applicable to the school and with the terms of the contract; 41630

(2) Monitor and evaluate the academic and fiscal performance 41631
and the organization and operation of the community school on at 41632
least an annual basis; 41633

(3) Report on an annual basis the results of the evaluation 41634
conducted under division (D)(2) of this section to the department 41635
of education and to the parents of students enrolled in the 41636
community school; 41637

(4) Provide technical assistance to the community school in 41638
complying with laws applicable to the school and terms of the 41639
contract; 41640

(5) Take steps to intervene in the school's operation to 41641
correct problems in the school's overall performance, declare the 41642
school to be on probationary status pursuant to section 3314.073 41643
of the Revised Code, suspend the operation of the school pursuant 41644
to section 3314.072 of the Revised Code, or terminate the contract 41645
of the school pursuant to section 3314.07 of the Revised Code as 41646
determined necessary by the sponsor; 41647

(6) Have in place a plan of action to be undertaken in the 41648
event the community school experiences financial difficulties or 41649
closes prior to the end of a school year. 41650

(E) Upon the expiration of a contract entered into under this 41651
section, the sponsor of a community school may, with the approval 41652
of the governing authority of the school, renew that contract for 41653
a period of time determined by the sponsor, but not ending earlier 41654
than the end of any school year, if the sponsor finds that the 41655
school's compliance with applicable laws and terms of the contract 41656
and the school's progress in meeting the academic goals prescribed 41657
in the contract have been satisfactory. Any contract that is 41658
renewed under this division remains subject to the provisions of 41659
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 41660

(F) If a community school fails to open for operation within 41661
one year after the contract entered into under this section is 41662
adopted pursuant to division (D) of section 3314.02 of the Revised 41663
Code or permanently closes prior to the expiration of the 41664
contract, the contract shall be void and the school shall not 41665
enter into a contract with any other sponsor. A school shall not 41666
be considered permanently closed because the operations of the 41667
school have been suspended pursuant to section 3314.072 of the 41668
Revised Code. 41669

Sec. 3314.042. The governing authority of each community school shall comply with the standards for financial reporting adopted under division (B)(2) of section 3301.07 of the Revised Code. 41670
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Sec. 3314.05. (A) The contract between the community school and the sponsor shall specify the facilities to be used for the community school and the method of acquisition. Except as provided in divisions (B)(3) and (4) of this section, no community school shall be established in more than one school district under the same contract. 41674
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(B) Division (B) of this section shall not apply to internet- or computer-based community schools. 41680
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(1) A community school may be located in multiple facilities under the same contract only if the limitations on availability of space prohibit serving all the grade levels specified in the contract in a single facility or division (B)(2), (3), or (4) of this section applies to the school. The school shall not offer the same grade level classrooms in more than one facility. 41682
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(2) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as all of the following apply: 41688
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~~(a) The governing authority of the community school filed a copy of its contract with the school's sponsor under section 3314.03 of the Revised Code with the superintendent of public instruction on or before May 15, 2008.~~ 41692
41693
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~~(b) The school was not open for operation prior to July 1, 2008.~~ 41696
41697

~~(e)~~ The governing authority has entered into and maintains a contract with an operator of the type described in division 41698
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(A)(8)(b) of section 3314.02 of the Revised Code. 41700

~~(d)~~(b) The contract with that operator qualified the school 41701
to be established pursuant to division (A) of former section 41702
3314.016 of the Revised Code. 41703

~~(e)~~(c) The school's rating under section 3302.03 of the 41704
Revised Code does not fall below a combination of any of the 41705
following for two or more consecutive years: 41706

(i) A rating of "in need of continuous improvement" under 41707
section 3302.03 of the Revised Code, as that section existed prior 41708
to ~~the effective date of this section~~ March 22, 2013; 41709

(ii) For the 2012-2013 and 2013-2014 school years, a rating 41710
of "C" for both the performance index score under division 41711
(A)(1)(b) or (B)(1)(b) and the value-added dimension under 41712
division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised 41713
Code; or if the building serves only grades ten through twelve, 41714
the building received a grade of "C" for the performance index 41715
score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of 41716
the Revised Code; 41717

(iii) For the 2014-2015 school year and for any school year 41718
thereafter, an overall grade of "C" under division (C)(3) of 41719
section 3302.03 of the Revised Code or an overall performance 41720
designation of "meets standards" under division (E)(3)(e) of 41721
section 3314.017 of the Revised Code. 41722

(3) A new start-up community school may be established in two 41723
school districts under the same contract if all of the following 41724
apply: 41725

(a) At least one of the school districts in which the school 41726
is established is a challenged school district; 41727

(b) The school operates not more than one facility in each 41728
school district and, in accordance with division (B)(1) of this 41729

section, the school does not offer the same grade level classrooms 41730
in both facilities; and 41731

(c) Transportation between the two facilities does not 41732
require more than thirty minutes of direct travel time as measured 41733
by school bus. 41734

In the case of a community school to which division (B)(3) of 41735
this section applies, if only one of the school districts in which 41736
the school is established is a challenged school district, that 41737
district shall be considered the school's primary location and the 41738
district in which the school is located for the purposes of 41739
division (A)(19) of section 3314.03 and divisions (C) and (H) of 41740
section 3314.06 of the Revised Code and for all other purposes of 41741
this chapter. If both of the school districts in which the school 41742
is established are challenged school districts, the school's 41743
governing authority shall designate one of those districts to be 41744
considered the school's primary location and the district in which 41745
the school is located for the purposes of those divisions and all 41746
other purposes of this chapter and shall notify the department of 41747
education of that designation. 41748

(4) A community school may be located in multiple facilities 41749
under the same contract and, notwithstanding division (B)(1) of 41750
this section, may assign students in the same grade level to 41751
multiple facilities, as long as both of the following apply: 41752

(a) The facilities are all located in the same county. 41753

(b) Either of the following conditions are satisfied: 41754

(i) The community school is sponsored by a board of education 41755
of a city, local, or exempted village school district having 41756
territory in the same county where the facilities of the community 41757
school are located; 41758

(ii) The community school is managed by an operator. 41759

In the case of a community school to which division (B)(4) of 41760
this section applies and that maintains facilities in more than 41761
one school district, the school's governing authority shall 41762
designate one of those districts to be considered the school's 41763
primary location and the district in which the school is located 41764
for the purposes of division (A)(19) of section 3314.03 and 41765
divisions (C) and (H) of section 3314.06 of the Revised Code and 41766
for all other purposes of this chapter and shall notify the 41767
department of that designation. 41768

(5) Any facility used for a community school shall meet all 41769
health and safety standards established by law for school 41770
buildings. 41771

(C) In the case where a community school is proposed to be 41772
located in a facility owned by a school district or educational 41773
service center, the facility may not be used for such community 41774
school unless the district or service center board owning the 41775
facility enters into an agreement for the community school to 41776
utilize the facility. Use of the facility may be under any terms 41777
and conditions agreed to by the district or service center board 41778
and the school. 41779

(D) Two or more separate community schools may be located in 41780
the same facility. 41781

(E) In the case of a community school that is located in 41782
multiple facilities, beginning July 1, 2012, the department shall 41783
assign a unique identification number to the school and to each 41784
facility maintained by the school. Each number shall be used for 41785
identification purposes only. Nothing in this division shall be 41786
construed to require the department to calculate the amount of 41787
funds paid under this chapter, or to compute any data required for 41788
the report cards issued under section 3314.012 of the Revised 41789
Code, for each facility separately. The department shall make all 41790
such calculations or computations for the school as a whole. 41791

Sec. 3314.072. The provisions of this section are enacted to 41792
promote the public health, safety, and welfare by establishing 41793
procedures under which the governing authorities of community 41794
schools established under this chapter will be held accountable 41795
for their compliance with the terms of the contracts they enter 41796
into with their school's sponsors and the law relating to the 41797
school's operation. Suspension of the operation of a school 41798
imposed under this section is intended to encourage the governing 41799
authority's compliance with the terms of the school's contract and 41800
the law and is not intended to be an alteration of the terms of 41801
that contract. 41802

(A) If a sponsor of a community school established under this 41803
chapter suspends the operation of that school pursuant to 41804
procedures set forth in this section, the governing authority 41805
shall not operate that school while the suspension is in effect. 41806
Any such suspension shall remain in effect until the sponsor 41807
notifies the governing authority that it is no longer in effect. 41808
The contract of a school of which operation is suspended under 41809
this section also may be subject to termination or nonrenewal 41810
under section 3314.07 of the Revised Code. 41811

(B) If at any time conditions at the school do not comply 41812
with a health and safety standard established by law for school 41813
buildings, the sponsor shall immediately suspend the operation of 41814
the school pursuant to procedures set forth in division (D) of 41815
this section. If the sponsor fails to take action to suspend the 41816
operation of a school to which this division applies, the 41817
department of education may take such action. 41818

(C)(1) For any of the reasons prescribed in division 41819
(B)(1)(a) to (d) of section 3314.07 of the Revised Code, the 41820
sponsor of a community school established under this chapter may 41821
suspend the operation of the school only if it first issues to the 41822

governing authority notice of the sponsor's intent to suspend the 41823
operation of the contract. Such notice shall explain the reasons 41824
for the sponsor's intent to suspend operation of the contract and 41825
shall provide the school's governing authority with five business 41826
days to submit to the sponsor a proposal to remedy the conditions 41827
cited as reasons for the suspension. 41828

(2) The sponsor shall promptly review any proposed remedy 41829
timely submitted by the governing authority and either approve or 41830
disapprove the remedy. If the sponsor disapproves the remedy 41831
proposed by the governing authority, if the governing authority 41832
fails to submit a proposed remedy in the manner prescribed by the 41833
sponsor, or if the governing authority fails to implement the 41834
remedy as approved by the sponsor, the sponsor may suspend 41835
operation of the school pursuant to procedures set forth in 41836
division (D) of this section. 41837

(D)(1) If division (B) of this section applies or if the 41838
sponsor of a community school established under this chapter 41839
decides to suspend the operation of a school as permitted in 41840
division (C)(2) of this section, the sponsor shall promptly send 41841
written notice to the governing authority stating that the 41842
operation of the school is immediately suspended, and explaining 41843
the specific reasons for the suspension. The notice shall state 41844
that the governing authority has five business days to submit a 41845
proposed remedy to the conditions cited as reasons for the 41846
suspension or face potential contract termination. 41847

(2) Upon receipt of the notice of suspension prescribed under 41848
division (D)(1) of this section, the governing authority shall 41849
immediately notify the employees of the school and the parents of 41850
the students enrolled in the school of the suspension and the 41851
reasons therefore, and shall cease all school operations on the 41852
next business day. 41853

(E) If the sponsor of a community school suspends the 41854

operation of that school pursuant to procedures set forth in this 41855
section, the school's contract with the sponsor under section 41856
3314.03 of the Revised Code shall become void, if the governing 41857
authority of the school fails to provide a proposal to remedy the 41858
conditions cited by the sponsor as reasons for the suspension, to 41859
the satisfaction of the sponsor, by the thirtieth day of September 41860
of the school year immediately following the school year in which 41861
the operation of school was suspended. 41862

Sec. 3314.074. Divisions (A) and (B) of this section apply 41863
only to the extent permitted under Chapter 1702. of the Revised 41864
Code. 41865

(A) If any community school established under this chapter 41866
permanently closes and ceases its operation as a community school, 41867
the assets of that school shall be distributed first to the 41868
retirement funds of employees of the school, employees of the 41869
school, and private creditors who are owed compensation, and then 41870
any remaining funds shall be paid to the department of education 41871
for redistribution to the school districts in which the students 41872
who were enrolled in the school at the time it ceased operation 41873
were entitled to attend school under section 3313.64 or 3313.65 of 41874
the Revised Code. The amount distributed to each school district 41875
shall be proportional to the district's share of the total 41876
enrollment in the community school. 41877

(B) If a community school closes and ceases to operate as a 41878
community school and the school has received computer hardware or 41879
software from the former Ohio SchoolNet commission or the former 41880
eTech Ohio commission, such hardware or software shall be ~~returned~~ 41881
turned over to the ~~eTech Ohio commission~~ department of education, 41882
~~and the eTech Ohio commission~~ which shall redistribute the 41883
hardware and software, to the extent such redistribution is 41884
possible, to school districts in conformance with the provisions 41885

of the programs as they were operated and administered by the 41886
former eTech Ohio commission. 41887

(C) If the assets of the school are insufficient to pay all 41888
persons or entities to whom compensation is owed, the 41889
prioritization of the distribution of the assets to individual 41890
persons or entities within each class of payees may be determined 41891
by decree of a court in accordance with this section and Chapter 41892
1702. of the Revised Code. 41893

~~Sec. 3314.08. The deductions under division (C) and the 41894
payments under division (D) of this section for fiscal years 2012 41895
and 2013 shall be made in accordance with section 3314.088 of the 41896
Revised Code. 41897~~

(A) As used in this section: 41898

~~(1) "Base formula amount" means the amount specified as such 41899
in a community school's financial plan for a school year pursuant 41900
to division (A)(15) of section 3314.03 of the Revised Code. 41901~~

~~(2) "IEP" has the same meaning as in section 3323.01 of the 41902
Revised Code. 41903~~

~~(3) "Applicable special education weight" means the multiple 41904
specified in section 3317.013 of the Revised Code for a disability 41905
described in that section. 41906~~

~~(4) "Applicable vocational education weight" means: 41907~~

~~(a) For a student enrolled in vocational education programs 41908
or classes described in division (A) of section 3317.014 of the 41909
Revised Code, the multiple specified in that division: 41910~~

~~(b) For a student enrolled in vocational education programs 41911
or classes described in division (B) of section 3317.014 of the 41912
Revised Code, the multiple specified in that division. 41913~~

~~(5) "Entitled to attend school" means entitled to attend 41914~~

~~school in a district under section 3313.64 or 3313.65 of the~~ 41915
~~Revised Code.~~ 41916

~~(6) A community school student is "included in the poverty~~ 41917
~~student count" of a school district if the student is entitled to~~ 41918
~~attend school in the district and the student's family receives~~ 41919
~~assistance under the Ohio works first program.~~ 41920

~~(7) "Poverty based assistance reduction factor" means the~~ 41921
~~percentage figure, if any, for reducing the per pupil amount of~~ 41922
~~poverty based assistance a community school is entitled to receive~~ 41923
~~pursuant to divisions (D)(5) to (9) of this section in any year,~~ 41924
~~as specified in the school's financial plan for the year pursuant~~ 41925
~~to division (A)(15) of section 3314.03 of the Revised Code.~~ 41926

~~(8) "All day kindergarten" has the same meaning as in section~~ 41927
~~3321.05 of the Revised Code.~~ 41928

~~(9)(a) "Category one career-technical education student"~~ 41929
~~means a student who is receiving the career-technical education~~ 41930
~~services described in division (A) of section 3317.014 of the~~ 41931
~~Revised Code.~~ 41932

~~(b) "Category two career-technical student" means a student~~ 41933
~~who is receiving the career-technical education services described~~ 41934
~~in division (B) of section 3317.014 of the Revised Code.~~ 41935

~~(c) "Category three career-technical student" means a student~~ 41936
~~who is receiving the career-technical education services described~~ 41937
~~in division (C) of section 3317.014 of the Revised Code.~~ 41938

~~(d) "Category four career-technical student" means a student~~ 41939
~~who is receiving the career-technical education services described~~ 41940
~~in division (D) of section 3317.014 of the Revised Code.~~ 41941

~~(e) "Category five career-technical education student" means~~ 41942
~~a student who is receiving the career-technical education services~~ 41943
~~described in division (E) of section 3317.014 of the Revised Code.~~ 41944

<u>(2)(a) "Category one limited English proficient student"</u>	41945
<u>means a limited English proficient student described in division</u>	41946
<u>(A) of section 3317.016 of the Revised Code.</u>	41947
<u>(b) "Category two limited English proficient student" means a</u>	41948
<u>limited English proficient student described in division (B) of</u>	41949
<u>section 3317.016 of the Revised Code.</u>	41950
<u>(c) "Category three limited English proficient student" means</u>	41951
<u>a limited English proficient student described in division (C) of</u>	41952
<u>section 3317.016 of the Revised Code.</u>	41953
<u>(3)(a) "Category one special education student" means a</u>	41954
<u>student who is receiving special education services for a</u>	41955
<u>disability specified in division (A) of section 3317.013 of the</u>	41956
<u>Revised Code.</u>	41957
<u>(b) "Category two special education student" means a student</u>	41958
<u>who is receiving special education services for a disability</u>	41959
<u>specified in division (B) of section 3317.013 of the Revised Code.</u>	41960
<u>(c) "Category three special education student" means a</u>	41961
<u>student who is receiving special education services for a</u>	41962
<u>disability specified in division (C) of section 3317.013 of the</u>	41963
<u>Revised Code.</u>	41964
<u>(d) "Category four special education student" means a student</u>	41965
<u>who is receiving special education services for a disability</u>	41966
<u>specified in division (D) of section 3317.013 of the Revised Code.</u>	41967
<u>(e) "Category five special education student" means a student</u>	41968
<u>who is receiving special education services for a disability</u>	41969
<u>specified in division (E) of section 3317.013 of the Revised Code.</u>	41970
<u>(f) "Category six special education student" means a student</u>	41971
<u>who is receiving special education services for a disability</u>	41972
<u>specified in division (F) of section 3317.013 of the Revised Code.</u>	41973
<u>(4) "Formula amount" has the same meaning as in section</u>	41974

<u>3317.02 of the Revised Code.</u>	41975
<u>(5) "IEP" has the same meaning as in section 3323.01 of the Revised Code.</u>	41976
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<u>(6) "Resident district" means the school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.</u>	41978
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<u>(7) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.</u>	41981
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(B) The state board of education shall adopt rules requiring both of the following:	41983
	41984
(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one <u>each grade kindergarten</u> through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all day kindergarten in their community school, and for each child, the community school in which the child is enrolled.	41985
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(2) The governing authority of each community school established under this chapter to annually report all of the following:	41995
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	41997
(a) The number of students enrolled in grades one through twelve and the <u>full-time equivalent</u> number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;	41998
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(b) The number of enrolled students in grades one through twelve and the <u>full-time equivalent</u> number of enrolled students in kindergarten, who are receiving special education and related	42002
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services pursuant to an IEP; 42005

(c) The number of students reported under division (B)(2)(b) 42006
of this section receiving special education and related services 42007
pursuant to an IEP for a disability described in each of divisions 42008
(A) to (F) of section 3317.013 of the Revised Code; 42009

(d) The full-time equivalent number of students reported 42010
under divisions (B)(2)(a) and (b) of this section who are enrolled 42011
in ~~vocational~~ career-technical education programs or classes 42012
described in each of divisions (A) ~~and (B)~~ to (E) of section 42013
3317.014 of the Revised Code that are provided by the community 42014
school; 42015

(e) Twenty per cent of the number of students reported under 42016
divisions (B)(2)(a) and (b) of this section who are not reported 42017
under division (B)(2)(d) of this section but who are enrolled in 42018
~~vocational~~ career-technical education programs or classes 42019
described in each of divisions (A) ~~and (B)~~ to (E) of section 42020
3317.014 of the Revised Code at a joint vocational school district 42021
~~under a contract between the community school and the joint~~ 42022
~~vocational school district and are entitled to attend school in a~~ 42023
~~city, local, or exempted village school district whose territory~~ 42024
~~is part of the territory of the joint vocational school district~~ 42025
~~or another district in the career-technical planning district to~~ 42026
which the school is assigned; 42027

(f) ~~The number of enrolled preschool children with~~ 42028
~~disabilities receiving special education services in a~~ 42029
~~state funded unit;~~ 42030

~~(g) The community school's base formula amount;~~ 42031

~~(h) The number of students reported under divisions (B)(2)(a)~~ 42032
~~and (b) of this section who are category one to three limited~~ 42033
English proficient students described in each of divisions (A) to 42034
(C) of section 3317.016 of the Revised Code; 42035

(g) The number of students reported under divisions (B)(2)(a) and (b) who are economically disadvantaged, as defined by the department. A student shall not be categorically excluded from the number reported under division (B)(2)(g) of this section based on anything other than family income. 42036
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(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school; 42041
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~~(i) Any poverty based assistance reduction factor that applies to a school year under section 3313.64 or 3313.65 of the Revised Code.~~ 42043
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A school district board and a community school governing authority shall include in their respective reports under division (B) of this section any child admitted in accordance with division (A)(2) of section 3321.01 of the Revised Code. 42046
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~~(C) From the state education aid calculated for a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to (9) of this section. However, when deducting payments on behalf of students enrolled in internet or computer based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum of the district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code.~~ 42050
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~~(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (c) of this section who are enrolled in grades one through twelve, and one half the number of students~~ 42062
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~~reported under those divisions who are enrolled in kindergarten, 42067
in that community school is multiplied by the sum of the base 42068
formula amount of that community school plus the per pupil amount 42069
of the base funding supplements specified in divisions (C)(1) to 42070
(4) of section 3317.012 of the Revised Code. 42071~~

~~(2) The sum of the amounts calculated under divisions 42072
(C)(2)(a) and (b) of this section: 42073~~

~~(a) For each of the district's students reported under 42074
division (B)(2)(c) of this section as enrolled in a community 42075
school in grades one through twelve and receiving special 42076
education and related services pursuant to an IEP for a disability 42077
described in section 3317.013 of the Revised Code, the product of 42078
the applicable special education weight times the community 42079
school's base formula amount: 42080~~

~~(b) For each of the district's students reported under 42081
division (B)(2)(c) of this section as enrolled in kindergarten in 42082
a community school and receiving special education and related 42083
services pursuant to an IEP for a disability described in section 42084
3317.013 of the Revised Code, one half of the amount calculated as 42085
prescribed in division (C)(2)(a) of this section. 42086~~

~~(3) For each of the district's students reported under 42087
division (B)(2)(d) of this section for whom payment is made under 42088
division (D)(4) of this section, the amount of that payment: 42089~~

~~(4) An amount equal to the sum of the amounts obtained when, 42090
for each community school where the district's students are 42091
enrolled, the number of the district's students enrolled in that 42092
community school who are included in the district's poverty 42093
student count is multiplied by the per pupil amount of 42094
poverty based assistance the school district receives that year 42095
pursuant to division (C) of section 3317.029 of the Revised Code, 42096
as adjusted by any poverty based assistance reduction factor of 42097~~

~~that community school. The per pupil amount of that aid for the district shall be calculated by the department.~~ 42098
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~~(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:~~ 42100
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~~(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;~~ 42106
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~~(b) One half of the district's students who are enrolled in all day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;~~ 42110
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~~(c) One half of the district's students who are enrolled in all day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.~~ 42114
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~~The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.~~ 42118
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~~(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of that community school, is multiplied by the number of the district's students~~ 42123
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~~enrolled in the community school who are identified as 42129
limited English proficient. 42130~~

~~(7) An amount equal to the sum of the amounts obtained when, 42131
for each community school where the district's students are 42132
enrolled, the district's per pupil amount received under division 42133
(G) of section 3317.029 of the Revised Code, as adjusted by any 42134
poverty based assistance reduction factor of that community 42135
school, is multiplied by the sum of the following: 42136~~

~~(a) The number of the district's students enrolled in grades 42137
one through twelve in that community school; 42138~~

~~(b) One half of the number of the district's students 42139
enrolled in kindergarten in that community school. 42140~~

~~The district's per pupil amount under division (G) of section 42141
3317.029 of the Revised Code is the district's amount per teacher 42142
calculated under division (G)(1) or (2) of that section divided by 42143
17. 42144~~

~~(8) An amount equal to the sum of the amounts obtained when, 42145
for each community school where the district's students are 42146
enrolled, the district's per pupil amount received under divisions 42147
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 42148
by any poverty based assistance reduction factor of that community 42149
school, is multiplied by the sum of the following: 42150~~

~~(a) The number of the district's students enrolled in grades 42151
one through twelve in that community school; 42152~~

~~(b) One half of the number of the district's students 42153
enrolled in kindergarten in that community school. 42154~~

~~The district's per pupil amount under divisions (H) and (I) 42155
of section 3317.029 of the Revised Code is the amount calculated 42156
under each division divided by the district's formula ADM, as 42157
defined in section 3317.02 of the Revised Code. 42158~~

~~(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.~~ 42159
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~~(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to (10) of this section. However, the department shall calculate and pay to each internet or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4) to (10) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.~~ 42167
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~~(1) An amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one half of the kindergarten students in the school, reported under divisions (B)(2)(a), (b), and (c) of this section who are not receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the~~ 42185
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~~Revised Code is multiplied by the sum of the community school's
base formula amount plus the per pupil amount of the base funding
supplements specified in divisions (C)(1) to (4) of section
3317.012 of the Revised Code.~~

~~(2) The sum of the following amounts:~~

~~(a) For each student reported under division (B)(2)(c) of
this section as enrolled in the school in grades one through
twelve and receiving special education and related services
pursuant to an IEP for a disability described in section 3317.013
of the Revised Code, the following amount:~~

~~(the school's base formula amount plus
the per pupil amount of the base funding supplements specified in
divisions (C)(1) to (4) of section 3317.012 of the Revised Code)~~

~~+ (the applicable special education weight X the
community school's base formula amount);~~

~~(b) For each student reported under division (B)(2)(c) of
this section as enrolled in kindergarten and receiving special
education and related services pursuant to an IEP for a disability
described in section 3317.013 of the Revised Code, one half of the
amount calculated under the formula prescribed in division
(D)(2)(a) of this section.~~

~~(3) An amount received from federal funds to provide special
education and related services to students in the community
school, as determined by the superintendent of public instruction.~~

~~(4) For each student reported under division (B)(2)(d) of
this section as enrolled in vocational education programs or
classes that are described in section 3317.014 of the Revised
Code, are provided by the community school, and are comparable as
determined by the superintendent of public instruction to school
district vocational education programs and classes eligible for
state weighted funding under section 3317.014 of the Revised Code,~~

~~an amount equal to the applicable vocational education weight 42222
times the community school's base formula amount times the 42223
percentage of time the student spends in the vocational education 42224
programs or classes. 42225~~

~~(5) An amount equal to the sum of the amounts obtained when, 42226
for each school district where the community school's students are 42227
entitled to attend school, the number of that district's students 42228
enrolled in the community school who are included in the 42229
district's poverty student count is multiplied by the per pupil 42230
amount of poverty based assistance that school district receives 42231
that year pursuant to division (C) of section 3317.029 of the 42232
Revised Code, as adjusted by any poverty based assistance 42233
reduction factor of the community school. The per pupil amount of 42234
aid shall be determined as described in division (C)(4) of this 42235
section. 42236~~

~~(6) An amount equal to the sum of the amounts obtained when, 42237
for each school district where the community school's students are 42238
entitled to attend school, the district's per pupil amount of aid 42239
received under division (E) of section 3317.029 of the Revised 42240
Code, as adjusted by any poverty based assistance reduction factor 42241
of the community school, is multiplied by the sum of the 42242
following: 42243~~

~~(a) The number of the district's students reported under 42244
division (B)(2)(a) of this section who are enrolled in grades one 42245
to three in that community school and who are not receiving 42246
special education and related services pursuant to an IEP; 42247~~

~~(b) One half of the district's students who are enrolled in 42248
all-day or any other kindergarten class in that community school 42249
and who are not receiving special education and related services 42250
pursuant to an IEP; 42251~~

~~(c) One half of the district's students who are enrolled in 42252~~

~~all day kindergarten in that community school and who are not 42253
receiving special education and related services pursuant to an 42254
IEP. 42255~~

~~The district's per pupil amount of aid under division (E) of 42256
section 3317.029 of the Revised Code shall be determined as 42257
described in division (C)(5) of this section. 42258~~

~~(7) An amount equal to the sum of the amounts obtained when, 42259
for each school district where the community school's students are 42260
entitled to attend school, the number of that district's students 42261
enrolled in the community school who are identified as 42262
limited English proficient is multiplied by the district's per 42263
pupil amount received under division (F) of section 3317.029 of 42264
the Revised Code, as adjusted by any poverty based assistance 42265
reduction factor of the community school. 42266~~

~~(8) An amount equal to the sum of the amounts obtained when, 42267
for each school district where the community school's students are 42268
entitled to attend school, the district's per pupil amount 42269
received under division (G) of section 3317.029 of the Revised 42270
Code, as adjusted by any poverty based assistance reduction factor 42271
of the community school, is multiplied by the sum of the 42272
following: 42273~~

~~(a) The number of the district's students enrolled in grades 42274
one through twelve in that community school; 42275~~

~~(b) One half of the number of the district's students 42276
enrolled in kindergarten in that community school. 42277~~

~~The district's per pupil amount under division (G) of section 42278
3317.029 of the Revised Code shall be determined as described in 42279
division (C)(7) of this section. 42280~~

~~(9) An amount equal to the sum of the amounts obtained when, 42281
for each school district where the community school's students are 42282
entitled to attend school, the district's per pupil amount 42283~~

~~received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of the community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students enrolled in grades one through twelve in that community school;~~

~~(b) One half of the number of the district's students enrolled in kindergarten in that community school.~~

~~The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.~~

~~(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one half of the number of that district's students enrolled in kindergarten, in the community school as reported under divisions (B)(2)(a) and (b) of this section.~~

~~(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the~~

~~student in excess of the threshold catastrophic costs.~~ 42315

~~(2) The community school shall only report under division 42316
(E)(1) of this section, and the department shall only pay for, the 42317
costs of educational expenses and the related services provided to 42318
the student in accordance with the student's individualized 42319
education program. Any legal fees, court costs, or other costs 42320
associated with any cause of action relating to the student may 42321
not be included in the amount.~~ 42322

~~(F) A community school may apply to the department of 42323
education for preschool children with disabilities unit funding 42324
the school would receive if it were a school district. Upon 42325
request of its governing authority, a community school that 42326
received such unit funding as a school district operated school 42327
before it became a community school shall retain any units awarded 42328
to it as a school district operated school provided the school 42329
continues to meet eligibility standards for the unit.~~ 42330

~~A community school shall be considered a school district and 42331
its governing authority shall be considered a board of education 42332
for the purpose of applying to any state or federal agency for 42333
grants that a school district may receive under federal or state 42334
law or any appropriations act of the general assembly. The 42335
governing authority of a community school may apply to any private 42336
entity for additional funds.~~ 42337

~~(G)(1) Except as provided in division (C)(2) of this section, 42338
and subject to divisions (C)(3) and (4) of this section, on a 42339
full-time equivalency basis, for each student enrolled in a 42340
community school established under this chapter, the department of 42341
education annually shall deduct from the state education aid of a 42342
student's resident district and, if necessary, from the payment 42343
made to the district under sections 321.24 and 323.156 of the 42344
Revised Code and pay to the community school the sum of the 42345
following:~~ 42346

<u>(a) An opportunity grant in an amount equal to the formula amount;</u>	42347
	42348
<u>(b) The per pupil amount of targeted assistance funds calculated under division (A) of section 3317.0217 of the Revised Code for the student's resident district, as determined by the department, X 0.25;</u>	42349
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<u>(c) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code as follows:</u>	42353
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<u>(i) If the student is a category one special education student, the formula amount X the multiple specified in division (A) of section 3317.013 of the Revised Code;</u>	42356
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<u>(ii) If the student is a category two special education student, the formula amount X the multiple specified in division (B) of section 3317.013 of the Revised Code;</u>	42359
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<u>(iii) If the student is a category three special education student, the formula amount X the multiple specified in division (C) of section 3317.013 of the Revised Code;</u>	42362
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<u>(iv) If the student is a category four special education student, the formula amount X the multiple specified in division (D) of section 3317.013 of the Revised Code;</u>	42365
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<u>(v) If the student is a category five special education student, the formula amount X the multiple specified in division (E) of section 3317.013 of the Revised Code;</u>	42368
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<u>(vi) If the student is a category six special education student, the formula amount X the multiple specified in division (F) of section 3317.013 of the Revised Code.</u>	42371
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<u>(d) If the student is in kindergarten through third grade, an additional amount of \$300, in fiscal year 2014, and \$303, in fiscal year 2015;</u>	42374
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<u>(e) If the student is economically disadvantaged, an additional amount equal to the following:</u>	42377
<u>(\$340, in fiscal year 2014, or \$343, in fiscal year 2015) X (the resident district's economically disadvantaged index)</u>	42378
<u>(f) Limited English proficiency funds as follows:</u>	42379
<u>(i) If the student is a category one limited English proficient student, the amount specified in division (A) of section 3317.016 of the Revised Code;</u>	42380
<u>(ii) If the student is a category two limited English proficient student, the amount specified in division (B) of section 3317.016 of the Revised Code;</u>	42381
<u>(iii) If the student is a category three limited English proficient student, the amount specified in division (C) of section 3317.016 of the Revised Code.</u>	42382
<u>(g) Career-technical education funds as follows:</u>	42383
<u>(i) If the student is a category one career-technical education student, the formula amount X the multiple specified in division (A) of section 3317.014 of the Revised Code;</u>	42384
<u>(ii) If the student is a category two career-technical education student, the formula amount X the multiple specified in division (B) of section 3317.014 of the Revised Code;</u>	42385
<u>(iii) If the student is a category three career-technical education student, the formula amount X the multiple specified in division (C) of section 3317.014 of the Revised Code;</u>	42386
<u>(iv) If the student is a category four career-technical education student, the formula amount X the multiple specified in division (D) of section 3317.014 of the Revised Code;</u>	42387
<u>(v) If the student is a category five career-technical education student, the formula amount X the multiple specified in division (E) of section 3317.014.</u>	42388
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Deduction and payment of funds under division (C)(1)(g) of this section is subject to approval under section 3317.161 of the Revised Code. 42407
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(2) When deducting from the state education aid of a student's resident district for students enrolled in an internet- or computer-based community school and making payments to such school under this section, the department shall make the deductions and payments described in only divisions (C)(1)(a) and (c) of this section. 42410
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No deductions or payments shall be made for a student enrolled in such school under division (C)(1)(b), (d), (e), (f), or (g) of this section. 42416
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(3)(a) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (B) of section 3317.0214 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs. 42419
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(b) The community school shall report under division (C)(3)(a) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount. 42431
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(4) If the sum of the payments computed under division (C)(1) of this section for the students entitled to attend school in a particular school district under sections 3313.64 and 3313.65 of the Revised Code exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under that division for the students entitled to attend school in that district.

(D) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

~~(H)~~(E) A community school may not levy taxes or issue bonds secured by tax revenues.

~~(I)~~(F) No community school shall charge tuition for the enrollment of any student.

~~(J)~~(G)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division ~~(D)~~(C) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

~~(K) For purposes of determining the number of students for~~

~~which divisions (D)(5) and (6) of this section applies in any~~ 42469
~~school year, a community school may submit to the department of~~ 42470
~~job and family services, no later than the first day of March, a~~ 42471
~~list of the students enrolled in the school. For each student on~~ 42472
~~the list, the community school shall indicate the student's name,~~ 42473
~~address, and date of birth and the school district where the~~ 42474
~~student is entitled to attend school. Upon receipt of a list under~~ 42475
~~this division, the department of job and family services shall~~ 42476
~~determine, for each school district where one or more students on~~ 42477
~~the list is entitled to attend school, the number of students~~ 42478
~~residing in that school district who were included in the~~ 42479
~~department's report under section 3317.10 of the Revised Code. The~~ 42480
~~department shall make this determination on the basis of~~ 42481
~~information readily available to it. Upon making this~~ 42482
~~determination and no later than ninety days after submission of~~ 42483
~~the list by the community school, the department shall report to~~ 42484
~~the state department of education the number of students on the~~ 42485
~~list who reside in each school district who were included in the~~ 42486
~~department's report under section 3317.10 of the Revised Code. In~~ 42487
~~complying with this division, the department of job and family~~ 42488
~~services shall not report to the state department of education any~~ 42489
~~personally identifiable information on any student.~~ 42490

~~(L)(H)~~ The department of education shall adjust the amounts 42491
subtracted and paid under ~~divisions~~ division (C) and ~~(D)~~ of this 42492
section to reflect any enrollment of students in community schools 42493
for less than the equivalent of a full school year. The state 42494
board of education within ninety days after April 8, 2003, shall 42495
adopt in accordance with Chapter 119. of the Revised Code rules 42496
governing the payments to community schools under this section ~~and~~ 42497
~~section 3314.13 of the Revised Code~~ including initial payments in 42498
a school year and adjustments and reductions made in subsequent 42499
periodic payments to community schools and corresponding 42500
deductions from school district accounts as provided under 42501

~~divisions~~ division (C) and ~~(D)~~ of this section and ~~section 3314.13~~ 42502
of the Revised Code. For purposes of this section and ~~section~~ 42503
~~3314.13 of the Revised Code:~~ 42504

(1) A student shall be considered enrolled in the community 42505
school for any portion of the school year the student is 42506
participating at a college under Chapter 3365. of the Revised 42507
Code. 42508

(2) A student shall be considered to be enrolled in a 42509
community school for the period of time beginning on the later of 42510
the date on which the school both has received documentation of 42511
the student's enrollment from a parent and the student has 42512
commenced participation in learning opportunities as defined in 42513
the contract with the sponsor, or thirty days prior to the date on 42514
which the student is entered into the education management 42515
information system established under section 3301.0714 of the 42516
Revised Code. For purposes of applying this division and divisions 42517
~~(L)~~(H)(3) and (4) of this section to a community school student, 42518
"learning opportunities" shall be defined in the contract, which 42519
shall describe both classroom-based and non-classroom-based 42520
learning opportunities and shall be in compliance with criteria 42521
and documentation requirements for student participation which 42522
shall be established by the department. Any student's instruction 42523
time in non-classroom-based learning opportunities shall be 42524
certified by an employee of the community school. A student's 42525
enrollment shall be considered to cease on the date on which any 42526
of the following occur: 42527

(a) The community school receives documentation from a parent 42528
terminating enrollment of the student. 42529

(b) The community school is provided documentation of a 42530
student's enrollment in another public or private school. 42531

(c) The community school ceases to offer learning 42532

opportunities to the student pursuant to the terms of the contract 42533
with the sponsor or the operation of any provision of this 42534
chapter. 42535

Except as otherwise specified in this paragraph, beginning in 42536
the 2011-2012 school year, any student who completed the prior 42537
school year in an internet- or computer-based community school 42538
shall be considered to be enrolled in the same school in the 42539
subsequent school year until the student's enrollment has ceased 42540
as specified in division ~~(L)~~(H)(2) of this section. The department 42541
shall continue subtracting and paying amounts for the student 42542
under ~~divisions~~ division (C) and ~~(D)~~ of this section without 42543
interruption at the start of the subsequent school year. However, 42544
if the student without a legitimate excuse fails to participate in 42545
the first one hundred five consecutive hours of learning 42546
opportunities offered to the student in that subsequent school 42547
year, the student shall be considered not to have re-enrolled in 42548
the school for that school year and the department shall 42549
recalculate the payments to the school for that school year to 42550
account for the fact that the student is not enrolled. 42551

(3) The department shall determine each community school 42552
student's percentage of full-time equivalency based on the 42553
percentage of learning opportunities offered by the community 42554
school to that student, reported either as number of hours or 42555
number of days, is of the total learning opportunities offered by 42556
the community school to a student who attends for the school's 42557
entire school year. However, no internet- or computer-based 42558
community school shall be credited for any time a student spends 42559
participating in learning opportunities beyond ten hours within 42560
any period of twenty-four consecutive hours. Whether it reports 42561
hours or days of learning opportunities, each community school 42562
shall offer not less than nine hundred twenty hours of learning 42563
opportunities during the school year. 42564

(4) With respect to the calculation of full-time equivalency 42565
under division ~~(I)~~(H)(3) of this section, the department shall 42566
waive the number of hours or days of learning opportunities not 42567
offered to a student because the community school was closed 42568
during the school year due to disease epidemic, hazardous weather 42569
conditions, law enforcement emergencies, inoperability of school 42570
buses or other equipment necessary to the school's operation, 42571
damage to a school building, or other temporary circumstances due 42572
to utility failure rendering the school building unfit for school 42573
use, so long as the school was actually open for instruction with 42574
students in attendance during that school year for not less than 42575
the minimum number of hours required by this chapter. The 42576
department shall treat the school as if it were open for 42577
instruction with students in attendance during the hours or days 42578
waived under this division. 42579

~~(M)~~(I) The department of education shall reduce the amounts 42580
paid under ~~division (D)~~ of this section to reflect payments made 42581
to colleges under division (B) of section 3365.07 of the Revised 42582
Code or through alternative funding agreements entered into under 42583
rules adopted under section 3365.12 of the Revised Code. 42584

~~(N)~~(J)(1) No student shall be considered enrolled in any 42585
internet- or computer-based community school or, if applicable to 42586
the student, in any community school that is required to provide 42587
the student with a computer pursuant to division (C) of section 42588
3314.22 of the Revised Code, unless both of the following 42589
conditions are satisfied: 42590

(a) The student possesses or has been provided with all 42591
required hardware and software materials and all such materials 42592
are operational so that the student is capable of fully 42593
participating in the learning opportunities specified in the 42594
contract between the school and the school's sponsor as required 42595
by division (A)(23) of section 3314.03 of the Revised Code; 42596

(b) The school is in compliance with division (A) of section 42597
3314.22 of the Revised Code, relative to such student. 42598

(2) In accordance with policies adopted jointly by the 42599
superintendent of public instruction and the auditor of state, the 42600
department shall reduce the amounts otherwise payable under 42601
division ~~(D)~~(C) of this section to any community school that 42602
includes in its program the provision of computer hardware and 42603
software materials to any student, if such hardware and software 42604
materials have not been delivered, installed, and activated for 42605
each such student in a timely manner or other educational 42606
materials or services have not been provided according to the 42607
contract between the individual community school and its sponsor. 42608

The superintendent of public instruction and the auditor of 42609
state shall jointly establish a method for auditing any community 42610
school to which this division pertains to ensure compliance with 42611
this section. 42612

The superintendent, auditor of state, and the governor shall 42613
jointly make recommendations to the general assembly for 42614
legislative changes that may be required to assure fiscal and 42615
academic accountability for such schools. 42616

~~(O)~~(K)(1) If the department determines that a review of a 42617
community school's enrollment is necessary, such review shall be 42618
completed and written notice of the findings shall be provided to 42619
the governing authority of the community school and its sponsor 42620
within ninety days of the end of the community school's fiscal 42621
year, unless extended for a period not to exceed thirty additional 42622
days for one of the following reasons: 42623

(a) The department and the community school mutually agree to 42624
the extension. 42625

(b) Delays in data submission caused by either a community 42626
school or its sponsor. 42627

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

~~(P)~~(L) The department shall not subtract from a school district's state aid account ~~under division (C) of this section~~ and shall not pay to a community school under division ~~(D)~~(C) of this section any amount for any of the following:

(1) Any student who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any student who is not a resident of the state;

(3) Any student who was enrolled in the community school

during the previous school year when assessments were administered 42658
under section 3301.0711 of the Revised Code but did not take one 42659
or more of the assessments required by that section and was not 42660
excused pursuant to division (C)(1) or (3) of that section, unless 42661
the superintendent of public instruction grants the student a 42662
waiver from the requirement to take the assessment and a parent is 42663
not paying tuition for the student pursuant to section 3314.26 of 42664
the Revised Code. The superintendent may grant a waiver only for 42665
good cause in accordance with rules adopted by the state board of 42666
education. 42667

(4) Any student who has attained the age of twenty-two years, 42668
except for veterans of the armed services whose attendance was 42669
interrupted before completing the recognized twelve-year course of 42670
the public schools by reason of induction or enlistment in the 42671
armed forces and who apply for enrollment in a community school 42672
not later than four years after termination of war or their 42673
honorable discharge. If, however, any such veteran elects to 42674
enroll in special courses organized for veterans for whom tuition 42675
is paid under federal law, or otherwise, the department shall not 42676
subtract from a school district's state aid account ~~under division~~ 42677
~~(C) of this section~~ and shall not pay to a community school under 42678
division ~~(D)~~(C) of this section any amount for that veteran. 42679

Sec. 3314.082. A community school shall be considered a 42680
school district and its governing authority shall be considered a 42681
board of education for the purpose of applying to any state or 42682
federal agency for grants that a school district may receive under 42683
federal or state law or any appropriations act of the general 42684
assembly. The governing authority of a community school may apply 42685
to any private entity for additional funds. 42686

Sec. 3314.083. If the department of education pays a joint 42687
vocational school district under division ~~(G)~~(4)(C)(3) of section 42688

3317.16 of the Revised Code for excess costs of providing special 42689
education and related services to a student with a disability who 42690
is enrolled in a community school, as calculated under division 42691
~~(C)(2)~~(C)(1) of that section, the department shall deduct the 42692
amount of that payment from the amount calculated for payment to 42693
the community school under section 3314.08 of the Revised Code. 42694

Sec. 3314.084. (A) As used in this section: 42695

(1) "Formula ADM" has the same meaning as in section 3317.03 42696
of the Revised Code. 42697

(2) "Home" has the same meaning as in section 3313.64 of the 42698
Revised Code. 42699

(3) "School district of residence" has the same meaning as in 42700
section 3323.01 of the Revised Code; however, a community school 42701
established under this chapter is not a "school district of 42702
residence" for purposes of this section. 42703

(B) Notwithstanding anything to the contrary in section 42704
3314.08 or 3317.03 of the Revised Code, all of the following apply 42705
in the case of a child who is enrolled in a community school and 42706
is also living in a home: 42707

(1) For purposes of the report required under division (B)(1) 42708
of section 3314.08 of the Revised Code, the child's school 42709
district of residence, and not the school district in which the 42710
home that the child is living in is located, shall be considered 42711
to be the school district in which the child is entitled to attend 42712
school. That school district of residence, therefore, shall make 42713
the report required under division (B)(1) of section 3314.08 of 42714
the Revised Code with respect to the child. 42715

(2) For purposes of the report required under division (B)(2) 42716
of section 3314.08 of the Revised Code, the community school shall 42717
report the name of the child's school district of residence. 42718

(3) The child's school district of residence shall count the child in that district's formula ADM.

(4) The school district in which the home that the child is living in is located shall not count the child in that district's formula ADM.

(5) The ~~Department~~ department of ~~Education~~ education shall deduct the applicable amounts prescribed under division (C) of section 3314.08 ~~and division (D) of section 3314.13~~ of the Revised Code from the child's school district of residence and shall not deduct those amounts from the school district in which the home that the child is living in is located.

(6) The ~~Department~~ department shall make the payments prescribed in ~~divisions (D) and (E)~~ division (C) of section 3314.08 ~~and section 3314.13~~ of the Revised Code, as applicable, to the community school.

Sec. 3314.086. A community school established under this chapter, including an internet- or computer-based community school, may provide career-technical education in the manner prescribed by section 3313.90 of the Revised Code. The community school may contract with any public agency, board, or bureau or with any private individual or firm for the purchase of any career-technical education or vocational rehabilitation service for any student enrolled in the community school and may pay for such services with funds received under section 3314.08 of the Revised Code.

Sec. 3314.087. (A) As used in this section:

(1) "Career-technical program" means ~~vocational~~ career-technical programs or classes described in division (A) ~~or~~, (B), (C), (D), or (E) of section 3317.014 of the Revised Code in which a student is enrolled.

(2) "Formula ADM," "category one ~~or two vocational~~ through
five career-technical education ADM," and "FTE basis" have the
same meanings as in section 3317.02 of the Revised Code.

(3) "Resident school district" means the city, exempted
village, or local school district in which a student is entitled
to attend school under section 3313.64 or 3313.65 of the Revised
Code.

(B) Notwithstanding anything to the contrary in this chapter
or Chapter 3317. of the Revised Code, a student enrolled in a
community school may simultaneously enroll in the career-technical
program operated by the student's resident school district. On an
FTE basis, the student's resident school district shall count the
student in the category one ~~or two vocational~~ through five
career-technical education ADM for the proportion of the time the
student is enrolled in the district's career-technical program
and, accordingly, the department of education shall calculate
funds under Chapter 3317. for the district attributable to the
student for the proportion of time the student attends the
career-technical program. The community school shall count the
student in its enrollment report under section 3314.08 of the
Revised Code and shall report to the department the proportion of
time that the student attends classes at the community school. The
department shall pay the community school and deduct from the
student's resident school district the amount computed for the
student under section 3314.08 of the Revised Code in proportion to
the fraction of the time on an FTE basis that the student attends
classes at the community school. "Full-time equivalency" for a
community school student, as defined in division ~~(L)~~(H) of section
3314.08 of the Revised Code, does not apply to the student.

Sec. 3314.09. (A) As used in this section and section
3314.091 of the Revised Code, "native student" means a student

entitled to attend school in the school district under section 42780
3313.64 or 3313.65 of the Revised Code. 42781

(B) Except as provided in section 3314.091 or 3327.02 of the 42782
Revised Code, the board of education of each city, local, and 42783
exempted village school district shall provide transportation to 42784
and from school for its ~~district's~~ native students in accordance 42785
with section 3327.01 of the Revised Code. 42786

Sec. 3314.091. ~~(A)~~ A student who attends a community school 42787
that provides or arranges for transporting students pursuant to 42788
this section, or the student's parent or guardian, is not eligible 42789
for the subsidy prescribed by section 3327.02 of the Revised Code. 42790

(A) A school district is not required to provide 42791
transportation for any native student enrolled in a community 42792
school if the district board of education has entered into an 42793
agreement with the community school's governing authority that 42794
designates the community school as responsible for providing or 42795
arranging for the transportation of the district's native students 42796
to and from the community school. For any such agreement to be 42797
effective, it must be certified by the superintendent of public 42798
instruction as having met all of the following requirements: 42799

(1) It is submitted to the department of education by a 42800
deadline which shall be established by the department. 42801

(2) In accordance with divisions (C)(1) and (2) of this 42802
section, it specifies qualifications, such as residing a minimum 42803
distance from the school, for students to have their 42804
transportation provided or arranged. 42805

(3) The transportation provided by the community school is 42806
subject to all provisions of the Revised Code and all rules 42807
adopted under the Revised Code pertaining to pupil transportation. 42808

(4) The sponsor of the community school also has signed the 42809

agreement. 42810

(B)(1) For the school year that begins on July 1, 2007, a 42811
school district is not required to provide transportation for any 42812
native student enrolled in a community school, if the community 42813
school during the previous school year transported the students 42814
enrolled in the school or arranged for the students' 42815
transportation, even if that arrangement consisted of having 42816
parents transport their children to and from the school, but did 42817
not enter into an agreement to transport or arrange for 42818
transportation for those students under division (A) of this 42819
section, and if the governing authority of the community school by 42820
July 15, 2007, submits written notification to the district board 42821
of education stating that the governing authority is accepting 42822
responsibility for providing or arranging for the transportation 42823
of the district's native students to and from the community 42824
school. 42825

(2) ~~For~~ Except as provided in division (B)(4) of this 42826
section, for any school year subsequent to the school year that 42827
begins on July 1, 2007, a school district is not required to 42828
provide transportation for any native student enrolled in a 42829
community school if the governing authority of the community 42830
school, by the thirty-first day of January of the previous school 42831
year, submits written notification to the district board of 42832
education stating that the governing authority is accepting 42833
responsibility for providing or arranging for the transportation 42834
of the district's native students to and from the community 42835
school. If the governing authority of the community school has 42836
previously accepted responsibility for providing or arranging for 42837
the transportation of a district's native students to and from the 42838
community school, under division (B)(1) or (2) of this section, 42839
and has since relinquished that responsibility under division 42840
(B)(3) of this section, the governing authority shall not accept 42841

that responsibility again unless the district board consents to 42842
the governing authority's acceptance of that responsibility. 42843

(3) A governing authority's acceptance of responsibility 42844
under division (B)(1) or (2) of this section shall cover an entire 42845
school year, and shall remain in effect for subsequent school 42846
years unless the governing authority submits written notification 42847
to the district board that the governing authority is 42848
relinquishing the responsibility. However, a governing authority 42849
shall not relinquish responsibility for transportation before the 42850
end of a school year, and shall submit the notice relinquishing 42851
responsibility by the thirty-first day of January, in order to 42852
allow the school district reasonable time to prepare 42853
transportation for its native students enrolled in the school. 42854

(4)(a) For any school year that begins on or after July 1, 42855
2014, a school district is not required to provide transportation 42856
for any native student enrolled in a community school scheduled to 42857
open for operation in the current school year, if the governing 42858
authority of the community school, by the fifteenth day of April 42859
of the previous school year, submits written notification to the 42860
district board of education stating that the governing authority 42861
is accepting responsibility for providing or arranging for the 42862
transportation of the district's native students to and from the 42863
community school. 42864

(b) The governing authority of a community school that 42865
accepts responsibility for transporting its students under 42866
division (4)(a) of this section shall comply with divisions (B)(2) 42867
and (3) of this section to renew or relinquish that authority for 42868
subsequent school years. 42869

(C)(1) A community school governing authority that enters 42870
into an agreement under division (A) of this section, or that 42871
accepts responsibility under division (B) of this section, shall 42872
provide or arrange transportation free of any charge for each of 42873

its enrolled students who is required to be transported under 42874
section 3327.01 of the Revised Code or who would otherwise be 42875
transported by the school district under the district's 42876
transportation policy. The governing authority shall report to the 42877
department of education the number of students transported or for 42878
whom transportation is arranged under this section in accordance 42879
with rules adopted by the state board of education. 42880

(2) The governing authority may provide or arrange 42881
transportation for any other enrolled student who is not eligible 42882
for transportation in accordance with division (C)(1) of this 42883
section and may charge a fee for such service up to the actual 42884
cost of the service. 42885

(3) Notwithstanding anything to the contrary in division 42886
(C)(1) or (2) of this section, a community school governing 42887
authority shall provide or arrange transportation free of any 42888
charge for any disabled student enrolled in the school for whom 42889
the student's individualized education program developed under 42890
Chapter 3323. of the Revised Code specifies transportation. 42891

(D)(1) If a school district board and a community school 42892
governing authority elect to enter into an agreement under 42893
division (A) of this section, the department of education shall 42894
make payments to the community school according to the terms of 42895
the agreement for each student actually transported under division 42896
(C)(1) of this section. 42897

If a community school governing authority accepts 42898
transportation responsibility under division (B) of this section, 42899
the department shall make payments to the community school for 42900
each student actually transported or for whom transportation is 42901
arranged by the community school under division (C)(1) of this 42902
section, calculated as follows: 42903

(a) For any fiscal year which the general assembly has 42904

specified that transportation payments to school districts be 42905
based on an across-the-board percentage of the district's payment 42906
for the previous school year, the per pupil payment to the 42907
community school shall be the following quotient: 42908

(i) The total amount calculated for the school district in 42909
which the child is entitled to attend school for student 42910
transportation other than transportation of children with 42911
disabilities; divided by 42912

(ii) The number of students included in the district's 42913
transportation ADM for the current fiscal year, as reported under 42914
division (B)~~(13)~~(19) of section 3317.03 of the Revised Code, plus 42915
the number of students enrolled in the community school not 42916
counted in the district's transportation ADM who are transported 42917
under division (B)(1) or (2) of this section. 42918

(b) For any fiscal year which the general assembly has 42919
specified that the transportation payments to school districts be 42920
calculated in accordance with section 3317.0212 of the Revised 42921
Code and any rules of the state board of education implementing 42922
that section, the payment to the community school shall be the 42923
amount so calculated that otherwise would be paid to the school 42924
district in which the student is entitled to attend school by the 42925
method of transportation the district would have used. The 42926
community school, however, is not required to use the same method 42927
to transport that student. 42928

(c) Divisions (D)(1)(a) and (b) of this section do not apply 42929
to fiscal years 2012 and 2013. Rather, for each of those fiscal 42930
years, the per pupil payment to a community school for 42931
transporting a student shall be the total amount paid under former 42932
section 3306.12 of the Revised Code for fiscal year 2011 to the 42933
school district in which the child is entitled to attend school 42934
divided by that district's "qualifying ridership," as defined in 42935
that section for fiscal year 2011. 42936

As used in this division "entitled to attend school" means 42937
entitled to attend school under section 3313.64 or 3313.65 of the 42938
Revised Code. 42939

(2) The department shall deduct the payment under division 42940
(D)(1) of this section from the state education aid, as defined in 42941
section 3314.08 of the Revised Code, and, if necessary, the 42942
payment under sections 321.14 and 323.156 of the Revised Code, 42943
that is otherwise paid to the school district in which the student 42944
enrolled in the community school is entitled to attend school. The 42945
department shall include the number of the district's native 42946
students for whom payment is made to a community school under 42947
division (D)(1) of this section in the calculation of the 42948
district's transportation payment under section 3317.0212 of the 42949
Revised Code and the operating appropriations act. 42950

(3) A community school shall be paid under division (D)(1) of 42951
this section only for students who are eligible as specified in 42952
section 3327.01 of the Revised Code and division (C)(1) of this 42953
section, and whose transportation to and from school is actually 42954
provided, who actually utilized transportation arranged, or for 42955
whom a payment in lieu of transportation is made by the community 42956
school's governing authority. To qualify for the payments, the 42957
community school shall report to the department, in the form and 42958
manner required by the department, data on the number of students 42959
transported or whose transportation is arranged, the number of 42960
miles traveled, cost to transport, and any other information 42961
requested by the department. 42962

(4) A community school shall use payments received under this 42963
section solely to pay the costs of providing or arranging for the 42964
transportation of students who are eligible as specified in 42965
section 3327.01 of the Revised Code and division (C)(1) of this 42966
section, which may include payments to a parent, guardian, or 42967
other person in charge of a child in lieu of transportation. 42968

(E) Except when arranged through payment to a parent, guardian, or person in charge of a child, transportation provided or arranged for by a community school pursuant to an agreement under this section is subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to the construction, design, equipment, and operation of school buses and other vehicles transporting students to and from school. The drivers and mechanics of the vehicles are subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to drivers and mechanics of such vehicles. The community school also shall comply with sections 3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) of section 3327.16 of the Revised Code and, subject to division (C)(1) of this section, ~~sections~~ and section 3327.01 ~~and 3327.02~~ of the Revised Code, as if it were a school district.

Sec. 3314.092. The governing authority or operator of a community school established under this chapter shall consult with each school district board of education that transports students to the community school under sections 3314.09 and 3327.01 of the Revised Code prior to making any change in the hours or days in which the community school is open for instruction.

Sec. 3314.11. (A) The board of education of each city, exempted village, and local school district monthly shall review enrollment for students enrolled in community schools established under this chapter and entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code. For each student, the district shall verify to the department of education both of the following:

- (1) The community school in which the student is enrolled;
- (2) That the student is entitled to attend school in the

district under section 3313.64 or 3313.65 of the Revised Code. 42999

(B) For purposes of its initial reporting of the school 43000
districts its students are entitled to attend, the governing 43001
authority of a community school may adopt a policy that prescribes 43002
the number of documents listed in division (E) of this section 43003
required to verify a student's residency. This policy, if adopted, 43004
shall supersede any policy concerning the number of documents for 43005
initial residency verification adopted by the district the student 43006
is entitled to attend. If a community school does not adopt a 43007
policy under this division, the policy of the school district in 43008
which the student is entitled to attend shall prevail. 43009

(C) In making the determinations under this section, the 43010
school district in which a parent or child resides is the location 43011
the parent or student has established as the primary residence and 43012
where substantial family activity takes place. 43013

(D) If a district's determination under division (A) of this 43014
section of the school district a student is entitled to attend 43015
under section 3313.64 or 3313.65 of the Revised Code differs from 43016
a community school's determination under division (B) of this 43017
section, the community school shall provide the school district 43018
that made the determination under division (A) of this section 43019
with documentation of the student's residency and shall make a 43020
good faith effort to accurately identify the correct residence of 43021
the student. 43022

(E) For purposes of this section, the following documents may 43023
serve as evidence of primary residence: 43024

(1) A deed, mortgage, lease, current home owner's or renter's 43025
insurance declaration page, or current real property tax bill; 43026

(2) A utility bill or receipt of utility installation issued 43027
within ninety days of enrollment; 43028

(3) A paycheck or paystub issued to the parent or student 43029

within ninety days of the date of enrollment that includes the 43030
address of the parent's or student's primary residence; 43031

(4) The most current available bank statement issued to the 43032
parent or student that includes the address of the parent's or 43033
student's primary residence; 43034

(5) Any other official document issued to the parent or 43035
student that includes the address of the parent's or student's 43036
primary residence. The superintendent of public instruction shall 43037
develop guidelines for determining what qualifies as an "official 43038
document" under this division. 43039

(F) When a student loses permanent housing and becomes a 43040
homeless child or youth, as defined in 42 U.S.C. 11434a, or when a 43041
child who is such a homeless child or youth changes temporary 43042
living arrangements, the district in which the student is entitled 43043
to attend school shall be determined in accordance with division 43044
(F)(13) of section 3313.64 of the Revised Code and the 43045
"McKinney-Vento Homeless Assistance Act," 42 U.S.C. 11431 et seq. 43046

(G) In the event of a disagreement as to which school 43047
district a student is entitled to attend, the community school, 43048
after complying with division (D) of this section, but not more 43049
than sixty days after the monthly deadline established by the 43050
department of education for reporting of community school 43051
enrollment, may present the matter to the superintendent of public 43052
instruction. Not later than thirty days after the community school 43053
presents the matter, the state superintendent, or the state 43054
superintendent's designee, shall determine which district the 43055
student is entitled to attend and shall direct any necessary 43056
adjustments to payments and deductions under ~~sections~~ section 43057
3314.08 ~~and 3314.13~~ of the Revised Code based on that 43058
determination. 43059

Sec. 3314.26. (A) Each internet- or computer-based community 43060

school shall withdraw from the school any student who, for two 43061
consecutive school years, has failed to participate in the spring 43062
administration of any assessment prescribed under section 43063
3301.0710 or 3301.0712 of the Revised Code for the student's grade 43064
level and was not excused from the assessment pursuant to division 43065
(C)(1) or (3) of section 3301.0711 of the Revised Code, regardless 43066
of whether a waiver was granted for the student under division 43067
~~(P)~~(L)(3) of section 3314.08 of the Revised Code. The school shall 43068
report any such student's data verification code, as assigned 43069
pursuant to section 3301.0714 of the Revised Code, to the 43070
department of education. The department shall maintain a list of 43071
all data verification codes reported under this division and 43072
section 3313.6410 of the Revised Code and provide that list to 43073
each internet- or computer-based community school and to each 43074
school to which section 3313.6410 of the Revised Code applies. 43075

(B) No internet- or computer-based community school shall 43076
receive any state funds under this chapter for any enrolled 43077
student whose data verification code appears on the list 43078
maintained by the department under division (A) of this section. 43079

Notwithstanding any provision of the Revised Code to the 43080
contrary, the parent of any such student shall pay tuition to the 43081
internet- or computer-based community school in an amount equal to 43082
the state funds the school otherwise would receive for that 43083
student, as determined by the department. An internet- or 43084
computer-based community school may withdraw any student for whom 43085
the parent does not pay tuition as required by this division. 43086

Sec. 3315.40. The board of education of a city, local, 43087
exempted village, or joint vocational school district or the 43088
governing board of any educational service center may establish an 43089
education foundation fund. Moneys in the fund shall consist of 43090
proceeds paid into the fund under division (B) of section 3313.36 43091

of the Revised Code. In addition, by resolution adopted by a 43092
majority of its members, a city, local, exempted village, or joint 43093
vocational board may annually direct the school district treasurer 43094
to pay into the education foundation fund an amount from the 43095
school district general fund not to exceed one-half of one per 43096
cent of the total appropriations of the school district as 43097
estimated by the board at the time the resolution is adopted or as 43098
set forth in the annual appropriation measure as most recently 43099
amended or supplemented; and any governing board, by resolution 43100
adopted by a majority of its members, may annually direct the 43101
service center treasurer to pay into the education foundation fund 43102
an amount not to exceed one-half of one per cent of the funds 43103
received by the governing board pursuant to an agreement entered 43104
into under section ~~3317.11~~ 3313.843 or 3313.845 of the Revised 43105
Code. 43106

Income from the investment of moneys in the fund shall be 43107
paid into the fund. A board, by resolution adopted by a majority 43108
of its members, may accept a trust created under section 3315.41 43109
of the Revised Code for the investment of money in the educational 43110
foundation fund and direct the school district or service center 43111
treasurer to pay to the trustee, the initial trust principal 43112
contemplated by the instrument creating the trust. A board that 43113
has accepted a trust created under section 3315.41 of the Revised 43114
Code may do any of the following by resolution adopted by a 43115
majority of its members: direct the school district or service 43116
center treasurer to pay additional amounts to the trust principal, 43117
amend the trust, revoke the trust, or provide for payment of 43118
compensation to the trustee. 43119

Moneys in the fund shall be expended only by resolution 43120
adopted by a majority of the members of the board for operating or 43121
capital costs of any existing or new and innovative program 43122
designed to enhance or promote education within the district or 43123

service center, such as scholarships for students or teachers. 43124

A board of education or governing board may appoint a 43125
committee of administrators to administer the education foundation 43126
fund and to make recommendations for the use of the fund. Members 43127
of the committee shall serve at the discretion of the appointing 43128
board. Members shall receive no compensation, but may be 43129
reimbursed for actual and necessary expenses incurred in the 43130
performance of their official duties. 43131

Sec. 3315.42. Sections 3315.40 and 3315.41 of the Revised 43132
Code do not apply to either of the following: 43133

(A) A school district that has received funds for a project 43134
under Chapter 3318. of the Revised Code, so long as the purchase 43135
price to be paid by the board for the state's interest in the 43136
project has not been paid; 43137

(B) A school district that has an outstanding loan under 43138
section 3313.483 ~~or sections 3317.62 to 3317.64~~ of the Revised 43139
Code. 43140

Sec. 3316.041. (A) Notwithstanding any provision of Chapter 43141
133. or sections 3313.483 to ~~3313.4811~~ 3313.4810 of the Revised 43142
Code, and subject to the approval of the superintendent of public 43143
instruction, a school district that is in a state of fiscal watch 43144
declared under section 3316.03 of the Revised Code may restructure 43145
or refinance loans obtained or in the process of being obtained 43146
under section 3313.483 of the Revised Code if all of the following 43147
requirements are met: 43148

(1) The operating deficit certified for the school district 43149
for the current or preceding fiscal year under section 3313.483 of 43150
the Revised Code exceeds fifteen per cent of the district's 43151
general revenue fund for the fiscal year preceding the year for 43152
which the certification of the operating deficit is made. 43153

(2) The school district voters have, during the period of the fiscal watch, approved the levy of a tax under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, or 5748.09 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue.

(3) The board of education of the school district has adopted or amended the financial plan required by section 3316.04 of the Revised Code to reflect the restructured or refinanced loans, and sets forth the means by which the district will bring projected operating revenues and expenditures, and projected debt service obligations, into balance for the life of any such loan.

(B) Subject to the approval of the superintendent of public instruction, the school district may issue securities to evidence the restructuring or refinancing authorized by this section. Such securities may extend the original period for repayment not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms or agreements under which the loans were originally contracted, provided the loans received under sections 3313.483 of the Revised Code are repaid from funds the district would otherwise receive under Chapter 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. Securities issued for the purpose of restructuring or refinancing under this section shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal to restructure or refinance.

(C) Unless the district is declared to be in a state of fiscal emergency under division (D) of section 3316.04 of the Revised Code, a school district shall remain in a state of fiscal watch for the duration of the repayment period of any loan restructured or refinanced under this section.

Sec. 3316.06. (A) Within one hundred twenty days after the 43186
first meeting of a school district financial planning and 43187
supervision commission, the commission shall adopt a financial 43188
recovery plan regarding the school district for which the 43189
commission was created. During the formulation of the plan, the 43190
commission shall seek appropriate input from the school district 43191
board and from the community. This plan shall contain the 43192
following: 43193

(1) Actions to be taken to: 43194

(a) Eliminate all fiscal emergency conditions declared to 43195
exist pursuant to division (B) of section 3316.03 of the Revised 43196
Code; 43197

(b) Satisfy any judgments, past-due accounts payable, and all 43198
past-due and payable payroll and fringe benefits; 43199

(c) Eliminate the deficits in all deficit funds, except that 43200
any prior year deficits in the capital and maintenance fund 43201
established pursuant to section 3315.18 of the Revised Code shall 43202
be forgiven; 43203

(d) Restore to special funds any moneys from such funds that 43204
were used for purposes not within the purposes of such funds, or 43205
borrowed from such funds by the purchase of debt obligations of 43206
the school district with the moneys of such funds, or missing from 43207
the special funds and not accounted for, if any; 43208

(e) Balance the budget, avoid future deficits in any funds, 43209
and maintain on a current basis payments of payroll, fringe 43210
benefits, and all accounts; 43211

(f) Avoid any fiscal emergency condition in the future; 43212

(g) Restore the ability of the school district to market 43213
long-term general obligation bonds under provisions of law 43214
applicable to school districts generally. 43215

(2) The management structure that will enable the school district to take the actions enumerated in division (A)(1) of this section. The plan shall specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency, and shall enumerate respectively, the powers and duties of the commission and the powers and duties of the school board during that period. The commission may elect to assume any of the powers and duties of the school board it considers necessary, including all powers related to personnel, curriculum, and legal issues in order to successfully implement the actions described in division (A)(1) of this section.

(3) The target dates for the commencement, progress upon, and completion of the actions enumerated in division (A)(1) of this section and a reasonable period of time expected to be required to implement the plan. The commission shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the plan, and the plan shall be consistent with that time schedule.

(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the school district and the county auditor. Debt obligations issued pursuant to section 133.301 of the Revised Code shall include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval,

during the period of the fiscal emergency, by district voters of a 43248
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 43249
5748.02, 5748.08, or 5748.09 of the Revised Code that is not a 43250
renewal or replacement levy, or a levy under section 5705.199 of 43251
the Revised Code, and that will provide new operating revenue. 43252
Notwithstanding any provision of Chapter 133. or sections 3313.483 43253
to ~~3313.4811~~ 3313.4810 of the Revised Code, following the required 43254
approval of the district voters and with the approval of the 43255
commission, the school district may issue securities to evidence 43256
the restructuring or refinancing. Those securities may extend the 43257
original period for repayment, not to exceed ten years, and may 43258
alter the frequency and amount of repayments, interest or other 43259
financing charges, and other terms of agreements under which the 43260
debt originally was contracted, at the discretion of the 43261
commission, provided that any loans received pursuant to section 43262
3313.483 of the Revised Code shall be paid from funds the district 43263
would otherwise receive under Chapter 3317. of the Revised Code, 43264
as required under division (E)(3) of section 3313.483 of the 43265
Revised Code. The securities issued for the purpose of 43266
restructuring or refinancing the debt shall be repaid in equal 43267
payments and at equal intervals over the term of the debt and are 43268
not eligible to be included in any subsequent proposal for the 43269
purpose of restructuring or refinancing debt under this section. 43270

(5) An evaluation of the feasibility of entering into shared 43271
services agreements with other political subdivisions for the 43272
joint exercise of any power, performance of any function, or 43273
rendering of any service, if so authorized by statute. 43274

(B) Any financial recovery plan may be amended subsequent to 43275
its adoption. Each financial recovery plan shall be updated 43276
annually. 43277

(C) Each school district financial planning and supervision 43278
commission shall submit the financial recovery plan it adopts or 43279

updates under this section to the state superintendent of public 43280
instruction for approval immediately following its adoption or 43281
updating. The state superintendent shall evaluate the plan and 43282
either approve or disapprove it within thirty calendar days from 43283
the date of its submission. If the plan is disapproved, the state 43284
superintendent shall recommend modifications that will render it 43285
acceptable. No financial planning and supervision commission shall 43286
implement a financial recovery plan that is adopted or updated on 43287
or after April 10, 2001, unless the state superintendent has 43288
approved it. 43289

Sec. 3317.01. As used in this section, "school district," 43290
unless otherwise specified, means any city, local, exempted 43291
village, joint vocational, or cooperative education school 43292
district and any educational service center. 43293

This chapter shall be administered by the state board of 43294
education. The superintendent of public instruction shall 43295
calculate the amounts payable to each school district and shall 43296
certify the amounts payable to each eligible district to the 43297
treasurer of the district as provided by this chapter. As soon as 43298
possible after such amounts are calculated, the superintendent 43299
shall certify to the treasurer of each school district the 43300
district's adjusted charge-off increase, as defined in section 43301
5705.211 of the Revised Code. Certification of moneys pursuant to 43302
this section shall include the amounts payable to each school 43303
building, at a frequency determined by the superintendent, for 43304
each subgroup of students, as defined in section 3317.40 of the 43305
Revised Code, receiving services, provided for by state funding, 43306
from the district or school. No moneys shall be distributed 43307
pursuant to this chapter without the approval of the controlling 43308
board. 43309

The state board of education shall, in accordance with 43310

appropriations made by the general assembly, meet the financial 43311
obligations of this chapter. 43312

Moneys distributed pursuant to this chapter shall be 43313
calculated based on the annualized average of the monthly 43314
certifications required under section 3317.03 of the Revised Code 43315
and paid on a fiscal year basis, beginning with the first day of 43316
July and extending through the thirtieth day of June. The moneys 43317
appropriated for each fiscal year shall be distributed 43318
periodically to each school district unless otherwise provided 43319
for. The state board, in June of each year, shall submit to the 43320
controlling board the state board's year-end distributions 43321
pursuant to this chapter. 43322

Except as otherwise provided, payments under this chapter 43323
shall be made only to those school districts in which: 43324

(A) The school district, except for any educational service 43325
center and any joint vocational or cooperative education school 43326
district, levies for current operating expenses at least twenty 43327
mills. Levies for joint vocational or cooperative education school 43328
districts or county school financing districts, limited to or to 43329
the extent apportioned to current expenses, shall be included in 43330
this qualification requirement. School district income tax levies 43331
under Chapter 5748. of the Revised Code, limited to or to the 43332
extent apportioned to current operating expenses, shall be 43333
included in this qualification requirement to the extent 43334
determined by the tax commissioner under division (D) of section 43335
3317.021 of the Revised Code. 43336

(B) The school year next preceding the fiscal year for which 43337
such payments are authorized meets the requirement of section 43338
3313.48 ~~or 3313.481~~ of the Revised Code, with regard to the 43339
minimum number of ~~days~~ or hours school must be open for 43340
instruction with pupils in attendance, for individualized 43341
parent-teacher conference and reporting periods, and for 43342

~~professional meetings of teachers. This requirement shall be 43343
waived by the superintendent of public instruction if it had been 43344
necessary for a school to be closed because of disease epidemic, 43345
hazardous weather conditions, law enforcement emergencies, 43346
inoperability of school buses or other equipment necessary to the 43347
school's operation, damage to a school building, or other 43348
temporary circumstances due to utility failure rendering the 43349
school building unfit for school use, provided that for those 43350
school districts operating pursuant to section 3313.48 of the 43351
Revised Code the number of days the school was actually open for 43352
instruction with pupils in attendance and for individualized 43353
parent teacher conference and reporting periods is not less than 43354
one hundred seventy five, or for those school districts operating 43355
on a trimester plan the number of days the school was actually 43356
open for instruction with pupils in attendance not less than 43357
seventy nine days in any trimester, for those school districts 43358
operating on a quarterly plan the number of days the school was 43359
actually open for instruction with pupils in attendance not less 43360
than fifty nine days in any quarter, or for those school districts 43361
operating on a pentamester plan the number of days the school was 43362
actually open for instruction with pupils in attendance not less 43363
than forty four days in any pentamester. 43364~~

A school district shall not be considered to have failed to 43365
comply with this division ~~or section 3313.481 of the Revised Code~~ 43366
because schools were open for instruction but either twelfth grade 43367
students were excused from attendance for up to the equivalent of 43368
three school days or only a portion of the kindergarten students 43369
were in attendance for up to the equivalent of three school days 43370
in order to allow for the gradual orientation to school of such 43371
students. 43372

~~The superintendent of public instruction shall waive the 43373
requirements of this section with reference to the minimum number 43374~~

~~of days or hours school must be in session with pupils in 43375
attendance for the school year succeeding the school year in which 43376
a board of education initiates a plan of operation pursuant to 43377
section 3313.481 of the Revised Code. The minimum requirements of 43378
this section shall again be applicable to such a district 43379
beginning with the school year commencing the second July 43380
succeeding the initiation of one such plan, and for each school 43381
year thereafter. 43382~~

~~A school district shall not be considered to have failed to 43383
comply with this division or section 3313.48 or 3313.481 of the 43384
Revised Code because schools were open for instruction but the 43385
length of the regularly scheduled school day, for any number of 43386
days during the school year, was reduced by not more than two 43387
hours due to hazardous weather conditions. 43388~~

A board of education or governing board of an educational 43389
service center which has not conformed with other law and the 43390
rules pursuant thereto, shall not participate in the distribution 43391
of funds authorized by this chapter, except for good and 43392
sufficient reason established to the satisfaction of the state 43393
board of education and the state controlling board. 43394

All funds allocated to school districts under this chapter, 43395
except those specifically allocated for other purposes, shall be 43396
used to pay current operating expenses only. 43397

Sec. 3317.013. ~~Except for a preschool child with a disability 43398
for whom a scholarship has been awarded under section 3310.41 of 43399
the Revised Code, this section does not apply to preschool 43400
children with disabilities. 43401~~

~~Analysis of special education cost data has resulted in a 43402
finding that the average special education additional cost per 43403
pupil, including the costs of related services, can be expressed 43404
as a multiple of the formula amount. The multiples for the 43405~~

following categories of special education programs, as these 43406
programs are defined for purposes of Chapter 3323. of the Revised 43407
Code, and adjusted as provided in this section, are as follows: 43408

(A) A multiple of 0.2906 for students whose primary or only 43409
identified disability is a speech and language disability, as this 43410
term is defined pursuant to Chapter 3323. of the Revised Code; 43411

(B) A multiple of 0.7374 for students identified as specific 43412
learning disabled or developmentally disabled, as these terms are 43413
defined pursuant to Chapter 3323. of the Revised Code, or as 43414
having an other health impairment-minor; 43415

(C) A multiple of 1.7716 for students identified as hearing 43416
disabled or severe behavior disabled, as these terms are defined 43417
pursuant to Chapter 3323. of the Revised Code; 43418

(D) A multiple of 2.3643 for students identified as vision 43419
impaired, as this term is defined pursuant to Chapter 3323. of the 43420
Revised Code, or as having an other health impairment-major; 43421

(E) A multiple of 3.2022 for students identified as 43422
orthopedically disabled or as having multiple disabilities, as 43423
these terms are defined pursuant to Chapter 3323. of the Revised 43424
Code; 43425

(F) A multiple of 4.7205 for students identified as autistic, 43426
having traumatic brain injuries, or as both visually and hearing 43427
impaired, as these terms are defined pursuant to Chapter 3323. of 43428
the Revised Code. 43429

~~In fiscal years 2008, 2009, 2010, 2011, 2012, and 2013, the~~ 43430
~~The~~ multiples specified in divisions (A) to (F) of this section 43431
shall be adjusted by multiplying them by 0.90. 43432

Sec. 3317.014. The career-technical education additional cost 43433
per pupil for each student enrolled in career-technical education 43434
programs approved by the department of education in accordance 43435

with rules adopted under section 3313.90 of the Revised Code can 43436
be expressed as a multiple of the formula amount. The multiples 43437
for the following categories of career-technical education 43438
programs are as follows: 43439

(A) A multiple of 0.76 for each student enrolled in 43440
career-technical education workforce development programs in 43441
environmental and agricultural systems, construction technologies, 43442
engineering and science technologies, finance, health science, 43443
information technology, and manufacturing technologies; 43444

(B) A multiple of 0.68 for each student enrolled in workforce 43445
development programs in business and administration, hospitality 43446
and tourism, human services, law and public safety, and 43447
transportation systems; 43448

(C) A multiple of 0.43 for students enrolled in workforce 43449
development career-based intervention programs; 43450

(D) A multiple of 0.31 for students enrolled in workforce 43451
development programs in arts and communications, education and 43452
training, marketing, workforce development academics, and career 43453
development; 43454

(E) A multiple of 0.24 for students enrolled in family and 43455
consumer science programs. 43456

Career-technical education associated services costs can be 43457
expressed as a multiple of 0.05 of the formula amount. 43458

Sec. 3317.016. The amounts for limited English proficient 43459
students shall be as follows: 43460

(A) An amount of \$1,500, in fiscal year 2014, and \$1,515, in 43461
fiscal year 2015, for each student who has been enrolled in 43462
schools in the United States for 180 school days or less and was 43463
not previously exempted from taking the spring administration of 43464

either of the state's English language arts assessments prescribed 43465
by section 3301.0710 of the Revised Code (reading or writing). 43466

(B) An amount of \$1,125, in fiscal year 2014, and \$1,136, in 43467
fiscal year 2015, for each student who has been enrolled in 43468
schools in the United States for more than 180 school days or was 43469
previously exempted from taking the spring administration of 43470
either of the state's English language arts assessments prescribed 43471
by section 3301.0710 of the Revised Code (reading or writing). 43472

(C) An amount of \$750, in fiscal year 2014, and \$758, in 43473
fiscal year 2015, for each student who does not qualify for 43474
inclusion under division (A) or (B) of this section and is in a 43475
trial-mainstream period, as defined by the department. 43476

Sec. 3317.017. The department of education shall compute a 43477
school district's state share index as follows: 43478

(A) Calculate the district's valuation index, which equals 43479
the following quotient: 43480

(The district's three-year average valuation / the district's 43481
total ADM) / (the statewide three-year average valuation for 43482
school districts with a total ADM greater than zero / the 43483
statewide total ADM) 43484

(B) Calculate the district's median income index, which 43485
equals the following quotient: 43486

(The district's median Ohio adjusted gross income / the 43487
median of the median Ohio adjusted gross income of all districts 43488
statewide) 43489

(C) Determine the district's wealth index as follows: 43490

(1) If the district's median income index is less than the 43491
district's valuation index, then the district's wealth index shall 43492
be equal to [(1/3 X the district's median income index) + (2/3 X 43493
the district's valuation index)]. 43494

(2) If the district's median income index is greater than or equal to the district's valuation index, then the district's wealth index shall be equal to the district's valuation index. 43495
43496
43497

(D) Determine the district's state share index as follows: 43498

(1) If the district's wealth index is less than or equal to 0.35, then the district's state share index shall be equal to 0.90. 43499
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(2) If the district's wealth index is greater than 0.35 but less than or equal to 0.90, then the district's state share index shall be equal to $\{0.40 \times [(0.90 - \text{the district's wealth index}) / 0.55]\} + 0.50.$ 43502
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(3) If the district's wealth index is greater than 0.90 but less than 1.8, then the district's state share index shall be equal to $\{0.45 \times [(1.8 - \text{the district's wealth index}) / 0.9]\} + 0.05.$ 43506
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(4) If the district's wealth index is greater than or equal to 1.8, then the district's state share index shall be equal to 0.05. 43510
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(E)(1) For each school district for which the tax-exempt value of the district, as certified under division (A)(4) of section 3317.021 of the Revised Code, equals or exceeds thirty per cent of the potential value of the district, the department shall calculate the difference between the district's tax-exempt value and thirty per cent of the district's potential value. For this purpose, the "potential value" of a school district is the three-year average valuation of the district plus the tax-exempt value of the district. 43513
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(2) For each school district to which division (E)(1) of this section applies, the department shall adjust the three-year average valuation used in the calculation under division (A) of this section by subtracting from it the amount calculated under 43522
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division (E)(1) of this section. 43526

(F) When performing the calculations required under this 43527
section, the department shall not round to fewer than four decimal 43528
places. 43529

For purposes of these calculations for fiscal years 2014 and 43530
2015, "three-year average valuation" means the average of total 43531
taxable value for fiscal years 2012, 2013, and 2014; "total ADM" 43532
means the total ADM for fiscal year 2014; "median Ohio adjusted 43533
gross income" means the median Ohio adjusted gross income for tax 43534
year 2011; and "tax-exempt value" means the tax-exempt value for 43535
fiscal year 2014. 43536

Sec. 3317.02. As used in this chapter: 43537

(A)(1) "Category one limited English proficient ADM" means 43538
the average daily membership of limited English proficient 43539
students described in division (A) of section 3317.016 of the 43540
Revised Code and reported under division (B)(16) or (D)(2)(h) of 43541
section 3317.03 of the Revised Code. 43542

(2) "Category two limited English proficient ADM" means the 43543
average daily membership of limited English proficient students 43544
described in division (B) of section 3317.016 of the Revised Code 43545
and reported under division (B)(17) or (D)(2)(i) of section 43546
3317.03 of the Revised Code. 43547

(3) "Category three limited English proficient ADM" means the 43548
average daily membership of limited English proficient students 43549
described in division (C) of section 3317.016 of the Revised Code 43550
and reported under division (B)(18) or (D)(2)(j) of section 43551
3317.03 of the Revised Code. 43552

(B)(1) "Category one special education ADM" means the average 43553
daily membership of children with disabilities receiving special 43554
education services for the disability specified in division (A) of 43555

section 3317.013 of the Revised Code and reported under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 43556
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(2) "Category two special education ADM" means the average daily membership of children with disabilities receiving special education services for those disabilities specified in division (B) of section 3317.013 of the Revised Code and reported under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code. 43558
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(3) "Category three special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division (C) of section 3317.013 of the Revised Code, and reported under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code. 43564
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(4) "Category four special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division (D) of section 3317.013 of the Revised Code and reported under division (B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code. 43569
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(5) "Category five special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division (E) of section 3317.013 of the Revised Code and reported under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code. 43574
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(6) "Category six special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division (F) of section 3317.013 of the Revised Code and reported under division (B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code. 43579
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(C) "County DD board" means a county board of developmental disabilities. 43584
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(D) "Economically disadvantaged index for a school district" 43586

means the square of the quotient of that district's percentage of students in its total ADM who are identified as economically disadvantaged as defined by the department of education, divided by the statewide percentage of students identified as economically disadvantaged. 43587
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(E)(1) "Formula ADM" means, for a city, local, or exempted village school district, the average daily membership described in division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by counting only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code. 43592
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(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section. 43600
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(F) "Formula amount" means \$5,732, for fiscal year 2014, and \$5,789, for fiscal year 2015. 43605
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(G) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one, two, three, four, or five career technical education ADM in the same proportion the student is counted in formula ADM. 43607
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(H) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code. 43615
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(I) "Medically fragile child" means a child to whom all of 43617

the following apply: 43618

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition. 43619
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(2) The child requires the services of a registered nurse on a daily basis. 43622
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(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded. 43624
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(J)(1) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education and if either of the following apply: 43627
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(a) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." 43631
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(b) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child. 43635
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(2) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education but the child's condition does not meet either of the conditions specified in division (J)(1)(a) or (b) of this section. 43640
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(K) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who 43646
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is at least age three but is not of compulsory school age, as 43648
defined in section 3321.01 of the Revised Code, and who is not 43649
currently enrolled in kindergarten. 43650

(L) "Preschool scholarship ADM" means the number of preschool 43651
children with disabilities reported under division (B)(3)(h) of 43652
section 3317.03 of the Revised Code. 43653

(M) "Related services" includes: 43654

(1) Child study, special education supervisors and 43655
coordinators, speech and hearing services, adaptive physical 43656
development services, occupational or physical therapy, teacher 43657
assistants for children with disabilities whose disabilities are 43658
described in division (B) of section 3317.013 or division (B)(3) 43659
of this section, behavioral intervention, interpreter services, 43660
work study, nursing services, and specialized integrative services 43661
as those terms are defined by the department; 43662

(2) Speech and language services provided to any student with 43663
a disability, including any student whose primary or only 43664
disability is a speech and language disability; 43665

(3) Any related service not specifically covered by other 43666
state funds but specified in federal law, including but not 43667
limited to, audiology and school psychological services; 43668

(4) Any service included in units funded under former 43669
division (O)(1) of section 3317.024 of the Revised Code; 43670

(5) Any other related service needed by children with 43671
disabilities in accordance with their individualized education 43672
programs. 43673

(N) "School district," unless otherwise specified, means 43674
city, local, and exempted village school districts. 43675

(O) "State education aid" has the same meaning as in section 43676
5751.20 of the Revised Code. 43677

<u>(P) "State share index" means the state share index</u>	43678
<u>calculated for a district under section 3317.017 of the Revised</u>	43679
<u>Code.</u>	43680
<u>(Q) "Taxes charged and payable" means the taxes charged and</u>	43681
<u>payable against real and public utility property after making the</u>	43682
<u>reduction required by section 319.301 of the Revised Code, plus</u>	43683
<u>the taxes levied against tangible personal property.</u>	43684
<u>(R) "Total ADM" means, for a city, local, or exempted village</u>	43685
<u>school district, the average daily membership described in</u>	43686
<u>division (A) of section 3317.03 of the Revised Code, as verified</u>	43687
<u>by the superintendent of public instruction and adjusted if so</u>	43688
<u>ordered under division (K) of that section.</u>	43689
<u>(S) "Total special education ADM" means the sum of categories</u>	43690
<u>one through six special education ADM.</u>	43691
<u>(T) "Total career-technical education weight" for a district</u>	43692
<u>means the sum of the following:</u>	43693
<u>(1) The district's category one career-technical education</u>	43694
<u>ADM multiplied by the multiple specified in division (A) of</u>	43695
<u>section 3317.014 of the Revised Code;</u>	43696
<u>(2) The district's category two career-technical education</u>	43697
<u>ADM multiplied by the multiple specified in division (B) of</u>	43698
<u>section 3317.014 of the Revised Code;</u>	43699
<u>(3) The district's category three career-technical education</u>	43700
<u>ADM multiplied by the multiple specified in division (C) of</u>	43701
<u>section 3317.014 of the Revised Code;</u>	43702
<u>(4) The district's category four career-technical education</u>	43703
<u>ADM multiplied by the multiple specified in division (D) of</u>	43704
<u>section 3317.014 of the Revised Code;</u>	43705
<u>(5) The district's category five career-technical education</u>	43706
<u>ADM multiplied by the multiple specified in division (E) of</u>	43707

<u>section 3317.014 of the Revised Code.</u>	43708
<u>(U) "Total special education weight" for a district means the sum of the following:</u>	43709
	43710
<u>(1) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;</u>	43711
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<u>(2) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;</u>	43714
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<u>(3) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;</u>	43717
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	43719
<u>(4) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;</u>	43720
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<u>(5) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;</u>	43723
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	43725
<u>(6) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.</u>	43726
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<u>(V) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.</u>	43729
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Sec. 3317.021. (A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education and the office of budget and management the information described in divisions (A)(1) to (7) of this section for each city, exempted village, and local school district, and the	43733
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information required by divisions (A)(1) and (2) of this section 43738
for each joint vocational school district, and it shall be used, 43739
along with the information certified under division (B) of this 43740
section, in making the computations for the district under this 43741
chapter. 43742

(1) The taxable value of real and public utility real 43743
property in the school district subject to taxation in the 43744
preceding tax year, by class and by county of location. 43745

(2) The taxable value of tangible personal property, 43746
including public utility personal property, subject to taxation by 43747
the district for the preceding tax year. 43748

(3)(a) The total property tax rate and total taxes charged 43749
and payable for the current expenses for the preceding tax year 43750
and the total property tax rate and the total taxes charged and 43751
payable to a joint vocational district for the preceding tax year 43752
that are limited to or to the extent apportioned to current 43753
expenses. 43754

(b) The portion of the amount of taxes charged and payable 43755
reported for each city, local, and exempted village school 43756
district under division (A)(3)(a) of this section attributable to 43757
a joint vocational school district. 43758

(4) The value of all real and public utility real property in 43759
the school district exempted from taxation minus both of the 43760
following: 43761

(a) The value of real and public utility real property in the 43762
district owned by the United States government and used 43763
exclusively for a public purpose; 43764

(b) The value of real and public utility real property in the 43765
district exempted from taxation under Chapter 725. or 1728. or 43766
section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 43767
5709.73, or 5709.78 of the Revised Code. 43768

(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available. 43769
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~~(6) The sum of the school district compensation value as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code as if such property had been assessed for taxation that year and the other compensation value for the school district, minus the amounts described in divisions (A)(6)(c) to (i) of this section. The portion of school district compensation value or other compensation value attributable to an incentive district exemption may be subtracted only once even if that incentive district satisfies more than one of the criteria in divisions (A)(6)(c) to (i) of this section.~~ 43773
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~~(a) "School district compensation value" means the aggregate value of real property in the school district exempted from taxation pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code to the extent that the exempted value results in the charging of payments in lieu of taxes required to be paid to the school district under division (D)(1) or (2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code.~~ 43784
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~~(b) "Other compensation value" means the quotient that results from dividing (i) the dollar value of compensation received by the school district during the preceding tax year pursuant to division (B), (C), or (D) of section 5709.82 of the Revised Code and the amounts received pursuant to an agreement as specified in division (D)(2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code to the extent those amounts were not previously reported or~~ 43793
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~~included in division (A)(6)(a) of this section, and so that any~~ 43801
~~such amount is reported only once under division (A)(6)(b) of this~~ 43802
~~section, in relation to exemptions from taxation granted pursuant~~ 43803
~~to an ordinance or resolution adopted under division (C) of~~ 43804
~~section 5709.40, division (C) of section 5709.73, or division (B)~~ 43805
~~of section 5709.78 of the Revised Code, by (ii) the real property~~ 43806
~~tax rate in effect for the preceding tax year for~~ 43807
~~nonresidential/agricultural real property after making the~~ 43808
~~reductions required by section 319.301 of the Revised Code.~~ 43809

~~(c) The portion of school district compensation value or~~ 43810
~~other compensation value that was exempted from taxation pursuant~~ 43811
~~to such an ordinance or resolution for the preceding tax year, if~~ 43812
~~the ordinance or resolution is adopted prior to January 1, 2006,~~ 43813
~~and the legislative authority or board of township trustees or~~ 43814
~~county commissioners, prior to January 1, 2006, executes a~~ 43815
~~contract or agreement with a developer, whether for profit or~~ 43816
~~not for profit, with respect to the development of a project~~ 43817
~~undertaken or to be undertaken and identified in the ordinance or~~ 43818
~~resolution, and upon which parcels such project is being, or will~~ 43819
~~be, undertaken;~~ 43820

~~(d) The portion of school district compensation value that~~ 43821
~~was exempted from taxation for the preceding tax year and for~~ 43822
~~which payments in lieu of taxes for the preceding tax year were~~ 43823
~~provided to the school district under division (D)(1) of section~~ 43824
~~5709.40 of the Revised Code.~~ 43825

~~(e) The portion of school district compensation value that~~ 43826
~~was exempted from taxation for the preceding tax year pursuant to~~ 43827
~~such an ordinance or resolution, if and to the extent that, on or~~ 43828
~~before April 1, 2006, the fiscal officer of the municipal~~ 43829
~~corporation that adopted the ordinance, or of the township or~~ 43830
~~county that adopted the resolution, certifies and provides~~ 43831
~~appropriate supporting documentation to the tax commissioner and~~ 43832

~~the director of development that, based on hold harmless 43833
provisions in any agreement between the school district and the 43834
legislative authority of the municipal corporation, board of 43835
township trustees, or board of county commissioners that was 43836
entered into on or before June 1, 2005, the ability or obligation 43837
of the municipal corporation, township, or county to repay bonds, 43838
notes, or other financial obligations issued or entered into prior 43839
to January 1, 2006, will be impaired, including obligations to or 43840
of any other body corporate and politic with whom the legislative 43841
authority of the municipal corporation or board of township 43842
trustees or county commissioners has entered into an agreement 43843
pertaining to the use of service payments derived from the 43844
improvements exempted; 43845~~

~~(f) The portion of school district compensation value that 43846
was exempted from taxation for the preceding tax year pursuant to 43847
such an ordinance or resolution, if the ordinance or resolution is 43848
adopted prior to January 1, 2006, in a municipal corporation with 43849
a population that exceeds one hundred thousand, as shown by the 43850
most recent federal decennial census, that includes a major 43851
employment center and that is adjacent to historically distressed 43852
neighborhoods, if the legislative authority of the municipal 43853
corporation that exempted the property prepares an economic 43854
analysis that demonstrates that all taxes generated within the 43855
incentive district accruing to the state by reason of improvements 43856
constructed within the district during its existence exceed the 43857
amount the state pays the school district under section 3317.022 43858
of the Revised Code attributable to such property exemption from 43859
the school district's recognized valuation. The analysis shall be 43860
submitted to and approved by the department of development prior 43861
to January 1, 2006, and the department shall not unreasonably 43862
withhold approval. 43863~~

~~(g) The portion of school district compensation value that 43864~~

~~was exempted from taxation for the preceding tax year under such 43865
an ordinance or resolution, if the ordinance or resolution is 43866
adopted prior to January 1, 2006, and if service payments have 43867
been pledged to be used for mixed use riverfront entertainment 43868
development in any county with a population that exceeds six 43869
hundred thousand, as shown by the most recent federal decennial 43870
census; 43871~~

~~(h) The portion of school district compensation value that 43872
was exempted from taxation for the preceding tax year under such 43873
an ordinance or resolution, if, prior to January 1, 2006, the 43874
legislative authority of a municipal corporation, board of 43875
township trustees, or board of county commissioners has pledged 43876
service payments for a designated transportation capacity project 43877
approved by the transportation review advisory council under 43878
Chapter 5512. of the Revised Code; 43879~~

~~(i) The portion of school district compensation value that 43880
was exempted from taxation for the preceding tax year under such 43881
an ordinance or resolution if the legislative authority of a 43882
municipal corporation, board of township trustees, or board of 43883
county commissioners have, by January 1, 2006, pledged proceeds 43884
for designated transportation improvement projects that involve 43885
federal funds for which the proceeds are used to meet a local 43886
share match requirement for such funding. 43887~~

~~As used in division (A)(6) of this section, "project" has the 43888
same meaning as in section 5709.40 of the Revised Code. 43889~~

~~(7) The aggregate value of real property in the school 43890
district for which an exemption from taxation is granted by an 43891
ordinance or resolution adopted on or after January 1, 2006, under 43892
Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 43893
5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised 43894
Code, as indicated on the list of exempted property for the 43895
preceding tax year under section 5713.08 of the Revised Code and 43896~~

~~as if such property had been assessed for taxation that year, 43897
minus the product determined by multiplying (a) the aggregate 43898
value of the real property in the school district exempted from 43899
taxation for the preceding tax year under any of the chapters or 43900
sections specified in this division, by (b) a fraction, the 43901
numerator of which is the difference between (i) the amount of 43902
anticipated revenue such school district would have received for 43903
the preceding tax year if the real property exempted from taxation 43904
had not been exempted from taxation and (ii) the aggregate amount 43905
of payments in lieu of taxes on the exempt real property for the 43906
preceding tax year and other compensation received for the 43907
preceding tax year by the school district pursuant to any 43908
agreements entered into on or after January 1, 2006, under section 43909
5709.82 of the Revised Code between the school district and the 43910
legislative authority of a political subdivision that acted under 43911
the authority of a chapter or statute specified in this division, 43912
that were entered into in relation to such exemption, and the 43913
denominator of which is the amount of anticipated revenue such 43914
school district would have received in the preceding fiscal year 43915
if the real property exempted from taxation had not been exempted.~~ 43916

(B) On or before the first day of May each year, the tax 43917
commissioner shall certify to the department of education and the 43918
office of budget and management the total taxable real property 43919
value of railroads and, separately, the total taxable tangible 43920
personal property value of all public utilities for the preceding 43921
tax year, by school district and by county of location. 43922

(C) If a public utility has properly and timely filed a 43923
petition for reassessment under section 5727.47 of the Revised 43924
Code with respect to an assessment issued under section 5727.23 of 43925
the Revised Code affecting taxable property apportioned by the tax 43926
commissioner to a school district, the taxable value of public 43927
utility tangible personal property included in the certification 43928

under divisions (A)(2) and (B) of this section for the school 43929
district shall include only the amount of taxable value on the 43930
basis of which the public utility paid tax for the preceding year 43931
as provided in division (B)(1) or (2) of section 5727.47 of the 43932
Revised Code. 43933

(D) If on the basis of the information certified under 43934
division (A) of this section, the department determines that any 43935
district fails in any year to meet the qualification requirement 43936
specified in division (A) of section 3317.01 of the Revised Code, 43937
the department shall immediately request the tax commissioner to 43938
determine the extent to which any school district income tax 43939
levied by the district under Chapter 5748. of the Revised Code 43940
shall be included in meeting that requirement. Within five days of 43941
receiving such a request from the department, the tax commissioner 43942
shall make the determination required by this division and report 43943
the quotient obtained under division (D)(3) of this section to the 43944
department and the office of budget and management. This quotient 43945
represents the number of mills that the department shall include 43946
in determining whether the district meets the qualification 43947
requirement of division (A) of section 3317.01 of the Revised 43948
Code. 43949

The tax commissioner shall make the determination required by 43950
this division as follows: 43951

(1) Multiply one mill times the total taxable value of the 43952
district as determined in divisions (A)(1) and (2) of this 43953
section; 43954

(2) Estimate the total amount of tax liability for the 43955
current tax year under taxes levied by Chapter 5748. of the 43956
Revised Code that are apportioned to current operating expenses of 43957
the district, excluding any income tax receipts allocated for the 43958
project cost, debt service, or maintenance set-aside associated 43959
with a state-assisted classroom facilities project as authorized 43960

by section 3318.052 of the Revised Code; 43961

(3) Divide the amount estimated under division (D)(2) of this 43962
section by the product obtained under division (D)(1) of this 43963
section. 43964

~~(E)(1) On or before June 1, 2006, and the first day of April 43965
of each year thereafter, the director of development shall report 43966
to the department of education, the tax commissioner, and the 43967
director of budget and management the total amounts of payments 43968
received by each city, local, exempted village, or joint 43969
vocational school district for the preceding tax year pursuant to 43970
division (D) of section 5709.40, division (D) of section 5709.73, 43971
division (C) of section 5709.78, or division (B)(1), (B)(2), (C), 43972
or (D) of section 5709.82 of the Revised Code in relation to 43973
exemptions from taxation granted pursuant to an ordinance adopted 43974
by the legislative authority of a municipal corporation under 43975
division (C) of section 5709.40 of the Revised Code, or a 43976
resolution adopted by a board of township trustees or board of 43977
county commissioners under division (C) of section 5709.73 or 43978
division (B) of section 5709.78 of the Revised Code, respectively. 43979
On or before April 1, 2006, and the first day of March of each 43980
year thereafter, the treasurer of each city, local, exempted 43981
village, or joint vocational school district that has entered into 43982
such an agreement shall report to the director of development the 43983
total amounts of such payments the district received for the 43984
preceding tax year as provided in this section. The state board of 43985
education, in accordance with sections 3319.31 and 3319.311 of the 43986
Revised Code, may suspend or revoke the license of a treasurer 43987
found to have willfully reported erroneous, inaccurate, or 43988
incomplete data under this division. 43989~~

~~(2) On or before April 1, 2007, and the first day of April of 43990
each year thereafter, the director of development shall report to 43991
the department of education, the tax commissioner, and the 43992~~

~~director of budget and management the total amounts of payments 43993
received by each city, local, exempted village, or joint 43994
vocational school district for the preceding tax year pursuant to 43995
divisions (B), (C), and (D) of section 5709.82 of the Revised Code 43996
in relation to exemptions from taxation granted pursuant to 43997
ordinances or resolutions adopted on or after January 1, 2006, 43998
under Chapter 725. or 1728., sections 3735.65 to 3735.70, or 43999
section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the 44000
Revised Code. On or before March 1, 2007, and the first day of 44001
March of each year thereafter, the treasurer of each city, local, 44002
exempted village, or joint vocational school district that has 44003
entered into such an agreement shall report to the director of 44004
development the total amounts of such payments the district 44005
received for the preceding tax year as provided by this section. 44006
The state board of education, in accordance with sections 3319.31 44007
and 3319.311 of the Revised Code, may suspend or revoke the 44008
license of a treasurer found to have willfully reported erroneous, 44009
inaccurate, or incomplete data under this division. 44010~~

Sec. 3317.022. (A) The department of education shall compute 44011
and distribute state core foundation funding to each eligible 44012
school district for the fiscal year, using the information 44013
obtained under section 3317.021 of the Revised Code in the 44014
calendar year in which the fiscal year begins, as prescribed in 44015
the following divisions: 44016

(1) An opportunity grant calculated according to the 44017
following formula: 44018

The formula amount X formula ADM X the district's state share 44019
index 44020

(2) Targeted assistance funds calculated under divisions (A) 44021
and (B) of section 3317.0217 of the Revised Code; 44022

(3) Additional state aid for special education and related 44023

<u>services provided under Chapter 3323. of the Revised Code</u>	44024
<u>calculated according to the following formula:</u>	44025
<u>The formula amount X the district's total special education</u>	44026
<u>weight X the district's state share index</u>	44027
<u>(4) Kindergarten through third grade literacy funds</u>	44028
<u>calculated according to the following formula:</u>	44029
<u>(\$300, in fiscal year 2014, or \$303, in fiscal year 2015) X</u>	44030
<u>formula ADM for grades kindergarten through three X the district's</u>	44031
<u>state share index</u>	44032
<u>(5) Economically disadvantaged funds calculated according to</u>	44033
<u>the following formula:</u>	44034
<u>(\$340, in fiscal year 2014, or \$343, in fiscal year 2015) X</u>	44035
<u>(the district's economically disadvantaged index) X the number of</u>	44036
<u>students who are economically disadvantaged as reported under</u>	44037
<u>division (B)(21) of section 3317.03 of the Revised Code</u>	44038
<u>(6) Limited English proficiency funds calculated as the sum</u>	44039
<u>of the following:</u>	44040
<u>(a) The district's category one limited English proficient</u>	44041
<u>ADM X the amount specified in division (A) of section 3317.016 of</u>	44042
<u>the Revised Code X the district's state share index;</u>	44043
<u>(b) The district's category two limited English proficient</u>	44044
<u>ADM X the amount specified in division (B) of section 3317.016 of</u>	44045
<u>the Revised Code X the district's state share index;</u>	44046
<u>(c) The district's category three limited English proficient</u>	44047
<u>ADM X the amount specified in division (C) of section 3317.016 of</u>	44048
<u>the Revised Code X the district's state share index.</u>	44049
<u>(7) Gifted identification funds calculated according to the</u>	44050
<u>following formula:</u>	44051
<u>(\$5, in fiscal year 2014, or \$5.05, in fiscal year 2015) X the</u>	44052
<u>district's formula ADM</u>	44053

(8) Career-technical education funds calculated according to 44054
the following formula: 44055

The formula amount X the district's total career-technical 44056
education weight X the district's state share index 44057

Payment of funds under division (A)(8) of this section is 44058
subject to approval under section 3317.161 of the Revised Code. 44059

(9) Career-technical education associated services funds 44060
calculated according to the following formula: 44061

The district's state share index X 0.05 X the formula 44062
amount X the sum of categories one through five career-technical 44063
education ADM 44064

(B) In any fiscal year, a school district shall spend for 44065
purposes that the department designates as approved for special 44066
education and related services expenses at least the amount 44067
calculated as follows: 44068

(The formula amount X the total special education ADM) + 44069
(the formula amount X the district's total special education 44070
weight) 44071

The purposes approved by the department for special education 44072
expenses shall include, but shall not be limited to, 44073
identification of children with disabilities, compliance with 44074
state rules governing the education of children with disabilities 44075
and prescribing the continuum of program options for children with 44076
disabilities, provision of speech language pathology services, and 44077
the portion of the school district's overall administrative and 44078
overhead costs that are attributable to the district's special 44079
education student population. 44080

The scholarships deducted from the school district's account 44081
under sections 3310.41 and 3310.55 of the Revised Code shall be 44082
considered to be an approved special education and related 44083
services expense for the purpose of the school district's 44084

compliance with this division. 44085

(C) In any fiscal year, a school district receiving funds 44086
under division (A)(8) of this section shall spend those funds only 44087
for the purposes that the department designates as approved for 44088
career-technical education expenses. Career-technical educational 44089
expenses approved by the department shall include only expenses 44090
connected to the delivery of career-technical programming to 44091
career-technical students. The department shall require the school 44092
district to report data annually so that the department may 44093
monitor the district's compliance with the requirements regarding 44094
the manner in which funding received under division (A)(8) of this 44095
section may be spent. 44096

(D) In any fiscal year, a school district receiving funds 44097
under division (A)(9) of this section, or through a transfer of 44098
funds pursuant to division (I) of section 3317.023 of the Revised 44099
Code, shall spend those funds only for the purposes that the 44100
department designates as approved for career-technical education 44101
associated services expenses, which may include such purposes as 44102
apprenticeship coordinators, coordinators for other 44103
career-technical education services, career-technical evaluation, 44104
and other purposes designated by the department. The department 44105
may deny payment under division (A)(9) of this section to any 44106
district that the department determines is not operating those 44107
services or is using funds paid under division (A)(9) of this 44108
section, or through a transfer of funds pursuant to division (I) 44109
of section 3317.023 of the Revised Code, for other purposes. 44110

(E) All funds received under division (A)(8) of this section 44111
by either a comprehensive single-district career-technical 44112
planning district or a school district that is a party to a 44113
career-technical educational compact shall be spent in the 44114
following manner: 44115

(1) At least seventy-five per cent of the funds shall be 44116

spent on curriculum development, purchase, and implementation; 44117
instructional resources and supplies; industry-based program 44118
certification; student assessment, credentialing, and placement; 44119
curriculum specific equipment purchases and leases; 44120
career-technical student organization fees and expenses; home and 44121
agency linkages; work-based learning experiences; professional 44122
development; and other costs directly associated with 44123
career-technical education programs including development of new 44124
programs. 44125

(2) Not more than twenty-five per cent of the funds shall be 44126
used for personnel expenditures. 44127

Sec. 3317.023. (A) The amounts required to be paid to a 44128
district under this chapter shall be adjusted by the amount of the 44129
computations made under divisions (B) to (K) of this section. 44130

As used in this section: 44131

(1) "~~VEPD~~ CTPD" means a school district or group of school 44132
districts designated by the department of education as being 44133
responsible for the planning for and provision of ~~vocational~~ 44134
career-technical education services to students within the 44135
district or group. 44136

(2) "Lead district" means a school district, including a 44137
joint vocational school district, designated by the department as 44138
a ~~VEPD~~ CTPD, or designated to provide primary ~~vocational~~ 44139
career-technical education leadership within a ~~VEPD~~ CTPD composed 44140
of a group of districts. 44141

(B) If a local ~~school district, or a~~ city, or exempted 44142
village school district to which a governing board of an 44143
educational service center provides services pursuant to an 44144
agreement entered into under section 3313.843 of the Revised Code, 44145
deduct the amount of the payment required for the reimbursement of 44146

the governing board under ~~section 3317.11 of the Revised Code~~ the 44147
agreement. 44148

(C)(1) If the district is required to pay to or entitled to 44149
receive tuition from another school district under division (C)(2) 44150
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 44151
or if the superintendent of public instruction is required to 44152
determine the correct amount of tuition and make a deduction or 44153
credit under section 3317.08 of the Revised Code, deduct and 44154
credit such amounts as provided in division (J) of section 3313.64 44155
or section 3317.08 of the Revised Code. 44156

(2) For each child for whom the district is responsible for 44157
tuition or payment under division (A)(1) of section 3317.082 or 44158
section 3323.091 of the Revised Code, deduct the amount of tuition 44159
or payment for which the district is responsible. 44160

(D) If the district has been certified by the superintendent 44161
of public instruction under section 3313.90 of the Revised Code as 44162
not in compliance with the requirements of that section, deduct an 44163
amount equal to ten per cent of the amount computed for the 44164
district under this chapter. 44165

(E) If the district has received a loan from a commercial 44166
lending institution for which payments are made by the 44167
superintendent of public instruction pursuant to division (E)(3) 44168
of section 3313.483 of the Revised Code, deduct an amount equal to 44169
such payments. 44170

(F)(1) If the district is a party to an agreement entered 44171
into under division (D), (E), or (F) of section 3311.06 or 44172
division (B) of section 3311.24 of the Revised Code and is 44173
obligated to make payments to another district under such an 44174
agreement, deduct an amount equal to such payments if the district 44175
school board notifies the department in writing that it wishes to 44176
have such payments deducted. 44177

(2) If the district is entitled to receive payments from 44178
another district that has notified the department to deduct such 44179
payments under division (F)(1) of this section, add the amount of 44180
such payments. 44181

(G) If the district is required to pay an amount of funds to 44182
a cooperative education district pursuant to a provision described 44183
by division (B)(4) of section 3311.52 or division (B)(8) of 44184
section 3311.521 of the Revised Code, deduct such amounts as 44185
provided under that provision and credit those amounts to the 44186
cooperative education district for payment to the district under 44187
division (B)(1) of section 3317.19 of the Revised Code. 44188

(H)(1) If a district is educating a student entitled to 44189
attend school in another district pursuant to a shared education 44190
contract, compact, or cooperative education agreement other than 44191
an agreement entered into pursuant to section 3313.842 of the 44192
Revised Code, credit to that educating district on an FTE basis 44193
both of the following: 44194

(a) An amount equal to the formula amount. 44195

(b) An amount equal to ~~\$5,732~~ the formula amount times the 44196
state share ~~percentage index~~ times any multiple applicable to the 44197
student ~~for fiscal year 2009~~ pursuant to section 3317.013 ~~or~~ 44198
~~3317.014~~ of the Revised Code, ~~as those sections existed for that~~ 44199
~~fiscal year.~~ 44200

(2) Deduct any amount credited pursuant to division (H)(1) of 44201
this section from amounts paid to the school district in which the 44202
student is entitled to attend school pursuant to section 3313.64 44203
or 3313.65 of the Revised Code. 44204

(3) If the district is required by a shared education 44205
contract, compact, or cooperative education agreement to make 44206
payments to an educational service center, deduct the amounts from 44207
payments to the district and add them to the amounts paid to the 44208

service center pursuant to section 3317.11 of the Revised Code. 44209

(I)(1) If a district, including a joint vocational school 44210
district, is a lead district of a ~~VEPD~~ CTPD, credit to that 44211
district the following ~~amounts~~ amount calculated for ~~all the~~ each 44212
school ~~districts~~ district within that ~~VEPD~~ CTPD: 44213

~~(a) In any fiscal year except fiscal year 2012 or 2013, the~~ 44214
~~amount computed under division (D)(2) of section 3317.022 of the~~ 44215
~~Revised Code;~~ 44216

~~(b) In fiscal years 2012 and 2013, an amount equal to the~~ 44217
~~following:~~ 44218

state share ~~percentage~~ index X .05 X ~~\$5,732~~ the formula amount X 44219
the sum of categories one 44220
~~and two vocational~~ through five career-technical education ADM 44221

(2) Deduct from each appropriate district that is not a lead 44222
district, the amount attributable to that district that is 44223
credited to a lead district under division (I)(1) of this section. 44224

(J) If the department pays a joint vocational school district 44225
under division ~~(G)(4)(C)(3)~~ of section 3317.16 of the Revised Code 44226
for excess costs of providing special education and related 44227
services to a student with a disability, as calculated under 44228
division ~~(G)(2)(C)(1)~~ of that section, the department shall deduct 44229
the amount of that payment from the city, local, or exempted 44230
village school district that is responsible as specified in that 44231
section for the excess costs. 44232

(K)(1) If the district reports an amount of excess cost for 44233
special education services for a child under division (C) of 44234
section 3323.14 of the Revised Code, the department shall pay that 44235
amount to the district. 44236

(2) If the district reports an amount of excess cost for 44237
special education services for a child under division (C) of 44238
section 3323.14 of the Revised Code, the department shall deduct 44239

that amount from the district of residence of that child. 44240

~~Sec. 3317.0212. The department of education shall make no 44241
payments under this section for fiscal year 2012 or 2013. 44242~~

(A) As used in this section: 44243

~~(1) "Assigned bus" means a school bus used to transport 44244
qualifying riders. 44245~~

~~(2) "Nontraditional ridership" means the average number of 44246
qualifying riders who are enrolled in a community school 44247
established under Chapter 3314. of the Revised Code, in a STEM 44248
school established under Chapter 3326. of the Revised Code, or in 44249
a nonpublic school and are provided school bus service by a school 44250
district during the first full week of October. 44251~~

~~(3) "Qualifying riders" means resident students enrolled in 44252
regular education in grades kindergarten to twelve who are 44253
provided school bus service by a school district and who live more 44254
than one mile from the school they attend, including students with 44255
dual enrollment in a joint vocational school district or a 44256
cooperative education school district, and students enrolled in a 44257
community school, STEM school, or nonpublic school. 44258~~

~~(4)(2) "Qualifying ridership" means the average number of 44259
qualifying riders who are provided school bus service by a school 44260
district during the first full week of October. 44261~~

~~(5)(3) "Rider density" means the number of qualifying riders 44262
per square mile of a school district. 44263~~

~~(6)(4) "School bus service" means a school district's 44264
transportation of qualifying riders in any of the following types 44265
of vehicles: 44266~~

~~(a) School buses owned or leased by the district; 44267~~

~~(b) School buses operated by a private contractor hired by 44268~~

the district; 44269

(c) School buses operated by another school district or 44270
entity with which the district has contracted, either as part of a 44271
consortium for the provision of transportation or otherwise. 44272

(B) Not later than the fifteenth day of October each year, 44273
each city, local, and exempted village school district shall 44274
report to the department of education its qualifying ridership, 44275
~~nontraditional ridership, number of qualifying riders per assigned~~ 44276
~~bus,~~ and any other information requested by the department. 44277
Subsequent adjustments to the reported numbers shall be made only 44278
in accordance with rules adopted by the department. 44279

(C) The department shall calculate the statewide 44280
transportation cost per student as follows: 44281

(1) Determine each city, local, and exempted village school 44282
district's transportation cost per student by dividing the 44283
district's total costs for school bus service in the previous 44284
fiscal year by its qualifying ridership in the previous fiscal 44285
year. 44286

(2) After excluding districts that do not provide school bus 44287
service and the ten districts with the highest transportation 44288
costs per student and the ten districts with the lowest 44289
transportation costs per student, divide the aggregate cost for 44290
school bus service for the remaining districts in the previous 44291
fiscal year by the aggregate qualifying ridership of those 44292
districts in the previous fiscal year. 44293

(D) The department shall calculate the statewide 44294
transportation cost per mile as follows: 44295

(1) Determine each city, local, and exempted village school 44296
district's transportation cost per mile by dividing the district's 44297
total costs for school bus service in the previous fiscal year by 44298
its total number of miles driven for school bus service in the 44299

previous fiscal year. 44300

(2) After excluding districts that do not provide school bus 44301
service and the ten districts with the highest transportation 44302
costs per mile and the ten districts with the lowest 44303
transportation costs per mile, divide the aggregate cost for 44304
school bus service for the remaining districts in the previous 44305
fiscal year by the aggregate miles driven for school bus service 44306
in those districts in the previous fiscal year. 44307

(E) The department shall calculate each city, local, and 44308
exempted village school district's transportation base payment as 44309
follows: 44310

(1) Multiply the statewide transportation cost per student by 44311
the district's qualifying ridership for the current fiscal year. 44312

(2) Multiply the statewide transportation cost per mile by 44313
the district's total number of miles driven for school bus service 44314
in the current fiscal year. 44315

(3) Multiply the greater of the amounts calculated under 44316
divisions (E)(1) and (2) of this section by the greater of sixty 44317
per cent or the district's state share percentage index, as 44318
defined in section 3317.02 of the Revised Code. 44319

~~(F) The department shall calculate each city, local, and 44320
exempted village school district's nontraditional ridership 44321
adjustment according to the following formula: 44322~~

~~(nontraditional ridership for the current fiscal year / 44323
qualifying ridership for the current fiscal year) X 0.1 X 44324
transportation base payment 44325~~

~~(G) If a city, local, or exempted village school district 44326
offers school bus service to all resident students who are 44327
enrolled in regular education in district schools in grades nine 44328
to twelve and who live more than one mile from the school they 44329
attend, the department shall calculate the district's high school 44330~~

~~ridership adjustment according to the following formula:~~ 44331
~~0.025 X transportation base payment~~ 44332

~~(H) If a city, local, or exempted village school district~~ 44333
~~offers school bus service to students enrolled in grades~~ 44334
~~kindergarten to eight who live more than one mile, but two miles~~ 44335
~~or less, from the school they attend, the department shall~~ 44336
~~calculate an additional adjustment according to the following~~ 44337
~~formula:~~ 44338

~~0.025 X transportation base payment~~ 44339

~~(I)(1) The department annually shall establish a target~~ 44340
~~number of qualifying riders per assigned bus for each city, local,~~ 44341
~~and exempted village school district. The department shall use the~~ 44342
~~most recently available data in establishing the target number.~~ 44343
~~The target number shall be based on the statewide median number of~~ 44344
~~qualifying riders per assigned bus as adjusted to reflect the~~ 44345
~~district's rider density in comparison to the rider density of all~~ 44346
~~other districts. The department shall post on the department's web~~ 44347
~~site each district's target number of qualifying riders per~~ 44348
~~assigned bus and a description of how the target number was~~ 44349
~~determined.~~ 44350

~~(2) The department shall determine each school district's~~ 44351
~~efficiency index by dividing the district's median number of~~ 44352
~~qualifying riders per assigned bus by its target number of~~ 44353
~~qualifying riders per assigned bus.~~ 44354

~~(3) The department shall determine each city, local, and~~ 44355
~~exempted village school district's efficiency adjustment as~~ 44356
~~follows:~~ 44357

~~(a) If the district's efficiency index is equal to or greater~~ 44358
~~than 1.5, the efficiency adjustment shall be calculated according~~ 44359
~~to the following formula:~~ 44360

~~0.1 X transportation base payment~~ 44361

~~(b) If the district's efficiency index is less than 1.5 but
equal to or greater than 1.0, the efficiency adjustment shall be
calculated according to the following formula:~~

~~$$\{(\text{efficiency index} - 1) / 5\} \times \text{transportation base payment}$$~~

~~(c) If the district's efficiency index is less than 1.0, the
efficiency adjustment shall be zero.~~

~~(J) The department shall pay each city, local, and exempted
village school district the lesser of the following:~~

~~(1) The sum of the amounts calculated under divisions (E) to
(H) and (I)(3) of this section;~~

~~(2) The district's total costs for school bus service for the
prior fiscal year.~~

~~(K) In addition to funds paid under division (J)(E) of this
section, each city, local, and exempted village district shall
receive in accordance with rules adopted by the state board of
education a payment for students transported by means other than
school bus service and whose transportation is not funded under
division (C) of section 3317.024 of the Revised Code. The rules
shall include provisions for school district reporting of such
students.~~

(G)(1) In fiscal years 2014 and 2015, the department shall
pay each district a pro rata portion of the amounts calculated
under division (E) of this section and described in division (F)
of this section, based on state appropriations.

(2) In addition to the prorated payment under division (G)(1)
of this section, in fiscal years 2014 and 2015, the department
shall pay each school district that meets the conditions
prescribed in division (G)(3) of this section an additional amount
equal to the difference of (a) the amounts calculated under
division (E) of this section and prescribed in division (F) of
this section minus (b) that prorated payment.

(3) Division (G)(2) of this section applies to each school district that meets all of the following conditions: 44393
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(a) The district qualifies for the calculation of a payment under division (E) of this section because it transports students on board-owned or contractor-owned school buses. 44395
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(b) The district's state share index is greater than or equal to 0.50. 44398
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(c) The district's rider density is at or below the median rider density of all districts that qualify for calculation of a payment under division (E) of this section. 44400
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44402

(H) Each city, local, and exempted village school district shall report all data used to calculate funding for transportation under this section through the education management information system pursuant to section 3301.0714 of the Revised Code. 44403
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Sec. 3317.0213. (A) The department of education shall compute and pay to each school district in accordance with this section additional state aid for preschool special education children to each city, local, and exempted village school district and to each institution, as defined in section 3323.091 of the Revised Code. Funding shall be provided for children who are not enrolled in kindergarten and who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year. 44407
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The additional state aid shall be calculated under the following formula: 44419
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(\$4,000 X the number of preschool special education children) 44421
+ the sum of the following: 44422

(1) The district's or institution's category one special 44423
education preschool students X the amount specified in division 44424
(A) of section 3317.013 of the Revised Code X the district's state 44425
share index X 0.50; 44426

(2) The district's or institution's category two special 44427
education preschool students X the amount specified in division 44428
(B) of section 3317.013 of the Revised Code X the district's state 44429
share index X 0.50; 44430

(3) The district's or institution's category three special 44431
education preschool students X the amount specified in division 44432
(C) of section 3317.013 of the Revised Code X the district's state 44433
share index X 0.50; 44434

(4) The district's or institution's category four special 44435
education preschool students X the amount specified in division 44436
(D) of section 3317.013 of the Revised Code X the district's state 44437
share index X 0.50; 44438

(5) The district's or institution's category five special 44439
education preschool students X the amount specified in division 44440
(E) of section 3317.013 of the Revised Code X the district's state 44441
share index X 0.50; 44442

(6) The district's or institution's category six special 44443
education preschool students X the amount specified in division 44444
(F) of section 3317.013 of the Revised Code X the district's state 44445
share index X 0.50. 44446

The special education disability categories for preschool 44447
children used in this section are the same categories prescribed 44448
in section 3317.013 of the Revised Code. 44449

As used in division (A) of this section, the state share 44450
index of a student enrolled in an institution is the state share 44451
index of the school district in which the student is entitled to 44452
attend school under section 3313.64 or 3313.65 of the Revised 44453

Code. 44454

(B) If an education service center is providing services to preschool special education students under agreement with the city, local, or exempted village school district in which the students are entitled to attend school, that district may authorize the department to transfer funds computed under this section to the service center providing those services. 44455
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(C)(1) If a county DD board is providing services to preschool special education students under agreement with the city, local, or exempted village school district in which the students are entitled to attend school, the department shall deduct from the district's payment computed under division (A) of this section the total amount of those funds that are attributable to the students served by the county DD board and pay that amount to that board. 44461
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(2) In addition, for any fiscal year, no county DD board shall receive in total funding an amount that is less than what it received for the previous fiscal year, as determined by the department. If necessary, the department shall increase the state payment to a county DD board to comply with division (C)(2) of this section. 44469
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Sec. 3317.0214. (A) The department shall compute and pay in accordance with this section additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the 44475
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department shall pay to the district an amount equal to the sum of 44485
the following: 44486

(1) One-half of the district's costs for the student in 44487
excess of the threshold catastrophic cost; 44488

(2) The product of one-half of the district's costs for the 44489
student in excess of the threshold catastrophic cost multiplied by 44490
the district's state share index. 44491

(B) For purposes of division (A) of this section, the 44492
threshold catastrophic cost for serving a student equals: 44493

(1) For a student in the school district's category two, 44494
three, four, or five special education ADM, twenty-seven thousand 44495
three hundred seventy-five dollars; 44496

(2) For a student in the district's category six special 44497
education ADM, thirty-two thousand eight hundred fifty dollars. 44498

(C) The district shall report under division (A) of this 44499
section, and the department shall pay for, only the costs of 44500
educational expenses and the related services provided to the 44501
student in accordance with the student's individualized education 44502
program. Any legal fees, court costs, or other costs associated 44503
with any cause of action relating to the student may not be 44504
included in the amount. 44505

Sec. 3317.0217. Payment of the amount calculated for a school 44506
district under this section shall be made under division (A) of 44507
section 3317.022 of the Revised Code. 44508

(A) The department of education shall annually compute 44509
targeted assistance funds to school districts, as follows: 44510

(1) Calculate the local wealth per pupil of each school 44511
district, which equals the following sum: 44512

(a) One-half times the quotient of (i) the district's 44513

three-year average valuation divided by (ii) its formula ADM; plus 44514

(b) One-half times the quotient of (i) the average of the 44515
total federal adjusted gross income of the school district's 44516
residents for the three years most recently reported under section 44517
3317.021 of the Revised Code divided by (ii) its formula ADM. 44518

(2) Rank all school districts in order of local wealth per 44519
pupil, from the district with the lowest local wealth per pupil to 44520
the district with the highest local wealth per pupil. 44521

(3) Compute the statewide wealth per pupil, which equals the 44522
following sum: 44523

(a) One-half times the quotient of (i) the sum of the 44524
three-year average valuations for all school districts divided by 44525
(ii) the sum of formula ADM counts for all schools districts; plus 44526

(b) One-half times the quotient of (i) the sum of the 44527
three-year average total federal adjusted gross incomes for all 44528
school districts divided by (ii) the sum of formula ADM counts for 44529
all school districts. 44530

(4) Compute each district's wealth index by dividing the 44531
statewide wealth per pupil by the district's local wealth per 44532
pupil. 44533

(5) Compute the per pupil targeted assistance for each 44534
eligible school district in accordance with the following formula: 44535

(Threshold local wealth per pupil - the district's local wealth 44536
per pupil) 44537

X target millage X the district's wealth index 44538

Where: 44539

(a) An "eligible school district" means a school district 44540
with a local wealth per pupil less than that of the school 44541
district with the 490th lowest local wealth per pupil. 44542

(b) "Threshold local wealth per pupil" means the local wealth 44543

per pupil of the school district with the 490th lowest local 44544
wealth per pupil. 44545

(c) "Target millage" means 0.006. 44546

If the result of the calculation for a school district under 44547
division (A)(5) of this section is less than zero, the district's 44548
targeted assistance shall be zero. 44549

(6) Calculate the aggregate amount to be paid as targeted 44550
assistance funds to each school district under division (A) of 44551
section 3317.022 of the Revised Code by multiplying the per pupil 44552
targeted assistance computed under division (A)(5) of this section 44553
by the district's net formula ADM. 44554

As used in this division, a district's "net formula ADM" 44555
means its formula ADM minus both the number of internet- and 44556
computer-based community school students reported under division 44557
(B)(3)(e) of section 3317.03 of the Revised Code and scholarship 44558
students reported under divisions (B)(3)(f) and (g) of that 44559
section. 44560

(B) The department shall annually compute supplemental 44561
targeted assistance funds to school districts, as follows: 44562

(1) Compute each district's agricultural percentage as the 44563
quotient of (a) the three-year average tax valuation of real 44564
property in the district that is classified as agricultural 44565
property divided by (b) the three-year average tax valuation of 44566
all of the real property in the district. For purposes of this 44567
computation, a district's "three-year average tax valuation" means 44568
the average of a district's tax valuation for fiscal years 2012, 44569
2013, and 2014. 44570

(2) Determine each district's agricultural targeted 44571
percentage as follows: 44572

(a) If a district's agricultural percentage is greater than 44573

or equal to 0.10, then the district's agricultural targeted 44574
percentage shall be equal to 0.40. 44575

(b) If a district's agricultural percentage is less than 44576
0.10, then the district's agricultural targeted percentage shall 44577
be equal to 4 X the district's agricultural percentage. 44578

(3) Calculate the aggregate amount to be paid as supplemental 44579
targeted assistance funds to each school district under division 44580
(A) of section 3317.022 of the Revised Code by multiplying the 44581
district's agricultural targeted percentage by the amount 44582
calculated for the district under division (A)(6) of this section. 44583

Sec. 3317.03. (A) The superintendent of each city, local, and 44584
exempted village school district and of each educational service 44585
center shall, for the schools under the superintendent's 44586
supervision, certify to the state board of education on or before 44587
the fifteenth day of ~~October~~ in each year month for the first full 44588
school week ~~in October~~ of that month the average daily membership 44589
of students receiving services from schools under the 44590
superintendent's supervision, and the numbers of other students 44591
entitled to attend school in the district under section 3313.64 or 44592
3313.65 of the Revised Code the superintendent is required to 44593
report under this section, so that the department of education can 44594
calculate the district's formula ADM. If a school under the 44595
superintendent's supervision is closed for one or more days during 44596
~~that~~ a week for which the average daily membership must be 44597
certified due to hazardous weather conditions or other 44598
circumstances described in ~~the first paragraph of~~ division 44599
~~(B)~~(A)(1) of section ~~3317.01~~ 3313.482 of the Revised Code, the 44600
superintendent may apply to the superintendent of public 44601
instruction for a waiver, under which the superintendent of public 44602
instruction may exempt the district superintendent from certifying 44603
the average daily membership for that school for that week and 44604

specify an alternate week in the same month for certifying the 44605
average daily membership of that school. 44606

The average daily membership during ~~such a~~ week shall consist 44607
of the sum of the following: 44608

(1) On an FTE basis, the number of students in grades 44609
kindergarten through twelve receiving any educational services 44610
from the district, except that the following categories of 44611
students shall not be included in the determination: 44612

(a) Students enrolled in adult education classes; 44613

(b) Adjacent or other district students enrolled in the 44614
district under an open enrollment policy pursuant to section 44615
3313.98 of the Revised Code; 44616

(c) Students receiving services in the district pursuant to a 44617
compact, cooperative education agreement, or a contract, but who 44618
are entitled to attend school in another district pursuant to 44619
section 3313.64 or 3313.65 of the Revised Code; 44620

(d) Students for whom tuition is payable pursuant to sections 44621
3317.081 and 3323.141 of the Revised Code; 44622

(e) Students receiving services in the district through a 44623
scholarship awarded under either section 3310.41 or sections 44624
3310.51 to 3310.64 of the Revised Code. 44625

(2) On an FTE basis, the number of students entitled to 44626
attend school in the district pursuant to section 3313.64 or 44627
3313.65 of the Revised Code, but receiving educational services in 44628
grades kindergarten through twelve from one or more of the 44629
following entities: 44630

(a) A community school pursuant to Chapter 3314. of the 44631
Revised Code, including any participation in a college pursuant to 44632
Chapter 3365. of the Revised Code while enrolled in such community 44633
school; 44634

(b) An alternative school pursuant to sections 3313.974 to 44635
3313.979 of the Revised Code as described in division (I)(2)(a) or 44636
(b) of this section; 44637

(c) A college pursuant to Chapter 3365. of the Revised Code, 44638
except when the student is enrolled in the college while also 44639
enrolled in a community school pursuant to Chapter 3314. ~~or~~; a 44640
science, technology, engineering, and mathematics school 44641
established under Chapter 3326. of the Revised Code; 44642

(d) An adjacent or other school district under an open 44643
enrollment policy adopted pursuant to section 3313.98 of the 44644
Revised Code; 44645

(e) An educational service center or cooperative education 44646
district; 44647

(f) Another school district under a cooperative education 44648
agreement, compact, or contract; 44649

(g) A chartered nonpublic school with a scholarship paid 44650
under section 3310.08 of the Revised Code, if the students 44651
qualified for the scholarship under section 3310.03 of the Revised 44652
Code; 44653

(h) An alternative public provider or a registered private 44654
provider with a scholarship awarded under either section 3310.41 44655
or sections 3310.51 to 3310.64 of the Revised Code. 44656

As used in this section, "alternative public provider" and 44657
"registered private provider" have the same meanings as in section 44658
3310.41 or 3310.51 of the Revised Code, as applicable. 44659

(i) A science, technology, engineering, and mathematics 44660
school established under Chapter 3326. of the Revised Code, 44661
including any participation in a college pursuant to Chapter 3365. 44662
of the Revised Code while enrolled in the school; 44663

(j) A college-preparatory boarding school established under 44664

Chapter 3328. of the Revised Code. 44665

(3) The number of students enrolled in a joint vocational 44666
school district or under a ~~vocational~~ career-technical education 44667
compact, excluding any students entitled to attend school in the 44668
district under section 3313.64 or 3313.65 of the Revised Code who 44669
are enrolled in another school district through an open enrollment 44670
policy as reported under division (A)(2)(d) of this section and 44671
then enroll in a joint vocational school district or under a 44672
~~vocational~~ career-technical education compact+ 44673

~~(4) The number of children with disabilities, other than 44674
preschool children with disabilities, entitled to attend school in 44675
the district pursuant to section 3313.64 or 3313.65 of the Revised 44676
Code who are placed by the district with a county DD board, minus 44677
the number of such children placed with a county DD board in 44678
fiscal year 1998. If this calculation produces a negative number, 44679
the number reported under division (A)(4) of this section shall be 44680
zero. 44681~~

(B) To enable the department of education to obtain the data 44682
needed to complete the calculation of payments pursuant to this 44683
chapter, in addition to the average daily membership, each 44684
superintendent shall report separately the following student 44685
counts for the same ~~week~~ weeks for which average daily membership 44686
is certified: 44687

(1) The total average daily membership in regular learning 44688
day classes included in the report under division (A)(1) or (2) of 44689
this section for each of the individual grades kindergarten 44690
through twelve in schools under the superintendent's supervision; 44691

(2) The number of all preschool children with disabilities 44692
enrolled as of the first day of December in classes in the 44693
district ~~that are~~ for whom the district is eligible for approval 44694
to receive funding under ~~division (B) of section 3317.05~~ 3317.0213 44695

of the Revised Code and the number of those classes, which shall 44696
be reported not later than the fifteenth day of December, in 44697
accordance with ~~rules adopted under that~~ the disability categories 44698
prescribed in section 3317.013 of the Revised Code; 44699

(3) The number of children entitled to attend school in the 44700
district pursuant to section 3313.64 or 3313.65 of the Revised 44701
Code who are: 44702

(a) Participating in a pilot project scholarship program 44703
established under sections 3313.974 to 3313.979 of the Revised 44704
Code as described in division (I)(2)(a) or (b) of this section; 44705

(b) Enrolled in a college under Chapter 3365. of the Revised 44706
Code, except when the student is enrolled in the college while 44707
also enrolled in a community school pursuant to Chapter 3314. ~~or~~ 44708
a science, technology, engineering, and mathematics school 44709
established under Chapter 3326. of the Revised Code; 44710

(c) Enrolled in an adjacent or other school district under 44711
section 3313.98 of the Revised Code; 44712

(d) Enrolled in a community school established under Chapter 44713
3314. of the Revised Code that is not an internet- or 44714
computer-based community school as defined in section 3314.02 of 44715
the Revised Code, including any participation in a college 44716
pursuant to Chapter 3365. of the Revised Code while enrolled in 44717
such community school; 44718

(e) Enrolled in an internet- or computer-based community 44719
school, as defined in section 3314.02 of the Revised Code, 44720
including any participation in a college pursuant to Chapter 3365. 44721
of the Revised Code while enrolled in the school; 44722

(f) Enrolled in a chartered nonpublic school with a 44723
scholarship paid under section 3310.08 of the Revised Code and who 44724
qualified for the scholarship under section 3310.03 of the Revised 44725
Code; 44726

(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	44727 44728 44729
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	44730 44731 44732
(i) Participating in a program operated by a county DD board or a state institution;	44733 44734
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	44735 44736 44737 44738
(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code.	44739 44740
(4) The number of pupils enrolled in joint vocational schools;	44741 44742
(5) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;	44743 44744 44745 44746 44747 44748 44749 44750
(6) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described in division (B) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of	44751 44752 44753 44754 44755 44756 44757

the Revised Code; 44758

(7) The combined average daily membership of children with 44759
disabilities reported under division (A)(1) or (2) of this section 44760
receiving special education services for category three 44761
disabilities described in division (C) of section 3317.013 of the 44762
Revised Code, including children attending a special education 44763
program operated by an alternative public provider or a registered 44764
private provider with a scholarship awarded under sections 3310.51 44765
to 3310.64 of the Revised Code; 44766

(8) The combined average daily membership of children with 44767
disabilities reported under division (A)(1) or (2) of this section 44768
receiving special education services for category four 44769
disabilities described in division (D) of section 3317.013 of the 44770
Revised Code, including children attending a special education 44771
program operated by an alternative public provider or a registered 44772
private provider with a scholarship awarded under sections 3310.51 44773
to 3310.64 of the Revised Code; 44774

(9) The combined average daily membership of children with 44775
disabilities reported under division (A)(1) or (2) of this section 44776
receiving special education services for the category five 44777
disabilities described in division (E) of section 3317.013 of the 44778
Revised Code, including children attending a special education 44779
program operated by an alternative public provider or a registered 44780
private provider with a scholarship awarded under sections 3310.51 44781
to 3310.64 of the Revised Code; 44782

(10) The combined average daily membership of children with 44783
disabilities reported under division (A)(1) or (2) and under 44784
division (B)(3)(h) of this section receiving special education 44785
services for category six disabilities described in division (F) 44786
of section 3317.013 of the Revised Code, including children 44787
attending a special education program operated by an alternative 44788
public provider or a registered private provider with a 44789

scholarship awarded under either section 3310.41 or sections 44790
3310.51 to 3310.64 of the Revised Code; 44791

(11) The average daily membership of pupils reported under 44792
division (A)(1) or (2) of this section enrolled in category one 44793
~~vocational~~ career-technical education programs or classes, 44794
described in division (A) of section 3317.014 of the Revised Code, 44795
operated by the school district or by another district, ~~other than~~ 44796
including a joint vocational school district, or by an educational 44797
service center, excluding any student reported under division 44798
(B)(3)(e) of this section as enrolled in an internet- or 44799
computer-based community school, notwithstanding division ~~(C)(J)~~ 44800
of section 3317.02 of the Revised Code and division (C)(3) of this 44801
section; 44802

(12) The average daily membership of pupils reported under 44803
division (A)(1) or (2) of this section enrolled in category two 44804
~~vocational~~ career-technical education programs or services, 44805
described in division (B) of section 3317.014 of the Revised Code, 44806
operated by the school district or another school district, ~~other~~ 44807
~~than~~ including a joint vocational school district, or by an 44808
educational service center, excluding any student reported under 44809
division (B)(3)(e) of this section as enrolled in an internet- or 44810
computer-based community school, notwithstanding division ~~(C)(J)~~ 44811
of section 3317.02 of the Revised Code and division (C)(3) of this 44812
section; 44813

~~Beginning with fiscal year 2010, vocational education ADM 44814
shall not be used to calculate a district's funding but shall be 44815
reported under divisions (B)(11) and (12) of this section for 44816
statistical purposes. 44817~~

(13) The average daily membership of pupils reported under 44818
division (A)(1) or (2) of this section enrolled in category three 44819
career-technical education programs or services, described in 44820
division (C) of section 3317.014 of the Revised Code, operated by 44821

the school district or another school district, including a joint 44822
vocational school district, or by an educational service center, 44823
excluding any student reported under division (B)(3)(e) of this 44824
section as enrolled in an internet- or computer-based community 44825
school, notwithstanding division (C) of section 3317.02 of the 44826
Revised Code and division (C)(3) of this section; 44827

(14) The average daily membership of pupils reported under 44828
division (A)(1) or (2) of this section enrolled in category four 44829
career-technical education programs or services, described in 44830
division (D) of section 3317.014 of the Revised Code, operated by 44831
the school district or another school district, including a joint 44832
vocational school district, or by an educational service center, 44833
excluding any student reported under division (B)(3)(e) of this 44834
section as enrolled in an internet- or computer-based community 44835
school, notwithstanding division (C) of section 3317.02 of the 44836
Revised Code and division (C)(3) of this section; 44837

(15) The average daily membership of pupils reported under 44838
division (A)(1) or (2) of this section enrolled in category five 44839
career-technical education programs or services, described in 44840
division (E) of section 3317.014 of the Revised Code, operated by 44841
the school district or another school district, including a joint 44842
vocational school district, or by an educational service center, 44843
excluding any student reported under division (B)(3)(e) of this 44844
section as enrolled in an internet- or computer-based community 44845
school, notwithstanding division (C) of section 3317.02 of the 44846
Revised Code and division (C)(3) of this section; 44847

(16) The average daily membership of pupils reported under 44848
division (A)(1) or (2) of this section who are limited English 44849
proficient students described in division (A) of section 3317.016 44850
of the Revised Code; 44851

(17) The average daily membership of pupils reported under 44852
division (A)(1) or (2) of this section who are limited English 44853

<u>proficient students described in division (B) of section 3317.016</u>	44854
<u>of the Revised Code;</u>	44855
<u>(18) The average daily membership of pupils reported under</u>	44856
<u>division (A)(1) or (2) of this section who are limited English</u>	44857
<u>proficient students described in division (C) of section 3317.016</u>	44858
<u>of the Revised Code;</u>	44859
<u>(19) The average number of children transported by the school</u>	44860
<u>district on board-owned or contractor-owned and -operated buses,</u>	44861
<u>reported in accordance with rules adopted by the department of</u>	44862
<u>education;</u>	44863
(14) <u>(20)(a) The number of children, other than preschool</u>	44864
<u>children with disabilities, the district placed with a county DD</u>	44865
<u>board in fiscal year 1998+. Division (B)(20)(a) of this section</u>	44866
<u>does not apply after fiscal year 2013.</u>	44867
(b) The number of children with disabilities, other than	44868
preschool children with disabilities, placed with a county DD	44869
board in the current fiscal year to receive special education	44870
services for the category one disability described in division (A)	44871
of section 3317.013 of the Revised Code;	44872
(c) The number of children with disabilities, other than	44873
preschool children with disabilities, placed with a county DD	44874
board in the current fiscal year to receive special education	44875
services for category two disabilities described in division (B)	44876
of section 3317.013 of the Revised Code;	44877
(d) The number of children with disabilities, other than	44878
preschool children with disabilities, placed with a county DD	44879
board in the current fiscal year to receive special education	44880
services for category three disabilities described in division (C)	44881
of section 3317.013 of the Revised Code;	44882
(e) The number of children with disabilities, other than	44883
preschool children with disabilities, placed with a county DD	44884

board in the current fiscal year to receive special education 44885
services for category four disabilities described in division (D) 44886
of section 3317.013 of the Revised Code; 44887

(f) The number of children with disabilities, other than 44888
preschool children with disabilities, placed with a county DD 44889
board in the current fiscal year to receive special education 44890
services for the category five disabilities described in division 44891
(E) of section 3317.013 of the Revised Code; 44892

(g) The number of children with disabilities, other than 44893
preschool children with disabilities, placed with a county DD 44894
board in the current fiscal year to receive special education 44895
services for category six disabilities described in division (F) 44896
of section 3317.013 of the Revised Code. 44897

(21) The number of students who are economically 44898
disadvantaged, as defined by the department. A student shall not 44899
be categorically excluded from the number reported under division 44900
(B)(21) of this section based on anything other than family 44901
income. 44902

(C)(1) The average daily membership in divisions (B)(1) to 44903
(12) of this section shall be based upon the number of full-time 44904
equivalent students. The state board of education shall adopt 44905
rules defining full-time equivalent students and for determining 44906
the average daily membership therefrom for the purposes of 44907
divisions (A), (B), and (D) of this section. ~~Each student enrolled 44908~~
~~in kindergarten shall be counted as one full-time equivalent 44909~~
~~student regardless of whether the student is enrolled in a 44910~~
~~part-day or all-day kindergarten class. 44911~~

(2) A student enrolled in a community school established 44912
under Chapter 3314., a science, technology, engineering, and 44913
mathematics school established under Chapter 3326., or a 44914
college-preparatory boarding school established under Chapter 44915

3328. of the Revised Code shall be counted in the formula ADM and, 44916
if applicable, the category one, two, three, four, five, or six 44917
special education ADM of the school district in which the student 44918
is entitled to attend school under section 3313.64 or 3313.65 of 44919
the Revised Code for the same proportion of the school year that 44920
the student is counted in the enrollment of the community school, 44921
the science, technology, engineering, and mathematics school, or 44922
the college-preparatory boarding school for purposes of section 44923
3314.08, 3326.33, or 3328.24 of the Revised Code. Notwithstanding 44924
the number of students reported pursuant to division (B)(3)(d), 44925
(e), (j), or (k) of this section, the department may adjust the 44926
formula ADM of a school district to account for students entitled 44927
to attend school in the district under section 3313.64 or 3313.65 44928
of the Revised Code who are enrolled in a community school, a 44929
science, technology, engineering, and mathematics school, or a 44930
college-preparatory boarding school for only a portion of the 44931
school year. 44932

(3) No child shall be counted as more than a total of one 44933
child in the sum of the average daily memberships of a school 44934
district under division (A), divisions (B)(1) to ~~(12)~~(22), or 44935
division (D) of this section, except as follows: 44936

(a) A child with a disability described in section 3317.013 44937
of the Revised Code may be counted both in formula ADM and in 44938
category one, two, three, four, five, or six special education ADM 44939
and, if applicable, in category one or two ~~vocational~~ 44940
career-technical education ADM. As provided in division ~~(C)~~(J) of 44941
section 3317.02 of the Revised Code, such a child shall be counted 44942
in category one, two, three, four, five, or six special education 44943
ADM in the same proportion that the child is counted in formula 44944
ADM. 44945

(b) A child enrolled in ~~vocational~~ career-technical education 44946
programs or classes described in section 3317.014 of the Revised 44947

Code may be counted both in formula ADM and category one ~~or~~ two 44948
~~vocational, three, four, or five career-technical~~ education ADM 44949
and, if applicable, in category one, two, three, four, five, or 44950
six special education ADM. Such a child shall be counted in 44951
category one ~~or~~ two ~~vocational, three, four, or five~~ 44952
~~career-technical~~ education ADM in the same proportion as the 44953
percentage of time that the child spends in the ~~vocational~~ 44954
~~career-technical~~ education programs or classes. 44955

(4) Based on the information reported under this section, the 44956
department of education shall determine the total student count, 44957
as defined in section 3301.011 of the Revised Code, for each 44958
school district. 44959

(D)(1) The superintendent of each joint vocational school 44960
district shall certify to the superintendent of public instruction 44961
on or before the fifteenth day of ~~October in~~ each year month for 44962
the first full school week ~~in October the formula ADM, for~~ 44963
~~purposes of section 3318.42 of the Revised Code and for any other~~ 44964
~~purpose prescribed by law for which "formula ADM" of the joint~~ 44965
~~vocational district is a factor~~ of that month the average daily 44966
membership. If a school operated by the joint vocational school 44967
district is closed for one or more days during ~~that~~ a week for 44968
which the average daily membership must be certified due to 44969
hazardous weather conditions or other circumstances described in 44970
~~the first paragraph of~~ division ~~(B)(A)(1)~~ of section ~~3317.01~~ 44971
3313.482 of the Revised Code, the superintendent may apply to the 44972
superintendent of public instruction for a waiver, under which the 44973
superintendent of public instruction may exempt the district 44974
superintendent from certifying the ~~formula ADM~~ average daily 44975
membership for that school for that week and specify an alternate 44976
week in the same month for certifying the ~~formula ADM~~ average 44977
daily membership of that school. 44978

The ~~formula ADM~~ average daily membership, except as otherwise 44979

provided in this division, shall consist of the average daily 44980
membership during ~~such~~ a week, on an FTE basis, of the number of 44981
students receiving any educational services from the district, 44982
including students enrolled in a community school established 44983
under Chapter 3314. or a science, technology, engineering, and 44984
mathematics school established under Chapter 3326. of the Revised 44985
Code who are attending the joint vocational district ~~under an~~ 44986
~~agreement between the district board of education and the~~ 44987
~~governing authority of the community school or the governing body~~ 44988
~~of the science, technology, engineering, and mathematics school~~ 44989
and are entitled to attend school in a city, local, or exempted 44990
village school district whose territory is part of the territory 44991
of the joint vocational district. 44992

The following categories of students shall not be included in 44993
the determination made under division (D)(1) of this section: 44994

(a) Students enrolled in adult education classes; 44995

(b) Adjacent or other district joint vocational students 44996
enrolled in the district under an open enrollment policy pursuant 44997
to section 3313.98 of the Revised Code; 44998

(c) Students receiving services in the district pursuant to a 44999
compact, cooperative education agreement, or a contract, but who 45000
are entitled to attend school in a city, local, or exempted 45001
village school district whose territory is not part of the 45002
territory of the joint vocational district; 45003

(d) Students for whom tuition is payable pursuant to sections 45004
3317.081 and 3323.141 of the Revised Code. 45005

(2) To enable the department of education to obtain the data 45006
needed to complete the calculation of payments pursuant to this 45007
chapter, in addition to the ~~formula~~ ADM, each superintendent shall 45008
report separately the average daily membership included in the 45009
report under division (D)(1) of this section for each of the 45010

following categories of students for <u>each of the same week weeks</u>	45011
for which formula ADM is certified:	45012
(a) Students enrolled in each individual grade included in the joint vocational district schools;	45013 45014
(b) Children with disabilities receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code;	45015 45016 45017
(c) Children with disabilities receiving special education services for the category two disabilities described in division (B) of section 3317.013 of the Revised Code;	45018 45019 45020
(d) Children with disabilities receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;	45021 45022 45023
(e) Children with disabilities receiving special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;	45024 45025 45026
(f) Children with disabilities receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code;	45027 45028 45029
(g) Children with disabilities receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code;	45030 45031 45032
(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;	45033 45034 45035
(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code <u>Limited English proficient students described in division (A) of section 3317.016 of the Revised Code;</u>	45036 45037 45038 45039
<u>(i) Limited English proficient students described in division</u>	45040

<u>(B) of section 3317.016 of the Revised Code;</u>	45041
<u>(j) Limited English proficient students described in division</u>	45042
<u>(C) of section 3317.016 of the Revised Code;</u>	45043
<u>(k) Students who are economically disadvantaged, as defined</u>	45044
<u>by the department. A student shall not be categorically excluded</u>	45045
<u>from the number reported under division (D)(2)(k) of this section</u>	45046
<u>based on anything other than family income.</u>	45047
The superintendent of each joint vocational school district	45048
shall also indicate the city, local, or exempted village school	45049
district in which each joint vocational district pupil is entitled	45050
to attend school pursuant to section 3313.64 or 3313.65 of the	45051
Revised Code.	45052
(E) In each school of each city, local, exempted village,	45053
joint vocational, and cooperative education school district there	45054
shall be maintained a record of school membership, which record	45055
shall accurately show, for each day the school is in session, the	45056
actual membership enrolled in regular day classes. For the purpose	45057
of determining average daily membership, the membership figure of	45058
any school shall not include any pupils except those pupils	45059
described by division (A) of this section. The record of	45060
membership for each school shall be maintained in such manner that	45061
no pupil shall be counted as in membership prior to the actual	45062
date of entry in the school and also in such manner that where for	45063
any cause a pupil permanently withdraws from the school that pupil	45064
shall not be counted as in membership from and after the date of	45065
such withdrawal. There shall not be included in the membership of	45066
any school any of the following:	45067
(1) Any pupil who has graduated from the twelfth grade of a	45068
public or nonpublic high school;	45069
(2) Any pupil who is not a resident of the state;	45070
(3) Any pupil who was enrolled in the schools of the district	45071

during the previous school year when assessments were administered 45072
under section 3301.0711 of the Revised Code but did not take one 45073
or more of the assessments required by that section and was not 45074
excused pursuant to division (C)(1) or (3) of that section; 45075

(4) Any pupil who has attained the age of twenty-two years, 45076
except for veterans of the armed services whose attendance was 45077
interrupted before completing the recognized twelve-year course of 45078
the public schools by reason of induction or enlistment in the 45079
armed forces and who apply for reenrollment in the public school 45080
system of their residence not later than four years after 45081
termination of war or their honorable discharge. 45082

If, however, any veteran described by division (E)(4) of this 45083
section elects to enroll in special courses organized for veterans 45084
for whom tuition is paid under the provisions of federal laws, or 45085
otherwise, that veteran shall not be included in average daily 45086
membership. 45087

Notwithstanding division (E)(3) of this section, the 45088
membership of any school may include a pupil who did not take an 45089
assessment required by section 3301.0711 of the Revised Code if 45090
the superintendent of public instruction grants a waiver from the 45091
requirement to take the assessment to the specific pupil and a 45092
parent is not paying tuition for the pupil pursuant to section 45093
3313.6410 of the Revised Code. The superintendent may grant such a 45094
waiver only for good cause in accordance with rules adopted by the 45095
state board of education. 45096

Except as provided in divisions (B)(2) and (F) of this 45097
section, the average daily membership figure of any local, city, 45098
exempted village, or joint vocational school district shall be 45099
determined by dividing the figure representing the sum of the 45100
number of pupils enrolled during each day the school of attendance 45101
is actually open for instruction during the week for which the 45102
average daily membership is being certified by the total number of 45103

days the school was actually open for instruction during that 45104
week. For purposes of state funding, "enrolled" persons are only 45105
those pupils who are attending school, those who have attended 45106
school during the current school year and are absent for 45107
authorized reasons, and those children with disabilities currently 45108
receiving home instruction. 45109

The average daily membership figure of any cooperative 45110
education school district shall be determined in accordance with 45111
rules adopted by the state board of education. 45112

~~(F)(1) If the formula ADM for the first full school week in 45113
February is at least three per cent greater than that certified 45114
for the first full school week in the preceding October, the 45115
superintendent of schools of any city, exempted village, or joint 45116
vocational school district or educational service center shall 45117
certify such increase to the superintendent of public instruction. 45118
Such certification shall be submitted no later than the fifteenth 45119
day of February. For the balance of the fiscal year, beginning 45120
with the February payments, the superintendent of public 45121
instruction shall use the increased formula ADM in calculating or 45122
recalculating the amounts to be allocated in accordance with 45123
section 3317.022 or 3317.16 of the Revised Code. In no event shall 45124
the superintendent use an increased membership certified to the 45125
superintendent after the fifteenth day of February. Division 45126
(F)(1) of this section does not apply after fiscal year 2006. 45127~~

~~(2) If on the first school day of April the total number of 45128
classes or units for preschool children with disabilities that are 45129
eligible for approval under division (B) of section 3317.05 of the 45130
Revised Code exceeds the number of units that have been approved 45131
for the year under that division, the superintendent of schools of 45132
any city, exempted village, or cooperative education school 45133
district or educational service center shall make the 45134
certifications required by this section for that day. If the 45135~~

~~department determines additional units can be approved for the 45136
fiscal year within any limitations set forth in the acts 45137
appropriating moneys for the funding of such units, the department 45138
shall approve additional units for the fiscal year on the basis of 45139
such average daily membership. For each unit so approved, the 45140
department shall pay an amount computed in the manner prescribed 45141
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 45142
Code. 45143~~

~~(3) If a student attending a community school under Chapter 45144
3314., a science, technology, engineering, and mathematics school 45145
established under Chapter 3326., or a college-preparatory boarding 45146
school established under Chapter 3328. of the Revised Code is not 45147
included in the formula ADM certified for the school district in 45148
which the student is entitled to attend school under section 45149
3313.64 or 3313.65 of the Revised Code, the department of 45150
education shall adjust the formula ADM of that school district to 45151
include the student in accordance with division (C)(2) of this 45152
section, and shall recalculate the school district's payments 45153
under this chapter for the entire fiscal year on the basis of that 45154
adjusted formula ADM. This requirement applies regardless of 45155
whether the student was enrolled, as defined in division (E) of 45156
this section, in the community school, the science, technology, 45157
engineering, and mathematics school, or the college-preparatory 45158
boarding school during the ~~week~~ weeks for which the formula ADM is 45159
being certified. 45160~~

~~(4)(2) If a student awarded an educational choice scholarship 45161
is not included in the formula ADM of the school district from 45162
which the department deducts funds for the scholarship under 45163
section 3310.08 of the Revised Code, the department shall adjust 45164
the formula ADM of that school district to include the student to 45165
the extent necessary to account for the deduction, and shall 45166
recalculate the school district's payments under this chapter for 45167~~

the entire fiscal year on the basis of that adjusted formula ADM. 45168
This requirement applies regardless of whether the student was 45169
enrolled, as defined in division (E) of this section, in the 45170
chartered nonpublic school, the school district, or a community 45171
school during the ~~week~~ weeks for which the formula ADM is being 45172
certified. 45173

~~(5)~~(3) If a student awarded a scholarship under the Jon 45174
Peterson special needs scholarship program is not included in the 45175
formula ADM of the school district from which the department 45176
deducts funds for the scholarship under section 3310.55 of the 45177
Revised Code, the department shall adjust the formula ADM of that 45178
school district to include the student to the extent necessary to 45179
account for the deduction, and shall recalculate the school 45180
district's payments under this chapter for the entire fiscal year 45181
on the basis of that adjusted formula ADM. This requirement 45182
applies regardless of whether the student was enrolled, as defined 45183
in division (E) of this section, in an alternative public 45184
provider, a registered private provider, or the school district 45185
during the ~~week~~ weeks for which the formula ADM is being 45186
certified. 45187

(G)(1)(a) The superintendent of an institution operating a 45188
special education program pursuant to section 3323.091 of the 45189
Revised Code shall, for the programs under such superintendent's 45190
supervision, certify to the state board of education, in the 45191
manner prescribed by the superintendent of public instruction, 45192
both of the following: 45193

(i) The average daily membership of all children with 45194
disabilities other than preschool children with disabilities 45195
receiving services at the institution for each category of 45196
disability described in divisions (A) to (F) of section 3317.013 45197
of the Revised Code; 45198

(ii) The average daily membership of all preschool children 45199

with disabilities in classes or programs ~~approved annually by the~~ 45200
~~department of education for unit~~ for whom the district is eligible 45201
to receive funding under section ~~3317.05~~ 3317.0213 of the Revised 45202
Code, reported according to the categories prescribed in section 45203
3317.013 of the Revised Code. 45204

(b) The superintendent of an institution with ~~vocational~~ 45205
career-technical education units approved under ~~division (A) of~~ 45206
section 3317.05 of the Revised Code shall, for the units under the 45207
superintendent's supervision, certify to the state board of 45208
education the average daily membership in those units, in the 45209
manner prescribed by the superintendent of public instruction. 45210

(2) The superintendent of each county DD board that maintains 45211
special education classes under section 3317.20 of the Revised 45212
Code or ~~units approved~~ provides services to preschool children 45213
with disabilities pursuant to ~~section 3317.05 of the Revised Code~~ 45214
an agreement between the DD board and the appropriate school 45215
district shall do both of the following: 45216

(a) Certify to the state board, in the manner prescribed by 45217
the board, the average daily membership in classes under section 45218
3317.20 of the Revised Code for each school district that has 45219
placed children in the classes; 45220

(b) Certify to the state board, in the manner prescribed by 45221
the board, the number of all preschool children with disabilities 45222
enrolled as of the first day of December in classes for which the 45223
DD board is eligible for approval to receive funding under 45224
~~division (B) of section 3317.05~~ 3317.0213 of the Revised Code, 45225
reported according to the categories prescribed in section 45226
3317.013 of the Revised Code, and the number of those classes. 45227

~~(3)(a) If on the first school day of April the number of~~ 45228
~~classes or units maintained for preschool children with~~ 45229
~~disabilities by the county DD board that are eligible for approval~~ 45230

~~under division (B) of section 3317.05 of the Revised Code is 45231
greater than the number of units approved for the year under that 45232
division, the superintendent shall make the certification required 45233
by this section for that day. 45234~~

~~(b) If the department determines that additional classes or 45235
units can be approved for the fiscal year within any limitations 45236
set forth in the acts appropriating moneys for the funding of the 45237
classes and units described in division (C)(3)(a) of this section, 45238
the department shall approve and fund additional units for the 45239
fiscal year on the basis of such average daily membership. For 45240
each unit so approved, the department shall pay an amount computed 45241
in the manner prescribed in sections 3317.052 and 3317.053 of the 45242
Revised Code. 45243~~

(H) Except as provided in division (I) of this section, when 45244
any city, local, or exempted village school district provides 45245
instruction for a nonresident pupil whose attendance is 45246
unauthorized attendance as defined in section 3327.06 of the 45247
Revised Code, that pupil's membership shall not be included in 45248
that district's membership figure used in the calculation of that 45249
district's formula ADM or included in the determination of any 45250
~~unit funding~~ approved for the district under section ~~3317.05~~ 45251
3317.0213 of the Revised Code. The reporting official shall report 45252
separately the average daily membership of all pupils whose 45253
attendance in the district is unauthorized attendance, and the 45254
membership of each such pupil shall be credited to the school 45255
district in which the pupil is entitled to attend school under 45256
division (B) of section 3313.64 or section 3313.65 of the Revised 45257
Code as determined by the department of education. 45258

(I)(1) A city, local, exempted village, or joint vocational 45259
school district admitting a scholarship student of a pilot project 45260
district pursuant to division (C) of section 3313.976 of the 45261
Revised Code may count such student in its average daily 45262

membership. 45263

(2) In any year for which funds are appropriated for pilot 45264
project scholarship programs, a school district implementing a 45265
state-sponsored pilot project scholarship program that year 45266
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 45267
count in average daily membership: 45268

(a) All children residing in the district and utilizing a 45269
scholarship to attend kindergarten in any alternative school, as 45270
defined in section 3313.974 of the Revised Code; 45271

(b) All children who were enrolled in the district in the 45272
preceding year who are utilizing a scholarship to attend an 45273
alternative school. 45274

(J) The superintendent of each cooperative education school 45275
district shall certify to the superintendent of public 45276
instruction, in a manner prescribed by the state board of 45277
education, the applicable average daily memberships for all 45278
students in the cooperative education district, also indicating 45279
the city, local, or exempted village district where each pupil is 45280
entitled to attend school under section 3313.64 or 3313.65 of the 45281
Revised Code. 45282

(K) If the superintendent of public instruction determines 45283
that a component of the average daily membership certified or 45284
reported by a district superintendent, or other reporting entity, 45285
is not correct, the superintendent of public instruction may order 45286
that the formula ADM used for the purposes of payments under any 45287
section of Title XXXVIII of the Revised Code be adjusted in the 45288
amount of the error. 45289

Sec. 3317.032. ~~(A)~~ Each city, local, exempted village, and 45290
cooperative education school district, each educational service 45291
center, each county DD board, and each institution operating a 45292

special education program pursuant to section 3323.091 of the Revised Code shall, in accordance with procedures adopted by the state board of education, maintain a record of district membership of ~~both of the following~~:

~~(1) All preschool children with disabilities in units approved under division (B) of section 3317.05 of the Revised Code:~~

~~(2) All all preschool children with disabilities who are not in units approved under division (B) of section 3317.05 of the Revised Code but who are otherwise served by a special education program.~~

~~(B) The superintendent of each district, board, or institution subject to division (A) of this section shall certify to the state board of education, in accordance with procedures adopted by that board, membership figures of all preschool children with disabilities whose membership is maintained under division (A)(2) of this section. The figures certified under this division shall be used in the determination of the ADM used to compute funds for educational service center governing boards under section 3317.11 of the Revised Code.~~

Sec. 3317.05. ~~(A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the The department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of ~~vocational~~ career-technical education units or fractions of units approved by the department on the basis of standards and rules adopted by the state board of education. As used in this ~~division~~ section, "institution" means an institution operated by a department specified in section 3323.091 of the Revised Code and that provides ~~vocational~~ career-technical education programs under~~

the supervision of the division of ~~vocational~~ career-technical 45324
education of the department that meet the standards and rules for 45325
these programs, including licensure of professional staff involved 45326
in the programs, as established by the state board. 45327

(B) ~~For the purpose of calculating payments under sections~~ 45328
~~3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the~~ 45329
~~department shall determine, based on information certified under~~ 45330
~~section 3317.03 of the Revised Code, the following by the last day~~ 45331
~~of January of each year for each educational service center, for~~ 45332
~~each school district, including each cooperative education school~~ 45333
~~district, for each institution eligible for payment under section~~ 45334
~~3323.091 of the Revised Code, and for each county DD board: the~~ 45335
~~number of classes operated by the school district, service center,~~ 45336
~~institution, or county DD board for preschool children with~~ 45337
~~disabilities, or fraction thereof, including in the case of a~~ 45338
~~district or service center that is a funding agent, classes taught~~ 45339
~~by a licensed teacher employed by that district or service center~~ 45340
~~under section 3313.841 of the Revised Code, approved annually by~~ 45341
~~the department on the basis of standards and rules adopted by the~~ 45342
~~state board.~~ 45343

(C) ~~For the purpose of calculating payments under sections~~ 45344
~~3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the~~ 45345
~~department shall determine, based on information certified under~~ 45346
~~section 3317.03 of the Revised Code, the following by the last day~~ 45347
~~of January of each year for each school district, including each~~ 45348
~~cooperative education school district, for each institution~~ 45349
~~eligible for payment under section 3323.091 of the Revised Code,~~ 45350
~~and for each county DD board: the number of units for related~~ 45351
~~services, as defined in section 3323.01 of the Revised Code, for~~ 45352
~~preschool children with disabilities approved annually by the~~ 45353
~~department on the basis of standards and rules adopted by the~~ 45354
~~state board.~~ 45355

~~(D) All of the arithmetical calculations made under this section shall be carried to the second decimal place. The total number of units for school districts, service centers, and institutions approved annually under this section shall not exceed the number of units included in the estimate of cost for these units and appropriations made for them by the general assembly.~~

~~In the case of units for preschool children with disabilities described in division (B) of this section, the department shall approve only preschool units for children who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year, except that such a unit may include one or more children who are under age three or are age six or over on the applicable date, as reported under division (B)(2) or (C)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board. The number of units for county DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.~~

~~No unit shall be approved under divisions (B) and (C) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.~~

(C) The department shall pay each institution approved for career-technical education units under division (A) of this section an amount for the total of all the units approved under that division. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience

pursuant to the salary schedule prescribed in the version of 45388
section 3317.13 of the Revised Code in effect prior to July 1, 45389
2001, plus fifteen per cent of that minimum salary amount, and 45390
nine thousand five hundred ten dollars. Each institution that 45391
receives unit funds under this division annually shall report to 45392
the department on the delivery of services and the performance of 45393
students and any other information required by the department to 45394
evaluate the institution's career-technical education program. 45395

(D) For each unit allocated to an institution pursuant to 45396
division (A) of this section, the department, in addition to the 45397
amount specified in division (B) of this section, shall pay a 45398
supplemental unit allowance of \$7,227. 45399

Sec. 3317.051. (A) As used in this section, "gifted unit ADM" 45400
means a school district's formula ADM minus the number of students 45401
reported by a district under divisions (A)(2)(a) and (i) of 45402
section 3317.03 of the Revised Code. 45403

(B) The department of education shall compute and pay to a 45404
school district funds based on units for services to students 45405
identified as gifted under Chapter 3324. of the Revised Code as 45406
prescribed by this section. 45407

(C) The department shall allocate gifted units for a school 45408
district as follows: 45409

(1) One gifted coordinator unit shall be allocated for every 45410
3,300 students in a district's gifted unit ADM, with a minimum of 45411
0.5 units and a maximum of 8 units allocated for the district. 45412

(2) One gifted intervention specialist unit shall be 45413
allocated for every 1,100 students in a district's gifted unit 45414
ADM, with a minimum of 0.3 units allocated for the district. 45415

(D) The department shall pay the following amount to a school 45416
district for gifted units: 45417

(1) In fiscal year 2014, \$37,000 multiplied by the number of 45418
units allocated to a school district under division (C) of this 45419
section; 45420

(2) In fiscal year 2015, \$37,370 multiplied by the number of 45421
units allocated to a school district under division (C) of this 45422
section. 45423

Sec. 3317.06. Moneys paid to school districts under division 45424
(E) of section 3317.024 of the Revised Code shall be used for the 45425
following independent and fully severable purposes: 45426

(A) To purchase such secular textbooks or electronic 45427
textbooks as have been approved by the superintendent of public 45428
instruction for use in public schools in the state and to loan 45429
such textbooks or electronic textbooks to pupils attending 45430
nonpublic schools within the district or to their parents and to 45431
hire clerical personnel to administer such lending program. Such 45432
loans shall be based upon individual requests submitted by such 45433
nonpublic school pupils or parents. Such requests shall be 45434
submitted to the school district in which the nonpublic school is 45435
located. Such individual requests for the loan of textbooks or 45436
electronic textbooks shall, for administrative convenience, be 45437
submitted by the nonpublic school pupil or the pupil's parent to 45438
the nonpublic school, which shall prepare and submit collective 45439
summaries of the individual requests to the school district. As 45440
used in this section: 45441

(1) "Textbook" means any book or book substitute that a pupil 45442
uses as a consumable or nonconsumable text, text substitute, or 45443
text supplement in a particular class or program in the school the 45444
pupil regularly attends. 45445

(2) "Electronic textbook" means any book or book substitute 45446
that a student accesses through the use of a computer or other 45447
electronic medium or that is available through an internet-based 45448

provider of course content, or any other material that contributes 45449
to the learning process through electronic means. 45450

(B) To provide speech and hearing diagnostic services to 45451
pupils attending nonpublic schools within the district. Such 45452
service shall be provided in the nonpublic school attended by the 45453
pupil receiving the service. 45454

(C) To provide physician, nursing, dental, and optometric 45455
services to pupils attending nonpublic schools within the 45456
district. Such services shall be provided in the school attended 45457
by the nonpublic school pupil receiving the service. 45458

(D) To provide diagnostic psychological services to pupils 45459
attending nonpublic schools within the district. Such services 45460
shall be provided in the school attended by the pupil receiving 45461
the service. 45462

(E) To provide therapeutic psychological and speech and 45463
hearing services to pupils attending nonpublic schools within the 45464
district. Such services shall be provided in the public school, in 45465
nonpublic schools, in public centers, or in mobile units located 45466
on or off of the nonpublic premises. If such services are provided 45467
in the public school or in public centers, transportation to and 45468
from such facilities shall be provided by the school district in 45469
which the nonpublic school is located. 45470

(F) To provide guidance, counseling, and social work services 45471
to pupils attending nonpublic schools within the district. Such 45472
services shall be provided in the public school, in nonpublic 45473
schools, in public centers, or in mobile units located on or off 45474
of the nonpublic premises. If such services are provided in the 45475
public school or in public centers, transportation to and from 45476
such facilities shall be provided by the school district in which 45477
the nonpublic school is located. 45478

(G) To provide remedial services to pupils attending 45479

nonpublic schools within the district. Such services shall be 45480
provided in the public school, in nonpublic schools, in public 45481
centers, or in mobile units located on or off of the nonpublic 45482
premises. If such services are provided in the public school or in 45483
public centers, transportation to and from such facilities shall 45484
be provided by the school district in which the nonpublic school 45485
is located. 45486

(H) To supply for use by pupils attending nonpublic schools 45487
within the district such standardized tests and scoring services 45488
as are in use in the public schools of the state; 45489

(I) To provide programs for children who attend nonpublic 45490
schools within the district and are children with disabilities as 45491
defined in section 3323.01 of the Revised Code or gifted children. 45492
Such programs shall be provided in the public school, in nonpublic 45493
schools, in public centers, or in mobile units located on or off 45494
of the nonpublic premises. If such programs are provided in the 45495
public school or in public centers, transportation to and from 45496
such facilities shall be provided by the school district in which 45497
the nonpublic school is located. 45498

(J) To hire clerical personnel to assist in the 45499
administration of programs pursuant to divisions (B), (C), (D), 45500
(E), (F), (G), and (I) of this section and to hire supervisory 45501
personnel to supervise the providing of services and textbooks 45502
pursuant to this section. 45503

(K) To purchase or lease any secular, neutral, and 45504
nonideological computer application software designed to assist 45505
students in performing a single task or multiple related tasks, 45506
device management software, learning management software, 45507
site-licensing, digital video on demand (DVD), wide area 45508
connectivity and related technology as it relates to internet 45509
access, mathematics or science equipment and materials, 45510
instructional materials, and school library materials that are in 45511

general use in the public schools of the state and loan such items 45512
to pupils attending nonpublic schools within the district or to 45513
their parents, and to hire clerical personnel to administer the 45514
lending program. Only such items that are incapable of diversion 45515
to religious use and that are susceptible of loan to individual 45516
pupils and are furnished for the use of individual pupils shall be 45517
purchased and loaned under this division. As used in this section, 45518
"instructional materials" means prepared learning materials that 45519
are secular, neutral, and nonideological in character and are of 45520
benefit to the instruction of school children, ~~and may include~~ 45521
~~educational resources and services developed by the eTech Ohio~~ 45522
~~commission.~~ 45523

(L) To purchase or lease instructional equipment, including 45524
computer hardware and related equipment in general use in the 45525
public schools of the state, for use by pupils attending nonpublic 45526
schools within the district and to loan such items to pupils 45527
attending nonpublic schools within the district or to their 45528
parents, and to hire clerical personnel to administer the lending 45529
program. "Computer hardware and related equipment" includes 45530
desktop computers and workstations; laptop computers, computer 45531
tablets, and other mobile handheld devices; and their operating 45532
systems and accessories. 45533

(M) To purchase mobile units to be used for the provision of 45534
services pursuant to divisions (E), (F), (G), and (I) of this 45535
section and to pay for necessary repairs and operating costs 45536
associated with these units. 45537

(N) To reimburse costs the district incurred to store the 45538
records of a chartered nonpublic school that closes. 45539
Reimbursements under this division shall be made one time only for 45540
each chartered nonpublic school that closes. 45541

(O) To purchase life-saving medical or other emergency 45542
equipment for placement in nonpublic schools within the district 45543

or to maintain such equipment. 45544

Clerical and supervisory personnel hired pursuant to division 45545
(J) of this section shall perform their services in the public 45546
schools, in nonpublic schools, public centers, or mobile units 45547
where the services are provided to the nonpublic school pupil, 45548
except that such personnel may accompany pupils to and from the 45549
service sites when necessary to ensure the safety of the children 45550
receiving the services. 45551

All services provided pursuant to this section may be 45552
provided under contract with educational service centers, the 45553
department of health, city or general health districts, or private 45554
agencies whose personnel are properly licensed by an appropriate 45555
state board or agency. 45556

Transportation of pupils provided pursuant to divisions (E), 45557
(F), (G), and (I) of this section shall be provided by the school 45558
district from its general funds and not from moneys paid to it 45559
under division (E) of section 3317.024 of the Revised Code unless 45560
a special transportation request is submitted by the parent of the 45561
child receiving service pursuant to such divisions. If such an 45562
application is presented to the school district, it may pay for 45563
the transportation from moneys paid to it under division (E) of 45564
section 3317.024 of the Revised Code. 45565

No school district shall provide health or remedial services 45566
to nonpublic school pupils as authorized by this section unless 45567
such services are available to pupils attending the public schools 45568
within the district. 45569

Materials, equipment, computer hardware or software, 45570
textbooks, electronic textbooks, and health and remedial services 45571
provided for the benefit of nonpublic school pupils pursuant to 45572
this section and the admission of pupils to such nonpublic schools 45573
shall be provided without distinction as to race, creed, color, or 45574

national origin of such pupils or of their teachers. 45575

No school district shall provide services, materials, or 45576
equipment that contain religious content for use in religious 45577
courses, devotional exercises, religious training, or any other 45578
religious activity. 45579

As used in this section, "parent" includes a person standing 45580
in loco parentis to a child. 45581

Notwithstanding section 3317.01 of the Revised Code, payments 45582
shall be made under this section to any city, local, or exempted 45583
village school district within which is located one or more 45584
nonpublic elementary or high schools and any payments made to 45585
school districts under division (E) of section 3317.024 of the 45586
Revised Code for purposes of this section may be disbursed without 45587
submission to and approval of the controlling board. 45588

The allocation of payments for materials, equipment, 45589
textbooks, electronic textbooks, health services, and remedial 45590
services to city, local, and exempted village school districts 45591
shall be on the basis of the state board of education's estimated 45592
annual average daily membership in nonpublic elementary and high 45593
schools located in the district. 45594

Payments made to city, local, and exempted village school 45595
districts under this section shall be equal to specific 45596
appropriations made for the purpose. All interest earned by a 45597
school district on such payments shall be used by the district for 45598
the same purposes and in the same manner as the payments may be 45599
used. 45600

The department of education shall adopt guidelines and 45601
procedures under which such programs and services shall be 45602
provided, under which districts shall be reimbursed for 45603
administrative costs incurred in providing such programs and 45604
services, and under which any unexpended balance of the amounts 45605

appropriated by the general assembly to implement this section may 45606
be transferred to the auxiliary services personnel unemployment 45607
compensation fund established pursuant to section 4141.47 of the 45608
Revised Code. The department shall also adopt guidelines and 45609
procedures limiting the purchase and loan of the items described 45610
in division (K) of this section to items that are in general use 45611
in the public schools of the state, that are incapable of 45612
diversion to religious use, and that are susceptible to individual 45613
use rather than classroom use. Within thirty days after the end of 45614
each biennium, each board of education shall remit to the 45615
department all moneys paid to it under division (E) of section 45616
3317.024 of the Revised Code and any interest earned on those 45617
moneys that are not required to pay expenses incurred under this 45618
section during the biennium for which the money was appropriated 45619
and during which the interest was earned. If a board of education 45620
subsequently determines that the remittal of moneys leaves the 45621
board with insufficient money to pay all valid expenses incurred 45622
under this section during the biennium for which the remitted 45623
money was appropriated, the board may apply to the department of 45624
education for a refund of money, not to exceed the amount of the 45625
insufficiency. If the department determines the expenses were 45626
lawfully incurred and would have been lawful expenditures of the 45627
refunded money, it shall certify its determination and the amount 45628
of the refund to be made to the director of job and family 45629
services who shall make a refund as provided in section 4141.47 of 45630
the Revised Code. 45631

Each school district shall label materials, equipment, 45632
computer hardware or software, textbooks, and electronic textbooks 45633
purchased or leased for loan to a nonpublic school under this 45634
section, acknowledging that they were purchased or leased with 45635
state funds under this section. However, a district need not label 45636
materials, equipment, computer hardware or software, textbooks, or 45637
electronic textbooks that the district determines are consumable 45638

in nature or have a value of less than two hundred dollars. 45639

Sec. 3317.08. A board of education may admit to its schools a 45640
child it is not required by section 3313.64 or 3313.65 of the 45641
Revised Code to admit, if tuition is paid for the child. 45642

Unless otherwise provided by law, tuition shall be computed 45643
in accordance with this section. A district's tuition charge for a 45644
school year shall be one of the following: 45645

(A) For any child, except a preschool child with a disability 45646
described in division (B) of this section, the quotient obtained 45647
by dividing the sum of the amounts described in divisions (A)(1) 45648
and (2) of this section by the district's formula ADM. 45649

(1) The district's total taxes charged and payable for 45650
current expenses for the tax year preceding the tax year in which 45651
the school year begins as certified under division (A)(3) of 45652
section 3317.021 of the Revised Code. 45653

(2) The district's total taxes collected for current expenses 45654
under a school district income tax adopted pursuant to section 45655
5748.03, 5748.08, or 5748.09 of the Revised Code that are 45656
disbursed to the district during the fiscal year, excluding any 45657
income tax receipts allocated for the project cost, debt service, 45658
or maintenance set-aside associated with a state-assisted 45659
classroom facilities project as authorized by section 3318.052 of 45660
the Revised Code. On or before the first day of June of each year, 45661
the tax commissioner shall certify the amount to be used in the 45662
calculation under this division for the next fiscal year to the 45663
department of education and the office of budget and management 45664
for each city, local, and exempted village school district that 45665
levies a school district income tax. 45666

(B) For any preschool child with a disability ~~not included in~~ 45667
~~a unit approved under division (B) of section 3317.05 of the~~ 45668

~~Revised Code~~, an amount computed for the school year as follows: 45669

(1) For each type of special education service provided to 45670
the child for whom tuition is being calculated, determine the 45671
amount of the district's operating expenses in providing that type 45672
of service to all preschool children with disabilities ~~not~~ 45673
~~included in units approved under division (B) of section 3317.05~~ 45674
~~of the Revised Code;~~ 45675

(2) For each type of special education service for which 45676
operating expenses are determined under division (B)(1) of this 45677
section, determine the amount of such operating expenses that was 45678
paid from any state funds received under this chapter; 45679

(3) For each type of special education service for which 45680
operating expenses are determined under division (B)(1) of this 45681
section, divide the difference between the amount determined under 45682
division (B)(1) of this section and the amount determined under 45683
division (B)(2) of this section by the total number of preschool 45684
children with disabilities ~~not included in units approved under~~ 45685
~~division (B) of section 3317.05 of the Revised Code~~ who received 45686
that type of service; 45687

(4) Determine the sum of the quotients obtained under 45688
division (B)(3) of this section for all types of special education 45689
services provided to the child for whom tuition is being 45690
calculated. 45691

The state board of education shall adopt rules defining the 45692
types of special education services and specifying the operating 45693
expenses to be used in the computation under this section. 45694

If any child for whom a tuition charge is computed under this 45695
section for any school year is enrolled in a district for only 45696
part of that school year, the amount of the district's tuition 45697
charge for the child for the school year shall be computed in 45698
proportion to the number of school days the child is enrolled in 45699

the district during the school year. 45700

Except as otherwise provided in division (J) of section 45701
3313.64 of the Revised Code, whenever a district admits a child to 45702
its schools for whom tuition computed in accordance with this 45703
section is an obligation of another school district, the amount of 45704
the tuition shall be certified by the treasurer of the board of 45705
education of the district of attendance, to the board of education 45706
of the district required to pay tuition for its approval and 45707
payment. If agreement as to the amount payable or the district 45708
required to pay the tuition cannot be reached, or the board of 45709
education of the district required to pay the tuition refuses to 45710
pay that amount, the board of education of the district of 45711
attendance shall notify the superintendent of public instruction. 45712
The superintendent shall determine the correct amount and the 45713
district required to pay the tuition and shall deduct that amount, 45714
if any, under division (D) of section 3317.023 of the Revised 45715
Code, from the district required to pay the tuition and add that 45716
amount to the amount allocated to the district attended under such 45717
division. The superintendent of public instruction shall send to 45718
the district required to pay the tuition an itemized statement 45719
showing such deductions at the time of such deduction. 45720

When a political subdivision owns and operates an airport, 45721
welfare, or correctional institution or other project or facility 45722
outside its corporate limits, the territory within which the 45723
facility is located is exempt from taxation by the school district 45724
within which such territory is located, and there are school age 45725
children residing within such territory, the political subdivision 45726
owning such tax exempt territory shall pay tuition to the district 45727
in which such children attend school. The tuition for these 45728
children shall be computed as provided for in this section. 45729

Sec. 3317.10. (A) On or before the first day of March of each 45730

year, the department of job and family services shall certify to 45731
the state board of education the unduplicated number of children 45732
ages five through seventeen residing in each school district and 45733
living in a family that, during the preceding October, 45734
participated in Ohio works first. 45735

The department of job and family services shall certify this 45736
information according to the school district of residence for each 45737
child. ~~Except as provided under division (B) of this section, the~~ 45738
~~number of children so certified in any year shall be used by the~~ 45739
~~department of education in calculating the distribution of moneys~~ 45740
~~for the ensuing fiscal year as provided in section 3317.029 of the~~ 45741
~~Revised Code.~~ 45742

(B) Upon the transfer of part of the territory of one school 45743
district to the territory of one or more other school districts, 45744
the department of education may adjust the number of children 45745
certified under division (A) of this section for any district 45746
gaining or losing territory in such a transfer in order to take 45747
into account the effect of the transfer on the number of such 45748
children who reside in the district. Within sixty days of receipt 45749
of a request for information from the department of education, the 45750
department of job and family services shall provide any 45751
information the department of education determines is necessary to 45752
make such adjustments. ~~The department of education may use the~~ 45753
~~adjusted number for any district for the applicable fiscal year,~~ 45754
~~in lieu of the number certified for the district for that fiscal~~ 45755
~~year under division (A) of this section, in the calculation of the~~ 45756
~~distribution of moneys provided in section 3317.029 of the Revised~~ 45757
~~Code.~~ 45758

Sec. 3317.12. Any board of education participating in funds 45759
distributed under Chapter 3317. of the Revised Code shall annually 45760
adopt a salary ~~schedule~~ schedules for teachers and nonteaching 45761

~~school employees based upon training, experience, and 45762
qualifications with initial salaries no less than the salaries in 45763
effect on October 13, 1967. Each board of education shall prepare 45764
and may amend from time to time, specifications descriptive of 45765
duties, responsibilities, requirements, and desirable 45766
qualifications of the classifications of employees required to 45767
perform the duties specified in the salary schedule. All 45768
nonteaching school employees are to be notified of the position 45769
classification to which they are assigned and the salary for the 45770
classification. The compensation of all employees working for a 45771
particular school board shall be uniform for like positions except 45772
as compensation would be affected by salary increments based upon 45773
length of service. 45774~~

~~On the fifteenth day of October each year the salary schedule 45775
and the list of job classifications and salaries in effect on that 45776
date shall be filed by each board of education with the 45777
superintendent of public instruction. If such salary schedule and 45778
classification plan is not filed the superintendent of public 45779
instruction shall order the board to file such schedules 45780
forthwith. If this condition is not corrected within ten days 45781
after receipt of the order from the superintendent of public 45782
instruction, no money shall be distributed to the district under 45783
Chapter 3317. of the Revised Code until the superintendent has 45784
satisfactory evidence of the board of education's full compliance 45785
with such order. 45786~~

Sec. 3317.14. Any school district board of education or 45787
educational service center governing board participating in funds 45788
distributed under Chapter 3317. of the Revised Code shall annually 45789
adopt a teachers' salary schedule with provision for increments 45790
based upon training and years of service. ~~Notwithstanding sections 45791
3317.13 and 3319.088 of the Revised Code, the The board may 45792
establish its own service requirements and may grant service 45793~~

credit for such activities as teaching in public or nonpublic 45794
schools in this state or in another state, for service as an 45795
educational assistant other than as a classroom aide employed in 45796
accordance with section 5107.541 of the Revised Code, and for 45797
service in the military or in an appropriate state or federal 45798
governmental agency, ~~provided no teacher receives less than the~~ 45799
~~amount required to be paid pursuant to section 3317.13 of the~~ 45800
~~Revised Code and provided full credit for a minimum of five years~~ 45801
~~of actual teaching and military experience as defined in division~~ 45802
~~(A) of section 3317.13 of the Revised Code is given to each~~ 45803
teacher. 45804

~~On the fifteenth day of October of each year, a copy of the~~ 45805
~~salary schedule in effect on that date shall be filed by the board~~ 45806
~~of education of each local school district with the educational~~ 45807
~~service center superintendent, who thereupon shall certify to the~~ 45808
~~treasurer of such local district the correct salary to be paid to~~ 45809
~~each teacher in accordance with the adopted schedule.~~ 45810

~~Each teacher who has completed training which would qualify~~ 45811
~~such teacher for a higher salary bracket pursuant to this section~~ 45812
~~shall file by the fifteenth day of September with the treasurer of~~ 45813
~~the board of education or educational service center satisfactory~~ 45814
~~evidence of the completion of such additional training. The~~ 45815
~~treasurer shall then immediately place the teacher, pursuant to~~ 45816
~~this section and section 3317.13 of the Revised Code, in the~~ 45817
~~proper salary bracket in accordance with training and years of~~ 45818
~~service before certifying such salary, training, and years of~~ 45819
~~service to the superintendent of public instruction. No teacher~~ 45820
~~shall be paid less than the salary to which such teacher is~~ 45821
~~entitled pursuant to section 3317.13 of the Revised Code.~~ 45822

As used in this section: 45823

(A) "Years of service" includes the following: 45824

(1) All years of teaching service in the same school district or educational service center, regardless of training level, with each year consisting of at least one hundred twenty days under a teacher's contract; 45825
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(2) All years of teaching service in a chartered, nonpublic school located in Ohio as a teacher licensed pursuant to section 3319.22 of the Revised Code or in another public school, regardless of training level, with each year consisting of at least one hundred twenty days under a teacher's contract; 45829
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(3) All years of teaching service in a chartered school or institution or a school or institution that subsequently became chartered or a chartered special education program or a special education program that subsequently became chartered operated by the state or by a subdivision or other local governmental unit of this state as a teacher licensed pursuant to section 3319.22 of the Revised Code, regardless of training level, with each year consisting of at least one hundred twenty days; 45834
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(4) All years of active military service in the armed forces of the United States, as defined in section 3307.75 of the Revised Code, to a maximum of five years. For purposes of this calculation, a partial year of active military service of eight continuous months or more in the armed forces shall be counted as a full year. 45842
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(B) "Teacher" means all teachers employed by the board of education of any school district, including any cooperative education or joint vocational school district and all teachers employed by any educational service center governing board. 45848
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Sec. 3317.141. The board of education of any city, exempted village, local, or joint vocational school district that is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 45852
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of the "American Recovery and Reinvestment Act of 2009," Pub. L. 45856
No. 111-5, 123 Stat. 115, shall comply with this section in 45857
accordance with the timeline contained in the board's scope of 45858
work, as approved by the superintendent of public instruction, and 45859
shall not be subject to ~~sections 3317.13~~ and section 3317.14 of 45860
the Revised Code. The board of education of any other school 45861
district, and the governing board of each educational service 45862
center, shall comply with either this section or ~~sections 3317.13~~ 45863
and section 3317.14 of the Revised Code. 45864

(A) The board annually shall adopt a salary schedule for 45865
teachers based upon performance as described in division (B) of 45866
this section. 45867

(B) For purposes of the schedule, a board shall measure a 45868
teacher's performance by considering all of the following: 45869

(1) The level of license issued under section 3319.22 of the 45870
Revised Code that the teacher holds; 45871

(2) Whether the teacher is a highly qualified teacher, as 45872
defined in section 3319.074 of the Revised Code; 45873

(3) Ratings received by the teacher on performance 45874
evaluations conducted under section 3319.111 of the Revised Code. 45875

(C) The schedule shall provide for annual adjustments based 45876
on performance on the evaluations conducted under section 3319.111 45877
of the Revised Code. The annual performance-based adjustment for a 45878
teacher rated as accomplished shall be greater than the annual 45879
performance-based adjustment for a teacher rated as proficient. 45880

(D) The salary schedule adopted under this section may 45881
provide for additional compensation for teachers who agree to 45882
perform duties, not contracted for under a supplemental contract, 45883
that the employing board determines warrant additional 45884
compensation. Those duties may include, but are not limited to, 45885

assignment to a school building eligible for funding under Title I 45886
of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 45887
6301 et seq.; assignment to a building in "school improvement" 45888
status under the "No Child Left Behind Act of 2001," as defined in 45889
section 3302.01 of the Revised Code; teaching in a grade level or 45890
subject area in which the board has determined there is a shortage 45891
within the district or service center; or assignment to a 45892
hard-to-staff school, as determined by the board. 45893

Sec. 3317.16. (A) The department of education shall compute 45894
and distribute state core foundation funding to each joint 45895
vocational school district for the fiscal year as prescribed in 45896
the following divisions: 45897

(1) An opportunity grant calculated according to the 45898
following formula: 45899

(The formula amount X formula ADM) - (0.0005 X the 45900
district's three-year average valuation) 45901

If the result of the calculation for a joint vocational 45902
school district under division (A)(1) of this section is less than 45903
zero, the joint vocational school district's opportunity grant 45904
shall be zero. 45905

(2) Additional state aid for special education and related 45906
services provided under Chapter 3323. of the Revised Code 45907
calculated as the sum of the following: 45908

The formula amount X the district's total special education 45909
weight X the district's state share percentage 45910

(3) Economically disadvantaged funds calculated according to 45911
the following formula: 45912

(\$340, in fiscal year 2014, or \$343, in fiscal year 2015) X 45913
(the district's economically disadvantaged index) X the number 45914
of students who are economically disadvantaged as reported under 45915

<u>division (D)(2)(k) of section 3317.03 of the Revised Code</u>	45916
<u>(4) Limited English proficiency funds calculated as the sum of the following:</u>	45917
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<u>(a) The district's category one limited English proficient ADM X the amount specified in division (A) of section 3317.016 of the Revised Code X the district's state share percentage;</u>	45919
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<u>(b) The district's category two limited English proficient ADM X the amount specified in division (B) of section 3317.016 of the Revised Code X the district's state share percentage;</u>	45922
	45923
	45924
<u>(c) The district's category three limited English proficient ADM X the amount specified in division (C) of section 3317.016 of the Revised Code X the district's state share percentage;</u>	45925
	45926
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<u>(5) Career-technical education funds calculated according to the following formula:</u>	45928
	45929
<u>The formula amount X the district's total career-technical education weight X the district's state share percentage</u>	45930
	45931
<u>Payment of funds under division (A)(5) of this section is subject to approval under section 3317.161 of the Revised Code.</u>	45932
	45933
<u>(6) Career-technical education associated services funds calculated under the following formula:</u>	45934
	45935
<u>The district's state share percentage X 0.05 X the formula amount X the sum of categories one through five career-technical education ADM</u>	45936
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<u>(B)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (B) of section 3317.0214 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the</u>	45939
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manner prescribed, the department shall pay to the district an amount equal to the sum of the following: 45947
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(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost; 45949
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(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage. 45951
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(2) The district shall report under division (B)(1) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount. 45954
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(C)(1) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under division (A) of this section. 45961
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Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student: 45970
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(a) The formula amount; 45973

(b) The formula amount times the multiple specified in section 3317.013 of the Revised Code that is applicable to the student; 45974
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<u>(c) Any funds paid under section 3317.0214 for the student.</u>	45977
<u>(2) The board of education of the joint vocational school district may report the excess costs calculated under division (C)(1) of this section to the department of education.</u>	45978 45979 45980
<u>(3) If the board of education of the joint vocational school district reports excess costs under division (C)(2) of this section, the department shall pay the amount of excess cost calculated under division (C)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (C)(3)(a) or (b) of this section, as applicable:</u>	45981 45982 45983 45984 45985 45986 45987
<u>(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (J) of section 3317.023 of the Revised Code.</u>	45988 45989 45990 45991
<u>(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.</u>	45992 45993 45994
<u>(D) In any fiscal year, a school district receiving funds under division (A)(5) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (A)(5) of this section may be spent.</u>	45995 45996 45997 45998 45999 46000 46001 46002 46003 46004 46005
<u>(E) In any fiscal year, a school district receiving funds under division (A)(6) of this section, or through a transfer of</u>	46006 46007

funds pursuant to division (I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for career-technical education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other career-technical education services, career-technical evaluation, and other purposes designated by the department. The department may deny payment under division (A)(6) of this section to any district that the department determines is not operating those services or is using funds paid under division (A)(6) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, for other purposes.

(F) As used in this section:

(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(2) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" is equal to the following:

The amount computed under division (A)(1) of this section /
(the formula amount X formula ADM)

Sec. 3317.161. (A) As used in this section, "lead district" has the same meaning as in section 3317.023 of the Revised Code.

(B) The lead district of a career-technical planning district shall review the career-technical education program of each city, local, and exempted village school district, each community school, and each STEM school that is assigned to the career-technical planning district and determine whether to approve or disapprove the program. The lead district shall notify the department of its determination.

(C) Upon receiving notification of a lead district's approval, the department shall pay to the member city, local, or exempted village school district or deduct from the state education aid of a district and pay to a community school or STEM school the funds attributed to the career-technical students enrolled in the district or school, according to a payment schedule prescribed by the department.

(D) Upon receiving notification from a lead district of disapproval of a city, local, or exempted village school district's, a community school's, or STEM school's career-technical education program, the department shall automatically review the lead district's decision. In reviewing the lead district's decision, the department shall consider the demand for the career-technical education program and the availability of the program within the career-technical planning district. If, as a result of the review, the department decides to approve the city, local, or exempted village school district's, the community school's, or the STEM school's career-technical education program, the department shall pay the funds to the district or deduct and pay the funds to the community school or STEM school in the manner described in division (C) of this section. The department's decision shall be final.

Sec. 3317.18. (A) As used in this section, the terms "Chapter 133. securities," "credit enhancement facilities," "debt charges," "general obligation," "legislation," "public obligations," and "securities" have the same meanings as in section 133.01 of the Revised Code.

(B) The board of education of any school district authorizing the issuance of securities under section 133.10, ~~133.301~~, or 3313.372 of the Revised Code or general obligation Chapter 133. securities may adopt legislation requesting the state department

of education to approve, and enter into an agreement with the 46069
school district and the primary paying agent or fiscal agent for 46070
such securities providing for, the withholding and deposit of 46071
funds, otherwise due the district under Chapter 3317. of the 46072
Revised Code, for the payment of debt service charges on such 46073
securities. 46074

The board of education shall deliver to the state department 46075
a copy of such resolution and any additional pertinent information 46076
the state department may require. 46077

The department of education and the office of budget and 46078
management shall evaluate each request received from a school 46079
district under this section and the department, with the advice 46080
and consent of the director of budget and management, shall 46081
approve or deny each request based on all of the following: 46082

(1) Whether approval of the request will enhance the 46083
marketability of the securities for which the request is made; 46084

(2) Any other pertinent factors or limitations established in 46085
rules made under division (I) of this section, including: 46086

(a) Current and projected obligations of funds due to the 46087
requesting school district under Chapter 3317. of the Revised Code 46088
including obligations of those funds to public obligations or 46089
relevant credit enhancement facilities under this section, Chapter 46090
133. and section 3313.483 of the Revised Code, and under any other 46091
similar provisions of law; 46092

(b) Whether the department of education or the office of 46093
budget and management has any reason to believe the requesting 46094
school district will be unable to pay when due the debt charges on 46095
the securities for which the request is made. 46096

The department may require a school district to establish 46097
schedules for the payment of all debt charges that take into 46098
account the amount and timing of anticipated distributions of 46099

funds to the district under Chapter 3317. of the Revised Code. 46100

(C) If the department approves the request of a school 46101
district to withhold and deposit funds pursuant to this section, 46102
the department shall enter into a written agreement with the 46103
district and the primary paying agent or fiscal agent for the 46104
securities which shall provide for the withholding of funds 46105
pursuant to this section for the payment of debt charges on those 46106
securities, and may include both of the following: 46107

(1) Provisions for certification by the district to the 46108
department, at a time prior to any date for the payment of 46109
applicable debt charges, whether the district is able to pay those 46110
debt charges when due; 46111

(2) Requirements that the district deposit amounts for the 46112
payment of debt charges on the securities with the primary paying 46113
agent or fiscal agent for the securities prior to the date on 46114
which those debt charge payments are due to the owners or holders 46115
of the securities. 46116

(D) Whenever a district notifies the department of education 46117
that it will be unable to pay debt charges when they are due, 46118
subject to the withholding provisions of this section, or whenever 46119
the applicable paying agent or fiscal agent notifies the 46120
department that it has not timely received from a school district 46121
the full amount needed for the payment when due of those debt 46122
charges to the holders or owners of such securities, the 46123
department shall immediately contact the school district and the 46124
paying agent or fiscal agent to confirm or determine whether the 46125
district is unable to make the required payment by the date on 46126
which it is due. 46127

Upon demand of the treasurer of state while holding a school 46128
district obligation purchased under division (G)(1) of section 46129
135.143 of the Revised Code, the state department of education, 46130

without a request of the school district, shall withhold and 46131
deposit funds pursuant to this section for payment of debt service 46132
charges on that obligation. 46133

If the department confirms or determines that the district 46134
will be unable to make such payment and payment will not be made 46135
pursuant to a credit enhancement facility, the department shall 46136
promptly pay to the applicable primary paying agent or fiscal 46137
agent the lesser of the amount due for debt charges or the amount 46138
due the district for the remainder of the fiscal year under 46139
Chapter 3317. of the Revised Code. If this amount is insufficient 46140
to pay the total amount then due the agent for the payment of debt 46141
charges, the department shall pay to the agent each fiscal year 46142
thereafter, and until the full amount due the agent for unpaid 46143
debt charges is paid in full, the lesser of the remaining amount 46144
due the agent for debt charges or the amount due the district for 46145
the fiscal year under Chapter 3317. of the Revised Code. 46146

(E) The state department may make any payments under this 46147
division by direct deposit of funds by electronic transfer. 46148

Any amount received by a paying agent or fiscal agent under 46149
this section shall be applied only to the payment of debt charges 46150
on the securities of the school district subject to this section 46151
or to the reimbursement to the provider of a credit enhancement 46152
facility that has paid such debt charges. 46153

(F) To the extent a school district whose securities are 46154
subject to this section is unable to pay applicable debt charges 46155
because of the failure to collect property taxes levied for the 46156
payment of those debt charges, the district may transfer to or 46157
deposit into any fund that would have received payments under 46158
Chapter 3317. of the Revised Code that were withheld under this 46159
section any such delinquent property taxes when later collected, 46160
provided that transfer or deposit shall be limited to the amounts 46161
withheld from that fund under this section. 46162

(G) The department may make payments under this section to 46163
paying agents or fiscal agents only from and to the extent that 46164
money is appropriated by the general assembly for Chapter 3317. of 46165
the Revised Code or for the purposes of this section. No 46166
securities of a school district to which this section is made 46167
applicable constitute an obligation or a debt or a pledge of the 46168
faith, credit, or taxing power of the state, and the holders or 46169
owners of such securities have no right to have taxes levied or 46170
appropriations made by the general assembly for the payment of 46171
debt charges on those securities, and those securities, if the 46172
department requires, shall contain a statement to that effect. The 46173
agreement for or the actual withholding and payment of moneys 46174
under this section does not constitute the assumption by the state 46175
of any debt of a school district. 46176

(H) In the case of securities subject to the withholding 46177
provisions of this section, the issuing board of education shall 46178
appoint a paying agent or fiscal agent who is not an officer or 46179
employee of the school district. 46180

(I) The department of education, with the advice of the 46181
office of budget and management, may adopt reasonable rules not 46182
inconsistent with this section for the implementation of this 46183
section and division (B) of section 133.25 of the Revised Code as 46184
it relates to the withholding and depositing of payments under 46185
Chapter 3317. of the Revised Code to secure payment of debt 46186
charges on school district securities. Those rules shall include 46187
criteria for the evaluation and approval or denial of school 46188
district requests for withholding under this section and limits on 46189
the obligation for the purpose of paying debt charges or 46190
reimbursing credit enhancement facilities of funds otherwise to be 46191
paid to school districts under Chapter 3317. of the Revised Code. 46192

(J) The authority granted by this section is in addition to 46193
and not a limitation on any other authorizations granted by or 46194

pursuant to law for the same or similar purposes. 46195

~~Sec. 3317.19. (A) As used in this section, "total unit allowance" means an amount equal to the sum of the following:~~ 46196
46197

~~(1) The total of the salary allowances for the teachers employed in the cooperative education school district for all units approved under division (B) or (C) of section 3317.05 of the Revised Code. The salary allowance for each unit shall equal the minimum salary for the teacher of the unit calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001.~~ 46198
46199
46200
46201
46202
46203
46204
46205

~~(2) Fifteen per cent of the total computed under division (A)(1) of this section;~~ 46206
46207

~~(3) The total of the unit operating allowances for all approved units. The amount of each allowance shall equal one of the following:~~ 46208
46209
46210

~~(a) Eight thousand twenty three dollars times the number of units for preschool children with disabilities or fraction thereof approved for the year under division (B) of section 3317.05 of the Revised Code;~~ 46211
46212
46213
46214

~~(b) Two thousand one hundred thirty two dollars times the number of units or fraction thereof approved for the year under division (C) of section 3317.05 of the Revised Code.~~ 46215
46216
46217

~~(B) The state board of education shall compute and distribute to each cooperative education school district for each fiscal year an amount equal to the sum of the following:~~ 46218
46219
46220

~~(1)(A) An amount equal to the total of the amounts credited to the cooperative education school district pursuant to division (H) of section 3317.023 of the Revised Code;~~ 46221
46222
46223

~~(2) The total unit allowance;~~ 46224

~~(3)(B)~~ An amount for assisting in providing free lunches to 46225
needy children pursuant to division (D) of section 3317.024 of the 46226
Revised Code. 46227

~~(C) If a cooperative education school district has had 46228
additional special education units approved for the year under 46229
division (F)(2) of section 3317.03 of the Revised Code, the 46230
district shall receive an additional amount during the last half 46231
of the fiscal year. For each unit, the additional amount shall 46232
equal fifty per cent of the amount computed under division (A) of 46233
this section for a unit approved under division (B) of section 46234
3317.05 of the Revised Code. 46235~~

Sec. 3317.20. This section does not apply to preschool 46236
children with disabilities. 46237

(A) As used in this section: 46238

(1) "Applicable weight" means the multiple specified in 46239
section 3317.013 of the Revised Code for a disability described in 46240
that section. 46241

(2) "Child's school district" means the school district in 46242
which a child is entitled to attend school pursuant to section 46243
3313.64 or 3313.65 of the Revised Code. 46244

(3) "State share ~~percentage~~ index" means the state share 46245
~~percentage~~ index of the child's school district. 46246

~~(B) Except as provided in division (C) of this section, the 46247
The department shall annually pay each county DD board for each 46248
child with a disability, other than a preschool child with a 46249
disability, for whom the county DD board provides special 46250
education and related services an amount equal to the formula 46251
amount + (state share ~~percentage~~ index X formula amount X the 46252
applicable weight). 46253~~

~~(C) If any school district places with a county DD board more 46254~~

~~children with disabilities than it had placed with a county DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter, and pay to the county DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998.~~

~~(D) The department shall calculate for each county DD board receiving payments under divisions (B) and (C) of this section the following amounts:~~

~~(1) The amount received by the county DD board for approved special education and related services units, other than units for preschool children with disabilities, in fiscal year 1998, divided by the total number of children served in the units that year;~~

~~(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.~~

~~If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section.~~

~~(E)(C) Each county DD board shall report to the department, in the manner specified by the department, the name of each child for whom the county DD board provides special education and related services and the child's school district.~~

~~(F)(D)(1) For the purpose of verifying the accuracy of the payments under this section, the department may request from~~

either of the following entities the data verification code 46286
assigned under division (D)(2) of section 3301.0714 of the Revised 46287
Code to any child who is placed with a county DD board: 46288

(a) The child's school district; 46289

(b) The independent contractor engaged to create and maintain 46290
data verification codes. 46291

(2) Upon a request by the department under division ~~(F)~~(D)(1) 46292
of this section for the data verification code of a child, the 46293
child's school district shall submit that code to the department 46294
in the manner specified by the department. If the child has not 46295
been assigned a code, the district shall assign a code to that 46296
child and submit the code to the department by a date specified by 46297
the department. If the district does not assign a code to the 46298
child by the specified date, the department shall assign a code to 46299
the child. 46300

The department annually shall submit to each school district 46301
the name and data verification code of each child residing in the 46302
district for whom the department has assigned a code under this 46303
division. 46304

(3) The department shall not release any data verification 46305
code that it receives under division ~~(F)~~(D) of this section to any 46306
person except as provided by law. 46307

~~(G)~~(E) Any document relative to special education and related 46308
services provided by a county DD board that the department holds 46309
in its files that contains both a student's name or other 46310
personally identifiable information and the student's data 46311
verification code shall not be a public record under section 46312
149.43 of the Revised Code. 46313

Sec. ~~3313.847~~ 3317.30. (A) In the case of a child placed in 46314
the custody of a juvenile facility established under section 46315

2151.65 or a detention facility established under section 2152.41 46316
of the Revised Code, if payment for the child's education services 46317
shall be administered by one of the following methods: 46318

(1) If the facility educates the child, the facility, or the 46319
chartered nonpublic school it operates, may submit its request for 46320
payment directly to the school district that is to bear the cost 46321
of educating the child, as determined under section 2151.362 of 46322
the Revised Code. That district shall pay the facility or the 46323
chartered nonpublic school directly for those services. 46324

(2) If the facility contracts directly with a school district 46325
in which the facility is located for services for that child, the 46326
school district may submit its request for payment directly to the 46327
school district that is to bear the cost of educating the child, 46328
as determined under section 2151.362 of the Revised Code. That 46329
district shall pay the school district where the facility is 46330
located directly for those services. 46331

(3) If that facility contracts directly with an educational 46332
service center for services for that child, the service center may 46333
submit its request for payment for services for the child directly 46334
to the school district that is responsible to bear the cost of 46335
educating the child, as determined under section 2151.362 of the 46336
Revised Code. That district shall pay the service center directly 46337
for those services. ~~Notwithstanding~~ 46338

(B) ~~Notwithstanding~~ anything to the contrary in section 46339
3317.03 of the Revised Code, the district that pays a service 46340
center, facility or chartered nonpublic school the facility 46341
operates, or other school district for services for a particular 46342
child under this section shall include that child in the 46343
district's average daily membership as reported under division (A) 46344
of section 3317.03 of the Revised Code. No other district shall 46345
include the child in its average daily membership. 46346

Payments made for a child under this section shall be 46347
determined in accordance with division (C)(4) of section 3313.64 46348
of the Revised Code. 46349

Sec. 3317.40. (A) As used in this section, "subgroup" means 46350
one of the following subsets of the entire student population of a 46351
school district or a school building: 46352

(1) Students with disabilities; 46353

(2) Economically disadvantaged students; 46354

(3) Limited English proficient students; 46355

(4) Students identified as gifted in superior cognitive 46356
ability and specific academic ability fields under Chapter 3324. 46357
of the Revised Code. 46358

(B) When funds are provided under this chapter specifically 46359
for services for a subgroup of students, the general assembly has 46360
determined that these students experience unique challenges 46361
requiring additional resources. The department of education shall 46362
require school districts and schools to account for the 46363
expenditure of funds provided under this chapter for services to 46364
those students. 46365

(C) If a district or school fails to show satisfactory 46366
achievement and progress, as determined by the state board of 46367
education, for any subgroup of students based on performance 46368
measures reported or graded under section 3302.03 of the Revised 46369
Code, the district or school shall submit an improvement plan to 46370
the department for approval. The plan may be included in any other 46371
improvement plan required of the district or school under state or 46372
federal law. The department may require that a plan required under 46373
division (C) of this section include an agreement to partner with 46374
another organization that has demonstrated the ability to improve 46375
the educational outcome for that subgroup of students to provide 46376

services to those students. The partner organization may be 46377
another school, district, or other education provider. 46378

Not later than December 31, 2014, the state board of 46379
education shall establish measures of satisfactory achievement and 46380
progress, which include, but are not limited to, performance 46381
measures under section 3302.03 of the Revised Code. The department 46382
shall make the initial determination of satisfactory achievement 46383
and progress under this section using those measures not later 46384
than September 1, 2015, and then make determinations under this 46385
section annually thereafter. 46386

The department shall publish a list of schools, school 46387
districts, and other educational providers that have demonstrated 46388
an ability to serve each subgroup of students. 46389

Sec. 3317.50. The ~~eTech-Ohio~~ telecommunity education fund is 46390
hereby created in the state treasury. The fund shall consist of 46391
certain excess local exchange telephone company contributions 46392
transferred from the reserve fund of the Ohio telecommunications 46393
advisory board pursuant to an agreement between the public 46394
utilities commission of Ohio and the Ohio department of education. 46395
The fund shall be used by the chancellor of the Ohio board of 46396
regents, in the amounts appropriated, to finance technology grants 46397
to state-chartered elementary and secondary schools. Investment 46398
earnings of the fund shall be credited to the fund. 46399

Sec. 3317.51. (A) The distance learning fund is hereby 46400
created in the state treasury. The fund shall consist of moneys 46401
~~paid to the eTech-Ohio commission~~ by any telephone company as a 46402
part of a settlement agreement between such company and the public 46403
utilities commission in fiscal year 1995 in part to establish 46404
distance learning throughout the state. The ~~commission~~ chancellor 46405
of the Ohio board of regents shall administer the fund and expend 46406

moneys from it to finance technology grants to eligible schools 46407
chartered by the state board of education to establish distance 46408
learning in those schools. Chartered schools are eligible for 46409
funds if they are within the service area of the telephone 46410
company. Investment earnings of the fund shall be credited to the 46411
fund. 46412

(B) For purposes of this section, "distance learning" means 46413
the creation of a learning environment involving a school setting 46414
and at least one other location outside of the school which allows 46415
for information available at one site to be accessed at the other 46416
through the use of such educational applications as one-way or 46417
two-way transmission of data, voice, and video, singularly or in 46418
appropriate combinations. 46419

Sec. 3318.011. For purposes of providing assistance under 46420
sections 3318.01 to 3318.20 of the Revised Code, the department of 46421
education shall annually do all of the following: 46422

(A) Calculate the adjusted valuation per pupil of each city, 46423
local, and exempted village school district according to the 46424
following formula: 46425

The district's valuation per pupil - 46426
[\$30,000 X (1 - the district's income factor)]. 46427

For purposes of this calculation: 46428

(1) Except for a district with an open enrollment net gain 46429
that is ten per cent or more of its formula ADM, "valuation per 46430
pupil" for a district means its average taxable value, divided by 46431
its formula ADM for the previous fiscal year. "Valuation per 46432
pupil," for a district with an open enrollment net gain that is 46433
ten per cent or more of its formula ADM, means its average taxable 46434
value, divided by the sum of its formula ADM for the previous 46435
fiscal year plus its open enrollment net gain for the previous 46436
fiscal year. 46437

(2) "Average taxable value" means the average of the sum of 46438
the amounts certified for a district under divisions (A)(1) and 46439
(2) of section 3317.021 of the Revised Code in the second, third, 46440
and fourth preceding fiscal years. 46441

(3) "Entitled to attend school" means entitled to attend 46442
school in a city, local, or exempted village school district under 46443
section 3313.64 or 3313.65 of the Revised Code. 46444

(4) "Formula ADM" ~~and "income factor" have~~ has the same 46445
~~meanings~~ meaning as in section 3317.02 of the Revised Code. 46446

(5) "Native student" has the same meaning as in section 46447
3313.98 of the Revised Code. 46448

(6) "Open enrollment net gain" for a district means (a) the 46449
number of the students entitled to attend school in another 46450
district but who are enrolled in the schools of the district under 46451
its open enrollment policy minus (b) the number of the district's 46452
native students who are enrolled in the schools of another 46453
district under the other district's open enrollment policy, both 46454
numbers as certified to the department under section 3313.981 of 46455
the Revised Code. If the difference is a negative number, the 46456
district's "open enrollment net gain" is zero. 46457

(7) "Open enrollment policy" means an interdistrict open 46458
enrollment policy adopted under section 3313.98 of the Revised 46459
Code. 46460

(8) "District median income" means the median Ohio adjusted 46461
gross income certified for a school district. On or before the 46462
first day of July of each year, the tax commissioner shall certify 46463
to the department of education and the office of budget and 46464
management for each city, exempted village, and local school 46465
district the median Ohio adjusted gross income of the residents of 46466
the school district determined on the basis of tax returns filed 46467
for the second preceding tax year by the residents of the 46468

<u>district.</u>	46469
<u>(9) "Statewide median income" means the median district</u>	46470
<u>median income of all city, exempted village, and local school</u>	46471
<u>districts in the state.</u>	46472
<u>(10) "Income factor" for a city, exempted village, or local</u>	46473
<u>school district means the quotient obtained by dividing that</u>	46474
<u>district's median income by the statewide median income.</u>	46475
(B) Calculate for each district the three-year average of the	46476
adjusted valuations per pupil calculated for the district for the	46477
current and two preceding fiscal years;	46478
(C) Rank all such districts in order of adjusted valuation	46479
per pupil from the district with the lowest three-year average	46480
adjusted valuation per pupil to the district with the highest	46481
three-year average adjusted valuation per pupil;	46482
(D) Divide such ranking into percentiles with the first	46483
percentile containing the one per cent of school districts having	46484
the lowest three-year average adjusted valuations per pupil and	46485
the one-hundredth percentile containing the one per cent of school	46486
districts having the highest three-year average adjusted	46487
valuations per pupil;	46488
(E) Determine the school districts that have three-year	46489
average adjusted valuations per pupil that are greater than the	46490
median three-year average adjusted valuation per pupil for all	46491
school districts in the state;	46492
(F) On or before the first day of September, certify the	46493
information described in divisions (A) to (E) of this section to	46494
the Ohio school facilities commission.	46495
Sec. 3318.031. (A) The Ohio school facilities commission	46496
shall consider student and staff safety and health when reviewing	46497
design plans for classroom facility construction projects proposed	46498

under this chapter. After consulting with appropriate education, 46499
health, and law enforcement personnel, the commission may require 46500
as a condition of project approval under either section 3318.03 or 46501
division (B)(1) of section 3318.41 of the Revised Code such 46502
changes in the design plans as the commission believes will 46503
advance or improve student and staff safety and health in the 46504
proposed classroom facility. 46505

To carry out its duties under this division, the commission 46506
shall review and, if necessary, amend any construction and design 46507
standards used in its project approval process, including 46508
standards for location and number of exits, standards for lead 46509
safety in classroom facilities constructed before 1978 in which 46510
services are provided to children under six years of age, and 46511
location of restrooms, with a focus on advancing student and staff 46512
safety and health. 46513

(B) When reviewing design standards for classroom facility 46514
construction projects proposed under this chapter, the commission 46515
shall also consider the extent to which the design standards 46516
support the following: 46517

(1) ~~Support and facilitation of smaller classes and the trend~~ 46518
~~toward smaller schools~~ Trends in educational delivery methods, 46519
including digital access and blended learning; 46520

(2) Provision of sufficient space for training new teachers 46521
and promotion of collaboration among teaching candidates, 46522
experienced teachers, and teacher educators; 46523

(3) Provision of adequate space for teacher planning and 46524
collaboration; 46525

(4) Provision of adequate space for parent involvement 46526
activities; 46527

(5) Provision of sufficient space for innovative partnerships 46528
between schools and health and social service agencies. 46529

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first

installment of bond anticipation notes in an amount specified by 46562
the agreement, which amount shall not exceed an amount necessary 46563
to raise the net bonded indebtedness of the school district as of 46564
the date of the controlling board's approval to within five 46565
thousand dollars of the required level of indebtedness for the 46566
preceding year. In the event that a first installment of bond 46567
anticipation notes is issued, the school district board shall, as 46568
soon as practicable after the county treasurer of each county in 46569
which the school district is located has commenced the collection 46570
of taxes on the general duplicate of real and public utility 46571
property for the year in which the controlling board approved the 46572
project, authorize the issuance of a second and final installment 46573
of bond anticipation notes or a first and final issue of bonds. 46574

The combined value of the first and second installment of 46575
bond anticipation notes or the value of the first and final issue 46576
of bonds shall be equal to the school district's portion of the 46577
basic project cost. The proceeds of any such bonds shall be used 46578
first to retire any bond anticipation notes. Otherwise, the 46579
proceeds of such bonds and of any bond anticipation notes, except 46580
the premium and accrued interest thereon, shall be deposited in 46581
the school district's project construction fund. In determining 46582
the amount of net bonded indebtedness for the purpose of fixing 46583
the amount of an issue of either bonds or bond anticipation notes, 46584
gross indebtedness shall be reduced by moneys in the bond 46585
retirement fund only to the extent of the moneys therein on the 46586
first day of the year preceding the year in which the controlling 46587
board approved the project. Should there be a decrease in the tax 46588
valuation of the school district so that the amount of 46589
indebtedness that can be incurred on the tax duplicates for the 46590
year in which the controlling board approved the project is less 46591
than the amount of the first installment of bond anticipation 46592
notes, there shall be paid from the school district's project 46593
construction fund to the school district's bond retirement fund to 46594

be applied against such notes an amount sufficient to cause the net bonded indebtedness of the school district, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness for the year in which the controlling board approved the project. The maximum amount of indebtedness to be incurred by any school district board as its share of the cost of the project is either an amount that will cause its net bonded indebtedness, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness, or an amount equal to the required percentage of the basic project costs, whichever is greater. All bonds and bond anticipation notes shall be issued in accordance with Chapter 133. of the Revised Code, and notes may be renewed as provided in section 133.22 of the Revised Code.

(B) The transfer of such funds of the school district board available for the project, together with the proceeds of the sale of the bonds or notes, except premium, accrued interest, and interest included in the amount of the issue, to the school district's project construction fund;

(C) For all school districts except joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the following provisions as applicable:

(1) If section 3318.052 of the Revised Code applies, the earmarking of the proceeds of a tax levied under section 5705.21 of the Revised Code for general permanent improvements or under section 5705.218 of the Revised Code for the purpose of permanent improvements, or the proceeds of a school district income tax levied under Chapter 5748. of the Revised Code, or the proceeds from a combination of those two taxes, in an amount to pay all or

part of the service charges on bonds issued to pay the school 46627
district portion of the project and an amount equivalent to all or 46628
part of the tax required under division (B) of section 3318.05 of 46629
the Revised Code; 46630

(2) If section 3318.052 of the Revised Code does not apply, 46631
one of the following: 46632

(a) The levy of the tax authorized at the election for the 46633
payment of maintenance costs, as specified in division (B) of 46634
section 3318.05 of the Revised Code; 46635

(b) If the school district electors have approved a 46636
continuing tax for general permanent improvements under section 46637
5705.21 of the Revised Code and that tax can be used for 46638
maintenance, the earmarking of an amount of the proceeds from such 46639
tax for maintenance of classroom facilities as specified in 46640
division (B) of section 3318.05 of the Revised Code; 46641

(c) If, in lieu of the tax otherwise required under division 46642
(B) of section 3318.05 of the Revised Code, the commission has 46643
approved the transfer of money to the maintenance fund in 46644
accordance with section 3318.051 of the Revised Code, a 46645
requirement that the district board comply with the provisions of 46646
that section. The district board may rescind the provision 46647
prescribed under division (C)(2)(c) of this section only so long 46648
as the electors of the district have approved, in accordance with 46649
section 3318.063 of the Revised Code, the levy of a tax for the 46650
maintenance of the classroom facilities acquired under the 46651
district's project and that levy continues to be collected as 46652
approved by the electors. 46653

(D) For joint vocational school districts that receive 46654
assistance under sections 3318.40 to 3318.45 of the Revised Code, 46655
provision for deposit of school district moneys dedicated to 46656
maintenance of the classroom facilities acquired under those 46657

sections as prescribed in section 3318.43 of the Revised Code; 46658

(E) Dedication of any local donated contribution as provided 46659
for under section 3318.084 of the Revised Code, including a 46660
schedule for depositing such moneys applied as an offset of the 46661
district's obligation to levy the tax described in division (B) of 46662
section 3318.05 of the Revised Code as required under division 46663
(D)(2) of section 3318.084 of the Revised Code; 46664

(F) Ownership of or interest in the project during the period 46665
of construction, which shall be divided between the commission and 46666
the school district board in proportion to their respective 46667
contributions to the school district's project construction fund; 46668

(G) Maintenance of the state's interest in the project until 46669
any obligations issued for the project under section 3318.26 of 46670
the Revised Code are no longer outstanding; 46671

(H) The insurance of the project by the school district from 46672
the time there is an insurable interest therein and so long as the 46673
state retains any ownership or interest in the project pursuant to 46674
division (F) of this section, in such amounts and against such 46675
risks as the commission shall require; provided, that the cost of 46676
any required insurance until the project is completed shall be a 46677
part of the basic project cost; 46678

(I) The certification by the director of budget and 46679
management that funds are available and have been set aside to 46680
meet the state's share of the basic project cost as approved by 46681
the controlling board pursuant to either section 3318.04 or 46682
division (B)(1) of section 3318.41 of the Revised Code; 46683

(J) Authorization of the school district board to advertise 46684
for and receive construction bids for the project, for and on 46685
behalf of the commission, and to award contracts in the name of 46686
the state subject to approval by the commission; 46687

(K) Provisions for the disbursement of moneys from the school 46688

district's project account upon issuance by the commission or the 46689
commission's designated representative of vouchers for work done 46690
to be certified to the commission by the treasurer of the school 46691
district board; 46692

(L) Disposal of any balance left in the school district's 46693
project construction fund upon completion of the project; 46694

(M) Limitations upon use of the project or any part of it so 46695
long as any obligations issued to finance the project under 46696
section 3318.26 of the Revised Code are outstanding; 46697

(N) Provision for vesting the state's interest in the project 46698
to the school district board when the obligations issued to 46699
finance the project under section 3318.26 of the Revised Code are 46700
outstanding; 46701

(O) Provision for deposit of an executed copy of the 46702
agreement in the office of the commission; 46703

(P) Provision for termination of the contract and release of 46704
the funds encumbered at the time of the conditional approval, if 46705
the proceeds of the sale of the bonds of the school district board 46706
are not paid into the school district's project construction fund 46707
and if bids for the construction of the project have not been 46708
taken within such period after the execution of the agreement as 46709
may be fixed by the commission; 46710

(Q) Provision for the school district to maintain the project 46711
in accordance with a plan approved by the commission; 46712

(R) Provision that all state funds reserved and encumbered to 46713
pay the state share of the cost of the project and the funds 46714
provided by the school district to pay for its share of the 46715
project cost, including the respective shares of the cost of a 46716
segment if the project is divided into segments, be spent on the 46717
construction and acquisition of the project or segment 46718
simultaneously in proportion to the state's and the school 46719

district's respective shares of that basic project cost as 46720
determined under section 3318.032 of the Revised Code or, if the 46721
district is a joint vocational school district, under section 46722
3318.42 of the Revised Code. However, if the school district 46723
certifies to the commission that expenditure by the school 46724
district is necessary to maintain the federal tax status or 46725
tax-exempt status of notes or bonds issued by the school district 46726
to pay for its share of the project cost or to comply with 46727
applicable temporary investment periods or spending exceptions to 46728
rebate as provided for under federal law in regard to those notes 46729
or bonds, the school district may commit to spend, or spend, a 46730
greater portion of the funds it provides during any specific 46731
period than would otherwise be required under this division. 46732

(S) A provision stipulating that the commission may prohibit 46733
the district from proceeding with any project if the commission 46734
determines that the site is not suitable for construction 46735
purposes. The commission may perform soil tests in its 46736
determination of whether a site is appropriate for construction 46737
purposes. 46738

(T) A provision stipulating that, unless otherwise authorized 46739
by the commission, any contingency reserve portion of the 46740
construction budget prescribed by the commission shall be used 46741
only to pay costs resulting from unforeseen job conditions, to 46742
comply with rulings regarding building and other codes, to pay 46743
costs related to design clarifications or corrections to contract 46744
documents, and to pay the costs of settlements or judgments 46745
related to the project as provided under section 3318.086 of the 46746
Revised Code; 46747

(U) ~~Provision~~ A provision stipulating that for continued 46748
release of project funds the school district board shall comply 46749
with ~~section~~ sections 3313.41 and 3313.411 of the Revised Code 46750
throughout the project and shall notify the department of 46751

education and the Ohio community school association when the board 46752
plans to dispose of facilities by sale under that section; 46753

(V) ~~Provision A~~ provision stipulating that the commission 46754
shall not approve a contract for demolition of a facility until 46755
the school district board has complied with ~~section~~ sections 46756
3313.41 and 3313.411 of the Revised Code relative to that 46757
facility, unless demolition of that facility is to clear a site 46758
for construction of a replacement facility included in the 46759
district's project; 46760

(W) A requirement for the school district to adhere to a 46761
facilities maintenance plan approved by the commission. 46762

Sec. 3318.31. (A) The Ohio school facilities commission may 46763
perform any act and ensure the performance of any function 46764
necessary or appropriate to carry out the purposes of, and 46765
exercise the powers granted under, Chapter 3318. of the Revised 46766
Code, including any of the following: 46767

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 46768
the Revised Code, rules for the administration of programs 46769
authorized under Chapter 3318. of the Revised Code. 46770

(2) Contract with, retain the services of, or designate, and 46771
fix the compensation of, such agents, accountants, consultants, 46772
advisers, and other independent contractors as may be necessary or 46773
desirable to carry out the programs authorized under Chapter 3318. 46774
of the Revised Code, or authorize the executive director to 46775
perform such powers and duties. 46776

(3) Receive and accept any gifts, grants, donations, and 46777
pledges, and receipts therefrom, to be used for the programs 46778
authorized under Chapter 3318. of the Revised Code. 46779

(4) Make and enter into all contracts, commitments, and 46780
agreements, and execute all instruments, necessary or incidental 46781

to the performance of its duties and the execution of its rights 46782
and powers under Chapter 3318. of the Revised Code, or authorize 46783
the executive director or the Ohio facilities construction 46784
commission to perform such powers and duties. 46785

(5) Request the Ohio facilities construction commission to 46786
debar a contractor as provided in section 153.02 of the Revised 46787
Code. 46788

(B) ~~The Ohio school facilities commission shall appoint and~~ 46789
~~fix the compensation of an~~ executive director who of the Ohio 46790
facilities construction commission, as appointed under division 46791
(B) of section 123.21 of the Revised Code, shall also serve at the 46792
~~pleasure of~~ as the executive director for the Ohio school 46793
facilities commission. The executive director shall exercise all 46794
powers that the Ohio school facilities commission possesses, 46795
supervise the operations of the Ohio school facilities commission 46796
and perform such other duties as delegated by the Ohio school 46797
facilities commission. The executive director also shall employ 46798
and fix the compensation of such employees as will facilitate the 46799
activities and purposes of the Ohio school facilities commission, 46800
who shall serve at the pleasure of the executive director. The 46801
employees of the Ohio school facilities commission shall be exempt 46802
from Chapter 4117. of the Revised Code and shall not be public 46803
employees as defined in section 4117.01 of the Revised Code. Any 46804
agreement entered into prior to July 1, 2012, between the office 46805
of collective bargaining and the exclusive representative for 46806
employees of the commission is binding and shall continue to have 46807
effect. 46808

(C) The attorney general shall serve as the legal 46809
representative for the Ohio school facilities commission and may 46810
appoint other counsel as necessary for that purpose in accordance 46811
with section 109.07 of the Revised Code. 46812

Sec. 3318.36. (A)(1) As used in this section: 46813

(a) "Ohio school facilities commission," "classroom 46814
facilities," "school district," "school district board," "net 46815
bonded indebtedness," "required percentage of the basic project 46816
costs," "basic project cost," "valuation," and "percentile" have 46817
the same meanings as in section 3318.01 of the Revised Code. 46818

(b) "Required level of indebtedness" means five per cent of 46819
the school district's valuation for the year preceding the year in 46820
which the commission and school district enter into an agreement 46821
under division (B) of this section, plus [two one-hundredths of 46822
one per cent multiplied by (the percentile in which the district 46823
ranks minus one)]. 46824

(c) "Local resources" means any moneys generated in any 46825
manner permitted for a school district board to raise the school 46826
district portion of a project undertaken with assistance under 46827
sections 3318.01 to 3318.20 of the Revised Code. 46828

(d) "Tangible personal property phase-out impacted district" 46829
means a school district for which the taxable value of its 46830
tangible personal property certified under division (A)(2) of 46831
section 3317.021 of the Revised Code for tax year 2005, excluding 46832
the taxable value of public utility personal property, made up 46833
eighteen per cent or more of its total taxable value for tax year 46834
2005 as certified under that section. 46835

(2) For purposes of determining the required level of 46836
indebtedness, the required percentage of the basic project costs 46837
under division (C)(1) of this section, and priority for assistance 46838
under sections 3318.01 to 3318.20 of the Revised Code, the 46839
percentile ranking of a school district with which the commission 46840
has entered into an agreement under this section between the first 46841
day of July and the thirty-first day of August in each fiscal year 46842
is the percentile ranking calculated for that district for the 46843

immediately preceding fiscal year, and the percentile ranking of a 46844
school district with which the commission has entered into such 46845
agreement between the first day of September and the thirtieth day 46846
of June in each fiscal year is the percentile ranking calculated 46847
for that district for the current fiscal year. However, in the 46848
case of a tangible personal property phase-out impacted district, 46849
the district's priority for assistance under sections 3318.01 to 46850
3318.20 of the Revised Code and its portion of the basic project 46851
cost under those sections shall be determined in the manner 46852
prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of 46853
this section. 46854

(B)(1) There is hereby established the school building 46855
assistance expedited local partnership program. Under the program, 46856
the Ohio school facilities commission may enter into an agreement 46857
with the board of any school district under which the board may 46858
proceed with the new construction or major repairs of a part of 46859
the district's classroom facilities needs, as determined under 46860
sections 3318.01 to 3318.20 of the Revised Code, through the 46861
expenditure of local resources prior to the school district's 46862
eligibility for state assistance under those sections, and may 46863
apply that expenditure toward meeting the school district's 46864
portion of the basic project cost of the total of the district's 46865
classroom facilities needs, as recalculated under division (E) of 46866
this section, when the district becomes eligible for state 46867
assistance under sections 3318.01 to 3318.20 or section 3318.364 46868
of the Revised Code. Any school district that is reasonably 46869
expected to receive assistance under sections 3318.01 to 3318.20 46870
of the Revised Code within two fiscal years from the date the 46871
school district adopts its resolution under division (B) of this 46872
section shall not be eligible to participate in the program 46873
established under this section. 46874

(2) To participate in the program, a school district board 46875

shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later than ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment, sooner than September 14, 2000.

(3) For purposes of determining when a district that enters into an agreement under this section becomes eligible for assistance under sections 3318.01 to 3318.20 of the Revised Code or priority for assistance under section 3318.364 of the Revised Code, the commission shall use one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this section;

(b) For a tangible personal property phase-out impacted district, the lesser of (i) the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this

section, or (ii) the district's current percentile ranking under 46907
section 3318.011 of the Revised Code. 46908

(4) Any project under this section shall comply with section 46909
3318.03 of the Revised Code and with any specifications for plans 46910
and materials for classroom facilities adopted by the commission 46911
under section 3318.04 of the Revised Code. 46912

(5) If a school district that enters into an agreement under 46913
this section has not begun a project applying local resources as 46914
provided for under that agreement at the time the district is 46915
notified by the commission that it is eligible to receive state 46916
assistance under sections 3318.01 to 3318.20 of the Revised Code, 46917
all assessment and agreement documents entered into under this 46918
section are void. 46919

(6) Only construction of or repairs to classroom facilities 46920
that have been approved by the commission and have been therefore 46921
included as part of a district's basic project cost qualify for 46922
application of local resources under this section. 46923

(C) Based on the results of on-site visits and assessment, 46924
the commission shall determine the basic project cost of the 46925
school district's classroom facilities needs. The commission shall 46926
determine the school district's portion of such basic project 46927
cost, which shall be the greater of: 46928

(1) The required percentage of the basic project costs, 46929
determined based on the school district's percentile ranking; 46930

(2) An amount necessary to raise the school district's net 46931
bonded indebtedness, as of the fiscal year the commission and the 46932
school district enter into the agreement under division (B) of 46933
this section, to within five thousand dollars of the required 46934
level of indebtedness. 46935

(D)(1) When the commission determines the basic project cost 46936
of the classroom facilities needs of a school district and the 46937

school district's portion of that basic project cost under 46938
division (C) of this section, the project shall be conditionally 46939
approved. Such conditional approval shall be submitted to the 46940
controlling board for approval thereof. The controlling board 46941
shall forthwith approve or reject the commission's determination, 46942
conditional approval, and the amount of the state's portion of the 46943
basic project cost; however, no state funds shall be encumbered 46944
under this section. Upon approval by the controlling board, the 46945
school district board may identify a discrete part of its 46946
classroom facilities needs, which shall include only new 46947
construction of or additions or major repairs to a particular 46948
building, to address with local resources. Upon identifying a part 46949
of the school district's basic project cost to address with local 46950
resources, the school district board may allocate any available 46951
school district moneys to pay the cost of that identified part, 46952
including the proceeds of an issuance of bonds if approved by the 46953
electors of the school district. 46954

All local resources utilized under this division shall first 46955
be deposited in the project construction account required under 46956
section 3318.08 of the Revised Code. 46957

(2) Unless the school district board exercises its option 46958
under division (D)(3) of this section, for a school district to 46959
qualify for participation in the program authorized under this 46960
section, one of the following conditions shall be satisfied: 46961

(a) The electors of the school district by a majority vote 46962
shall approve the levy of taxes outside the ten-mill limitation 46963
for a period of twenty-three years at the rate of not less than 46964
one-half mill for each dollar of valuation to be used to pay the 46965
cost of maintaining the classroom facilities included in the basic 46966
project cost as determined by the commission. The form of the 46967
ballot to be used to submit the question whether to approve the 46968
tax required under this division to the electors of the school 46969

district shall be the form for an additional levy of taxes 46970
prescribed in section 3318.361 of the Revised Code, which may be 46971
combined in a single ballot question with the questions prescribed 46972
under section 5705.218 of the Revised Code. 46973

(b) As authorized under division (C) of section 3318.05 of 46974
the Revised Code, the school district board shall earmark from the 46975
proceeds of a permanent improvement tax levied under section 46976
5705.21 of the Revised Code, an amount equivalent to the 46977
additional tax otherwise required under division (D)(2)(a) of this 46978
section for the maintenance of the classroom facilities included 46979
in the basic project cost as determined by the commission. 46980

(c) As authorized under section 3318.051 of the Revised Code, 46981
the school district board shall, if approved by the commission, 46982
annually transfer into the maintenance fund required under section 46983
3318.05 of the Revised Code the amount prescribed in section 46984
3318.051 of the Revised Code in lieu of the tax otherwise required 46985
under division (D)(2)(a) of this section for the maintenance of 46986
the classroom facilities included in the basic project cost as 46987
determined by the commission. 46988

(d) If the school district board has rescinded the agreement 46989
to make transfers under section 3318.051 of the Revised Code, as 46990
provided under division (F) of that section, the electors of the 46991
school district, in accordance with section 3318.063 of the 46992
Revised Code, first shall approve the levy of taxes outside the 46993
ten-mill limitation for the period specified in that section at a 46994
rate of not less than one-half mill for each dollar of valuation. 46995

(e) The school district board shall apply the proceeds of a 46996
tax to leverage bonds as authorized under section 3318.052 of the 46997
Revised Code or dedicate a local donated contribution in the 46998
manner described in division (B) of section 3318.084 of the 46999
Revised Code in an amount equivalent to the additional tax 47000
otherwise required under division (D)(2)(a) of this section for 47001

the maintenance of the classroom facilities included in the basic 47002
project cost as determined by the commission. 47003

(3) A school district board may opt to delay taking any of 47004
the actions described in division (D)(2) of this section until the 47005
school district becomes eligible for state assistance under 47006
sections 3318.01 to 3318.20 of the Revised Code. In order to 47007
exercise this option, the board shall certify to the commission a 47008
resolution indicating the board's intent to do so prior to 47009
entering into an agreement under division (B) of this section. 47010

(4) If pursuant to division (D)(3) of this section a district 47011
board opts to delay levying an additional tax until the district 47012
becomes eligible for state assistance, it shall submit the 47013
question of levying that tax to the district electors as follows: 47014

(a) In accordance with section 3318.06 of the Revised Code if 47015
it will also be necessary pursuant to division (E) of this section 47016
to submit a proposal for approval of a bond issue; 47017

(b) In accordance with section 3318.361 of the Revised Code 47018
if it is not necessary to also submit a proposal for approval of a 47019
bond issue pursuant to division (E) of this section. 47020

(5) No state assistance under sections 3318.01 to 3318.20 of 47021
the Revised Code shall be released until a school district board 47022
that adopts and certifies a resolution under division (D) of this 47023
section also demonstrates to the satisfaction of the commission 47024
compliance with the provisions of division (D)(2) of this section. 47025

Any amount required for maintenance under division (D)(2) of 47026
this section shall be deposited into a separate fund as specified 47027
in division (B) of section 3318.05 of the Revised Code. 47028

(E)(1) If the school district becomes eligible for state 47029
assistance under sections 3318.01 to 3318.20 of the Revised Code 47030
based on its percentile ranking under division (B)(3) of this 47031
section or is offered assistance under section 3318.364 of the 47032

Revised Code, the commission shall conduct a new assessment of the school district's classroom facilities needs and shall recalculate the basic project cost based on this new assessment. The basic project cost recalculated under this division shall include the amount of expenditures made by the school district board under division (D)(1) of this section. The commission shall then recalculate the school district's portion of the new basic project cost, which shall be one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section;

(b) For a tangible personal property phase-out impacted district, the lesser of (i) the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section, or (ii) the percentage of the new basic project cost determined under section 3318.032 of the Revised Code using the district's current percentile ranking under section 3318.011 of the Revised Code. The

The commission shall deduct the expenditure of school district moneys made under division (D)(1) of this section from the school district's portion of the basic project cost as recalculated under this division. If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is less than the total amount of such portion as recalculated under this division, the school district board by a majority vote of all of its members shall, if it desires to seek state assistance under sections 3318.01 to 3318.20 of the Revised Code, adopt a resolution as specified in section 3318.06 of the Revised Code to submit to the electors of the school district the question of approval of a bond issue in order to pay any additional amount of

school district portion required for state assistance. Any tax 47065
levy approved under division (D) of this section satisfies the 47066
requirements to levy the additional tax under section 3318.06 of 47067
the Revised Code. 47068

(2) If the amount of school district resources applied by the 47069
school district board to the school district's portion of the 47070
basic project cost under this section is more than the total 47071
amount of such portion as recalculated under ~~this~~ division (E)(1) 47072
of this section, within one year after the school district's 47073
portion is so recalculated ~~under division (E)(1) of this section~~ 47074
the commission may grant to the school district the difference 47075
between the two calculated portions, but at no time shall the 47076
commission expend any state funds on a project in an amount 47077
greater than the state's portion of the basic project cost as 47078
recalculated under ~~this~~ division (E)(1) of this section. 47079

Any reimbursement under this division shall be only for local 47080
resources the school district has applied toward construction cost 47081
expenditures for the classroom facilities approved by the 47082
commission, which shall not include any financing costs associated 47083
with that construction. 47084

The school district board shall use any moneys reimbursed to 47085
the district under this division to pay off any debt service the 47086
district owes for classroom facilities constructed under its 47087
project under this section before such moneys are applied to any 47088
other purpose. However, the district board first may deposit 47089
moneys reimbursed under this division into the district's general 47090
fund or a permanent improvement fund to replace local resources 47091
the district withdrew from those funds, as long as, and to the 47092
extent that, those local resources were used by the district for 47093
constructing classroom facilities included in the district's basic 47094
project cost. 47095

(3) A tangible personal property phase-out impacted district 47096

shall receive credit under division (E) of this section for the 47097
expenditure of local resources pursuant to any prior agreement 47098
authorized by this section, notwithstanding any recalculation of 47099
its average taxable value. 47100

Sec. 3318.363. (A) This section applies beginning in fiscal 47101
year 2003 and only to a school district participating in the 47102
school building assistance expedited local partnership program 47103
under section 3318.36 of the Revised Code. 47104

(B) If there is a decrease in the tax valuation of a school 47105
district to which this section applies by ten per cent or greater 47106
from one tax year to the next due to a decrease in the assessment 47107
rate of the taxable property of an electric company that owns 47108
property in the district, as provided for in section 5727.111 of 47109
the Revised Code as amended by Am. Sub. S.B. 3 of the 123rd 47110
General Assembly, the Ohio school facilities commission shall 47111
calculate or recalculate the state and school district portions of 47112
the basic project cost of the school district's project by 47113
determining the percentile rank in which the district would be 47114
located if such ranking were made using the adjusted valuation per 47115
pupil calculated under division (C) of this section rather than 47116
the three-year average adjusted valuation per pupil, calculated 47117
under division (B) of section 3318.011 of the Revised Code. For 47118
such district, the required percentage of the basic project cost 47119
used to determine the state and school district shares of that 47120
cost under division (C) of section 3318.36 of the Revised Code 47121
shall be based on the percentile rank as calculated under this 47122
section rather than as otherwise provided in division (C)(1) of 47123
section 3318.36 of the Revised Code. If the commission has 47124
determined the state and school district portion of the basic 47125
project cost of such a district's project under section 3318.36 of 47126
the Revised Code prior to that decrease in tax valuation, the 47127
commission shall adjust the state and school district shares of 47128

the basic project cost of such project in accordance with this 47129
section. 47130

(C)(1) As used in divisions (C) and (D) of this section, 47131
"total taxable value₇" and "formula ADM₇" ~~and "income factor"~~ have 47132
the same meanings as in section 3317.02 of the Revised Code, and 47133
"income factor" has the same meaning as in section 3318.011 of the 47134
Revised Code. 47135

(2) The adjusted valuation per pupil for a school district to 47136
which this section applies shall be calculated using the following 47137
formula: 47138

(The district's total taxable value for the tax year 47139
preceding the calendar year in which the current fiscal year 47140
begins / the district's formula ADM for the previous fiscal year) 47141
- [\$30,000 x (1 - the district's income factor)]. 47142

(D) At the request of the Ohio school facilities commission, 47143
the department of education shall report a district's total 47144
taxable value for the tax year preceding the calendar year in 47145
which the current fiscal year begins for any district to which 47146
this section applies as that information has been certified to the 47147
department by the tax commissioner pursuant to section 3317.021 of 47148
the Revised Code. 47149

Sec. 3319.031. Notwithstanding any provision of the Revised 47150
Code to the contrary, if the board of education of a city, local, 47151
or exempted village school district does not appoint a business 47152
manager under section 3319.03 of the Revised Code, the board may 47153
assign powers and duties specified in section 3319.04 of the 47154
Revised Code to one or more employees or officers of the board, 47155
including the treasurer, and may give the employees or officers 47156
any title recognizing the assignment of the powers and duties. The 47157
prohibition, in section 3319.04 of the Revised Code, against a 47158
business manager having possession of moneys does not prevent a 47159

board from assigning powers and duties specified in that section 47160
to the treasurer and does not prevent a treasurer who is assigned 47161
those powers and duties from exercising the powers and duties of 47162
treasurer. If the board assigns the duties of a business manager 47163
under section 3319.04 of the Revised Code to the treasurer, the 47164
treasurer shall not have the authority to make recommendations to 47165
appoint or discharge noneducational employees, except as provided 47166
under section 3313.31 of the Revised Code. Instead, the district 47167
superintendent shall be responsible for making recommendations, 47168
subject to confirmation by the board, for the appointment or 47169
discharge of noneducational employees. 47170

Sec. 3319.07. (A) The board of education of each city, 47171
exempted village, local, and joint vocational school district 47172
shall employ the teachers of the public schools of their 47173
respective districts. 47174

The governing board of each educational service center may 47175
employ special instruction teachers, special education teachers, 47176
and teachers of academic courses in which there are too few 47177
students in each of the school districts entering into agreements 47178
pursuant to section 3313.843 of the Revised Code to warrant each 47179
district's employing teachers for those courses. 47180

When any board makes appointments of teachers, the teachers 47181
in the employ of the board shall be considered before new teachers 47182
are chosen in their stead. In all school districts and in service 47183
centers, no teacher shall be employed unless such person is 47184
nominated by the superintendent of such district or center, or by 47185
another individual designated by the board in the event that the 47186
superintendent's nomination would be a violation of section 47187
2921.42 of the Revised Code. Such board, by a three-fourths vote 47188
of its full membership, may re-employ any teacher whom the 47189
superintendent refuses to appoint. 47190

(B) The board of education of any school district may 47191
contract with the governing board of the educational service 47192
center from which it otherwise receives services to conduct 47193
searches and recruitment of candidates for teacher positions. 47194

Sec. 3319.073. (A) The board of education of each city and 47195
exempted village school district and the governing board of each 47196
educational service center shall adopt or adapt the curriculum 47197
developed by the department of education for, or shall develop in 47198
consultation with public or private agencies or persons involved 47199
in child abuse prevention or intervention programs, a program of 47200
in-service training in the prevention of child abuse, violence, 47201
and substance abuse and the promotion of positive youth 47202
development. Each person employed by any school district or 47203
service center to work in a school as a nurse, teacher, counselor, 47204
school psychologist, or administrator shall complete at least four 47205
hours of the in-service training within two years of commencing 47206
employment with the district or center, and every five years 47207
thereafter. A person who is employed by any school district or 47208
service center to work in an elementary school as a nurse, 47209
teacher, counselor, school psychologist, or administrator on March 47210
30, 2007, shall complete at least four hours of the in-service 47211
training not later than March 30, 2009, and every five years 47212
thereafter. A person who is employed by any school district or 47213
service center to work in a middle or high school as a nurse, 47214
teacher, counselor, school psychologist, or administrator on 47215
October 16, 2009, shall complete at least four hours of the 47216
in-service training not later than October 16, 2011, and every 47217
five years thereafter. 47218

(B) Each board shall incorporate training in school safety 47219
and violence prevention, including human trafficking content, into 47220
the in-service training required by division (A) of this section. 47221
For this purpose, the board shall adopt or adapt the curriculum 47222

developed by the department or shall develop its own curriculum in 47223
consultation with public or private agencies or persons involved 47224
in school safety and violence prevention programs. 47225

(C) Each board shall incorporate training on the board's 47226
harassment, intimidation, or bullying policy adopted under section 47227
3313.666 of the Revised Code into the in-service training required 47228
by division (A) of this section. Each board also shall incorporate 47229
training in the prevention of dating violence into the in-service 47230
training required by that division for middle and high school 47231
employees. The board shall develop its own curricula for these 47232
purposes. 47233

(D) Each board shall incorporate training in youth suicide 47234
awareness and prevention into the in-service training required by 47235
division (A) of this section for each person employed by a school 47236
district or service center to work in a school as a nurse, 47237
teacher, counselor, school psychologist, or administrator, and any 47238
other personnel that the board determines appropriate. For this 47239
purpose, the board shall adopt or adapt the curriculum developed 47240
by the department or shall develop its own curriculum in 47241
consultation with public or private agencies or persons involved 47242
in youth suicide awareness and prevention programs. 47243

The training completed under this division shall count toward 47244
the satisfaction of requirements for professional development 47245
required by the school district or service center board, and the 47246
training may be accomplished through self-review of suitable 47247
suicide prevention materials approved by the board. 47248

Sec. 3319.17. (A) As used in this section, "interdistrict 47249
contract" means any contract or agreement entered into by an 47250
educational service center governing board and another board or 47251
other public entity pursuant to section 3313.17, 3313.841, 47252
3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the 47253

Revised Code, including any such contract or agreement for the 47254
provision of services funded under division (E) of section 47255
3317.024 of the Revised Code ~~or provided in any unit approved~~ 47256
~~under section 3317.05 of the Revised Code.~~ 47257

(B) When, for any of the following reasons that apply to any 47258
city, exempted village, local, or joint vocational school district 47259
or any educational service center, the board decides that it will 47260
be necessary to reduce the number of teachers it employs, it may 47261
make a reasonable reduction: 47262

(1) In the case of any district or service center, return to 47263
duty of regular teachers after leaves of absence including 47264
suspension of schools, territorial changes affecting the district 47265
or center, or financial reasons; 47266

(2) In the case of any city, exempted village, local, or 47267
joint vocational school district, decreased enrollment of pupils 47268
in the district; 47269

(3) In the case of any governing board of a service center 47270
providing any particular service directly to pupils pursuant to 47271
one or more interdistrict contracts requiring such service, 47272
reduction in the total number of pupils the governing board is 47273
required to provide with the service under all interdistrict 47274
contracts as a result of the termination or nonrenewal of one or 47275
more of these interdistrict contracts; 47276

(4) In the case of any governing board providing any 47277
particular service that it does not provide directly to pupils 47278
pursuant to one or more interdistrict contracts requiring such 47279
service, reduction in the total level of the service the governing 47280
board is required to provide under all interdistrict contracts as 47281
a result of the termination or nonrenewal of one or more of these 47282
interdistrict contracts. 47283

(C) In making any such reduction, any city, exempted village, 47284

local, or joint vocational school board shall proceed to suspend 47285
contracts in accordance with the recommendation of the 47286
superintendent of schools who shall, within each teaching field 47287
affected, give preference to teachers on continuing contracts. The 47288
board shall not give preference to any teacher based on seniority, 47289
except when making a decision between teachers who have comparable 47290
evaluations. 47291

On a case-by-case basis, in lieu of suspending a contract in 47292
whole, a board may suspend a contract in part, so that an 47293
individual is required to work a percentage of the time the 47294
employee otherwise is required to work under the contract and 47295
receives a commensurate percentage of the full compensation the 47296
employee otherwise would receive under the contract. 47297

The teachers whose continuing contracts are suspended by any 47298
board pursuant to this section shall have the right of restoration 47299
to continuing service status by that board if and when teaching 47300
positions become vacant or are created for which any of such 47301
teachers are or become qualified. No teacher whose continuing 47302
contract has been suspended pursuant to this section shall lose 47303
that right of restoration to continuing service status by reason 47304
of having declined recall to a position that is less than 47305
full-time or, if the teacher was not employed full-time just prior 47306
to suspension of the teacher's continuing contract, to a position 47307
requiring a lesser percentage of full-time employment than the 47308
position the teacher last held while employed in the district or 47309
service center. Seniority shall not be the basis for rehiring a 47310
teacher, except when making a decision between teachers who have 47311
comparable evaluations. 47312

(D) Notwithstanding any provision to the contrary in Chapter 47313
4117. of the Revised Code: 47314

(1) The requirements of this section, as it existed prior to 47315
~~the effective date of this amendment~~ September 29, 2011, prevail 47316

over any conflicting provisions of agreements between employee 47317
organizations and public employers entered into between September 47318
29, 2005, and ~~that effective date~~ September 29, 2011; 47319

(2) The requirements of this section, as it exists on and 47320
after ~~the effective date of this amendment~~ September 29, 2011, 47321
prevail over any conflicting provisions of agreements between 47322
employee organizations and public employers entered into on or 47323
after ~~that effective date~~ September 29, 2011. 47324

Sec. 3319.22. (A)(1) The state board of education shall issue 47325
the following educator licenses: 47326

(a) A resident educator license, which shall be valid for 47327
four years, except that the state board, on a case-by-case basis, 47328
may extend the license's duration as necessary to enable the 47329
license holder to complete the Ohio teacher residency program 47330
established under section 3319.223 of the Revised Code; 47331

(b) A professional educator license, which shall be valid for 47332
five years and shall be renewable; 47333

(c) A senior professional educator license, which shall be 47334
valid for five years and shall be renewable; 47335

(d) A lead professional educator license, which shall be 47336
valid for five years and shall be renewable. 47337

(2) The state board may issue any additional educator 47338
licenses of categories, types, and levels the board elects to 47339
provide. 47340

(3) The state board shall adopt rules establishing the 47341
standards and requirements for obtaining each educator license 47342
issued under this section. 47343

(B) The rules adopted under this section shall require at 47344
least the following standards and qualifications for the educator 47345
licenses described in division (A)(1) of this section: 47346

(1) An applicant for a resident educator license shall hold at least a bachelor's degree from an accredited teacher preparation program or be a participant in the teach for America program and meet the qualifications required under section 3319.227 of the Revised Code.

(2) An applicant for a professional educator license shall:

(a) Hold at least a bachelor's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have successfully completed the Ohio teacher residency program established under section 3319.223 of the Revised Code, if the applicant's current or most recently issued license is a resident educator license issued under this section or an alternative resident educator license issued under section 3319.26 of the Revised Code.

(3) An applicant for a senior professional educator license shall:

(a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have previously held a professional educator license issued under this section or section 3319.222 or under former section 3319.22 of the Revised Code;

(c) Meet the criteria for the accomplished or distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code.

(4) An applicant for a lead professional educator license shall:

(a) Hold at least a master's degree from an institution of

higher education accredited by a regional accrediting organization; 47377
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(b) Have previously held a professional educator license or a senior professional educator license issued under this section or a professional educator license issued under section 3319.222 or former section 3319.22 of the Revised Code; 47379
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(c) Meet the criteria for the distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code; 47383
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(d) Either hold a valid certificate issued by the national board for professional teaching standards or meet the criteria for a master teacher or other criteria for a lead teacher adopted by the educator standards board under division (F)(4) or (5) of section 3319.61 of the Revised Code. 47386
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(C) The state board shall align the standards and qualifications for obtaining a principal license with the standards for principals adopted by the state board under section 3319.61 of the Revised Code. 47391
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(D) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations received by the department to the chancellor of the Ohio board of regents, in the manner and to the extent permitted by state and federal law. 47395
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(E) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows: 47400
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(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, in the case of the adoption of any rule or the amendment or rescission of any 47405
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rule that necessitates institutions' offering preparation programs 47408
for educators and other school personnel that are approved by the 47409
chancellor of the Ohio board of regents under section 3333.048 of 47410
the Revised Code to revise the curriculum of those programs, the 47411
effective date shall not be as prescribed in division (D) of 47412
section 119.03 and division (A)(1) of section 119.04 of the 47413
Revised Code. Instead, the effective date of such rules, or the 47414
amendment or rescission of such rules, shall be the date 47415
prescribed by section 3333.048 of the Revised Code. 47416

(2) Notwithstanding the authority to adopt, amend, or rescind 47417
emergency rules in division (F) of section 119.03 of the Revised 47418
Code, this authority shall not apply to the state board of 47419
education with regard to rules for educator licenses. 47420

(F)(1) The rules adopted under this section establishing 47421
standards requiring additional coursework for the renewal of any 47422
educator license shall require a school district and a chartered 47423
nonpublic school to establish local professional development 47424
committees. In a nonpublic school, the chief administrative 47425
officer shall establish the committees in any manner acceptable to 47426
such officer. The committees established under this division shall 47427
determine whether coursework that a district or chartered 47428
nonpublic school teacher proposes to complete meets the 47429
requirement of the rules. The department of education shall 47430
provide technical assistance and support to committees as the 47431
committees incorporate the professional development standards 47432
adopted by the state board of education pursuant to section 47433
3319.61 of the Revised Code into their review of coursework that 47434
is appropriate for license renewal. The rules shall establish a 47435
procedure by which a teacher may appeal the decision of a local 47436
professional development committee. 47437

(2) In any school district in which there is no exclusive 47438
representative established under Chapter 4117. of the Revised 47439

Code, the professional development committees shall be established 47440
as described in division (F)(2) of this section. 47441

Not later than the effective date of the rules adopted under 47442
this section, the board of education of each school district shall 47443
establish the structure for one or more local professional 47444
development committees to be operated by such school district. The 47445
committee structure so established by a district board shall 47446
remain in effect unless within thirty days prior to an anniversary 47447
of the date upon which the current committee structure was 47448
established, the board provides notice to all affected district 47449
employees that the committee structure is to be modified. 47450
Professional development committees may have a district-level or 47451
building-level scope of operations, and may be established with 47452
regard to particular grade or age levels for which an educator 47453
license is designated. 47454

Each professional development committee shall consist of at 47455
least three classroom teachers employed by the district, one 47456
principal employed by the district, and one other employee of the 47457
district appointed by the district superintendent. For committees 47458
with a building-level scope, the teacher and principal members 47459
shall be assigned to that building, and the teacher members shall 47460
be elected by majority vote of the classroom teachers assigned to 47461
that building. For committees with a district-level scope, the 47462
teacher members shall be elected by majority vote of the classroom 47463
teachers of the district, and the principal member shall be 47464
elected by a majority vote of the principals of the district, 47465
unless there are two or fewer principals employed by the district, 47466
in which case the one or two principals employed shall serve on 47467
the committee. If a committee has a particular grade or age level 47468
scope, the teacher members shall be licensed to teach such grade 47469
or age levels, and shall be elected by majority vote of the 47470
classroom teachers holding such a license and the principal shall 47471

be elected by all principals serving in buildings where any such 47472
teachers serve. The district superintendent shall appoint a 47473
replacement to fill any vacancy that occurs on a professional 47474
development committee, except in the case of vacancies among the 47475
elected classroom teacher members, which shall be filled by vote 47476
of the remaining members of the committee so selected. 47477

Terms of office on professional development committees shall 47478
be prescribed by the district board establishing the committees. 47479
The conduct of elections for members of professional development 47480
committees shall be prescribed by the district board establishing 47481
the committees. A professional development committee may include 47482
additional members, except that the majority of members on each 47483
such committee shall be classroom teachers employed by the 47484
district. Any member appointed to fill a vacancy occurring prior 47485
to the expiration date of the term for which a predecessor was 47486
appointed shall hold office as a member for the remainder of that 47487
term. 47488

The initial meeting of any professional development 47489
committee, upon election and appointment of all committee members, 47490
shall be called by a member designated by the district 47491
superintendent. At this initial meeting, the committee shall 47492
select a chairperson and such other officers the committee deems 47493
necessary, and shall adopt rules for the conduct of its meetings. 47494
Thereafter, the committee shall meet at the call of the 47495
chairperson or upon the filing of a petition with the district 47496
superintendent signed by a majority of the committee members 47497
calling for the committee to meet. 47498

(3) In the case of a school district in which an exclusive 47499
representative has been established pursuant to Chapter 4117. of 47500
the Revised Code, professional development committees shall be 47501
established in accordance with any collective bargaining agreement 47502
in effect in the district that includes provisions for such 47503

committees. 47504

If the collective bargaining agreement does not specify a 47505
different method for the selection of teacher members of the 47506
committees, the exclusive representative of the district's 47507
teachers shall select the teacher members. 47508

If the collective bargaining agreement does not specify a 47509
different structure for the committees, the board of education of 47510
the school district shall establish the structure, including the 47511
number of committees and the number of teacher and administrative 47512
members on each committee; the specific administrative members to 47513
be part of each committee; whether the scope of the committees 47514
will be district levels, building levels, or by type of grade or 47515
age levels for which educator licenses are designated; the lengths 47516
of terms for members; the manner of filling vacancies on the 47517
committees; and the frequency and time and place of meetings. 47518
However, in all cases, except as provided in division (F)(4) of 47519
this section, there shall be a majority of teacher members of any 47520
professional development committee, there shall be at least five 47521
total members of any professional development committee, and the 47522
exclusive representative shall designate replacement members in 47523
the case of vacancies among teacher members, unless the collective 47524
bargaining agreement specifies a different method of selecting 47525
such replacements. 47526

(4) Whenever an administrator's coursework plan is being 47527
discussed or voted upon, the local professional development 47528
committee shall, at the request of one of its administrative 47529
members, cause a majority of the committee to consist of 47530
administrative members by reducing the number of teacher members 47531
voting on the plan. 47532

(G)(1) The department of education, educational service 47533
centers, county boards of developmental disabilities, regional 47534
professional development centers, special education regional 47535

resource centers, college and university departments of education, 47536
head start programs, ~~the eTech Ohio commission~~, and the Ohio 47537
education computer network may establish local professional 47538
development committees to determine whether the coursework 47539
proposed by their employees who are licensed or certificated under 47540
this section or section 3319.222 of the Revised Code, or under the 47541
former version of either section as it existed prior to October 47542
16, 2009, meet the requirements of the rules adopted under this 47543
section. They may establish local professional development 47544
committees on their own or in collaboration with a school district 47545
or other agency having authority to establish them. 47546

Local professional development committees established by 47547
county boards of developmental disabilities shall be structured in 47548
a manner comparable to the structures prescribed for school 47549
districts in divisions (F)(2) and (3) of this section, as shall 47550
the committees established by any other entity specified in 47551
division (G)(1) of this section that provides educational services 47552
by employing or contracting for services of classroom teachers 47553
licensed or certificated under this section or section 3319.222 of 47554
the Revised Code, or under the former version of either section as 47555
it existed prior to October 16, 2009. All other entities specified 47556
in division (G)(1) of this section shall structure their 47557
committees in accordance with guidelines which shall be issued by 47558
the state board. 47559

(2) Any public agency that is not specified in division 47560
(G)(1) of this section but provides educational services and 47561
employs or contracts for services of classroom teachers licensed 47562
or certificated under this section or section 3319.222 of the 47563
Revised Code, or under the former version of either section as it 47564
existed prior to October 16, 2009, may establish a local 47565
professional development committee, subject to the approval of the 47566
department of education. The committee shall be structured in 47567

accordance with guidelines issued by the state board. 47568

Sec. 3319.235. (A) The standards for the preparation of 47569
teachers adopted under section 3333.048 of the Revised Code shall 47570
require any institution that provides a course of study for the 47571
training of teachers to ensure that graduates of such course of 47572
study are skilled at integrating educational technology in the 47573
instruction of children, as evidenced by the graduate having 47574
either demonstrated proficiency in such skills in a manner 47575
prescribed by the department of education or completed a course 47576
that includes training in such skills. 47577

(B) The ~~eTech Ohio commission~~ chancellor of the Ohio board of 47578
regents, in consultation with the department of education, shall 47579
establish model professional development programs to assist 47580
teachers who completed their teacher preparation prior to the 47581
effective date of division (A) of this section to become skilled 47582
at integrating educational technology in the instruction of 47583
children. The ~~commission~~ chancellor shall provide technical 47584
assistance to school districts wishing to establish such programs. 47585

Sec. 3319.57. (A) A grant program is hereby established under 47586
which the department of education shall award grants to assist 47587
certain schools in a city, exempted village, local, or joint 47588
vocational school district in implementing one of the following 47589
innovations: 47590

(1) The use of instructional specialists to mentor and 47591
support classroom teachers; 47592

(2) The use of building managers to supervise the 47593
administrative functions of school operation so that a school 47594
principal can focus on supporting instruction, providing 47595
instructional leadership, and engaging teachers as part of the 47596
instructional leadership team; 47597

- (3) The reconfiguration of school leadership structure in a manner that allows teachers to serve in leadership roles so that teachers may share the responsibility for making and implementing school decisions; 47598
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- (4) The adoption of new models for restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day; 47602
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- (5) The creation of smaller schools or smaller units within larger schools for the purpose of facilitating teacher collaboration to improve and advance the professional practice of teaching; 47605
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- (6) The implementation of "grow your own" recruitment strategies that are designed to assist individuals who show a commitment to education become licensed teachers, to assist experienced teachers obtain licensure in subject areas for which there is need, and to assist teachers in becoming principals; 47609
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- (7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size; 47614
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- (8) The provision of incentives to attract qualified mathematics, science, or special education teachers; 47616
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- (9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas; 47618
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- (10) The implementation of a program to increase the cultural competency of both new and veteran teachers; 47621
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- (11) The implementation of a program to increase the subject matter competency of veteran teachers. 47623
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- (B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria: 47625
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(1) Be hard to staff, as defined by the department. 47628

(2) Use existing school district funds for the implementation 47629
of the innovation in an amount equal to the grant amount 47630
multiplied by (1 - the district's state share percentage index for 47631
the fiscal year in which the grant is awarded). 47632

For purposes of division (B)(2) of this section, "state share 47633
percentage index" has the same meaning as in section 3317.02 of 47634
the Revised Code. 47635

(C) The amount and number of grants awarded under this 47636
section shall be determined by the department based on any 47637
appropriations made by the general assembly for grants under this 47638
section. 47639

(D) The state board of education shall adopt rules for the 47640
administration of this grant program. 47641

Sec. 3321.01. (A)(1) As used in this chapter, "parent," 47642
"guardian," or "other person having charge or care of a child" 47643
means either parent unless the parents are separated or divorced 47644
or their marriage has been dissolved or annulled, in which case 47645
"parent" means the parent who is the residential parent and legal 47646
custodian of the child. If the child is in the legal or permanent 47647
custody of a person or government agency, "parent" means that 47648
person or government agency. When a child is a resident of a home, 47649
as defined in section 3313.64 of the Revised Code, and the child's 47650
parent is not a resident of this state, "parent," "guardian," or 47651
"other person having charge or care of a child" means the head of 47652
the home. 47653

A child between six and eighteen years of age is "of 47654
compulsory school age" for the purpose of sections 3321.01 to 47655
3321.13 of the Revised Code. A child under six years of age who 47656
has been enrolled in kindergarten also shall be considered "of 47657

compulsory school age" for the purpose of sections 3321.01 to 47658
3321.13 of the Revised Code unless at any time the child's parent 47659
or guardian, at the parent's or guardian's discretion and in 47660
consultation with the child's teacher and principal, formally 47661
withdraws the child from kindergarten. The compulsory school age 47662
of a child shall not commence until the beginning of the term of 47663
such schools, or other time in the school year fixed by the rules 47664
of the board of the district in which the child resides. 47665

(2) No child shall be admitted to a kindergarten or a first 47666
grade of a public school in a district in which all children are 47667
admitted to kindergarten and the first grade in August or 47668
September unless the child is five or six years of age, 47669
respectively, by the thirtieth day of September of the year of 47670
admittance, or by the first day of a term or semester other than 47671
one beginning in August or September in school districts granting 47672
admittance at the beginning of such term or semester, unless the 47673
child has been recommended for early admittance in accordance with 47674
the district's acceleration policy adopted under section 3324.10 47675
of the Revised Code. A child who does not meet the age requirement 47676
for admittance to kindergarten or first grade shall be evaluated 47677
for early admittance upon referral by the child's parent or 47678
guardian, an educator employed by the district, a preschool 47679
educator who knows the child, or a pediatrician or psychologist 47680
who knows the child. 47681

(3) Notwithstanding division (A)(2) of this section, 47682
beginning with the school year that starts in 2001 and continuing 47683
thereafter the board of education of any district may adopt a 47684
resolution establishing the first day of August in lieu of the 47685
thirtieth day of September as the required date by which students 47686
must have attained the age specified in that division. 47687

(4) After a student has been admitted to kindergarten in a 47688
school district or chartered nonpublic school, no board of 47689

education of a school district to which the student transfers 47690
shall deny that student admission based on the student's age. 47691

(B) As used in division (C) of this section, "successfully 47692
completed kindergarten" means that the child has completed the 47693
kindergarten requirements at one of the following: 47694

(1) A public or chartered nonpublic school; 47695

(2) A kindergarten class that is both of the following: 47696

(a) Offered by a day-care provider licensed under Chapter 47697
5104. of the Revised Code; 47698

(b) If offered after July 1, 1991, is directly taught by a 47699
teacher who holds one of the following: 47700

(i) A valid educator license issued under section 3319.22 of 47701
the Revised Code; 47702

(ii) A Montessori preprimary credential or age-appropriate 47703
diploma granted by the American Montessori society or the 47704
association Montessori internationale; 47705

(iii) Certification determined under division (F) of this 47706
section to be equivalent to that described in division 47707
(B)(2)(b)(ii) of this section; 47708

(iv) Certification for teachers in nontax-supported schools 47709
pursuant to section 3301.071 of the Revised Code. 47710

(C) Except as provided in division (A)(2) of this section, no 47711
school district shall admit to the first grade any child who has 47712
not successfully completed kindergarten. 47713

(D) The scheduling of times for kindergarten classes and 47714
length of the school day for kindergarten shall be determined by 47715
the board of education of a city, exempted village, or local 47716
school district. 47717

(E) Any kindergarten class offered by a day-care provider or 47718

school described by division (B)(1) or (B)(2)(a) of this section 47719
shall be developmentally appropriate. 47720

(F) Upon written request of a day-care provider described by 47721
division (B)(2)(a) of this section, the department of education 47722
shall determine whether certification held by a teacher employed 47723
by the provider meets the requirement of division (B)(2)(b)(iii) 47724
of this section and, if so, shall furnish the provider a statement 47725
to that effect. 47726

(G) As used in this division, "all-day kindergarten" has the 47727
same meaning as in section 3321.05 of the Revised Code. 47728

(1) Any school district that did not receive for fiscal year 47729
2009 poverty-based assistance for all-day kindergarten under 47730
division (D) of former section 3317.029 of the Revised Code may 47731
charge fees or tuition for students enrolled in all-day 47732
kindergarten. If a district charges fees or tuition for all-day 47733
kindergarten under this division, the district shall develop a 47734
sliding fee scale based on family incomes. 47735

(2) The department of education shall conduct an annual 47736
survey of each school district described in division (G)(1) of 47737
this section to determine the following: 47738

(a) Whether the district charges fees or tuition for students 47739
enrolled in all-day kindergarten; 47740

(b) The amount of the fees or tuition charged; 47741

(c) How many of the students for whom tuition is charged are 47742
eligible for free lunches under the "National School Lunch Act," 47743
60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child 47744
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, 47745
and how many of the students for whom tuition is charged are 47746
eligible for reduced price lunches under those acts; 47747

(d) How many students are enrolled in traditional half-day 47748

kindergarten rather than all-day kindergarten. 47749

Each district shall report to the department, in the manner 47750
prescribed by the department, the information described in 47751
divisions (G)(2)(a) to (d) of this section. 47752

The department shall issue an annual report on the results of 47753
the survey and shall post the report on its web site. The 47754
department shall issue the first report not later than April 30, 47755
2008, and shall issue a report not later than the thirtieth day of 47756
April each year thereafter. 47757

Sec. 3321.05. (A) As used in this section, "all-day 47758
kindergarten" means a kindergarten class that is in session ~~five~~ 47759
~~days per week~~ for not less than the same number of clock hours 47760
each ~~day~~ week as for students in grades one through six. 47761

(B) Any school district may operate all-day kindergarten or 47762
extended kindergarten, but no district shall require any student 47763
to attend kindergarten for more than the number of clock hours 47764
required each day for traditional kindergarten by the minimum 47765
standards adopted under division (D) of section 3301.07 of the 47766
Revised Code. Each school district that operates all-day or 47767
extended kindergarten shall accommodate kindergarten students 47768
whose parents or guardians elect to enroll them for the minimum 47769
number of hours. 47770

(C) A school district may use space in child day-care centers 47771
licensed under Chapter 5104. of the Revised Code to provide 47772
all-day kindergarten under this section. 47773

Sec. 3323.021. As used in this section, "participating county 47774
DD board" means a county board of developmental disabilities 47775
electing to participate in the provision of or contracting for 47776
educational services for children under division (D) of section 47777
5126.05 of the Revised Code. 47778

(A) When a school district, educational service center, or participating county DD board enters into an agreement or contract with another school district, educational service center, or participating county DD board to provide educational services to a disabled child during a school year, both of the following shall apply:

(1) Beginning with fiscal year 1999, if the provider of the services intends to increase the amount it charges for some or all of those services during the next school year or if the provider intends to cease offering all or part of those services during the next school year, the provider shall notify the entity for which the services are provided of these intended changes no later than the first day of March of the current fiscal year.

(2) Beginning with fiscal year 1999, if the entity for which services are provided intends to cease obtaining those services from the provider for the next school year or intends to change the type or amount of services it obtains from the provider for the next school year, the entity shall notify the service provider of these intended changes no later than the first day of March of the current fiscal year.

(B) School districts, educational service centers, participating county DD boards, and other applicable governmental entities shall collaborate where possible to maximize federal sources of revenue to provide additional funds for special education related services for disabled children. Annually, each school district shall report to the department of education any amounts of ~~money~~ such federal revenue the district received ~~through such medical assistance program.~~

(C) The state board of education, the department of developmental disabilities, and the department of ~~job and family services~~ medicaid shall develop working agreements for pursuing additional funds for services for disabled children.

Sec. 3323.03. The state board of education shall, in 47811
consultation with the department of health, the department of 47812
~~mental health~~ mental health and addiction services, and the 47813
department of developmental disabilities, establish standards and 47814
procedures for the identification, location, and evaluation of all 47815
children with disabilities residing in the state, including 47816
children with disabilities who are homeless children or are wards 47817
of the state and children with disabilities attending nonpublic 47818
schools, regardless of the severity of their disabilities, and who 47819
are in need of special education and related services. The state 47820
board shall develop and implement a practical method to determine 47821
which children with disabilities are currently receiving needed 47822
special education and related services. 47823

In conducting the evaluation, the board of education of each 47824
school district shall use a variety of assessment tools and 47825
strategies to gather relevant functional, developmental, and 47826
academic information about the child, including information 47827
provided by the child's parent. The board of education of each 47828
school district, in consultation with the county DD board, the 47829
county family and children first council, and the board of 47830
alcohol, drug addiction, and mental health services of each county 47831
in which the school district has territory, shall identify, 47832
locate, and evaluate all children with disabilities residing 47833
within the district to determine which children with disabilities 47834
are not receiving appropriate special education and related 47835
services. In addition, the board of education of each school 47836
district, in consultation with such county boards or council, 47837
shall identify, locate, and evaluate all children with 47838
disabilities who are enrolled by their parents in nonpublic 47839
elementary and secondary schools located within the public school 47840
district, without regard to where those children reside in 47841
accordance with rules of the state board of education or 47842

guidelines of the superintendent of public instruction. 47843

Each county DD board, county family and children first 47844
council, and board of alcohol, drug addiction, and mental health 47845
services and the board's or council's contract agencies may 47846
transmit to boards of education the names and addresses of 47847
children with disabilities who are not receiving appropriate 47848
special education and related services. 47849

Sec. 3323.04. The state board of education, in consultation 47850
with the department of ~~mental health~~ mental health and addiction 47851
services and the department of developmental disabilities, shall 47852
establish procedures and standards for the development of 47853
individualized education programs for children with disabilities. 47854

The state board shall require the board of education of each 47855
school district to develop an individualized education program for 47856
each child with a disability who is at least three years of age 47857
and less than twenty-two years of age residing in the district in 47858
a manner that is in accordance with rules of the state board. 47859

Prior to the placement of a child with a disability in a 47860
program operated under section 3323.09 of the Revised Code, the 47861
district board of education shall consult the county DD board of 47862
the county in which the child resides regarding the proposed 47863
placement. 47864

A child with a disability enrolled in a nonpublic school or 47865
facility shall be provided special education and related services, 47866
in accordance with an individualized education program, at no cost 47867
for those services, if the child is placed in, or referred to, 47868
that nonpublic school or facility by the department of education 47869
or a school district. 47870

The IEP team shall review the individualized education 47871
program of each child with a disability periodically, but at least 47872

annually, to determine whether the annual goals for the child are 47873
being achieved, and shall revise the individualized education 47874
program as appropriate. 47875

The state board shall establish procedures and standards to 47876
assure that to the maximum extent appropriate, children with 47877
disabilities, including children in public or private institutions 47878
or other care facilities, shall be educated with children who are 47879
not disabled. Special classes, separate schools, or other removal 47880
of children with disabilities from the regular educational 47881
environment shall be used only when the nature or severity of a 47882
child's disability is such that education in regular classes with 47883
supplementary aids and services cannot be achieved satisfactorily. 47884

If an agency directly affected by a placement decision 47885
objects to such decision, an impartial hearing officer, appointed 47886
by the department of education from a list prepared by the 47887
department, shall conduct a hearing to review the placement 47888
decision. The agencies that are parties to a hearing shall divide 47889
the costs of such hearing equally. The decision of the hearing 47890
officer shall be final, except that any party to the hearing who 47891
is aggrieved by the findings or the decision of the hearing 47892
officer may appeal the findings or decision in accordance with 47893
division (H) of section 3323.05 of the Revised Code or the parent 47894
of any child affected by such decision may present a complaint in 47895
accordance with that section. 47896

Sec. 3323.07. The state board of education shall authorize 47897
the establishment and maintenance of special education and related 47898
services for all children with disabilities who are at least three 47899
years of age and less than twenty-two years of age, including 47900
children with disabilities who have been suspended or expelled 47901
from school, and may authorize special education and related 47902
services for children with disabilities who are less than three 47903

years of age in accordance with rules adopted by the state board. 47904
The state board shall require the boards of education of school 47905
districts, shall authorize the department of ~~mental health~~ mental 47906
health and addiction services and the department of developmental 47907
disabilities, and may authorize any other educational agency, to 47908
establish and maintain such special education and related services 47909
in accordance with standards adopted by the state board. 47910

Sec. 3323.08. (A) Each school district shall submit a plan to 47911
the superintendent of public instruction that provides assurances 47912
that the school district will provide for the education of 47913
children with disabilities within its jurisdiction and has in 47914
effect policies, procedures, and programs that are consistent with 47915
the policies and procedures adopted by the state board of 47916
education in accordance with section 612 of the "Individuals with 47917
Disabilities Education Improvement Act of 2004," 20 U.S.C. 1412, 47918
and that meet the conditions applicable to school districts under 47919
section 613 of that act, 20 U.S.C. 1413. 47920

Each district's plan shall do all of the following: 47921

(1) Provide, as specified in section 3323.11 of the Revised 47922
Code and in accordance with standards established by the state 47923
board, for an organizational structure and necessary and qualified 47924
staffing and supervision for the identification of and provision 47925
of special education and related services for children with 47926
disabilities; 47927

(2) Provide, as specified by section 3323.03 of the Revised 47928
Code and in accordance with standards established by the state 47929
board, for the identification, location, and evaluation of all 47930
children with disabilities residing in the district, including 47931
children with disabilities who are homeless children or are wards 47932
of the state and children with disabilities attending private 47933
schools and who are in need of special education and related 47934

services. A practical method shall be developed and implemented to 47935
determine which children with disabilities are currently receiving 47936
needed special education and related services. 47937

(3) Provide, as specified by section 3323.07 of the Revised 47938
Code and standards established by the state board, for the 47939
establishment and maintenance of special education and related 47940
services for children with disabilities who are at least three 47941
years of age and less than twenty-two years of age, including 47942
children with disabilities who have been suspended or expelled 47943
from school. 47944

(4) Provide, as specified by section 3323.04 of the Revised 47945
Code and in accordance with standards adopted by the state board, 47946
for an individualized education program for each child with a 47947
disability who is at least three years of age and less than 47948
twenty-two years of age residing within the district; 47949

(5) Provide, as specified by section 3323.02 of the Revised 47950
Code and in accordance with standards established by the state 47951
board, for special education and related services and a free 47952
appropriate public education for every child with a disability who 47953
is at least three years of age and less than twenty-two years of 47954
age, including children with disabilities who have been suspended 47955
or expelled from school; 47956

(6) Provide procedural safeguards and prior written notice as 47957
required under section 3323.05 of the Revised Code and the 47958
standards established by the state board; 47959

(7) Outline the steps that have been or are being taken to 47960
comply with standards established by the state board. 47961

(B)(1) A school district may arrange, by a cooperative 47962
agreement or contract with one or more school districts or with a 47963
cooperative education or joint vocational school district or an 47964
educational service center, to provide for the identification, 47965

location, and evaluation of children with disabilities, and to 47966
provide special education and related services for such children 47967
that meet the standards established by the state board. A school 47968
district may arrange, by a cooperative agreement or contract, for 47969
the provision of related services for children with disabilities 47970
that meet the standards established by the state board. 47971

(2) A school district shall arrange by interagency agreement 47972
with one or more school districts or with a cooperative education 47973
or joint vocational school district or an educational service 47974
center or other providers of early learning services to provide 47975
for the identification, location, evaluation of children with 47976
disabilities of ages birth through five years of age and for the 47977
transition of children with disabilities at age three in 47978
accordance with the standards established by the state board. A 47979
school district may arrange by interagency agreement with 47980
providers of early learning services to provide special education 47981
and related services for such children that meet the standards 47982
established by the state board. 47983

(3) If at the time an individualized education program is 47984
developed for a child a school district is not providing special 47985
education and related services required by that individualized 47986
education program, the school district may arrange by contract 47987
with a nonpublic entity for the provision of the special education 47988
and related services, provided the special education and related 47989
services meet the standards for special education and related 47990
services established by the state board and is provided within the 47991
state. 47992

(4) Any cooperative agreement or contract under division 47993
(B)(1) or (2) of this section involving a local school district 47994
shall be approved by the governing board of the educational 47995
service center which serves that district. 47996

(C) No plan of a local school district shall be submitted to 47997

the superintendent of public instruction until it has been 47998
approved by the superintendent of the educational service center 47999
which serves that district. 48000

(D) Upon approval of a school district's plan by the 48001
superintendent of public instruction, the district shall 48002
immediately certify students for state funds under section 3317.03 48003
of the Revised Code to implement and maintain such plan. ~~The~~ 48004
~~district also shall request approval of classroom units under~~ 48005
~~division (B) of section 3317.05 of the Revised Code for which the~~ 48006
~~district has adequately identified preschool children with~~ 48007
~~disabilities and shall, in accordance with procedures adopted by~~ 48008
~~the state board, request approval of units under division (C) of~~ 48009
~~section 3317.05 of the Revised Code.~~ The district shall, in 48010
accordance with guidelines adopted by the state board, identify 48011
problems relating to the provision of qualified personnel and 48012
adequate facilities, and indicate the extent to which the cost of 48013
programs required under the plan will exceed anticipated state 48014
reimbursement. Each school district shall immediately implement 48015
the identification, location, and evaluation of children with 48016
disabilities in accordance with this chapter, and shall implement 48017
those parts of the plan involving placement and provision of 48018
special education and related services. 48019

Sec. 3323.09. (A) As used in this section: 48020

(1) "Home" has the meaning given in section 3313.64 of the 48021
Revised Code. 48022

(2) "Preschool child" means a child who is at least age three 48023
but under age six on the thirtieth day of September of an academic 48024
year. 48025

(B) Each county DD board shall establish special education 48026
programs for all children with disabilities who in accordance with 48027
section 3323.04 of the Revised Code have been placed in special 48028

education programs operated by the county board and for preschool 48029
children who are developmentally delayed or at risk of being 48030
developmentally delayed. The board annually shall submit to the 48031
department of education a plan for the provision of these programs 48032
~~and, if applicable, a request for approval of units under section~~ 48033
~~3317.05 of the Revised Code.~~ The superintendent of public 48034
instruction shall review the plan and approve or modify it in 48035
accordance with rules adopted by the state board of education 48036
under section 3301.07 of the Revised Code. The superintendent of 48037
public instruction shall compile the plans submitted by county 48038
boards and shall submit a comprehensive plan to the state board. 48039

A county DD board may combine transportation for children 48040
enrolled in classes funded under ~~section~~ sections 3317.0213 or 48041
3317.20 ~~or units approved under section 3317.05~~ with 48042
transportation for children and adults enrolled in programs and 48043
services offered by the board under Chapter 5126. of the Revised 48044
Code. 48045

(C) A county DD board that during the school year provided 48046
special education pursuant to this section for any child with 48047
mental disabilities under twenty-two years of age shall prepare 48048
and submit the following reports and statements: 48049

(1) The board shall prepare a statement for each child who at 48050
the time of receiving such special education was a resident of a 48051
home and was not in the legal or permanent custody of an Ohio 48052
resident or a government agency in this state, and whose natural 48053
or adoptive parents are not known to have been residents of this 48054
state subsequent to the child's birth. The statement shall contain 48055
the child's name, the name of the child's school district of 48056
residence, the name of the county board providing the special 48057
education, and the number of months, including any fraction of a 48058
month, it was provided. Not later than the thirtieth day of June, 48059
the board shall forward a certified copy of such statement to both 48060

the director of developmental disabilities and to the home. 48061

Within thirty days after its receipt of a statement, the home 48062
shall pay tuition to the county board computed in the manner 48063
prescribed by section 3323.141 of the Revised Code. 48064

(2) The board shall prepare a report for each school district 48065
that is the school district of residence of one or more of such 48066
children for whom statements are not required by division (C)(1) 48067
of this section. The report shall contain the name of the county 48068
board providing special education, the name of each child 48069
receiving special education, the number of months, including 48070
fractions of a month, that the child received it, and the name of 48071
the child's school district of residence. Not later than the 48072
thirtieth day of June, the board shall forward certified copies of 48073
each report to the school district named in the report, the 48074
superintendent of public instruction, and the director of 48075
developmental disabilities. 48076

Sec. 3323.091. (A) The department of ~~mental health~~ mental 48077
health and addiction services, the department of developmental 48078
disabilities, the department of youth services, and the department 48079
of rehabilitation and correction shall establish and maintain 48080
special education programs for children with disabilities in 48081
institutions under their jurisdiction according to standards 48082
adopted by the state board of education. 48083

(B) ~~The superintendent of each state institution required to~~ 48084
~~provide services under division (A) of this section, and each~~ 48085
~~county DD board, providing special education for preschool~~ 48086
~~children with disabilities under this chapter may apply to the~~ 48087
~~state department of education for unit funding, which shall be~~ 48088
~~paid in accordance with sections 3317.052 and 3317.053 of the~~ 48089
~~Revised Code.~~ 48090

The superintendent of each state institution required to 48091

provide services under division (A) of this section may apply to 48092
the department of education for special education and related 48093
services ~~weighted~~ funding for children with disabilities other 48094
than preschool children with disabilities, calculated in 48095
accordance with section 3317.201 of the Revised Code. 48096

Each county DD board providing special education for children 48097
with disabilities other than preschool children with disabilities 48098
may apply to the department of education for ~~base cost and~~ 48099
opportunity funds, special education and related services ~~weighted~~ 48100
funding, and targeted assistance funds calculated in accordance 48101
with section 3317.20 of the Revised Code. 48102

(C) In addition to the authorization to apply for state 48103
funding described in division (B) of this section, each state 48104
institution required to provide services under division (A) of 48105
this section is entitled to tuition payments calculated in the 48106
manner described in division (C) of this section. 48107

On or before the thirtieth day of June of each year, the 48108
superintendent of each institution that during the school year 48109
provided special education pursuant to this section shall prepare 48110
a statement for each child with a disability under twenty-two 48111
years of age who has received special education. The statement 48112
shall contain the child's data verification code assigned pursuant 48113
to division (D)(2) of section 3301.0714 of the Revised Code and 48114
the name of the child's school district of residence. Within sixty 48115
days after receipt of such statement, the department of education 48116
shall perform one of the following: 48117

(1) For any child except a preschool child with a disability 48118
described in division (C)(2) of this section, pay to the 48119
institution submitting the statement an amount equal to the 48120
tuition calculated under division (A) of section 3317.08 of the 48121
Revised Code for the period covered by the statement, and deduct 48122
the same from the amount of state funds, if any, payable under 48123

Chapter 3317. of the Revised Code, to the child's school district 48124
of residence or, if the amount of such state funds is 48125
insufficient, require the child's school district of residence to 48126
pay the institution submitting the statement an amount equal to 48127
the amount determined under this division. 48128

(2) For any preschool child with a disability ~~not included in~~ 48129
~~a unit approved under division (B) of section 3317.05 of the~~ 48130
~~Revised Code~~, perform the following: 48131

(a) Pay to the institution submitting the statement an amount 48132
equal to the tuition calculated under division (B) of section 48133
3317.08 of the Revised Code for the period covered by the 48134
statement, except that in calculating the tuition under that 48135
section the operating expenses of the institution submitting the 48136
statement under this section shall be used instead of the 48137
operating expenses of the school district of residence; 48138

(b) Deduct from the amount of state funds, if any, payable 48139
under Chapter 3317. of the Revised Code to the child's school 48140
district of residence an amount equal to the amount paid under 48141
division (C)(2)(a) of this section. 48142

Sec. 3323.13. (A) If a child who is a school resident of one 48143
school district receives special education from another district, 48144
the board of education of the district providing the education, 48145
subject to division (C) of this section, may require the payment 48146
by the board of education of the district of residence of a sum 48147
not to exceed one of the following, as applicable: 48148

(1) For any child except a preschool child with a disability 48149
described in division (A)(2) of this section, the tuition of the 48150
district providing the education for a child of normal needs of 48151
the same school grade. The determination of the amount of such 48152
tuition shall be in the manner provided for by division (A) of 48153
section 3317.08 of the Revised Code. 48154

(2) For any preschool child with a disability ~~not included in~~ 48155
~~a unit approved under division (B) of section 3317.05 of the~~ 48156
~~Revised Code~~, the tuition of the district providing the education 48157
for the child as calculated under division (B) of section 3317.08 48158
of the Revised Code, multiplied by 0.50. 48159

(B) The board of the district of residence may contract with 48160
the board of another district for the transportation of such child 48161
into any school in such other district, on terms agreed upon by 48162
such boards. Upon direction of the state board of education, the 48163
board of the district of residence shall pay for the child's 48164
transportation and the tuition. 48165

(C) The board of education of a district providing the 48166
education for a child shall be entitled to require payment from 48167
the district of residence under this section or section 3323.14 of 48168
the Revised Code only if the district providing the education has 48169
done at least one of the following: 48170

(1) Invited the district of residence to send representatives 48171
to attend the meetings of the team developing the child's 48172
individualized education program; 48173

(2) Received from the district of residence a copy of the 48174
individualized education program or a multifactored evaluation 48175
developed for the child by the district of residence; 48176

(3) Informed the district of residence in writing that the 48177
district is providing the education for the child. 48178

As used in division (C)(2) of this section, "multifactored 48179
evaluation" means an evaluation, conducted by a multidisciplinary 48180
team, of more than one area of the child's functioning so that no 48181
single procedure shall be the sole criterion for determining an 48182
appropriate educational program placement for the child. 48183

Sec. 3323.14. ~~This section does not apply to any preschool~~ 48184

~~child with a disability except if included in a unit approved 48185~~
~~under division (B) of section 3317.05 of the Revised Code. 48186~~

(A) Where a child who is a school resident of one school 48187
district receives special education from another district and the 48188
per capita cost to the educating district for that child exceeds 48189
the sum of the amount received by the educating district for that 48190
child under division (A) of section 3317.08 of the Revised Code 48191
and the amount received by the district from the state board of 48192
education for that child, then the board of education of the 48193
district of residence shall pay to the board of the school 48194
district that is providing the special education such excess cost 48195
as is determined by using a formula approved by the department of 48196
education and agreed upon in contracts entered into by the boards 48197
of the districts concerned at the time the district providing such 48198
special education accepts the child for enrollment. The department 48199
shall certify the amount of the payments under Chapter 3317. of 48200
the Revised Code for such pupils with disabilities for each school 48201
year ending on the thirtieth day of July. 48202

(B) In the case of a child described in division (A) of this 48203
section who has been placed in a home, as defined in section 48204
3313.64 of the Revised Code, pursuant to the order of a court and 48205
who is not subject to section 3323.141 of the Revised Code, the 48206
district providing the child with special education and related 48207
services may charge to the child's district of residence the 48208
excess cost determined by formula approved by the department, 48209
regardless of whether the district of residence has entered into a 48210
contract with the district providing the services. If the district 48211
providing the services chooses to charge excess costs, the 48212
district may report the amount calculated under this division to 48213
the department. 48214

(C) If a district providing special education for a child 48215
reports an amount for the excess cost of those services, as 48216

authorized and calculated under division (A) or (B) of this 48217
section, the department shall pay that amount of excess cost to 48218
the district providing the services and shall deduct that amount 48219
from the child's district of residence in accordance with division 48220
(K) of section 3317.023 of the Revised Code. 48221

Sec. 3323.141. (A) When a child who is not in the legal or 48222
permanent custody of an Ohio resident or a government agency in 48223
this state and whose natural or adoptive parents are not known to 48224
have been residents of this state subsequent to the child's birth 48225
is a resident of a home as defined in section 3313.64 of the 48226
Revised Code and receives special education and related services 48227
from a school district or county ~~MR/DD~~ DD board, the home shall 48228
pay tuition to the board providing the special education. 48229

(B) In the case of a child described in division (A) of this 48230
section who receives special education and related services from a 48231
school district, tuition shall be the amount determined under 48232
division (B)(1) or (2) of this section. 48233

(1) For a child other than a child described in division 48234
(B)(2) of this section the tuition shall be an amount equal to the 48235
sum of the following: 48236

(a) Tuition as determined in the manner provided for by 48237
division (B) of section 3317.081 of the Revised Code for the 48238
district that provides the special education; 48239

(b) Such excess cost as is determined by using a formula 48240
established by rule of the department of education. The excess 48241
cost computed in this section shall not be used as excess cost 48242
computed under section 3323.14 of the Revised Code. 48243

(2) For a child who is a preschool child with a disability 48244
~~not included in a unit approved under division (B) of section~~ 48245
~~3317.05 of the Revised Code,~~ the tuition shall be computed as 48246

follows: 48247

(a) Determine the amount of the tuition of the district 48248
providing the education for the child as calculated under division 48249
(B) of section 3317.08 of the Revised Code; 48250

(b) For each type of special education service included in 48251
the computation of the amount of tuition under division (B)(2)(a) 48252
of this section, divide the amount determined for that computation 48253
under division (B)(2) of section 3317.08 of the Revised Code by 48254
the total number of preschool children with disabilities used for 48255
that computation under division (B)(3) of section 3317.08 of the 48256
Revised Code; 48257

(c) Determine the sum of the quotients obtained under 48258
division (B)(2)(b) of this section; 48259

(d) Determine the sum of the amounts determined under 48260
divisions (B)(2)(a) and (c) of this section. 48261

(C) In the case of a child described in division (A) of this 48262
section who receives special education and related services from a 48263
county ~~MR/DD~~ DD board, tuition shall be the amount determined 48264
under division (C)(1) or (2) of this section. 48265

(1) For a child other than a child described in division 48266
(C)(2) of this section, the tuition shall be an amount equal to 48267
such board's per capita cost of providing special education and 48268
related services for children at least three but less than 48269
twenty-two years of age as determined by using a formula 48270
established by rule of the department of developmental 48271
disabilities. 48272

(2) For a child who is a preschool child with a disability 48273
~~not included in a unit approved under division (B) of section~~ 48274
~~3317.05 of the Revised Code~~, the tuition shall equal the sum of 48275
the amounts of each such board's per capita cost of providing each 48276
of the special education or related service that the child 48277

receives. The calculation of tuition shall be made by using a 48278
formula established by rule of the department of developmental 48279
disabilities. The formula for the calculation of per capita costs 48280
under division (C)(2) of this section shall be based only on each 48281
such ~~MR/DD~~ DD board's cost of providing each type of special 48282
education or related service to preschool children with 48283
disabilities ~~not included in a unit approved under division (B) of~~ 48284
~~section 3317.05 of the Revised Code.~~ 48285

(D) If a home fails to pay the tuition required under this 48286
section, the board of education or county ~~MR/DD~~ DD board providing 48287
the education may recover in a civil action the tuition and the 48288
expenses incurred in prosecuting the action, including court costs 48289
and reasonable attorney's fees. If the prosecuting attorney or 48290
city director of law represents the board in such action, costs 48291
and reasonable attorney's fees awarded by the court, based upon 48292
the time spent preparing and presenting the case by the 48293
prosecuting attorney, director, or a designee of either, shall be 48294
deposited in the county or city general fund. 48295

~~Sec. 3323.142. This section does not apply to any preschool 48296
child with a disability except if included in a unit approved 48297
under division (B) of section 3317.05 of the Revised Code.~~ 48298

As used in this section, "per pupil amount" for a preschool 48299
child with a disability included in such an approved unit means 48300
the amount determined by dividing the amount received for the 48301
classroom unit in which the child has been placed by the number of 48302
children in the unit. For any other child, "per pupil amount" 48303
means the amount paid for the child under section 3317.20 of the 48304
Revised Code. 48305

When a school district places or has placed a child with a 48306
county DD board for special education, but another district is 48307
responsible for tuition under section 3313.64 or 3313.65 of the 48308

Revised Code and the child is not a resident of the territory 48309
served by the county DD board, the board may charge the district 48310
responsible for tuition with the educational costs in excess of 48311
the per pupil amount received by the board under Chapter 3317. of 48312
the Revised Code. The amount of the excess cost shall be 48313
determined by the formula established by rule of the department of 48314
education under section 3323.14 of the Revised Code, and the 48315
payment for such excess cost shall be made by the school district 48316
directly to the county DD board. 48317

A school district board of education and the county DD board 48318
that serves the school district may negotiate and contract, at or 48319
after the time of placement, for payments by the board of 48320
education to the county DD board for additional services provided 48321
to a child placed with the county DD board and whose 48322
individualized education program established pursuant to section 48323
3323.08 of the Revised Code requires additional services that are 48324
not routinely provided children in the county DD board's program 48325
but are necessary to maintain the child's enrollment and 48326
participation in the program. Additional services may include, but 48327
are not limited to, specialized supplies and equipment for the 48328
benefit of the child and instruction, training, or assistance 48329
provided by staff members other than staff members for which 48330
funding is received under Chapter 3317. of the Revised Code. 48331

Sec. 3326.11. Each science, technology, engineering, and 48332
mathematics school established under this chapter and its 48333
governing body shall comply with sections 9.90, 9.91, 109.65, 48334
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 48335
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 48336
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 48337
3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 48338
3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 48339
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 48340

3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 48341
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 48342
3313.816, 3313.817, 3313.86, ~~3313.88~~, 3313.96, 3319.073, 3319.21, 48343
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 48344
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 48345
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 48346
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 48347
4123., 4141., and 4167. of the Revised Code as if it were a school 48348
district. 48349

Sec. 3326.112. The governing body of each STEM school shall 48350
comply with the standards for financial reporting adopted under 48351
division (B)(2) of section 3301.07 of the Revised Code. 48352

Sec. 3326.20. (A) As used in this section, "native student" 48353
means a student entitled to attend school in the school district 48354
under section 3313.64 or 3313.65 of the Revised Code. 48355

(B) Unless either the proposal for the establishment of a 48356
science, technology, engineering, and mathematics school, as it 48357
was approved by the STEM committee under section 3326.03 of the 48358
Revised Code, ~~otherwise~~ provides for the transportation of 48359
students to and from the STEM school, or the parent of a native 48360
student or that student opts to receive the transportation subsidy 48361
prescribed by section 3327.02 of the Revised Code, the board of 48362
education of each city, local, and exempted village school 48363
district shall provide transportation to and from school for its 48364
~~district's~~ native students enrolled in the STEM school in the same 48365
manner that section 3327.01 of the Revised Code requires for its 48366
native students enrolled in nonpublic schools. 48367

Sec. 3326.31. As used in sections 3326.31 to 3326.50 of the 48368
Revised Code: 48369

(A) ~~"Applicable special education weight" means the multiple~~ 48370

~~specified in section 3317.013 of the Revised Code for a disability~~ 48371
~~described in that section.~~ 48372

~~(B) "Applicable vocational education weight" means the~~ 48373
~~multiple specified in section 3317.014 of the Revised Code for~~ 48374
~~vocational education programs or classes described in that section~~ 48375

(1) "Category one career-technical education student" means a 48376
student who is receiving the career-technical education services 48377
described in division (A) of section 3317.014 of the Revised Code. 48378

(2) "Category two career-technical student" means a student 48379
who is receiving the career-technical education services described 48380
in division (B) of section 3317.014 of the Revised Code. 48381

(3) "Category three career-technical student" means a student 48382
who is receiving the career-technical education services described 48383
in division (C) of section 3317.014 of the Revised Code. 48384

(4) "Category four career-technical student" means a student 48385
who is receiving the career-technical education services described 48386
in division (D) of section 3317.014 of the Revised Code. 48387

(5) "Category five career-technical education student" means 48388
a student who is receiving the career-technical education services 48389
described in division (E) of section 3317.014 of the Revised Code. 48390

(B)(1) "Category one limited English proficient student" 48391
means a limited English proficient student described in division 48392
(A) of section 3317.016 of the Revised Code. 48393

(2) "Category two limited English proficient student" means a 48394
limited English proficient student described in division (B) of 48395
section 3317.016 of the Revised Code. 48396

(3) "Category three limited English proficient student" means 48397
a limited English proficient student described in division (C) of 48398
section 3317.016 of the Revised Code. 48399

(C)(1) "Category one special education student" means a 48400

student who is receiving special education services for a 48401
disability specified in division (A) of section 3317.013 of the 48402
Revised Code. 48403

(2) "Category two special education student" means a student 48404
who is receiving special education services for a disability 48405
specified in division (B) of section 3317.013 of the Revised Code. 48406

(3) "Category three special education student" means a 48407
student who is receiving special education services for a 48408
disability specified in division (C) of section 3317.013 of the 48409
Revised Code. 48410

(4) "Category four special education student" means a student 48411
who is receiving special education services for a disability 48412
specified in division (D) of section 3317.013 of the Revised Code. 48413

(5) "Category five special education student" means a student 48414
who is receiving special education services for a disability 48415
specified in division (E) of section 3317.013 of the Revised Code. 48416

(6) "Category six special education student" means a student 48417
who is receiving special education services for a disability 48418
specified in division (F) of section 3317.013 of the Revised Code. 48419

~~(C)~~(D) "Formula amount" has the same meaning as in section 48420
3317.02 of the Revised Code. 48421

~~(D)~~(E) "IEP" means an individualized education program as 48422
defined in section 3323.01 of the Revised Code. 48423

~~(E)~~ A student is "included in the poverty student count of 48424
the student's resident district" if the student's family receives 48425
assistance under the Ohio works first program. 48426

(F) "Resident district" means the school district in which a 48427
student is entitled to attend school under section 3313.64 or 48428
3313.65 of the Revised Code. 48429

(G) "State education aid" has the same meaning as in section 48430

5751.20 of the Revised Code. 48431

Sec. 3326.32. Each science, technology, engineering, and 48432
mathematics school shall report to the department of education, in 48433
the form and manner required by the department, all of the 48434
following information: 48435

(A) The total number of students enrolled in the school; 48436

(B) The number of students who are receiving special 48437
education and related services pursuant to an IEP; 48438

(C) For each student reported under division (B) of this 48439
section, which category specified in divisions (A) to (F) of 48440
section 3317.013 of the Revised Code applies to the student; 48441

(D) The full-time equivalent number of students who are 48442
enrolled in ~~vocational~~ career-technical education programs or 48443
classes described in each of divisions (A) ~~and~~, (B), (C), (D), and 48444
(E) of section 3317.014 of the Revised Code that are provided by 48445
the STEM school; 48446

(E) The number of students who are limited English proficient 48447
students and which category specified in divisions (A) to (C) of 48448
section 3317.016 of the Revised Code applies to each student; 48449

(F) The number of students reported under division (A) of 48450
this section who are economically disadvantaged, as defined by the 48451
department. A student shall not be categorically excluded from the 48452
number reported under division (F) of this section based on 48453
anything other than family income. 48454

(G) The resident district of each student; 48455

~~(F)~~(H) Any additional information the department determines 48456
necessary to make payments under this chapter. 48457

Sec. 3326.33. ~~Payments and deductions under this section for~~ 48458
~~fiscal years 2012 and 2013 shall be made in accordance with~~ 48459

~~section 3326.39 of the Revised Code.~~ 48460

For each student enrolled in a science, technology, 48461
engineering, and mathematics school established under this 48462
chapter, on a full-time equivalency basis, the department of 48463
education annually shall deduct from the state education aid of a 48464
student's resident school district and, if necessary, from the 48465
payment made to the district under sections 321.24 and 323.156 of 48466
the Revised Code and pay to the school the sum of the following: 48467

~~(A) The sum of the formula amount plus the per pupil amount 48468
of the base funding supplements specified in divisions (C)(1) to 48469
(4) of section 3317.012 of the Revised Code.~~ 48470

~~(B) If the student is receiving special education and related 48471
services pursuant to an IEP, the product of the applicable special 48472
education weight times the formula amount;~~ 48473

~~(C) If the student is enrolled in vocational education 48474
programs or classes that are described in section 3317.014 of the 48475
Revised Code, are provided by the school, and are comparable as 48476
determined by the superintendent of public instruction to school 48477
district vocational education programs and classes eligible for 48478
state weighted funding under section 3317.014 of the Revised Code, 48479
the product of the applicable vocational education weight times 48480
the formula amount times the percentage of time the student spends 48481
in the vocational education programs or classes;~~ 48482

~~(D) If the student is included in the poverty student count 48483
of the student's resident district, the per pupil amount of the 48484
district's payment under division (C) of section 3317.029 of the 48485
Revised Code;~~ 48486

~~(E) If the student is identified as limited English 48487
proficient and the student's resident district receives a payment 48488
for services to limited English proficient students under division 48489
(F) of section 3317.029 of the Revised Code, the per pupil amount 48490~~

~~of the district's payment under that division, calculated in the same manner as per pupil payments are calculated under division (C)(6) of section 3314.08 of the Revised Code;~~

~~(F) If the student's resident district receives a payment under division (G), (H), or (I) of section 3317.029 of the Revised Code, the per pupil amount of the district's payments under each division, calculated in the same manner as per pupil payments are calculated under divisions (C)(7) and (8) of section 3314.08 of the Revised Code;~~

~~(G) If the student's resident district receives a parity aid payment under section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section An opportunity grant in an amount equal to the formula amount;~~

(B) The per pupil amount of targeted assistance funds calculated under division (A) of section 3317.0217 of the Revised Code for the student's resident district, as determined by the department, X 0.25;

(C) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code as follows:

(1) If the student is a category one special education student, the formula amount X the multiple specified in division (A) of section 3317.013 of the Revised Code;

(2) If the student is a category two special education student, the formula amount X the multiple specified in division (B) of section 3317.013 of the Revised Code;

(3) If the student is a category three special education student, the formula amount X the multiple specified in division (C) of section 3317.013 of the Revised Code;

<u>(4) If the student is a category four special education student, the formula amount X the multiple specified in division (D) of section 3317.013 of the Revised Code;</u>	48521
	48522
	48523
<u>(5) If the student is a category five special education student, the formula amount X the multiple specified in division (E) of section 3317.013 of the Revised Code;</u>	48524
	48525
	48526
<u>(6) If the student is a category six special education student, the formula amount X the multiple specified in division (F) of section 3317.013 of the Revised Code.</u>	48527
	48528
	48529
<u>(D) If the student is in kindergarten through third grade, \$300, in fiscal year 2014, or \$303, in fiscal year 2015;</u>	48530
	48531
<u>(E) If the student is economically disadvantaged, an amount equal to the following:</u>	48532
	48533
<u>(\$340, in fiscal year 2014, or \$343, in fiscal year 2015) X (the resident district's economically disadvantaged index)</u>	48534
	48535
<u>(F) Limited English proficiency funds, as follows:</u>	48536
<u>(1) If the student is a category one limited English proficient student, the amount specified in division (A) of section 3317.016 of the Revised Code;</u>	48537
	48538
	48539
<u>(2) If the student is a category two limited English proficient student, the amount specified in division (B) of section 3317.016 of the Revised Code;</u>	48540
	48541
	48542
<u>(3) If the student is a category three limited English proficient student, the amount specified in division (C) of section 3317.016 of the Revised Code.</u>	48543
	48544
	48545
<u>(G) Career-technical education funds as follows:</u>	48546
<u>(1) If the student is a category one career-technical education student, the formula amount X the multiple specified in division (A) of section 3317.014 of the Revised Code;</u>	48547
	48548
	48549
<u>(2) If the student is a category two career-technical</u>	48550

education student, the formula amount X the multiple specified in 48551
division (B) of section 3317.014 of the Revised Code; 48552

(3) If the student is a category three career-technical 48553
education student, the formula amount X the multiple specified in 48554
division (C) of section 3317.014 of the Revised Code; 48555

(4) If the student is a category four career-technical 48556
education student, the formula amount X the multiple specified in 48557
division (D) of section 3317.014 of the Revised Code; 48558

(5) If the student is a category five career-technical 48559
education student, the formula amount X the multiple specified in 48560
division (E) of section 3317.014 of the Revised Code. 48561

Deduction and payment of funds under division (G) of this 48562
section is subject to approval under section 3317.161 of the 48563
Revised Code. 48564

Sec. 3326.34. If a science, technology, engineering, and 48565
mathematics school established under this chapter incurs costs for 48566
a fiscal year for a student receiving special education and 48567
related services pursuant to an IEP for a disability described in 48568
divisions (B) to (F) of section 3317.013 of the Revised Code that 48569
exceed the threshold catastrophic cost for serving the student as 48570
specified in division ~~(C)(3)(b)~~(B) of section ~~3317.022~~ 3317.0214 48571
of the Revised Code, the STEM school may submit to the 48572
superintendent of public instruction documentation, as prescribed 48573
by the superintendent, of all its costs for that student. Upon 48574
submission of documentation for a student of the type and in the 48575
manner prescribed, the department of education shall pay to the 48576
school an amount equal to the school's costs for the student in 48577
excess of the threshold catastrophic costs. 48578

The school shall only report under this section, and the 48579
department shall only pay for, the costs of educational expenses 48580

and the related services provided to the student in accordance 48581
with the student's IEP. Any legal fees, court costs, or other 48582
costs associated with any cause of action relating to the student 48583
may not be included in the amount. 48584

Sec. 3326.38. A science, technology, engineering, and 48585
mathematics school may do ~~all~~ both of the following: 48586

~~(A) Apply to the department of education for gifted unit 48587
funding;~~ 48588

~~(B)~~ Apply to any state or federal agency for grants that a 48589
school district or public school may receive under federal or 48590
state law or any appropriations act of the general assembly; 48591

~~(C)~~(B) Apply to any private entity or foundation for 48592
additional funds. 48593

Sec. 3326.45. (A) The governing body of a science, 48594
technology, engineering, and mathematics school may contract with 48595
the governing board of an educational service center or the board 48596
of education of a joint vocational school district for the 48597
provision of services to the STEM school or to any student 48598
enrolled in the school. Services provided under the contract and 48599
the amount to be paid for those services shall be mutually agreed 48600
to by the parties to the contract, and shall be specified in the 48601
contract. 48602

(B) A contract entered into under this section may require an 48603
educational service center to provide any one or a combination of 48604
the following services to a STEM school: 48605

(1) Supervisory teachers; 48606

(2) In-service and continuing education programs for 48607
personnel of the STEM school; 48608

(3) Curriculum services as provided to the client school 48609

districts of the service center; 48610

(4) Research and development programs; 48611

(5) Academic instruction for which the service center 48612
governing board employs teachers; 48613

(6) Assistance in the provision of special accommodations and 48614
classes for students with disabilities. 48615

Services described in division (B) of this section shall be 48616
provided to the STEM school in the same manner they are provided 48617
to client school districts of the service center, unless otherwise 48618
specified in the contract. The contract shall specify whether the 48619
service center will receive a per-pupil payment from the 48620
department of education for the provision of these services and, 48621
if so, the amount of the per-pupil payment, ~~which shall not exceed~~ 48622
~~the per pupil amount paid to the service center under division (F)~~ 48623
~~of section 3317.11 of the Revised Code for each student in the~~ 48624
~~service center ADM.~~ 48625

(C) For each contract entered into under this section, the 48626
department shall deduct the amount owed by the STEM school from 48627
the state funds due to the STEM school under this chapter and 48628
shall pay that amount to the educational service center or joint 48629
vocational school district that is party to the contract. ~~In the~~ 48630
~~ease of a contract with an educational service center that~~ 48631
~~specifies per pupil payments for the provision of services~~ 48632
~~described in division (B) of this section, the department also~~ 48633
~~shall pay the service center the amount calculated under division~~ 48634
~~(H) of section 3317.11 of the Revised Code.~~ 48635

(D) No contract entered into under this section shall be 48636
valid unless a copy is filed with the department by the first day 48637
of the school year for which the contract is in effect. 48638

(E) As used in this section, "client school district" ~~has the~~ 48639
~~same meaning as in section 3317.11 of the Revised Code~~ means a 48640

city, exempted village, or local school district that has entered 48641
into an agreement under section 3313.843 or 3313.845 of the 48642
Revised Code to receive any services from an educational service 48643
center. 48644

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 48645
and division (D) of section 3311.52 of the Revised Code, this 48646
section and sections 3327.011, ~~3327.012~~, and 3327.02 of the 48647
Revised Code do not apply to any joint vocational or cooperative 48648
education school district. 48649

~~In (A) Except as provided in division (D) of this section or~~ 48650
~~section 3314.091 or 3327.02 of the Revised Code, in~~ all city, 48651
local, and exempted village school districts where resident school 48652
pupils in grades kindergarten through eight live more than two 48653
miles from the school for which the state board of education 48654
prescribes minimum standards pursuant to division (D) of section 48655
3301.07 of the Revised Code and to which they are assigned by the 48656
board of education of the district of residence or to and from the 48657
nonpublic or community school which they attend, the board of 48658
education shall provide transportation for such pupils to and from 48659
~~such that school except as provided in section 3327.02 of the~~ 48660
~~Revised Code.~~ 48661

(B) In all city, local, and exempted village school districts 48662
where pupil transportation is required under a career-technical 48663
plan approved by the state board of education under section 48664
3313.90 of the Revised Code, for any student attending a 48665
career-technical program operated by another school district, 48666
including a joint vocational school district, as prescribed under 48667
that section, the board of education of the student's district of 48668
residence shall provide transportation from the public high school 48669
operated by that district to which the student is assigned to the 48670
career-technical program. 48671

~~In (C) Except as provided in division (D) of this section or section 3314.091 or 3327.02 of the Revised Code, in all city, local, and exempted village school districts, the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.~~

(D)(1) A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school where such transportation would require more than thirty minutes of direct travel time as measured by school bus from the public school building to which the pupils would be assigned if attending the public school designated by the district of residence.

~~Where it is impractical to transport a pupil by school conveyance, a board of education may offer payment, in lieu of providing such transportation in accordance with section 3327.02 of the Revised Code.~~

(2) A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school on Saturday or Sunday, unless a board of education and a nonpublic or community school have an agreement in place to do so before the effective date of this amendment.

(E) In all city, local, and exempted village school districts, the board shall provide transportation for all children who are so disabled that they are unable to walk to and from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and which they attend. In case of dispute whether the

child is able to walk to and from the school, the health 48704
commissioner shall be the judge of such ability. In all city, 48705
exempted village, and local school districts, the board shall 48706
provide transportation to and from school or special education 48707
classes for ~~educable~~ mentally ~~retarded~~ disabled children in 48708
accordance with standards adopted by the state board of education. 48709

(F) When transportation of pupils is provided the conveyance 48710
shall be run on a time schedule that shall be adopted and put in 48711
force by the board not later than ten days after the beginning of 48712
the school term. 48713

The cost of any transportation service authorized by this 48714
section shall be paid first out of federal funds, if any, 48715
available for the purpose of pupil transportation, and secondly 48716
out of state appropriations, in accordance with regulations 48717
adopted by the state board of education. 48718

(G) No transportation of any pupils shall be provided by any 48719
board of education to or from any school which in the selection of 48720
pupils, faculty members, or employees, practices discrimination 48721
against any person on the grounds of race, color, religion, or 48722
national origin. 48723

(H) No transportation to or from school of pupils in grades 48724
kindergarten through five shall be provided by way of transit 48725
buses as defined in section 5735.01 of the Revised Code. 48726

Sec. 3327.02. (A) As used in this section: 48727

(1) "Community school" means a community school established 48728
under Chapter 3314. of the Revised Code. 48729

(2) "Parent" has the same meaning as in section 3313.98 of 48730
the Revised Code. 48731

(3) "Resident school district" means the city, exempted 48732
village, or local school district in which a student is entitled 48733

to attend school under section 3313.64 or 3313.65 of the Revised Code. 48734
48735

(4) "School year" has the same meaning as in section 3313.62 of the Revised Code. 48736
48737

(5) "State education aid" has the same meaning as in section 5751.20 of the Revised Code. 48738
48739

(6) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code. 48740
48741
48742

(B) Beginning July 1, 2014, the board of education of a city, exempted village, or local school district is not required to provide transportation to and from school for a student attending one of the district's schools or a community school, STEM school, or nonpublic school under division (A) or (C) of section 3327.01 of the Revised Code, if the student's parent or the student, if at least eighteen years old and no guardian or custodian is currently appointed for the student, opts instead to receive the subsidy prescribed by division (D) of this section. The parent or student may exercise that option on an annual basis by submitting an application to the department of education and by notifying the district board in accordance with procedures and deadlines prescribed by the department. The department shall prescribe deadlines for that application and notice so that the district board has sufficient time to take the exercise of the parent's or student's option into account when planning its transportation routes and schedules for the succeeding school year. The department shall not accept an application that is submitted after the deadline. The department shall award a subsidy as long as the parent or student complies with the application and notice procedures. The award shall be for one school year at a time and may be renewed if the parent or student again submits an application to the department and notice to the district board in 48743
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accordance with the prescribed procedures and deadlines. The 48766
parent or student shall use the subsidy to pay the cost of the 48767
student's transportation to and from school for the entire school 48768
year. 48769

(C) The subsidy prescribed by this section is not available 48770
for any of the following: 48771

(1) A student attending a community school or nonpublic 48772
school that is more than thirty minutes of direct travel time, as 48773
measured by school bus, from the building of the student's 48774
resident school district to which the student would be assigned if 48775
attending school in the district, as provided in division (D) of 48776
section 3327.01 of the Revised Code; 48777

(2) A student attending a community school that either: 48778

(a) Has an agreement with the student's resident school 48779
district for the community school to transport students to that 48780
school under division (A) of section 3314.091 of the Revised Code; 48781

(b) Accepts responsibility to transport students to the 48782
school under division (B) of that section. 48783

(3) A student who attends a school district other than the 48784
student's resident school district under an open enrollment policy 48785
adopted in accordance with section 3313.98 of the Revised Code; 48786

(4) A student who attends school in a school district under 48787
division (I) of section 3313.64 of the Revised Code. 48788

(D) The amount of the subsidy awarded for each student under 48789
this section shall equal the lesser of the following: 48790

(1) The statewide average cost of pupil transportation for 48791
the previous school year; 48792

(2) The average cost of pupil transportation for the previous 48793
school year for the student's resident school district. 48794

The department shall pay that amount to the student's parent 48795

or the student, if at least eighteen years old and no guardian or 48796
custodian is currently appointed for the student, in quarterly 48797
periodic payments. 48798

(E) The department shall deduct the amount of each subsidy 48799
awarded for a student under this section from the state education 48800
aid of the student's resident school district and, if necessary, 48801
from that district's payments under sections 321.24 and 323.156 of 48802
the Revised Code. 48803

The department shall include the student in the calculation 48804
of the district's transportation payment under section 3317.0212 48805
of the Revised Code and the operating appropriations act. 48806

(F) This section has no effect on a school district's 48807
responsibility to transport a student to and from a 48808
college-preparatory boarding school established under Chapter 48809
3328. of the Revised Code. 48810

(G) The state board of education shall adopt rules under 48811
Chapter 119. of the Revised Code prescribing procedures necessary 48812
to implement this section. 48813

Sec. 3327.07. (A) The governing authority of a chartered 48814
nonpublic school that transports a student enrolled in the school 48815
to and from school may charge the parent or guardian of the 48816
student a fee for the transportation, if the governing authority 48817
purchased the vehicle that transports the student using no state 48818
or federal funds. The fee shall not exceed the per student cost of 48819
the transportation, as determined by the governing authority. 48820

(B) If the parent or guardian of a student who is enrolled in 48821
a chartered nonpublic school opts to receive the subsidy 48822
prescribed by section 3327.02 of the Revised Code, instead of 48823
transportation by a school district under section 3327.01 of the 48824
Revised Code, and the governing authority of the chartered 48825

nonpublic school transports the student to and from school in a 48826
vehicle that the governing authority purchased using no state or 48827
federal funds, the governing authority may charge the parent or 48828
guardian a fee for transportation. 48829

(C) The parent or guardian of a student who is enrolled in a 48830
chartered nonpublic school and is eligible for transportation by a 48831
school district under section 3327.01 of the Revised Code may 48832
decline that transportation and accept transportation from the 48833
chartered nonpublic school. The governing authority of a chartered 48834
nonpublic school may charge a fee under division (A) of this 48835
section regardless of whether a student is eligible for 48836
transportation under section 3327.01 of the Revised Code. 48837

(D) The offering by the governing authority of a chartered 48838
nonpublic school of transportation to and from the school does not 48839
relieve any school district board of education from any duty 48840
imposed by section 3327.01 of the Revised Code with respect to the 48841
chartered nonpublic school's students. 48842

Sec. 3328.27. The board of trustees of each 48843
college-preparatory boarding school shall comply with the 48844
standards for financial reporting adopted under division (B)(2) of 48845
section 3301.07 of the Revised Code. 48846

Sec. 3333.041. (A) On or before the last day of December of 48847
each year, the chancellor of the Ohio board of regents shall 48848
submit to the governor and, in accordance with section 101.68 of 48849
the Revised Code, the general assembly a report or reports 48850
concerning all of the following: 48851

(1) The status of graduates of Ohio school districts at state 48852
institutions of higher education during the twelve-month period 48853
ending on the thirtieth day of September of the current calendar 48854
year. The report shall list, by school district, the number of 48855

graduates of each school district who attended a state institution 48856
of higher education and the percentage of each district's 48857
graduates enrolled in a state institution of higher education 48858
during the reporting period who were required during such period 48859
by the college or university, as a prerequisite to enrolling in 48860
those courses generally required for first-year students, to 48861
enroll in a remedial course in English, including composition or 48862
reading, mathematics, and any other area designated by the 48863
chancellor. The chancellor also shall make the information 48864
described in division (A)(1) of this section available to the 48865
board of education of each city, exempted village, and local 48866
school district. 48867

Each state institution of higher education shall, by the 48868
first day of November of each year, submit to the chancellor in 48869
the form specified by the chancellor the information the 48870
chancellor requires to compile the report. 48871

(2) Aggregate academic growth data for students assigned to 48872
graduates of teacher preparation programs approved under section 48873
3333.048 of the Revised Code who teach English language arts or 48874
mathematics in any of grades four to eight in a public school in 48875
Ohio. For this purpose, the chancellor shall use the value-added 48876
progress dimension prescribed by section 3302.021 of the Revised 48877
Code or the alternative student academic progress measure if 48878
adopted under division (C)(1)(e) of section 3302.03 of the Revised 48879
Code. The chancellor shall aggregate the data by graduating class 48880
for each approved teacher preparation program, except that if a 48881
particular class has ten or fewer graduates to which this section 48882
applies, the chancellor shall report the data for a group of 48883
classes over a three-year period. In no case shall the report 48884
identify any individual graduate. The department of education 48885
shall share any data necessary for the report with the chancellor. 48886

(3) The following information with respect to the Ohio 48887

tuition trust authority: 48888

(a) The name of each investment manager that is a minority 48889
business enterprise or a women's business enterprise with which 48890
the chancellor contracts; 48891

(b) The amount of assets managed by investment managers that 48892
are minority business enterprises or women's business enterprises, 48893
expressed as a percentage of assets managed by investment managers 48894
with which the chancellor has contracted; 48895

(c) Efforts by the chancellor to increase utilization of 48896
investment managers that are minority business enterprises or 48897
women's business enterprises. 48898

~~(4) The status of implementation of faculty improvement 48899
programs under section 3345.28 of the Revised Code. The report 48900
shall include, but need not be limited to, the following: the 48901
number of professional leave grants made by each institution; the 48902
purpose of each professional leave; and a statement of the cost to 48903
the institution of each professional leave, to the extent that the 48904
cost exceeds the salary of the faculty member on professional 48905
leave. 48906~~

~~(5) The number and types of biobased products purchased under 48907
section 125.092 of the Revised Code and the amount of money spent 48908
by state institutions of higher education for those biobased 48909
products as that information is provided to the chancellor under 48910
division (A) of section 3345.692 of the Revised Code. 48911~~

(6) A description of dual enrollment programs, as defined in 48912
section 3313.6013 of the Revised Code, that are offered by school 48913
districts, community schools established under Chapter 3314. of 48914
the Revised Code, STEM schools established under Chapter 3326. of 48915
the Revised Code, college-preparatory boarding schools established 48916
under Chapter 3328. of the Revised Code, and chartered nonpublic 48917
high schools. The chancellor also shall post the information on 48918

the chancellor's web site. 48919

~~(7) The academic and economic impact of the Ohio innovation partnership established under section 3333.61 of the Revised Code. At a minimum, the report shall include the following:~~ 48920
48921

~~(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year;~~ 48922
48923
48924

~~(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy;~~ 48925
48926
48927

~~(e)(5) The chancellor's strategy in assigning choose Ohio first scholarships, as established under section 3333.61 of the Revised Code,~~ among state universities and colleges and how the actual awards fit that strategy. 48928
48929
48930
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~~(8)(6) The academic and economic impact of the Ohio co-op/internship program established under section 3333.72 of the Revised Code. At a minimum, the report shall include the following:~~ 48932
48933
48934
48935

(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year; 48936
48937

(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy; 48938
48939
48940

(c) The chancellor's strategy in allocating awards among state institutions of higher education and how the actual awards fit that strategy. 48941
48942
48943

(B) As used in this section: 48944

(1) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code. 48945
48946

(2) "State institution of higher education" and "state university" have the same meanings as in section 3345.011 of the 48947
48948

Revised Code. 48949

(3) "State university or college" has the same meaning as in 48950
section 3345.12 of the Revised Code. 48951

(4) "Women's business enterprise" means a business, or a 48952
partnership, corporation, limited liability company, or joint 48953
venture of any kind, that is owned and controlled by women who are 48954
United States citizens and residents of this state. 48955

Sec. 3333.049. No nonprofit institution that holds a 48956
certificate of authorization issued under Chapter 1713. of the 48957
Revised Code shall be liable for a breach of confidentiality 48958
arising from the institution's submission of student data or 48959
records to the board of regents or any other state agency in 48960
compliance with any law, rule, or regulation, provided that the 48961
breach occurs as a result of one of the following: 48962

(A) An action by a third party during and after the 48963
transmission of the data or records by the institution but prior 48964
to receipt of the data or records by the board of regents or other 48965
state agency; 48966

(B) An action by the board of regents or the state agency. 48967

This provision shall apply to the submission of any student 48968
data or records that are subject to any laws of this state or, to 48969
the extent permitted, any federal law, including the "Family 48970
Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 48971
U.S.C. 1232g. 48972

Sec. 3333.124. There is hereby created in the state treasury 48973
the Ohio college opportunity grant program reserve fund. Not later 48974
than the first day of July of each fiscal year, the chancellor of 48975
the Ohio board of regents shall certify to the director of budget 48976
and management the unencumbered balance of the general revenue 48977
fund appropriations made in the immediately preceding fiscal year 48978

for purposes of the Ohio college opportunity grant program created 48979
in section 3333.122 of the Revised Code. Upon receipt of the 48980
certification, the director may transfer an amount not exceeding 48981
the certified amount from the general revenue fund to the Ohio 48982
college opportunity grant program reserve fund. Moneys in the Ohio 48983
college opportunity grant program reserve fund shall be used to 48984
pay grant obligations in excess of the general revenue fund 48985
appropriations made for that purpose. 48986

The director may transfer any unencumbered balance from the 48987
Ohio college opportunity grant program reserve fund to the general 48988
revenue fund. 48989

Sec. 3333.342. (A) The chancellor of the Ohio board of 48990
regents may designate a "certificate of value" for a certificate 48991
program at any adult career-technical education institution or 48992
state institution of higher education, as defined under section 48993
3345.011 of the Revised Code, based on the standards adopted under 48994
division (B) of this section. 48995

(B) The chancellor shall develop standards for designation of 48996
the certificates of value for certificate programs at adult 48997
career-technical education institutions and state institutions of 48998
higher education. The standards shall include at least the 48999
following considerations: 49000

(1) The quality of the certificate program; 49001

(2) The ability to transfer agreed-upon technical courses 49002
completed through an adult career-technical education institution 49003
to a state institution of higher education without unnecessary 49004
duplication or institutional barriers; 49005

(3) The extent to which the certificate program encourages a 49006
student to obtain an associate's or bachelor's degree; 49007

(4) The extent to which the certificate program increases a 49008

student's likelihood to complete other certificate programs or an 49009
associate's or bachelor's degree; 49010

(5) The ability of the certificate program to meet the 49011
expectations of the workplace and higher education; 49012

(6) The extent to which the certificate program is aligned 49013
with the strengths of the regional economy; 49014

(7) The extent to which the certificate program increases the 49015
amount of individuals who remain in or enter the state's 49016
workforce; 49017

(8) The extent of a certificate program's relationship with 49018
private companies in the state to fill potential job growth. 49019

(C) The designation of a certificate of value under this 49020
section shall expire six years after its designation date. 49021

(D) The chancellor may revoke a designation prior to its 49022
expiration date if the chancellor determines that the program no 49023
longer complies with the standards developed under division (B) of 49024
this section. 49025

(E) Any revocation of a certificate of value under this 49026
section shall become effective one hundred eighty days after the 49027
date the revocation was declared by the chancellor. 49028

(F) Any adult career-technical education institution or state 49029
institution of higher education that desires to be eligible to 49030
receive a designation of certificate of value for one or more of 49031
its certificate programs shall comply with all records and data 49032
requests required by the chancellor. 49033

Sec. ~~3333.90~~ 3333.59. (A) As used in this section: 49034

(1) "Allocated state share of instruction" means, for any 49035
fiscal year, the amount of the state share of instruction 49036
appropriated to the Ohio board of regents by the general assembly 49037

that is allocated to a community or technical college or community or technical college district for such fiscal year. 49038
49039

(2) "Issuing authority" has the same meaning as in section 154.01 of the Revised Code. 49040
49041

(3) "Bond service charges" has the same meaning as in section 154.01 of the Revised Code. 49042
49043

(4) "Chancellor" means the chancellor of the Ohio board of regents. 49044
49045

(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education: 49046
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49048

(a) A community college as defined in section 3354.01 of the Revised Code; 49049
49050

(b) A technical college as defined in section 3357.01 of the Revised Code; 49051
49052

(c) A state community college as defined in section 3358.01 of the Revised Code. 49053
49054

(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted: 49055
49056
49057

(a) A community college district as defined in section 3354.01 of the Revised Code; 49058
49059

(b) A technical college district as defined in section 3357.01 of the Revised Code; 49060
49061

(c) A state community college district as defined in section 3358.01 of the Revised Code. 49062
49063

(7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code. 49064
49065

(8) "Obligations" has the meaning as in section 154.01 or 49066

3345.12 of the Revised Code, as the context requires. 49067

(B) The board of trustees of any community or technical 49068
college district authorizing the issuance of obligations under 49069
section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the 49070
Revised Code, or for whose benefit and on whose behalf the issuing 49071
authority proposes to issue obligations under section 154.25 of 49072
the Revised Code, may adopt a resolution requesting the chancellor 49073
to enter into an agreement with the community or technical college 49074
district and the primary paying agent or fiscal agent for such 49075
obligations, providing for the withholding and deposit of funds 49076
otherwise due the district or the community or technical college 49077
it operates in respect of its allocated state share of 49078
instruction, for the payment of bond service charges on such 49079
obligations. 49080

The board of trustees shall deliver to the chancellor a copy 49081
of the resolution and any additional pertinent information the 49082
chancellor may require. 49083

The chancellor and the office of budget and management, and 49084
the issuing authority in the case of obligations to be issued by 49085
the issuing authority, shall evaluate each request received from a 49086
community or technical college district under this section. The 49087
chancellor, with the advice and consent of the director of budget 49088
and management and the issuing authority in the case of 49089
obligations to be issued by the issuing authority, shall approve 49090
each request if all of the following conditions are met: 49091

(1) Approval of the request will enhance the marketability of 49092
the obligations for which the request is made; 49093

(2) The chancellor and the office of budget and management, 49094
and the issuing authority in the case of obligations to be issued 49095
by the issuing authority, have no reason to believe the requesting 49096
community or technical college district or the community or 49097

technical college it operates will be unable to pay when due the 49098
bond service charges on the obligations for which the request is 49099
made, and bond service charges on those obligations are therefore 49100
not anticipated to be paid pursuant to this section from the 49101
allocated state share of instruction for purposes of Section 17 of 49102
Article VIII, Ohio Constitution. 49103

(3) Any other pertinent conditions established in rules 49104
adopted under division (H) of this section. 49105

(C) If the chancellor approves the request of a community or 49106
technical college district to withhold and deposit funds pursuant 49107
to this section, the chancellor shall enter into a written 49108
agreement with the district and the primary paying agent or fiscal 49109
agent for the obligations, which agreement shall provide for the 49110
withholding of funds pursuant to this section for the payment of 49111
bond service charges on those obligations. The agreement may also 49112
include both of the following: 49113

(1) Provisions for certification by the district to the 49114
chancellor, prior to the deadline for payment of the applicable 49115
bond service charges, whether the district and the community or 49116
technical college it operates are able to pay those bond service 49117
charges when due; 49118

(2) Requirements that the district or the community or 49119
technical college it operates deposits amounts for the payment of 49120
those bond service charges with the primary paying agent or fiscal 49121
agent for the obligations prior to the date on which the bond 49122
service charges are due to the owners or holders of the 49123
obligations. 49124

(D) Whenever a district or the community or technical college 49125
it operates notifies the chancellor that it will not be able to 49126
pay the bond service charges when they are due, subject to the 49127
withholding provisions of this section, or whenever the applicable 49128

paying agent or fiscal agent notifies the chancellor that it has 49129
not timely received from a district or from the college it 49130
operates the full amount needed for payment of the bond service 49131
charges when due to the holders or owners of such obligations, the 49132
chancellor shall immediately contact the district or college and 49133
the paying agent or fiscal agent to confirm that the district and 49134
the college are not able to make the required payment by the date 49135
on which it is due. 49136

If the chancellor confirms that the district and the college 49137
are not able to make the payment and the payment will not be made 49138
pursuant to a credit enhancement facility, the chancellor shall 49139
promptly pay to the applicable primary paying agent or fiscal 49140
agent the lesser of the amount due for bond service charges or the 49141
amount of the next periodic distribution scheduled to be made to 49142
the district or to the college in respect of its allocated state 49143
share of instruction. If this amount is insufficient to pay the 49144
total amount then due the agent for the payment of bond service 49145
charges, the chancellor shall continue to pay to the agent from 49146
each periodic distribution thereafter, and until the full amount 49147
due the agent for unpaid bond service charges is paid in full, the 49148
lesser of the remaining amount due the agent for bond service 49149
charges or the amount of the next periodic distribution scheduled 49150
to be made to the district or college in respect of its allocated 49151
state share of instruction. 49152

(E) The chancellor may make any payments under this section 49153
by direct deposit of funds by electronic transfer. 49154

Any amount received by a paying agent or fiscal agent under 49155
this section shall be applied only to the payment of bond service 49156
charges on the obligations of the community or technical college 49157
district or community or technical college subject to this section 49158
or to the reimbursement of the provider of a credit enhancement 49159
facility that has paid the bond service charges. 49160

(F) The chancellor may make payments under this section to 49161
paying agents or fiscal agents during any fiscal biennium of the 49162
state only from and to the extent that money is appropriated to 49163
the board of regents by the general assembly for distribution 49164
during such biennium for the state share of instruction and only 49165
to the extent that a portion of the state share of instruction has 49166
been allocated to the community or technical college district or 49167
community or technical college. Obligations of the issuing 49168
authority or of a community or technical college district to which 49169
this section is made applicable do not constitute an obligation or 49170
a debt or a pledge of the faith, credit, or taxing power of the 49171
state, and the holders or owners of those obligations have no 49172
right to have excises or taxes levied or appropriations made by 49173
the general assembly for the payment of bond service charges on 49174
the obligations, and the obligations shall contain a statement to 49175
that effect. The agreement for or the actual withholding and 49176
payment of money under this section does not constitute the 49177
assumption by the state of any debt of a community or technical 49178
college district or a community or technical college, and bond 49179
service charges on the related obligations are not anticipated to 49180
be paid from the state general revenue fund for purposes of 49181
Section 17 of Article VIII, Ohio Constitution. 49182

(G) In the case of obligations subject to the withholding 49183
provisions of this section, the issuing community or technical 49184
college district, or the issuing authority in the case of 49185
obligations issued by the issuing authority, shall appoint a 49186
paying agent or fiscal agent who is not an officer or employee of 49187
the district or college. 49188

(H) The chancellor, with the advice and consent of the office 49189
of budget and management, may adopt reasonable rules not 49190
inconsistent with this section for the implementation of this 49191
section to secure payment of bond service charges on obligations 49192

issued by a community or technical college district or by the 49193
issuing authority for the benefit of a community or technical 49194
college district or the community or technical college it 49195
operates. Those rules shall include criteria for the evaluation 49196
and approval or denial of community or technical college district 49197
requests for withholding under this section. 49198

(I) The authority granted by this section is in addition to 49199
and not a limitation on any other authorizations granted by or 49200
pursuant to law for the same or similar purposes. 49201

Sec. 3333.613. There is hereby created in the state treasury 49202
the choose Ohio first scholarship reserve fund. Not later than the 49203
first day of July of each fiscal year, the chancellor of the Ohio 49204
board of regents shall certify to the director of budget and 49205
management the unencumbered balance of the general revenue fund 49206
appropriations made in the immediately preceding fiscal year for 49207
purposes of the choose Ohio first scholarship program created in 49208
section 3333.61 of the Revised Code. Upon receipt of the 49209
certification, the director may transfer an amount not exceeding 49210
the certified amount from the general revenue fund to the choose 49211
Ohio first scholarship reserve fund. Moneys in the choose Ohio 49212
first scholarship reserve fund shall be used to pay scholarship 49213
obligations in excess of the general revenue fund appropriations 49214
made for that purpose. 49215

The director may transfer any unencumbered balance from the 49216
choose Ohio first scholarship reserve fund to the general revenue 49217
fund. 49218

Sec. 3333.82. (A) The chancellor of the Ohio board of regents 49219
shall establish a clearinghouse of interactive distance learning 49220
courses and other distance learning courses delivered via a 49221
computer-based method offered by school districts, community 49222

schools, STEM schools, state institutions of higher education, 49223
private colleges and universities, and other nonprofit and 49224
for-profit course providers for sharing with other school 49225
districts, community schools, STEM schools, state institutions of 49226
higher education, private colleges and universities, and 49227
individuals for the fee set pursuant to section 3333.84 of the 49228
Revised Code. The chancellor shall not be responsible for the 49229
content of courses offered through the clearinghouse; however, all 49230
such courses shall be delivered only in accordance with technical 49231
specifications approved by the chancellor and on a common 49232
statewide platform administered by the chancellor. 49233

The clearinghouse's distance learning program for students in 49234
grades kindergarten to twelve shall be based on the following 49235
principles: 49236

(1) All Ohio students shall have access to high quality 49237
distance learning courses at any point in their educational 49238
careers. 49239

(2) All students shall be able to customize their education 49240
using distance learning courses offered through the clearinghouse 49241
and no student shall be denied access to any course in the 49242
clearinghouse in which the student is eligible to enroll. 49243

(3) Students may take distance learning courses for all or 49244
any portion of their curriculum requirements and may utilize a 49245
combination of distance learning courses and courses taught in a 49246
traditional classroom setting. 49247

(4) Students may earn an unlimited number of academic credits 49248
through distance learning courses. 49249

(5) Students may take distance learning courses at any time 49250
of the calendar year. 49251

(6) Student advancement to higher coursework shall be based 49252
on a demonstration of subject area competency instead of 49253

completion of any particular number of hours of instruction. 49254

(B) To offer a course through the clearinghouse, a course 49255
provider shall apply to the chancellor in a form and manner 49256
prescribed by the chancellor. The application for each course 49257
shall describe the course of study in as much detail as required 49258
by the chancellor, whether an instructor is provided, the 49259
qualification and credentials of the instructor, the number of 49260
hours of instruction, and any other information required by the 49261
chancellor. The chancellor may require course providers to include 49262
in their applications information recommended by the state board 49263
of education under former section 3353.30 of the Revised Code. 49264

(C) The chancellor shall review the technical specifications 49265
of each application submitted under division (B) of this section. 49266
In reviewing applications, the chancellor may consult with the 49267
department of education; however, the responsibility to either 49268
approve or not approve a course for the clearinghouse belongs to 49269
the chancellor. The chancellor may request additional information 49270
from a course provider that submits an application under division 49271
(B) of this section, if the chancellor determines that such 49272
information is necessary. The chancellor may negotiate changes in 49273
the proposal to offer a course, if the chancellor determines that 49274
changes are necessary in order to approve the course. 49275

(D) The chancellor shall catalog each course approved for the 49276
clearinghouse, through a print or electronic medium, displaying 49277
the following: 49278

(1) Information necessary for a student and the student's 49279
parent, guardian, or custodian and the student's school district, 49280
community school, STEM school, college, or university to decide 49281
whether to enroll in or subscribe to the course; 49282

(2) Instructions for enrolling in that course, including 49283
deadlines for enrollment. 49284

(E) Any expenses related to the installation of a course into the common statewide platform shall be borne by the course provider. 49285
49286
49287

(F) ~~The eTech Ohio commission, in consultation with the chancellor and the state board, shall distribute information to students and parents describing the clearinghouse. The information shall be provided in an easily understandable format~~ The chancellor may contract with an entity to perform any or all of the chancellor's duties under sections 3333.81 to 3333.88 of the Revised Code. 49288
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Sec. ~~3353.01~~ 3333.89. As used in ~~this chapter~~ sections 3333.90 to 3333.92 of the Revised Code: 49295
49296

(A) "Educational television or radio" means television or radio programs which serve the educational needs of the community and which meet the requirements of the federal communications commission for noncommercial educational television or radio. 49297
49298
49299
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(B) "Educational telecommunications network" means a system of connected educational television, radio, or radio reading service facilities and coordinated programs established and operated or controlled by the ~~eTech~~ chancellor of the Ohio commission board of regents, pursuant to this chapter sections 3333.90 to 3333.92 of the Revised Code. 49301
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(C) "Transmission" means the sending out of television, radio, or radio reading service programs, either directly to the public, or to broadcasting stations or services for simultaneous broadcast or rebroadcast. 49307
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(D) "Transmission facilities" means structures, equipment, material, and services used in the transmission of educational television, radio, or radio reading service programs. 49311
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(E) "Interconnection facilities" means the equipment, 49314

material, and services used to link one location to another 49315
location or to several locations by means of telephone line, 49316
coaxial cable, microwave relays, or other available technologies. 49317

(F) "Broadcasting station" means a properly licensed 49318
noncommercial educational television or radio station, 49319
appropriately staffed and equipped to produce programs or lessons 49320
and to broadcast programs. 49321

(G) "Radio reading service" means a nonprofit organization 49322
that disseminates news and other information to blind and 49323
physically handicapped persons. 49324

(H) "Affiliate" means an educational telecommunication 49325
entity, including a television or radio broadcasting station or 49326
radio reading service. 49327

Sec. 3333.90. (A) The chancellor of the Ohio board of regents 49328
shall do all of the following regarding the management and 49329
oversight of the state's educational telecommunications 49330
activities: 49331

(1) Own or operate transmission facilities and 49332
interconnection facilities, or contract for transmission 49333
facilities and interconnection facilities, for an educational 49334
television, radio, or radio reading service network; 49335

(2) Establish standards for interconnection facilities used 49336
by the chancellor in the transmission of educational television, 49337
radio, or radio reading service programming; 49338

(3) Enter into agreements with noncommercial educational 49339
television or radio broadcasting stations or radio reading 49340
services for the operation of the interconnection; 49341

(4) Enter into agreements with noncommercial educational 49342
television or radio broadcasting stations or radio reading 49343
services for the production and use of educational television, 49344

radio, or radio reading service programs to be transmitted by the 49345
educational telecommunications network; 49346

(5) Act as consultant with educational television and 49347
educational radio stations and radio reading services toward 49348
coordination within the state of the distribution of federal funds 49349
that may become available for equipment for educational 49350
broadcasting or radio reading services; 49351

(6) Make payments to noncommercial Ohio educational 49352
television or radio broadcasting stations or radio reading 49353
services to sustain the operation of such stations or services; 49354

(7) Execute contracts and other agreements necessary and 49355
desirable to carry out the purposes of this section. 49356

(B) Sections 9.331 to 9.335 and Chapters 123., 124., 125., 49357
and 153. of the Revised Code do not apply to contracts, programs, 49358
projects, or activities of the chancellor carried out under this 49359
section. 49360

(C) All employees of the former eTech Ohio commission who 49361
transferred to the office of the chancellor, as a result of the 49362
transfer to the chancellor of the state's educational 49363
telecommunications activities, and who when employed by that 49364
commission or a predecessor agency were included in a bargaining 49365
unit established under Chapter 4117. of the Revised Code, shall 49366
continue to be included in that bargaining unit, are public 49367
employees as defined in section 4117.01 of the Revised Code, and 49368
may collectively bargain with the chancellor in accordance with 49369
that chapter. Otherwise, any employee hired by the chancellor 49370
after the abolishment of the commission, either to fill vacancies 49371
or to fill new positions related to the chancellor's duties under 49372
this section, shall be exempt from Chapter 4117. of the Revised 49373
Code and shall not be public employees as defined in section 49374
4117.01 of the Revised Code. 49375

Sec. ~~3353.05~~ 3333.91. Any taxing authority as defined in 49376
section 5705.01 of the Revised Code located in a county may pay to 49377
any noncommercial educational television or radio broadcasting 49378
station or radio reading service located in the county or serving 49379
any part of the county an amount not to exceed five cents annually 49380
on each one thousand dollars of the total value of all property 49381
within the county as listed and assessed for taxation at the close 49382
of the fiscal year immediately preceding the year in which the 49383
payment is made. 49384

Sec. ~~3353.06~~ 3333.92. (A) The affiliates services fund is 49385
hereby created in the state treasury. The ~~eTech Ohio commission~~ 49386
chancellor of the Ohio board of regents shall deposit any money it 49387
receives for services provided to affiliates to the credit of the 49388
fund, including: 49389

(1) Reimbursements for services provided to stations; 49390

(2) Charges levied for maintenance of telecommunications, 49391
broadcasting, or transmission equipment; 49392

(3) Contract or grant payments from affiliates. 49393

(B) The ~~commission~~ chancellor shall use money credited to the 49394
affiliates services fund for any commission operating purposes, 49395
including: 49396

(1) The purchase, repair, or maintenance of 49397
telecommunications, broadcasting, or transmission equipment; 49398

(2) The purchase or lease of educational programming; 49399

(3) The purchase of tape and maintenance of a media library; 49400

(4) Professional development programs and services; 49401

(5) Administrative expenses. 49402

Sec. ~~3353.07~~ 3333.93. (A) There is hereby created the Ohio 49403

government telecommunications service. The Ohio government 49404
telecommunications service shall provide the state government and 49405
affiliated organizations with multimedia support including audio, 49406
visual, and internet services, multimedia streaming, and hosting 49407
multimedia programs. 49408

Services relating to the official activities of the general 49409
assembly and the executive offices provided by the Ohio government 49410
telecommunications service shall be funded through grants to a 49411
public television broadcasting station that will manage the staff 49412
and provide the services of the Ohio government telecommunications 49413
service. The Ohio educational television stations shall select a 49414
member station to manage the Ohio government telecommunications 49415
service. The Ohio government telecommunications service shall 49416
receive grants from, or contract with, any of the three branches 49417
of Ohio government, and their affiliates, to provide additional 49418
services. Services provided by the Ohio government 49419
telecommunications service shall not be used for political 49420
purposes included in campaign materials, or otherwise used to 49421
influence an election, legislation, issue, judicial decision, or 49422
other policy of state government. 49423

(B)(1) There is hereby created the legislative programming 49424
committee of the Ohio government telecommunications service that 49425
shall consist of the president of the senate, speaker of the house 49426
of representatives, minority leader of the senate, and minority 49427
leader of the house of representatives, or their designees, and 49428
the clerks of the senate and house of representatives as 49429
nonvoting, ex officio members. By a vote of a majority of its 49430
members, the program committee may add additional members to the 49431
committee. 49432

(2) The legislative programming committee shall adopt rules 49433
that govern the operation of the Ohio government 49434
telecommunications service relating to the general assembly and 49435

any affiliated organizations. 49436

Sec. ~~3353.11~~ 3333.94. There is hereby created in the state 49437
treasury the governmental telecommunications operating fund. The 49438
fund shall consist of money received from contract services of the 49439
Ohio government telecommunications service and shall be used for 49440
operations or equipment breakdowns related to the service. Only 49441
the Ohio government telecommunications service may authorize the 49442
spending of money in the fund. All investment earnings of the fund 49443
shall be credited to the fund. Once the fund has a balance of 49444
zero, the fund shall cease to exist. 49445

Sec. 3335.35. There is hereby created the "~~Ohio cooperative~~ 49446
OSU extension service fund," which shall be under the custody and 49447
control of the board of trustees of the Ohio state university and 49448
shall consist of all moneys appropriated, given, granted, or 49449
bequeathed to the university for the use of ~~the Ohio cooperative~~ 49450
OSU extension service by the United States, this state, any 49451
political subdivision of this state, or any person. The board 49452
shall have responsibility for expenditure of all moneys in the 49453
fund in accordance with state and federal law and memoranda of 49454
agreement between the university and the United States department 49455
of agriculture. 49456

Sec. 3335.36. The board of trustees of the Ohio state 49457
university may employ such employees as it considers appropriate 49458
for the conduct of educational programs of ~~the Ohio cooperative~~ 49459
OSU extension service and may provide for the payment from the 49460
~~Ohio cooperative~~ OSU extension service fund created by section 49461
3335.35 of the Revised Code of reasonable compensation to such 49462
employees and of reasonable expenses incurred by them in the 49463
discharge of their duties, including expenses of travel and of 49464
maintaining, equipping, and supplying their offices. 49465

The employees shall cooperate with the department of 49466
agriculture, the Ohio agricultural research and development 49467
center, the department of education, and the United States 49468
department of agriculture, for the purpose of making available the 49469
educational materials of ~~the OSU extension service~~. ~~Such~~ The 49470
employees shall represent the university and shall conduct 49471
educational activities related to agriculture, natural resources, 49472
~~home economics~~ community development, ~~family living~~ and consumer 49473
sciences, and 4-H programs for the citizens of this state through 49474
personal instruction, bulletins, practical demonstrations, mass 49475
media, and otherwise, subject to such rules as may be prescribed 49476
by the board of trustees of the university. ~~Such~~ The employees 49477
shall have offices provided by the county or other political 49478
subdivision in which they serve in which bulletins and other 49479
educational materials of value to the people may be consulted and 49480
through which the employees may be reached. 49481

The board of trustees of the Ohio state university may hire 49482
or use employees of ~~the Ohio cooperative OSU extension service~~ to 49483
carry out the functions and duties of a director of economic 49484
development under division (B) of section 307.07 of the Revised 49485
Code pursuant to any agreement with a county under division (A)(2) 49486
of section 307.07 of the Revised Code. 49487

Sec. 3335.37. The board of county commissioners of any county 49488
may levy a tax, within the limitations prescribed by law, and 49489
appropriate money from the proceeds thereof or from the general 49490
fund of the county to be paid to the Ohio state university to the 49491
credit of the ~~Ohio cooperative OSU extension service~~ fund created 49492
by section 3335.35 of the Revised Code and expended for the 49493
purposes prescribed in section 3335.36 of the Revised Code for the 49494
benefit of the citizens of ~~such~~ that county. Any money paid into 49495
the fund under this section that aggregates more than ten per cent 49496
of the county appropriation in the preceding year and that remains 49497

unexpended for two years from the time of ~~such~~ the payment shall 49498
be returned to the county from which it came unless the board of 49499
county commissioners determines by resolution to contribute it to 49500
~~the Ohio cooperative~~ OSU extension ~~service~~ for general purposes. 49501
49502

Sec. 3335.38. The board of trustees of the Ohio state 49503
university shall establish a farm financial management institute 49504
in ~~the Ohio cooperative~~ OSU extension ~~service~~ to train interested 49505
and qualified persons to assist farmers needing help with farm 49506
financial management problems. 49507

Participation shall be open to all interested persons, but 49508
the following persons shall be given priority as to enrollment: 49509
employees or representatives of banks and other farm credit 49510
agencies, agricultural teachers, and faculty and employees of the 49511
Ohio state university and ~~the Ohio cooperative~~ OSU extension 49512
~~service~~ who agree to assist Ohio farmers in completing and 49513
understanding the coordinated financial statement and other 49514
subjects. A fee may be charged participants, as determined by ~~the~~ 49515
OSU extension ~~service~~, but may be waived for those participants 49516
granted priority status at enrollment. 49517

Sec. 3345.05. (A) All registration fees, nonresident tuition 49518
fees, academic fees for the support of off-campus instruction, 49519
laboratory and course fees when so assessed and collected, student 49520
health fees for the support of a student health service, all other 49521
fees, deposits, charges, receipts, and income from all or part of 49522
the students, all subsidy or other payments from state 49523
appropriations, and all other fees, deposits, charges, receipts, 49524
income, and revenue received by each state institution of higher 49525
education, the Ohio state university hospitals and their ancillary 49526
facilities, the Ohio agricultural research and development center, 49527
and ~~the Ohio state university cooperative~~ OSU extension ~~service~~ 49528

shall be held and administered by the respective boards of 49529
trustees of the state institution of higher education; provided, 49530
that such fees, deposits, charges, receipts, income and revenue, 49531
to the extent required by resolutions, trust agreements, 49532
indentures, leases, and agreements adopted, made, or entered into 49533
under Chapter 154. or section 3345.07, 3345.11, or 3345.12 of the 49534
Revised Code, shall be held, administered, transferred, and 49535
applied in accordance therewith. 49536

(B) The Ohio board of regents shall require annual reporting 49537
by the Ohio agricultural research and development center and by 49538
each university and college receiving state aid in such form and 49539
detail as determined by the board in consultation with such 49540
center, universities and colleges, and the director of budget and 49541
management. 49542

(C) Notwithstanding any provision of the Revised Code to the 49543
contrary, the title to investments made by the board of trustees 49544
of a state institution of higher education with funds derived from 49545
any of the sources described in division (A) of this section shall 49546
not be vested in the state or the political subdivision but shall 49547
be held in trust by the board. Such investments shall be made 49548
pursuant to an investment policy adopted by the board in public 49549
session that requires all fiduciaries to discharge their duties 49550
with the care, skill, prudence, and diligence under the 49551
circumstances then prevailing that a prudent person acting in like 49552
capacity and familiar with such matters would use in the conduct 49553
of an enterprise of a like character and with like aims. The 49554
policy also shall require at least the following: 49555

(1) A stipulation that investment of at least twenty-five per 49556
cent of the average amount of the investment portfolio over the 49557
course of the previous fiscal year be invested in securities of 49558
the United States government or of its agencies or 49559
instrumentalities, the treasurer of state's pooled investment 49560

program, obligations of this state or any political subdivision of 49561
this state, certificates of deposit of any national bank located 49562
in this state, written repurchase agreements with any eligible 49563
Ohio financial institution that is a member of the federal reserve 49564
system or federal home loan bank, money market funds, or bankers 49565
acceptances maturing in two hundred seventy days or less which are 49566
eligible for purchase by the federal reserve system, as a reserve; 49567

(2) Eligible funds above those that meet the conditions of 49568
division (C)(1) of this section may be pooled with other 49569
institutional funds and invested in accordance with section 49570
1715.52 of the Revised Code. 49571

(3) The establishment of an investment committee. 49572

(D) The investment committee established under division 49573
(C)(3) of this section shall meet at least quarterly. The 49574
committee shall review and recommend revisions to the board's 49575
investment policy and shall advise the board on its investments 49576
made under division (C) of this section in an effort to assist it 49577
in meeting its obligations as a fiduciary as described in division 49578
(C) of this section. The committee shall be authorized to retain 49579
the services of an investment advisor who meets both of the 49580
following qualifications: 49581

(1) The advisor is either: 49582

(a) Licensed by the division of securities under section 49583
1707.141 of the Revised Code; 49584

(b) Registered with the securities and exchange commission. 49585

(2) The advisor either: 49586

(a) Has experience in the management of investments of public 49587
funds, especially in the investment of state-government investment 49588
portfolios; 49589

(b) Is an eligible institution referenced in section 135.03 49590

of the Revised Code. 49591

(E) As used in this section, "state institution of higher 49592
education" means a state institution of higher education as 49593
defined in section 3345.011 of the Revised Code. 49594

Sec. 3345.06. (A) Subject to divisions (B) and (C) of this 49595
section, a graduate of the twelfth grade shall be entitled to 49596
admission without examination to any college or university which 49597
is supported wholly or in part by the state, but for unconditional 49598
admission may be required to complete such units not included in 49599
the graduate's high school course as may be prescribed, not less 49600
than two years prior to the graduate's entrance, by the faculty of 49601
the institution. 49602

(B) Beginning with the 2014-2015 academic year, each state 49603
university listed in section 3345.011 of the Revised Code, except 49604
for Central state university, Shawnee state university, and 49605
Youngstown state university, shall permit a resident of this state 49606
who entered ninth grade for the first time on or after July 1, 49607
2010, to begin undergraduate coursework at the university only if 49608
the person has successfully completed the Ohio core curriculum for 49609
high school graduation prescribed in division (C) of section 49610
3313.603 of the Revised Code, unless one of the following applies: 49611

(1) The person has earned at least ten semester hours, or the 49612
equivalent, at a community college, state community college, 49613
university branch, technical college, or another post-secondary 49614
institution except a state university to which division (B) of 49615
this section applies, in courses that are college-credit-bearing 49616
and may be applied toward the requirements for a degree. The 49617
university shall grant credit for successful completion of those 49618
courses pursuant to any applicable articulation and transfer 49619
policy of the Ohio board of regents or any agreements the 49620
university has entered into in accordance with policies and 49621

procedures adopted under section 3333.16, 3313.161, or 3333.162 of 49622
the Revised Code. The university may count college credit that the 49623
student earned while in high school through the post-secondary 49624
enrollment options program under Chapter 3365. of the Revised 49625
Code, or through other dual enrollment programs, toward the 49626
requirements of division (B)(1) of this section if the credit may 49627
be applied toward a degree. 49628

(2) The person qualified to graduate from high school under 49629
division (D) or (F) of section 3313.603 of the Revised Code and 49630
has successfully completed the topics or courses that the person 49631
lacked to graduate under division (C) of that section at any 49632
post-secondary institution or at a summer program at the state 49633
university. A state university may admit a person for enrollment 49634
contingent upon completion of such topics or courses or summer 49635
program. 49636

(3) The person met the high school graduation requirements by 49637
successfully completing the person's individualized education 49638
program developed under section 3323.08 of the Revised Code. 49639

~~(3)~~(4) The person is receiving or has completed the final 49640
year of instruction at home as authorized under section 3321.04 of 49641
the Revised Code, or has graduated from a nonchartered, nonpublic 49642
school in Ohio, and demonstrates mastery of the academic content 49643
and skills in reading, writing, and mathematics needed to 49644
successfully complete introductory level coursework at an 49645
institution of higher education and to avoid remedial coursework. 49646

~~(4)~~(5) The person is a high school student participating in 49647
the post-secondary enrollment options program under Chapter 3365. 49648
of the Revised Code or another dual enrollment program. 49649

(C) A state university subject to division (B) of this 49650
section may delay admission for or admit conditionally an 49651
undergraduate student who has successfully completed the Ohio core 49652

curriculum if the university determines the student requires 49653
academic remedial or developmental coursework. The university may 49654
delay admission pending, or make admission conditional upon, the 49655
student's successful completion of the academic remedial or 49656
developmental coursework at a university branch, community 49657
college, state community college, or technical college. 49658

(D) This section does not deny the right of a college of law, 49659
medicine, or other specialized education to require college 49660
training for admission, or the right of a department of music or 49661
other art to require particular preliminary training or talent. 49662

Sec. 3345.12. (A) As used in this section and sections 49663
3345.07 and 3345.11 of the Revised Code, in other sections of the 49664
Revised Code that make reference to this section unless the 49665
context does not permit, and in related bond proceedings unless 49666
otherwise expressly provided: 49667

(1) "State university or college" means each of the state 49668
universities identified in section 3345.011 of the Revised Code 49669
and the northeast Ohio medical university, and includes its board 49670
of trustees. 49671

(2) "Institution of higher education" or "institution" means 49672
a state university or college, or a community college district, 49673
technical college district, university branch district, or state 49674
community college, and includes the applicable board of trustees 49675
or, in the case of a university branch district, any other 49676
managing authority. 49677

(3) "Housing and dining facilities" means buildings, 49678
structures, and other improvements, and equipment, real estate, 49679
and interests in real estate therefor, to be used for or in 49680
connection with dormitories or other living quarters and 49681
accommodations, or related dining halls or other food service and 49682
preparation facilities, for students, members of the faculty, 49683

officers, or employees of the institution of higher education, and 49684
their spouses and families. 49685

(4) "Auxiliary facilities" means buildings, structures, and 49686
other improvements, and equipment, real estate, and interests in 49687
real estate therefor, to be used for or in connection with student 49688
activity or student service facilities, housing and dining 49689
facilities, dining halls, and other food service and preparation 49690
facilities, vehicular parking facilities, bookstores, athletic and 49691
recreational facilities, faculty centers, auditoriums, assembly 49692
and exhibition halls, hospitals, infirmaries and other medical and 49693
health facilities, research, and continuing education facilities. 49694

(5) "Education facilities" means buildings, structures, and 49695
other improvements, and equipment, real estate, and interests in 49696
real estate therefor, to be used for or in connection with, 49697
classrooms or other instructional facilities, libraries, 49698
administrative and office facilities, and other facilities, other 49699
than auxiliary facilities, to be used directly or indirectly for 49700
or in connection with the conduct of the institution of higher 49701
education. 49702

(6) "Facilities" means housing and dining facilities, 49703
auxiliary facilities, or education facilities, and includes any 49704
one, part of, or any combination of such facilities, and further 49705
includes site improvements, utilities, machinery, furnishings, and 49706
any separate or connected buildings, structures, improvements, 49707
sites, open space and green space areas, utilities or equipment to 49708
be used in, or in connection with the operation or maintenance of, 49709
or supplementing or otherwise related to the services or 49710
facilities to be provided by, such facilities. 49711

(7) "Obligations" means bonds or notes or other evidences of 49712
obligation, including interest coupons pertaining thereto, 49713
authorized to be issued under this section or section 3345.07, 49714
3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised 49715

Code. 49716

(8) "Bond service charges" means principal, including any 49717
mandatory sinking fund or redemption requirements for the 49718
retirement of obligations or assurances, interest, or interest 49719
equivalent and other accreted amounts, and any call premium 49720
required to be paid on obligations or assurances. 49721

(9) "Bond proceedings" means the resolutions, trust 49722
agreement, indenture, and other agreements and credit enhancement 49723
facilities, and amendments and supplements to the foregoing, or 49724
any one or more or combination thereof, authorizing, awarding, or 49725
providing for the terms and conditions applicable to, or providing 49726
for the security or liquidity of, obligations or assurances, and 49727
the provisions contained in those obligations or assurances. 49728

(10) "Costs of facilities" means the costs of acquiring, 49729
constructing, reconstructing, rehabilitating, remodeling, 49730
renovating, enlarging, improving, equipping, or furnishing 49731
facilities, and the financing thereof, including the cost of 49732
clearance and preparation of the site and of any land to be used 49733
in connection with facilities, the cost of any indemnity and 49734
surety bonds and premiums on insurance, all related direct 49735
administrative expenses and allocable portions of direct costs of 49736
the institution of higher education or state agency, cost of 49737
engineering, architectural services, design, plans, specifications 49738
and surveys, estimates of cost, legal fees, fees and expenses of 49739
trustees, depositories, bond registrars, and paying agents for the 49740
obligations, cost of issuance of the obligations and financing 49741
costs and fees and expenses of financial advisers and consultants 49742
in connection therewith, interest on the obligations from the date 49743
thereof to the time when interest is to be covered by available 49744
receipts or other sources other than proceeds of the obligations, 49745
amounts necessary to establish reserves as required by the bond 49746
proceedings, costs of audits, the reimbursements of all moneys 49747

advanced or applied by or borrowed from the institution or others, 49748
from whatever source provided, including any temporary advances 49749
from state appropriations, for the payment of any item or items of 49750
cost of facilities, and all other expenses necessary or incident 49751
to planning or determining feasibility or practicability with 49752
respect to facilities, and such other expenses as may be necessary 49753
or incident to the acquisition, construction, reconstruction, 49754
rehabilitation, remodeling, renovation, enlargement, improvement, 49755
equipment, and furnishing of facilities, the financing thereof and 49756
the placing of them in use and operation, including any one, part 49757
of, or combination of such classes of costs and expenses. 49758

(11) "Available receipts" means all moneys received by the 49759
institution of higher education, including income, revenues, and 49760
receipts from the operation, ownership, or control of facilities 49761
or entrepreneurial projects, grants, gifts, donations, and pledges 49762
and receipts therefrom, receipts from fees and charges, and the 49763
proceeds of the sale of obligations or assurances, including 49764
proceeds of obligations or assurances issued to refund obligations 49765
or assurances previously issued, but excluding any special fee, 49766
and receipts therefrom, charged pursuant to division (D) of 49767
section 154.21 of the Revised Code. 49768

(12) "Credit enhancement facilities" has the meaning given in 49769
division (H) of section 133.01 of the Revised Code. 49770

(13) "Financing costs" has the meaning given in division (K) 49771
of section 133.01 of the Revised Code. 49772

(14) "Interest" or "interest equivalent" has the meaning 49773
given in division (R) of section 133.01 of the Revised Code. 49774

(15) "Assurances" means bonds, notes, or other evidence of 49775
indebtedness, including interest coupons pertaining thereto, 49776
authorized to be issued under section 3345.36 of the Revised Code. 49777

(16) "Entrepreneurial project" has the same meaning as in 49778

section 3345.36 of the Revised Code. 49779

(17) "Costs of entrepreneurial projects" means any costs 49780
related to the establishment or development of entrepreneurial 49781
projects pursuant to a resolution adopted under section 3345.36 of 49782
the Revised Code. 49783

(B) Obligations issued under section 3345.07 or 3345.11 of 49784
the Revised Code by a state university or college shall be 49785
authorized by resolution of its board of trustees. Obligations 49786
issued by any other institution of higher education shall be 49787
authorized by resolution of its board of trustees, or managing 49788
directors in the case of certain university branch districts, as 49789
applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code 49790
apply to obligations and assurances. Obligations and assurances 49791
may be issued to pay costs of facilities or entrepreneurial 49792
projects even if the institution anticipates the possibility of a 49793
future state appropriation to pay all or a portion of such costs. 49794

(C) Obligations and assurances shall be secured by a pledge 49795
of and lien on all or such part of the available receipts of the 49796
institution of higher education as it provides for in the bond 49797
proceedings, excluding moneys raised by taxation and state 49798
appropriations except as permitted by section ~~3333.90~~ 3333.59 of 49799
the Revised Code. Such pledge and lien may be made prior to all 49800
other expenses, claims, or payments, excepting any pledge of such 49801
available receipts previously made to the contrary and except as 49802
provided by any existing restrictions on the use thereof, or such 49803
pledge and lien may be made subordinate to such other expenses, 49804
claims, or payments, as provided in the bond proceedings. 49805
Obligations or assurances may be additionally secured by covenants 49806
of the institution to make, fix, adjust, collect, and apply such 49807
charges, rates, fees, rentals, and other items of available 49808
receipts as will produce pledged available receipts sufficient to 49809
meet bond service charges, reserve, and other requirements 49810

provided for in the bond proceedings. Notwithstanding this and any 49811
other sections of the Revised Code, the holders or owners of the 49812
obligations or assurances shall not be given the right and shall 49813
have no right to have excises or taxes levied by the general 49814
assembly for the payment of bond service charges thereon, and each 49815
such obligation or assurance shall bear on its face a statement to 49816
that effect and to the effect that the right to such payment is 49817
limited to the available receipts and special funds pledged to 49818
such purpose under the bond proceedings. 49819

All pledged available receipts and funds and the proceeds of 49820
obligations or assurances are trust funds and, subject to the 49821
provisions of this section and the applicable bond proceedings, 49822
shall be held, deposited, invested, reinvested, disbursed, 49823
applied, and used to such extent, in such manner, at such times, 49824
and for such purposes, as are provided in the bond proceedings. 49825

(D) The bond proceedings for obligations or assurances shall 49826
provide for the purpose thereof and the principal amount or 49827
maximum principal amount, and provide for or authorize the manner 49828
of determining the principal maturity or maturities, the sale 49829
price including any permitted discount, the interest rate or 49830
rates, which may be a variable rate or rates, or the maximum 49831
interest rate, the date of the obligations or assurances and the 49832
date or dates of payment of interest thereon, their denominations, 49833
the manner of sale thereof, and the establishment within or 49834
without the state of a place or places of payment of bond service 49835
charges. The bond proceedings also shall provide for a pledge of 49836
and lien on available receipts of the institution of higher 49837
education as provided in division (C) of this section, and a 49838
pledge of and lien on such fund or funds provided in the bond 49839
proceedings arising from available receipts, which pledges and 49840
liens may provide for parity with obligations or assurances 49841
theretofore or thereafter issued by the institution. The available 49842

receipts so pledged and thereafter received by the institution and 49843
the funds so pledged are immediately subject to the lien of such 49844
pledge without any physical delivery thereof or further act, and 49845
the lien of any such pledge is valid and binding against all 49846
parties having claims of any kind against the institution, 49847
irrespective of whether such parties have notice thereof, and 49848
shall create a perfected security interest for all purposes of 49849
Chapter 1309. of the Revised Code, without the necessity for 49850
separation or delivery of funds or for the filing or recording of 49851
the bond proceedings by which such pledge is created or any 49852
certificate, statement, or other document with respect thereto; 49853
and the pledge of such available receipts and funds shall be 49854
effective and the money therefrom and thereof may be applied to 49855
the purposes for which pledged without necessity for any act of 49856
appropriation. 49857

(E) The bond proceedings may contain additional provisions 49858
customary or appropriate to the financing or to the obligations or 49859
assurances or to particular obligations and assurances, including: 49860

(1) The acquisition, construction, reconstruction, equipment, 49861
furnishing, improvement, operation, alteration, enlargement, 49862
maintenance, insurance, and repair of facilities or 49863
entrepreneurial projects, and the duties of the institution of 49864
higher education with reference thereto; 49865

(2) The terms of the obligations or assurances, including 49866
provisions for their redemption prior to maturity at the option of 49867
the institution of higher education at such price or prices and 49868
under such terms and conditions as are provided in the bond 49869
proceedings; 49870

(3) Limitations on the purposes to which the proceeds of the 49871
obligations or assurances may be applied; 49872

(4) The rates or rentals or other charges for the use of or 49873

right to use the facilities or entrepreneurial projects financed 49874
by the obligations or assurances, or other properties the revenues 49875
or receipts from which are pledged to the obligations or 49876
assurances, and rules for assuring any applicable use and 49877
occupancy thereof, including limitations upon the right to modify 49878
such rates, rentals, other charges, or regulations; 49879

(5) The use and expenditure of the pledged available receipts 49880
in such manner and to such extent as shall be determined, which 49881
may include provision for the payment of the expenses of 49882
operation, maintenance, and repair of facilities or 49883
entrepreneurial projects so that such expenses, or part thereof, 49884
shall be paid or provided as a charge prior or subsequent to the 49885
payment of bond service charges and any other payments required to 49886
be made by the bond proceedings; 49887

(6) Limitations on the issuance of additional obligations or 49888
assurances; 49889

(7) The terms of any trust agreement or indenture securing 49890
the obligations or assurances or under which the same may be 49891
issued; 49892

(8) The deposit, investment, and application of funds, and 49893
the safeguarding of funds on hand or on deposit without regard to 49894
Chapter 131. or 135. of the Revised Code, and any bank or trust 49895
company or other financial institution that acts as depository of 49896
any moneys under the bond proceedings shall furnish such 49897
indemnifying bonds or pledge such securities as required by the 49898
bond proceedings or otherwise by the institution of higher 49899
education; 49900

(9) The binding effect of any or every provision of the bond 49901
proceedings upon such officer, board, commission, authority, 49902
agency, department, or other person or body as may from time to 49903
time have the authority under law to take such actions as may be 49904

necessary to perform all or any part of the duty required by such 49905
provision; 49906

(10) Any provision that may be made in a trust agreement or 49907
indenture; 49908

(11) Any other or additional agreements with respect to the 49909
facilities of the institution of higher education or its 49910
entrepreneurial projects, their operation, the available receipts 49911
and funds pledged, and insurance of facilities or entrepreneurial 49912
projects and of the institution, its officers and employees. 49913

(F) Such obligations or assurances may have the seal of the 49914
institution of higher education or a facsimile thereof affixed 49915
thereto or printed thereon and shall be executed by such officers 49916
as are designated in the bond proceedings, which execution may be 49917
by facsimile signatures. Any obligations or assurances may be 49918
executed by an officer who, on the date of execution, is the 49919
proper officer although on the date of such obligations or 49920
assurances such person was not the proper officer. In case any 49921
officer whose signature or a facsimile of whose signature appears 49922
on any such obligation or assurance ceases to be such officer 49923
before delivery thereof, such signature or facsimile is 49924
nevertheless valid and sufficient for all purposes as if the 49925
person had remained such officer until such delivery; and in case 49926
the seal of the institution has been changed after a facsimile of 49927
the seal has been imprinted on such obligations or assurances, 49928
such facsimile seal continues to be sufficient as to such 49929
obligations or assurances and obligations or assurances issued in 49930
substitution or exchange therefor. 49931

(G) All such obligations or assurances are negotiable 49932
instruments and securities under Chapter 1308. of the Revised 49933
Code, subject to the provisions of the bond proceedings as to 49934
registration. The obligations or assurances may be issued in 49935
coupon or in registered form, or both. Provision may be made for 49936

the registration of any obligations or assurances with coupons 49937
attached thereto as to principal alone or as to both principal and 49938
interest, their exchange for obligations or assurances so 49939
registered, and for the conversion or reconversion into 49940
obligations or assurances with coupons attached thereto of any 49941
obligations or assurances registered as to both principal and 49942
interest, and for reasonable charges for such registration, 49943
exchange, conversion, and reconversion. 49944

(H) Pending preparation of definitive obligations or 49945
assurances, the institution of higher education may issue interim 49946
receipts or certificates which shall be exchanged for such 49947
definitive obligations or assurances. 49948

(I) Such obligations or assurances may be secured 49949
additionally by a trust agreement or indenture between the 49950
institution of higher education and a corporate trustee, which may 49951
be any trust company or bank having the powers of a trust company 49952
within or without this state but authorized to exercise trust 49953
powers within this state. Any such agreement or indenture may 49954
contain the resolution authorizing the issuance of the obligations 49955
or assurances, any provisions that may be contained in the bond 49956
proceedings as authorized by this section, and other provisions 49957
which are customary or appropriate in an agreement or indenture of 49958
such type, including: 49959

(1) Maintenance of each pledge, trust agreement, and 49960
indenture, or other instrument comprising part of the bond 49961
proceedings until the institution of higher education has fully 49962
paid the bond service charges on the obligations or assurances 49963
secured thereby, or provision therefor has been made; 49964

(2) In the event of default in any payments required to be 49965
made by the bond proceedings, or any other agreement of the 49966
institution of higher education made as a part of the contract 49967
under which the obligations or assurances were issued, enforcement 49968

of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations or assurances and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations or assurances;

(4) The replacement of any obligations or assurances that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the institution of higher education agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(J) Each duty of the institution of higher education and its officers or employees, undertaken pursuant to the bond proceedings or any related agreement or lease made under authority of law, is hereby established as a duty of such institution, and of each such officer or employee having authority to perform such duty, specially enjoined by law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the members of the board of trustees or the managing directors of the institution or its officers or employees are not liable in their personal capacities on such obligations or assurances, or lease, or other agreement of the institution.

(K) The authority to issue obligations or assurances includes authority to:

(1) Issue obligations or assurances in the form of bond anticipation notes and to renew them from time to time by the issuance of new notes. Such notes are payable solely from the available receipts and funds that may be pledged to the payment of such bonds, or from the proceeds of such bonds or renewal notes,

or both, as the institution of higher education provides in its 50000
resolution authorizing such notes. Such notes may be additionally 50001
secured by covenants of the institution to the effect that it will 50002
do such or all things necessary for the issuance of such bonds or 50003
renewal notes in appropriate amount, and either exchange such 50004
bonds or renewal notes therefor or apply the proceeds thereof to 50005
the extent necessary, to make full payment of the bond service 50006
charges on such notes at the time or times contemplated, as 50007
provided in such resolution. Subject to the provisions of this 50008
division, all references to obligations or assurances in this 50009
section apply to such anticipation notes. 50010

(2) Issue obligations or assurances to refund, including 50011
funding and retirement of, obligations or assurances previously 50012
issued to pay costs of facilities or entrepreneurial projects. 50013
Such obligations or assurances may be issued in amounts sufficient 50014
for payment of the principal amount of the obligations or 50015
assurances to be so refunded, any redemption premiums thereon, 50016
principal maturities of any obligations or assurances maturing 50017
prior to the redemption of any other obligations or assurances on 50018
a parity therewith to be so refunded, interest accrued or to 50019
accrue to the maturity date or dates of redemption of such 50020
obligations or assurances, and any expenses incurred or to be 50021
incurred in connection with such refunding or the issuance of the 50022
obligations or assurances. 50023

(L) Obligations and assurances are lawful investments for 50024
banks, societies for savings, savings and loan associations, 50025
deposit guarantee associations, trust companies, trustees, 50026
fiduciaries, insurance companies, including domestic for life and 50027
domestic not for life, trustees or other officers having charge of 50028
sinking and bond retirement or other special funds of political 50029
subdivisions and taxing districts of this state, the commissioners 50030
of the sinking fund, the administrator of workers' compensation in 50031

accordance with the investment policy approved by the bureau of 50032
workers' compensation board of directors pursuant to section 50033
4121.12 of the Revised Code, the state teachers retirement system, 50034
the public employees retirement system, the school employees 50035
retirement system, and the Ohio police and fire pension fund, 50036
notwithstanding any other provisions of the Revised Code or rules 50037
adopted pursuant thereto by any state agency with respect to 50038
investments by them, and are also acceptable as security for the 50039
deposit of public moneys. 50040

(M) All facilities or entrepreneurial projects purchased, 50041
acquired, constructed, or owned by an institution of higher 50042
education, or financed in whole or in part by obligations or 50043
assurances issued by an institution, and used for the purposes of 50044
the institution or other publicly owned and controlled college or 50045
university, is public property used exclusively for a public 50046
purpose, and such property and the income therefrom is exempt from 50047
all taxation and assessment within this state, including ad 50048
valorem and excise taxes. The obligations or assurances, the 50049
transfer thereof, and the income therefrom, including any profit 50050
made on the sale thereof, are at all times free from taxation 50051
within the state. The transfer of tangible personal property by 50052
lease under authority of this section or section 3345.07, 3345.11, 50053
3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised 50054
Code is not a sale as used in Chapter 5739. of the Revised Code. 50055

(N) The authority granted by this section is cumulative with 50056
the authority granted to institutions of higher education under 50057
Chapter 154. of the Revised Code, and nothing in this section 50058
impairs or limits the authority granted by Chapter 154. of the 50059
Revised Code. In any lease, agreement, or commitment made by an 50060
institution of higher education under Chapter 154. of the Revised 50061
Code, it may agree to restrict or subordinate any pledge it may 50062
thereafter make under authority of this section. 50063

(O) Title to lands acquired under this section and sections 50064
3345.07 and 3345.11 of the Revised Code by a state university or 50065
college shall be taken in the name of the state. 50066

(P) Except where costs of facilities or entrepreneurial 50067
projects are to be paid in whole or in part from funds 50068
appropriated by the general assembly, section 125.81 of the 50069
Revised Code and the requirement for certification with respect 50070
thereto under section 153.04 of the Revised Code do not apply to 50071
such facilities or entrepreneurial projects. 50072

(Q) A state university or college may sell or lease lands or 50073
interests in land owned by it or by the state for its use, or 50074
facilities authorized to be acquired or constructed by it under 50075
section 3345.07 or 3345.11 of the Revised Code, to permit the 50076
purchasers or lessees thereof to acquire, construct, equip, 50077
furnish, reconstruct, alter, enlarge, remodel, renovate, 50078
rehabilitate, improve, maintain, repair, or maintain and operate 50079
thereon and to provide by lease or otherwise to such institution, 50080
facilities authorized in section 3345.07 or 3345.11 of the Revised 50081
Code or entrepreneurial projects authorized under section 3345.36 50082
of the Revised Code. Such land or interests therein shall be sold 50083
for such appraised value, or leased, and on such terms as the 50084
board of trustees determines. All deeds or other instruments 50085
relating to such sales or leases shall be executed by such officer 50086
of the state university or college as the board of trustees 50087
designates. The state university or college shall hold, invest, or 50088
use the proceeds of such sales or leases for the same purposes for 50089
which proceeds of borrowings may be used under sections 3345.07 50090
and 3345.11 of the Revised Code or, if the proceeds relate to the 50091
sale or lease of entrepreneurial projects, for purposes of section 50092
3345.36 of the Revised Code. 50093

(R) An institution of higher education may pledge available 50094
receipts, to the extent permitted by division (C) of this section 50095

with respect to obligations, to secure the payments to be made by 50096
it under any lease, lease with option to purchase, or 50097
lease-purchase agreement authorized under this section or section 50098
3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 50099
3358.10 of the Revised Code. 50100

Sec. 3345.48. (A) As used in this section: 50101

(1) "Cohort" means a group of students who will complete 50102
their bachelor's degree requirements and graduate from a state 50103
university at the same time. A cohort may include transfer 50104
students and other selected undergraduate student academic 50105
programs as determined by the board of trustees of a state 50106
university. 50107

(2) "Eligible student" means an undergraduate student who: 50108

(a) Is enrolled full-time in a bachelor's degree program at a 50109
state university; 50110

(b) Is a resident of this state, as defined by the chancellor 50111
of the Ohio board of regents under section 3333.31 of the Revised 50112
Code. 50113

(3) "State university" has the same meaning as in section 50114
3345.011 of the Revised Code. 50115

(B) The board of trustees of a state university may establish 50116
an undergraduate tuition guarantee program that allows eligible 50117
students in the same cohort to pay a fixed rate for general and 50118
instructional fees for four years. A board of trustees may include 50119
room and board and any additional fees in the program. 50120

If the board of trustees chooses to establish such a program, 50121
the board shall adopt rules for the program that include, but are 50122
not limited to, all of the following: 50123

(1) The number of credit hours required to earn an 50124
undergraduate degree in each major; 50125

(2) A guarantee that the general and instructional fees for each student in the cohort shall remain constant for four years so long as the student complies with the requirements of the program, except that, notwithstanding any law to the contrary, the board may increase the guaranteed amount by up to six per cent above what has been charged in the previous academic year one time for the first cohort enrolled under the tuition guarantee program. If the board of trustees determines that economic conditions or other circumstances require an increase for the first cohort of above six per cent, the board shall submit a request to increase the amount by a specified percentage to the Ohio board of regents. The board of regents, based on information the board of regents requires from the board of trustees, shall approve or disapprove such a request. There shall be no other increase of general and instructional fees for that cohort or for subsequent cohorts under the program unless the general assembly approves such an increase for all tuition guarantee programs established under this section.

(3) A benchmark by which the board sets annual increases in general and instructional fees. This benchmark and any subsequent change to the benchmark shall be subject to approval of the board of regents.

(4) Eligibility requirements for students to participate in the program;

(5) Student rights and privileges under the program;

(6) Consequences to the university for students unable to complete a degree program within four years, as follows:

(a) For a student who could not complete the program in four years due to a lack of available classes or space in classes provided by the university, the university shall provide the necessary course or courses for completion to the student free of charge.

(b) For a student who could not complete the program in four years due to military service or other circumstances beyond a student's control, as determined by the board of trustees, the university shall provide the necessary course or courses for completion to the student at the student's initial cohort rate. 50157
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(c) For a student who did not complete the program in four years for any other reason, as determined by the board of trustees, the university shall provide the necessary course or courses for completion to the student at a rate determined through a method established by the board under division (B)(7) of this section. 50162
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(7) Guidelines for adjusting a student's annual charges if the student, due to circumstances under the student's control, is unable to complete a degree program within four years; 50168
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(8) A requirement that the rules adopted under division (B) of this section be published or posted in the university handbook, course catalog, and web site. 50171
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(C) If a board of trustees implements a program under this section, the board shall submit the rules adopted under division (B) of this section to the board of regents for approval before beginning implementation of the program. 50174
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The board of regents shall not unreasonably withhold approval of a program if the program conforms in principle with the parameters and guidelines of this section. 50178
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(D) A board of trustees of a state university may establish an undergraduate tuition guarantee program for nonresident students. 50181
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(E) Within five years after the effective date of this section, the board of regents shall publish on its web site a report that includes all of the following: 50184
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(1) The state universities that have adopted an undergraduate tuition guarantee program under this section; 50187
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(2) The details of each undergraduate tuition guarantee program established under this section; 50189
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(3) Comparative data, including general and instructional fees, room and board, graduation rates, and retention rates, from all state universities. 50191
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(F) As used in this section, "Ohio board of regents" and "board of regents" means the board of regents itself and not the chancellor of the Ohio board of regents, as otherwise prescribed under section 3333.031 of the Revised Code. 50194
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Sec. 3345.81. Not later than May 1, 2014, and biennially thereafter, each institution of higher education, as defined by section 3345.12 of the Revised Code, shall submit to the chancellor of the Ohio board of regents, for each campus under the authority of that institution, a campus-specific completion plan designed to increase college completion rates. The chancellor shall prescribe a format for all plans required under this section, which may include specific strategies, targets, and metrics that promote student access, retention, progression, and completion of each student's chosen program of study. Institutions shall submit each campus plan in accordance with this format and shall include all required content, as prescribed by the chancellor. Each plan shall be consistent with the mission and strategic priorities of the campus and shall examine and, as appropriate, include all of the following: 50198
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(A) Increased alignment of the institution's programs with programs of other educational institutions from preschool through higher education; 50213
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(B) A communications strategy; 50216

(C) A guidance plan to provide current and potential students with broadened awareness of advance standing programs, as defined by section 3313.6013 of the Revised Code, and the connections between college completion and career opportunities. The guidance plan also shall also include financial literacy and planning for students and their families. 50217
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(D) Increased support to ensure success for first-year students, such as increased access to career counseling and mentoring, improvements to remediation course design and subject matter, and other support programs; 50223
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(E) The development of institutional systems to streamline and accelerate a student's progress toward completion, such as a coordinated system for the transfer of academic credit or a system that awards academic credit for alternative study, work, or military experience; 50227
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(F) Incentives and rewards for successful student progression within, and completion of, each student's chosen program. 50232
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Sec. 3350.15. The northeast Ohio medical university may enter into a partnership with Cleveland state university to establish the northeast Ohio medical university academic campus at Cleveland state university, to enable fifty per cent or more of the medical curriculum taught to students enrolled under this partnership to be based in Cleveland at Cleveland state university, local hospitals, and community- and neighborhood-based primary care clinics. Cleveland state university shall not receive state capital appropriations to pay for facilities for the academic campus. 50234
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Sec. 3365.01. As used in this chapter: 50244

(A) "College" means any state-assisted college or university described in section 3333.041 of the Revised Code, any nonprofit 50245
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institution holding a certificate of authorization pursuant to 50247
Chapter 1713. of the Revised Code, any private institution exempt 50248
from regulation under Chapter 3332. of the Revised Code as 50249
prescribed in section 3333.046 of the Revised Code, and any 50250
institution holding a certificate of registration from the state 50251
board of career colleges and schools and program authorization for 50252
an associate or bachelor's degree program issued under section 50253
3332.05 of the Revised Code. 50254

(B) "School district," except as specified in division (G) of 50255
this section, means any school district to which a student is 50256
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 50257
the Revised Code and does not include a joint vocational or 50258
cooperative education school district. 50259

(C) "Parent" has the same meaning as in section 3313.64 of 50260
the Revised Code. 50261

(D) "Participant" means a student enrolled in a college under 50262
the post-secondary enrollment options program established by this 50263
chapter, including a student who has been excused from the 50264
compulsory attendance law for the purpose of home instruction 50265
under section 3321.04 of the Revised Code. 50266

(E) "Secondary grade" means the ninth through twelfth grades. 50267

(F) "School foundation payments" means the amount required to 50268
be paid to a school district for a fiscal year under Chapter 3317. 50269
of the Revised Code. 50270

(G) "Tuition base" means, ~~with respect to a participant's~~ 50271
~~school district, the sum of the formula amount plus the per pupil~~ 50272
~~amount of the base funding supplements specified in divisions~~ 50273
~~(C)(1) to (4) of section 3317.012~~ 3317.02 of the Revised Code for 50274
the applicable fiscal year ~~2009~~. 50275

~~The participant's "school district" in the case of a~~ 50276
~~participant enrolled in a community school shall be the school~~ 50277

~~district in which the student is entitled to attend school under~~ 50278
~~section 3313.64 or 3313.65 of the Revised Code.~~ 50279

(H) "Educational program" means enrollment in one or more 50280
school districts, in a nonpublic school, or in a college under 50281
division (B) of section 3365.04 of the Revised Code. 50282

(I) "Nonpublic school" means a chartered or nonchartered 50283
school for which minimum standards are prescribed by the state 50284
board of education pursuant to division (D) of section 3301.07 of 50285
the Revised Code. 50286

(J) "School year" means the year beginning on the first day 50287
of July and ending on the thirtieth day of June. 50288

(K) "Community school" means any school established pursuant 50289
to Chapter 3314. of the Revised Code that includes secondary 50290
grades. 50291

(L) "STEM school" means a science, technology, engineering, 50292
and mathematics school established under Chapter 3326. of the 50293
Revised Code. 50294

Sec. 3365.02. There is hereby established the post-secondary 50295
enrollment options program under which a secondary grade student 50296
who is a resident of this state may enroll at a college, on a 50297
full- or part-time basis, and complete nonsectarian courses for 50298
high school and college credit. 50299

Secondary grade students in a nonpublic school may 50300
participate in the post-secondary enrollment options program if 50301
the chief administrator of such school notifies the department of 50302
education by the first day of April prior to the school year in 50303
which the school's students will participate. 50304

The state board of education, after consulting with the board 50305
of regents, shall adopt rules governing the program. The rules 50306
shall include: 50307

(A) Requirements for school districts, community schools, or participating nonpublic schools to provide information about the program prior to the first day of March of each year to all students enrolled in grades eight through eleven;

(B) A requirement that a student or the student's parent inform the district board of education, the governing authority of a community school, the STEM school chief administrative officer, or the nonpublic school administrator by the thirtieth day of March of the student's intent to participate in the program during the following school year. The rule shall provide that any student who fails to provide the notification by the required date may not participate in the program during the following school year without the written consent of the district superintendent, the governing authority of a community school, the STEM school chief administrative officer, or the nonpublic school administrator.

(C) Requirements that school districts, community schools, and STEM schools provide counseling services to students in grades eight through eleven and to their parents before the students participate in the program under this chapter to ensure that students and parents are fully aware of the possible risks and consequences of participation. Counseling information shall include without limitation:

- (1) Program eligibility;
- (2) The process for granting academic credits;
- (3) Financial arrangements for tuition, books, materials, and fees;
- (4) Criteria for any transportation aid;
- (5) Available support services;
- (6) Scheduling;
- (7) The consequences of failing or not completing a course in

which the student enrolls and the effect of the grade attained in 50338
the course being included in the student's grade point average, if 50339
applicable; 50340

(8) The effect of program participation on the student's 50341
ability to complete the district's or school's graduation 50342
requirements; 50343

(9) The academic and social responsibilities of students and 50344
parents under the program; 50345

(10) Information about and encouragement to use the 50346
counseling services of the college in which the student intends to 50347
enroll. 50348

(D) A requirement that the student and the student's parent 50349
sign a form, provided by the school district or school, stating 50350
that they have received the counseling required by division (C) of 50351
this section and that they understand the responsibilities they 50352
must assume in the program; 50353

(E) The options required by section 3365.04 of the Revised 50354
Code; 50355

~~(F) A requirement that a student may not enroll in any 50356
specific college course through the program if the student has 50357
taken high school courses in the same subject area as that college 50358
course and has failed to attain a cumulative grade point average 50359
of at least 3.0 on a 4.0 scale, or the equivalent, in such 50360
completed high school courses~~ A requirement that student 50361
participation in the program be based solely on a participating 50362
college's established admission standards. 50363

Sec. 3365.022. (A) Beginning July 1, 2013, a student who has 50364
been excused from the compulsory attendance law for the purpose of 50365
home instruction under section 3321.04 of the Revised Code, and is 50366
the equivalent of a ninth, tenth, eleventh, or twelfth grader may 50367

participate in the post-secondary enrollment options program 50368
established under this chapter. 50369

(B)(1) If a student meets the criteria established in 50370
division (A) of this section and wishes to participate in the 50371
post-secondary enrollment options program, the parent or guardian 50372
of that student shall notify the department of education by the 50373
first day of April prior to the school year in which the student 50374
wishes to participate. 50375

(2) For the 2013-2014 school year, the department may accept 50376
applications at a later date if that student wishes to participate 50377
in the program during the 2013-2014 school year. 50378

(C) Pursuant to rules adopted by the state board of education 50379
under section 3365.02 of the Revised Code, payments to a 50380
participating college, in which home-instructed students enrolled 50381
pursuant to this section, shall be made in the same manner as 50382
payments made for participating students from nonpublic secondary 50383
schools, pursuant to section 3365.07 of the Revised Code. 50384

Sec. 3365.07. (A) The rules adopted under section 3365.02 of 50385
the Revised Code shall specify a method for each of the following: 50386

(1) Determining, with respect to any participant, the 50387
percentage of a full-time educational program constituted by the 50388
participant's total educational program. That percentage shall be 50389
the participant's full-time equivalency percentage for purposes of 50390
the computation required by division (B)(1) of this section. 50391

(2) In the case of a participant who is not enrolled in a 50392
participating nonpublic school, determining the percentage of a 50393
participant's school day during which the participant is 50394
participating in each of the following: 50395

(a) Programs provided by the city, local, or exempted village 50396
school district, a community school, or a STEM school; 50397

(b) Programs provided by a joint vocational school district; 50398

(c) Programs provided by a college under division (B) of 50399
section 3365.04 of the Revised Code. 50400

The sum of divisions (A)(2)(a) to (c) of this section shall equal 50401
one hundred per cent. 50402

(3) In the case of a participant who is not enrolled in a 50403
participating nonpublic school, determining the percentage of a 50404
participant's enrollment that shall be deemed to be enrollment in 50405
a joint vocational school district and the percentage that shall 50406
be deemed to be enrollment in a city, local, or exempted village 50407
school district. The sum of such percentages shall equal one 50408
hundred per cent. 50409

(4) In the case of a participant who is enrolled in a 50410
participating nonpublic school, determining the percentage of a 50411
participant's school day during which the participant is 50412
participating in programs provided by a college under division (B) 50413
of section 3365.04 of the Revised Code. 50414

(B) Each July, unless provided otherwise in an alternative 50415
funding agreement entered into under rules adopted under section 50416
3365.12 of the Revised Code, the department of education shall pay 50417
each college for any participant enrolled in the college in the 50418
prior school year under division (B) of section 3365.04 of the 50419
Revised Code an amount computed as follows: 50420

(1) Multiply the tuition base by the participant's full-time 50421
equivalency percentage and multiply the resulting amount by a 50422
percentage equal to the percentage of the participant's school day 50423
apportioned to the college under division (A)(2)(c) or (4) of this 50424
section, as applicable. 50425

(2) Pay the college the lesser of: 50426

(a) The amount computed under division (B)(1) of this 50427

section; 50428

(b) The actual costs that would have been the responsibility 50429
of the participant had the participant elected to enroll under 50430
division (A) of section 3365.04 of the Revised Code, as verified 50431
by the department, of tuition, textbooks, materials, and fees 50432
directly related to any courses elected by the participant during 50433
the prior school year under division (B) of section 3365.04 of the 50434
Revised Code. 50435

(C) The department shall not reimburse ~~any~~ a college for any 50436
of the following: 50437

(1) A college course taken by a participant under division 50438
(A) of section 3365.04 of the Revised Code; 50439

(2) A college course taken by a participant that is included 50440
in or equivalent to a course included in either a transfer module 50441
or the transfer assurance guide developed by the chancellor. 50442

(D) If the participant was not enrolled in a participating 50443
nonpublic school, the amount paid under division (B) of this 50444
section for each participant shall be subtracted from the school 50445
foundation payments made to the participant's school district or, 50446
if the participant was enrolled in a community school or a STEM 50447
school, from the payments made to the participant's school under 50448
section 3314.08 or 3326.33 of the Revised Code. If the participant 50449
was enrolled in a joint vocational school district, a portion of 50450
the amount shall be subtracted from the payments to the joint 50451
vocational school district and a portion shall be subtracted from 50452
the payments to the participant's city, local, or exempted village 50453
school district. The amount of the payment subtracted from the 50454
city, local, or exempted village school district shall be computed 50455
as follows: 50456

(1) Add the following: 50457

(a) The percentage of the participant's enrollment in the 50458

school district, determined under division (A)(3) of this section; 50459
and 50460

(b) Twenty-five per cent times the percentage of the 50461
participant's enrollment in the joint vocational school district, 50462
determined under division (A)(3) of this section. 50463

(2) Multiply the sum obtained under division (D)(1) of this 50464
section by the amount computed under division (B)(2) of this 50465
section. 50466

The balance of the payment shall be subtracted from the joint 50467
vocational district's school foundation payments. 50468

(E) If the participant was enrolled in a participating 50469
nonpublic school, the amount paid under division (B) of this 50470
section shall be subtracted from moneys set aside by the general 50471
assembly for such purpose from funds appropriated for the purposes 50472
of section 3317.06 of the Revised Code. 50473

Sec. 3365.12. The superintendent of public instruction and 50474
the chancellor of the Ohio board of regents jointly may adopt 50475
rules in accordance with Chapter 119. of the Revised Code 50476
permitting a board of education of a school district or joint 50477
vocational school district, governing authority of a community 50478
school, governing body of a STEM school, or governing authority of 50479
a participating nonpublic school to enter into an agreement with a 50480
college or university to use an alternate funding formula to 50481
calculate, or an alternate method to transmit, the amount the 50482
college or university would be paid for a student participating in 50483
a program under this chapter, including the program known as 50484
seniors to sophomores. 50485

Rules adopted under this section may include, but need not be 50486
limited to, any of the following alternative funding options: 50487

(A) Direct payment of funds necessary to support students 50488

participating in a program under this chapter, including the 50489
seniors to sophomores program, by the school district, joint 50490
vocational school district, community school, STEM school, or any 50491
combination thereof, to the college or university in which the 50492
student enrolled; 50493

(B) Alternate funding formulas to calculate the amount of 50494
money to be paid to colleges for participants; 50495

(C) A negotiated amount to be paid, as agreed by the school 50496
district, joint vocational school district, community school, or 50497
STEM school and the college or university. 50498

Rules adopted under this section shall prohibit any 50499
alternative funding option to include charging a student 50500
participating in the program under this chapter any tuition or 50501
fees. 50502

Sec. 3501.01. As used in the sections of the Revised Code 50503
relating to elections and political communications: 50504

(A) "General election" means the election held on the first 50505
Tuesday after the first Monday in each November. 50506

(B) "Regular municipal election" means the election held on 50507
the first Tuesday after the first Monday in November in each 50508
odd-numbered year. 50509

(C) "Regular state election" means the election held on the 50510
first Tuesday after the first Monday in November in each 50511
even-numbered year. 50512

(D) "Special election" means any election other than those 50513
elections defined in other divisions of this section. A special 50514
election may be held only on the first Tuesday after the first 50515
Monday in February, May, August, or November, or on the day 50516
authorized by a particular municipal or county charter for the 50517
holding of a primary election, except that in any year in which a 50518

presidential primary election is held, no special election shall 50519
be held in February or May, except as authorized by a municipal or 50520
county charter, but may be held on the first Tuesday after the 50521
first Monday in March. 50522

(E)(1) "Primary" or "primary election" means an election held 50523
for the purpose of nominating persons as candidates of political 50524
parties for election to offices, and for the purpose of electing 50525
persons as members of the controlling committees of political 50526
parties and as delegates and alternates to the conventions of 50527
political parties. Primary elections shall be held on the first 50528
Tuesday after the first Monday in May of each year except in years 50529
in which a presidential primary election is held. 50530

(2) "Presidential primary election" means a primary election 50531
as defined by division (E)(1) of this section at which an election 50532
is held for the purpose of choosing delegates and alternates to 50533
the national conventions of the major political parties pursuant 50534
to section 3513.12 of the Revised Code. Unless otherwise 50535
specified, presidential primary elections are included in 50536
references to primary elections. In years in which a presidential 50537
primary election is held, all primary elections shall be held on 50538
the first Tuesday after the first Monday in March except as 50539
otherwise authorized by a municipal or county charter. 50540

(F) "Political party" means any group of voters meeting the 50541
requirements set forth in section 3517.01 of the Revised Code for 50542
the formation and existence of a political party. 50543

(1) "Major political party" means any political party 50544
organized under the laws of this state whose candidate for 50545
governor or nominees for presidential electors received no less 50546
than twenty per cent of the total vote cast for such office at the 50547
most recent regular state election. 50548

(2) "Intermediate political party" means any political party 50549

organized under the laws of this state whose candidate for 50550
governor or nominees for presidential electors received less than 50551
twenty per cent but not less than ten per cent of the total vote 50552
cast for such office at the most recent regular state election. 50553

(3) "Minor political party" means any political party 50554
organized under the laws of this state whose candidate for 50555
governor or nominees for presidential electors received less than 50556
ten per cent but not less than five per cent of the total vote 50557
cast for such office at the most recent regular state election or 50558
which has filed with the secretary of state, subsequent to any 50559
election in which it received less than five per cent of such 50560
vote, a petition signed by qualified electors equal in number to 50561
at least one per cent of the total vote cast for such office in 50562
the last preceding regular state election, except that a newly 50563
formed political party shall be known as a minor political party 50564
until the time of the first election for governor or president 50565
which occurs not less than twelve months subsequent to the 50566
formation of such party, after which election the status of such 50567
party shall be determined by the vote for the office of governor 50568
or president. 50569

(G) "Dominant party in a precinct" or "dominant political 50570
party in a precinct" means that political party whose candidate 50571
for election to the office of governor at the most recent regular 50572
state election at which a governor was elected received more votes 50573
than any other person received for election to that office in such 50574
precinct at such election. 50575

(H) "Candidate" means any qualified person certified in 50576
accordance with the provisions of the Revised Code for placement 50577
on the official ballot of a primary, general, or special election 50578
to be held in this state, or any qualified person who claims to be 50579
a write-in candidate, or who knowingly assents to being 50580
represented as a write-in candidate by another at either a 50581

primary, general, or special election to be held in this state. 50582

(I) "Independent candidate" means any candidate who claims 50583
not to be affiliated with a political party, and whose name has 50584
been certified on the office-type ballot at a general or special 50585
election through the filing of a statement of candidacy and 50586
nominating petition, as prescribed in section 3513.257 of the 50587
Revised Code. 50588

(J) "Nonpartisan candidate" means any candidate whose name is 50589
required, pursuant to section 3505.04 of the Revised Code, to be 50590
listed on the nonpartisan ballot, including all candidates for 50591
judicial office, for member of any board of education, for 50592
municipal or township offices in which primary elections are not 50593
held for nominating candidates by political parties, and for 50594
offices of municipal corporations having charters that provide for 50595
separate ballots for elections for these offices. 50596

(K) "Party candidate" means any candidate who claims to be a 50597
member of a political party, whose name has been certified on the 50598
office-type ballot at a general or special election through the 50599
filing of a declaration of candidacy and petition of candidate, 50600
and who has won the primary election of the candidate's party for 50601
the public office the candidate seeks or is selected by party 50602
committee in accordance with section 3513.31 of the Revised Code. 50603

(L) "Officer of a political party" includes, but is not 50604
limited to, any member, elected or appointed, of a controlling 50605
committee, whether representing the territory of the state, a 50606
district therein, a county, township, a city, a ward, a precinct, 50607
or other territory, of a major, intermediate, or minor political 50608
party. 50609

(M) "Question or issue" means any question or issue certified 50610
in accordance with the Revised Code for placement on an official 50611
ballot at a general or special election to be held in this state. 50612

(N) "Elector" or "qualified elector" means a person having the qualifications provided by law to be entitled to vote.	50613 50614
(O) "Voter" means an elector who votes at an election.	50615
(P) "Voting residence" means that place of residence of an elector which shall determine the precinct in which the elector may vote.	50616 50617 50618
(Q) "Precinct" means a district within a county established by the board of elections of such county within which all qualified electors having a voting residence therein may vote at the same polling place.	50619 50620 50621 50622
(R) "Polling place" means that place provided for each precinct at which the electors having a voting residence in such precinct may vote.	50623 50624 50625
(S) "Board" or "board of elections" means the board of elections appointed in a county pursuant to section 3501.06 of the Revised Code.	50626 50627 50628
(T) "Political subdivision" means a county, township, city, village, or school district.	50629 50630
(U) "Election officer" or "election official" means any of the following:	50631 50632
(1) Secretary of state;	50633
(2) Employees of the secretary of state serving the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor;	50634 50635 50636 50637
(3) Director of a board of elections;	50638
(4) Deputy director of a board of elections;	50639
(5) Member of a board of elections;	50640
(6) Employees of a board of elections;	50641

(7) Precinct polling place judges; 50642

(8) Employees appointed by the boards of elections on a 50643
temporary or part-time basis. 50644

(V) "Acknowledgment notice" means a notice sent by a board of 50645
elections, on a form prescribed by the secretary of state, 50646
informing a voter registration applicant or an applicant who 50647
wishes to change the applicant's residence or name of the status 50648
of the application; the information necessary to complete or 50649
update the application, if any; and if the application is 50650
complete, the precinct in which the applicant is to vote. 50651

(W) "Confirmation notice" means a notice sent by a board of 50652
elections, on a form prescribed by the secretary of state, to a 50653
registered elector to confirm the registered elector's current 50654
address. 50655

(X) "Designated agency" means an office or agency in the 50656
state that provides public assistance or that provides 50657
state-funded programs primarily engaged in providing services to 50658
persons with disabilities and that is required by the National 50659
Voter Registration Act of 1993 to implement a program designed and 50660
administered by the secretary of state for registering voters, or 50661
any other public or government office or agency that implements a 50662
program designed and administered by the secretary of state for 50663
registering voters, including the department of job and family 50664
services, the program administered under section 3701.132 of the 50665
Revised Code by the department of health, the department of ~~mental~~ 50666
~~health~~ mental health and addiction services, the department of 50667
developmental disabilities, the rehabilitation services 50668
commission, and any other agency the secretary of state 50669
designates. "Designated agency" does not include public high 50670
schools and vocational schools, public libraries, or the office of 50671
a county treasurer. 50672

(Y) "National Voter Registration Act of 1993" means the 50673
"National Voter Registration Act of 1993," 107 Stat. 77, 42 50674
U.S.C.A. 1973gg. 50675

(Z) "Voting Rights Act of 1965" means the "Voting Rights Act 50676
of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended. 50677

(AA) "Photo identification" means a document that meets each 50678
of the following requirements: 50679

(1) It shows the name of the individual to whom it was 50680
issued, which shall conform to the name in the poll list or 50681
signature pollbook. 50682

(2) It shows the current address of the individual to whom it 50683
was issued, which shall conform to the address in the poll list or 50684
signature pollbook, except for a driver's license or a state 50685
identification card issued under section 4507.50 of the Revised 50686
Code, which may show either the current or former address of the 50687
individual to whom it was issued, regardless of whether that 50688
address conforms to the address in the poll list or signature 50689
pollbook. 50690

(3) It shows a photograph of the individual to whom it was 50691
issued. 50692

(4) It includes an expiration date that has not passed. 50693

(5) It was issued by the government of the United States or 50694
this state. 50695

Sec. 3599.45. (A) As used in this section: 50696

"Candidate," "campaign committee," and "contribution" have 50697
the same meanings as in section 3517.01 of the Revised Code. 50698

"Medicaid provider" has the same meaning as in section 50699
5164.01 of the Revised Code. 50700

(B) No candidate for the office of attorney general or county 50701

prosecutor or such a candidate's campaign committee shall 50702
knowingly accept any contribution from a medicaid provider of 50703
~~services or goods under contract with the department of job and~~ 50704
~~family services pursuant to the medicaid program of Title XIX of~~ 50705
~~the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as~~ 50706
~~amended,~~ or from any person having an ownership interest in the 50707
medicaid provider. 50708

~~As used in this section "candidate," "campaign committee,"~~ 50709
~~and "contribution" have the same meaning as in section 3517.01 of~~ 50710
~~the Revised Code.~~ 50711

~~(B)(C)~~ Whoever violates this section is guilty of a 50712
misdemeanor of the first degree. 50713

Sec. 3701.023. (A) The department of health shall review 50714
applications for eligibility for the program for medically 50715
handicapped children that are submitted to the department by city 50716
and general health districts and physician providers approved in 50717
accordance with division (C) of this section. The department shall 50718
determine whether the applicants meet the medical and financial 50719
eligibility requirements established by the director of health 50720
pursuant to division (A)(1) of section 3701.021 of the Revised 50721
Code, and by the department in the manual of operational 50722
procedures and guidelines for the program for medically 50723
handicapped children developed pursuant to division (B) of that 50724
section. Referrals of potentially eligible children for the 50725
program may be submitted to the department on behalf of the child 50726
by parents, guardians, public health nurses, or any other 50727
interested person. The department of health may designate other 50728
agencies to refer applicants to the department of health. 50729

(B) In accordance with the procedures established in rules 50730
adopted under division (A)(4) of section 3701.021 of the Revised 50731
Code, the department of health shall authorize a provider or 50732

providers to provide to any Ohio resident under twenty-one years 50733
of age, without charge to the resident or the resident's family 50734
and without restriction as to the economic status of the resident 50735
or the resident's family, diagnostic services necessary to 50736
determine whether the resident has a medically handicapping or 50737
potentially medically handicapping condition. 50738

(C) The department of health shall review the applications of 50739
health professionals, hospitals, medical equipment suppliers, and 50740
other individuals, groups, or agencies that apply to become 50741
providers. The department shall enter into a written agreement 50742
with each applicant who is determined, pursuant to the 50743
requirements set forth in rules adopted under division (A)(2) of 50744
section 3701.021 of the Revised Code, to be eligible to be a 50745
provider in accordance with the provider agreement required by the 50746
~~medical assistance~~ medicaid ~~program established under section~~ 50747
~~5111.01 of the Revised Code.~~ No provider shall charge a medically 50748
handicapped child or the child's parent or guardian for services 50749
authorized by the department under division (B) or (D) of this 50750
section. 50751

The department, in accordance with rules adopted under 50752
division (A)(3) of section 3701.021 of the Revised Code, may 50753
disqualify any provider from further participation in the program 50754
for violating any requirement set forth in rules adopted under 50755
division (A)(2) of that section. The disqualification shall not 50756
take effect until a written notice, specifying the requirement 50757
violated and describing the nature of the violation, has been 50758
delivered to the provider and the department has afforded the 50759
provider an opportunity to appeal the disqualification under 50760
division (H) of this section. 50761

(D) The department of health shall evaluate applications from 50762
city and general health districts and approved physician providers 50763
for authorization to provide treatment services, service 50764

coordination, and related goods to children determined to be 50765
eligible for the program for medically handicapped children 50766
pursuant to division (A) of this section. The department shall 50767
authorize necessary treatment services, service coordination, and 50768
related goods for each eligible child in accordance with an 50769
individual plan of treatment for the child. As an alternative, the 50770
department may authorize payment of health insurance premiums on 50771
behalf of eligible children when the department determines, in 50772
accordance with criteria set forth in rules adopted under division 50773
(A)(9) of section 3701.021 of the Revised Code, that payment of 50774
the premiums is cost-effective. 50775

(E) The department of health shall pay, from appropriations 50776
to the department, any necessary expenses, including but not 50777
limited to, expenses for diagnosis, treatment, service 50778
coordination, supportive services, transportation, and accessories 50779
and their upkeep, provided to medically handicapped children, 50780
provided that the provision of the goods or services is authorized 50781
by the department under division (B) or (D) of this section. Money 50782
appropriated to the department of health may also be expended for 50783
reasonable administrative costs incurred by the program. The 50784
department of health also may purchase liability insurance 50785
covering the provision of services under the program for medically 50786
handicapped children by physicians and other health care 50787
professionals. 50788

Payments made to providers by the department of health 50789
pursuant to this division for inpatient hospital care, outpatient 50790
care, and all other medical assistance furnished to eligible 50791
recipients shall be made in accordance with rules adopted by the 50792
director of health pursuant to division (A) of section 3701.021 of 50793
the Revised Code. 50794

The departments of health and ~~job and family services~~ 50795
medicaid shall jointly implement procedures to ensure that 50796

duplicate payments are not made under the program for medically 50797
handicapped children and the ~~medical assistance~~ medicaid program 50798
~~established under section 5111.01 of the Revised Code~~ and to 50799
identify and recover duplicate payments. 50800

(F) At the time of applying for participation in the program 50801
for medically handicapped children, a medically handicapped child 50802
or the child's parent or guardian shall disclose the identity of 50803
any third party against whom the child or the child's parent or 50804
guardian has or may have a right of recovery for goods and 50805
services provided under division (B) or (D) of this section. The 50806
department of health shall require a medically handicapped child 50807
who receives services from the program or the child's parent or 50808
guardian to apply for all third-party benefits for which the child 50809
may be eligible and require the child, parent, or guardian to 50810
apply all third-party benefits received to the amount determined 50811
under division (E) of this section as the amount payable for goods 50812
and services authorized under division (B) or (D) of this section. 50813
The department is the payer of last resort and shall pay for 50814
authorized goods or services, up to the amount determined under 50815
division (E) of this section for the authorized goods or services, 50816
only to the extent that payment for the authorized goods or 50817
services is not made through third-party benefits. When a third 50818
party fails to act on an application or claim for benefits by a 50819
medically handicapped child or the child's parent or guardian, the 50820
department shall pay for the goods or services only after ninety 50821
days have elapsed since the date the child, parents, or guardians 50822
made an application or claim for all third-party benefits. 50823
Third-party benefits received shall be applied to the amount 50824
determined under division (E) of this section. Third-party 50825
payments for goods and services not authorized under division (B) 50826
or (D) of this section shall not be applied to payment amounts 50827
determined under division (E) of this section. Payment made by the 50828
department shall be considered payment in full of the amount 50829

determined under division (E) of this section. Medicaid payments 50830
for persons eligible for the ~~medical assistance~~ medicaid program 50831
~~established under section 5111.01 of the Revised Code~~ shall be 50832
considered payment in full of the amount determined under division 50833
(E) of this section. 50834

(G) The department of health shall administer a program to 50835
provide services to Ohio residents who are twenty-one or more 50836
years of age who have cystic fibrosis and who meet the eligibility 50837
requirements established in rules adopted by the director of 50838
health pursuant to division (A)(7) of section 3701.021 of the 50839
Revised Code, subject to all provisions of this section, but not 50840
subject to section 3701.024 of the Revised Code. 50841

(H) The department of health shall provide for appeals, in 50842
accordance with rules adopted under section 3701.021 of the 50843
Revised Code, of denials of applications for the program for 50844
medically handicapped children under division (A) or (D) of this 50845
section, disqualification of providers, or amounts paid under 50846
division (E) of this section. Appeals under this division are not 50847
subject to Chapter 119. of the Revised Code. 50848

The department may designate ombudspersons to assist 50849
medically handicapped children or their parents or guardians, upon 50850
the request of the children, parents, or guardians, in filing 50851
appeals under this division and to serve as children's, parents', 50852
or guardians' advocates in matters pertaining to the 50853
administration of the program for medically handicapped children 50854
and eligibility for program services. The ombudspersons shall 50855
receive no compensation but shall be reimbursed by the department, 50856
in accordance with rules of the office of budget and management, 50857
for their actual and necessary travel expenses incurred in the 50858
performance of their duties. 50859

(I) The department of health, and city and general health 50860
districts providing service coordination pursuant to division 50861

(A)(2) of section 3701.024 of the Revised Code, shall provide 50862
service coordination in accordance with the standards set forth in 50863
the rules adopted under section 3701.021 of the Revised Code, 50864
without charge, and without restriction as to economic status. 50865

(J)(1) The department of health may establish a manufacturer 50866
discount program under which a manufacturer of a drug or 50867
nutritional formula is permitted to enter into an agreement with 50868
the department to provide a discount on the price of the drug or 50869
nutritional formula distributed to medically handicapped children 50870
participating in the program for medically handicapped children. 50871
The program shall be administered in accordance with rules adopted 50872
under section 3701.021 of the Revised Code. 50873

(2) If a manufacturer enters into an agreement with the 50874
department as described in division (J)(1) of this section, the 50875
manufacturer and the department may negotiate the amount and terms 50876
of the discount. 50877

(3) In lieu of establishing a discount program as described 50878
in division (J)(1) of this section, the department and a 50879
manufacturer of a drug or nutritional formula may discuss a 50880
donation of drugs, nutritional formulas, or money by the 50881
manufacturer to the department. 50882

Sec. 3701.024. (A)(1) Under a procedure established in rules 50883
adopted under section 3701.021 of the Revised Code, the department 50884
of health shall determine the amount each county shall provide 50885
annually for the program for medically handicapped children, based 50886
on a proportion of the county's total general property tax 50887
duplicate, not to exceed one-tenth of a mill, and charge the 50888
county for any part of expenses incurred under the program for 50889
treatment services on behalf of medically handicapped children 50890
having legal settlement in the county that is not paid from 50891
federal funds or through the ~~medical assistance~~ medicaid program 50892

~~established under section 5111.01 of the Revised Code. The~~ 50893
department shall not charge the county for expenses exceeding the 50894
difference between the amount determined under division (A)(1) of 50895
this section and any amounts retained under divisions (A)(2) and 50896
(3) of this section. 50897

All amounts collected by the department under division (A)(1) 50898
of this section shall be deposited into the state treasury to the 50899
credit of the medically handicapped children-county assessment 50900
fund, which is hereby created. The fund shall be used by the 50901
department to comply with sections 3701.021 to 3701.028 of the 50902
Revised Code. 50903

(2) The department, in accordance with rules adopted under 50904
section 3701.021 of the Revised Code, may allow each county to 50905
retain up to ten per cent of the amount determined under division 50906
(A)(1) of this section to provide funds to city or general health 50907
districts of the county with which the districts shall provide 50908
service coordination, public health nursing, or transportation 50909
services for medically handicapped children. 50910

(3) In addition to any amount retained under division (A)(2) 50911
of this section, the department, in accordance with rules adopted 50912
under section 3701.021 of the Revised Code, may allow counties 50913
that it determines have significant numbers of potentially 50914
eligible medically handicapped children to retain an amount equal 50915
to the difference between: 50916

(a) Twenty-five per cent of the amount determined under 50917
division (A)(1) of this section; 50918

(b) Any amount retained under division (A)(2) of this 50919
section. 50920

Counties shall use amounts retained under division (A)(3) of 50921
this section to provide funds to city or general health districts 50922
of the county with which the districts shall conduct outreach 50923

activities to increase participation in the program for medically 50924
handicapped children. 50925

(4) Prior to any increase in the millage charged to a county, 50926
the director of health shall hold a public hearing on the proposed 50927
increase and shall give notice of the hearing to each board of 50928
county commissioners that would be affected by the increase at 50929
least thirty days prior to the date set for the hearing. Any 50930
county commissioner may appear and give testimony at the hearing. 50931
Any increase in the millage any county is required to provide for 50932
the program for medically handicapped children shall be 50933
determined, and notice of the amount of the increase shall be 50934
provided to each affected board of county commissioners, no later 50935
than the first day of June of the fiscal year next preceding the 50936
fiscal year in which the increase will take effect. 50937

(B) Each board of county commissioners shall establish a 50938
medically handicapped children's fund and shall appropriate 50939
thereto an amount, determined in accordance with division (A)(1) 50940
of this section, for the county's share in providing medical, 50941
surgical, and other aid to medically handicapped children residing 50942
in such county and for the purposes specified in divisions (A)(2) 50943
and (3) of this section. Each county shall use money retained 50944
under divisions (A)(2) and (3) of this section only for the 50945
purposes specified in those divisions. 50946

Sec. 3701.027. The department of health shall administer 50947
funds received from the "Maternal and Child Health Block Grant," 50948
Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 50949
U.S.C.A. 701, as amended, for programs including the program for 50950
medically handicapped children, and to provide technical 50951
assistance and consultation to city and general health districts 50952
and local health planning organizations in implementing local, 50953
community-based, family-centered, coordinated systems of care for 50954

medically handicapped children. The department may make grants to 50955
persons and other entities for the provision of services with the 50956
funds. In addition, the department may use the funds to purchase 50957
liability insurance covering the provision of services under the 50958
programs by physicians and other health care professionals, and to 50959
pay health insurance premiums on behalf of medically handicapped 50960
children participating in the program for medically handicapped 50961
children when the department determines, in accordance with 50962
criteria set forth in rules adopted under division (A)(9) of 50963
section 3701.021 of the Revised Code, that payment of the premiums 50964
is cost effective. 50965

In determining eligibility for services provided with funds 50966
received from the "Maternal and Child Health Block Grant," the 50967
department may use the application form established under section 50968
~~5111.013~~ 5163.40 of the Revised Code. The department may require 50969
applicants to furnish their social security numbers. Funds from 50970
the "Maternal and Child Health Block Grant" that are administered 50971
for the purpose of providing family planning services shall be 50972
distributed in accordance with section 3701.033 of the Revised 50973
Code. 50974

Sec. 3701.033. (A) This section establishes the order of 50975
priority to be followed by the department of health when 50976
distributing funds for the purpose of providing family planning 50977
services, including funds the department receives through the 50978
"Maternal and Child Health Block Grant," Title V of the "Social 50979
Security Act," 95 Stat. 818 (1981), 42 U.S.C. 701, as amended, and 50980
funds the department receives through Title X of the "Public 50981
Health Service Act," 84 Stat. 1504 (1970), 42 U.S.C. 300a, as 50982
amended. This section does not apply to grants awarded by the 50983
department under section 3701.046 of the Revised Code. 50984

(B) With respect to each period during which funds from a 50985

particular source are distributed for the purpose of providing 50986
family planning services, the department is subject to both of the 50987
following when distributing the funds to applicants seeking those 50988
funds: 50989

(1) Foremost priority shall be given to public entities that 50990
are operated by state or local government entities and that 50991
provide or are able to provide family planning services. 50992

(2) If any funds remain after the department distributes 50993
funds to public entities under division (B)(1) of this section, 50994
the department may distribute funds to nonpublic entities. If 50995
funds are distributed to nonpublic entities, the department shall 50996
distribute the funds in the following order of descending 50997
priority: 50998

(a) Nonpublic entities that are federally qualified health 50999
centers or federally qualified health center look-alikes, both as 51000
defined in section 3701.047 of the Revised Code, or community 51001
action agencies, as defined in section 122.66 of the Revised Code; 51002

(b) Nonpublic entities that provide comprehensive primary and 51003
preventive care services in addition to family planning services; 51004

(c) Nonpublic entities that provide family planning services, 51005
but do not provide comprehensive primary and preventive care 51006
services. 51007

Sec. 3701.13. The department of health shall have supervision 51008
of all matters relating to the preservation of the life and health 51009
of the people and have ultimate authority in matters of quarantine 51010
and isolation, which it may declare and enforce, when neither 51011
exists, and modify, relax, or abolish, when either has been 51012
established. The department may approve methods of immunization 51013
against the diseases specified in section 3313.671 of the Revised 51014
Code for the purpose of carrying out the provisions of that 51015

section and take such actions as are necessary to encourage 51016
vaccination against those diseases. 51017

The department may make special or standing orders or rules 51018
for preventing the use of fluoroscopes for nonmedical purposes 51019
~~which~~ that emit doses of radiation likely to be harmful to any 51020
person, for preventing the spread of contagious or infectious 51021
diseases, for governing the receipt and conveyance of remains of 51022
deceased persons, and for such other sanitary matters as are best 51023
controlled by a general rule. Whenever possible, the department 51024
shall work in cooperation with the health commissioner of a 51025
general or city health district. ~~It~~ The department may make and 51026
enforce orders in local matters or reassign substantive authority 51027
for mandatory programs from a general or city health district to 51028
another general or city health district when an emergency exists, 51029
or when the board of health of a general or city health district 51030
has neglected or refused to act with sufficient promptness or 51031
efficiency, or when such board has not been established as 51032
provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 51033
3709.12, and 3709.14 of the Revised Code. In such cases, the 51034
necessary expense incurred shall be paid by the general health 51035
district or city for which the services are rendered. 51036

The department of health may require general or city health 51037
districts to enter into agreements for shared services under 51038
section 9.482 of the Revised Code. 51039

As a condition precedent to receiving funding from the 51040
department of health, the director of health may require general 51041
or city health districts to be accredited not later than July 1, 51042
2018, by an accreditation body approved by the director. 51043

The department may make evaluative studies of the nutritional 51044
status of Ohio residents, and of the food and nutrition-related 51045
programs operating within the state. Every agency of the state, at 51046
the request of the department, shall provide information and 51047

otherwise assist in the execution of such studies. 51048

Sec. 3701.132. The department of health is hereby designated 51049
as the state agency to administer the "special supplemental 51050
nutrition program for women, infants, and children" established 51051
under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 51052
1786, as amended. The director of health may adopt rules pursuant 51053
to Chapter 119. of the Revised Code as necessary for administering 51054
the program. The rules may include civil money penalties for 51055
violations of the rules. 51056

In determining eligibility for services provided under the 51057
program, the department may use the application form established 51058
under section ~~5111.013~~ 5163.40 of the Revised Code for the healthy 51059
start program. The department may require applicants to furnish 51060
their social security numbers. 51061

If the department determines that a vendor has committed an 51062
act with respect to the program that federal statutes or 51063
regulations or state statutes or rules prohibit, the department 51064
shall take action against the vendor in the manner required by 7 51065
C.F.R. part 246, including imposition of a civil money penalty in 51066
accordance with 7 C.F.R. 246.12, or rules adopted under this 51067
section. 51068

Sec. 3701.243. (A) Except as provided in this section or 51069
section 3701.248 of the Revised Code, no person or agency of state 51070
or local government that acquires the information while providing 51071
any health care service or while in the employ of a health care 51072
facility or health care provider shall disclose or compel another 51073
to disclose any of the following: 51074

(1) The identity of any individual on whom an HIV test is 51075
performed; 51076

(2) The results of an HIV test in a form that identifies the 51077

individual tested; 51078

(3) The identity of any individual diagnosed as having AIDS 51079
or an AIDS-related condition. 51080

(B)(1) Except as provided in divisions (B)(2), (C), (D), and 51081
(F) of this section, the results of an HIV test or the identity of 51082
an individual on whom an HIV test is performed or who is diagnosed 51083
as having AIDS or an AIDS-related condition may be disclosed only 51084
to the following: 51085

(a) The individual who was tested or the individual's legal 51086
guardian, and the individual's spouse or any sexual partner; 51087

(b) A person to whom disclosure is authorized by a written 51088
release, executed by the individual tested or by the individual's 51089
legal guardian and specifying to whom disclosure of the test 51090
results or diagnosis is authorized and the time period during 51091
which the release is to be effective; 51092

(c) The individual's physician; 51093

(d) The department of health or a health commissioner to 51094
which reports are made under section 3701.24 of the Revised Code; 51095

(e) A health care facility or provider that procures, 51096
processes, distributes, or uses a human body part from a deceased 51097
individual, donated for a purpose specified in Chapter 2108. of 51098
the Revised Code, and that needs medical information about the 51099
deceased individual to ensure that the body part is medically 51100
acceptable for its intended purpose; 51101

(f) Health care facility staff committees or accreditation or 51102
oversight review organizations conducting program monitoring, 51103
program evaluation, or service reviews; 51104

(g) A health care provider, emergency medical services 51105
worker, or peace officer who sustained a significant exposure to 51106
the body fluids of another individual, if that individual was 51107

tested pursuant to division (E)(6) of section 3701.242 of the Revised Code, except that the identity of the individual tested shall not be revealed;

(h) To law enforcement authorities pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, a prosecuting attorney, a city director of law or similar chief legal officer of a municipal corporation, or a village solicitor, in connection with a criminal investigation or prosecution.

(2) The results of an HIV test or a diagnosis of AIDS or an AIDS-related condition may be disclosed to a health care provider, or an authorized agent or employee of a health care facility or a health care provider, if the provider, agent, or employee has a medical need to know the information and is participating in the diagnosis, care, or treatment of the individual on whom the test was performed or who has been diagnosed as having AIDS or an AIDS-related condition.

This division does not impose a standard of disclosure different from the standard for disclosure of all other specific information about a patient to health care providers and facilities. Disclosure may not be requested or made solely for the purpose of identifying an individual who has a positive HIV test result or has been diagnosed as having AIDS or an AIDS-related condition in order to refuse to treat the individual. Referral of an individual to another health care provider or facility based on reasonable professional judgment does not constitute refusal to treat the individual.

(3) Not later than ninety days after November 1, 1989, each health care facility in this state shall establish a protocol to be followed by employees and individuals affiliated with the facility in making disclosures authorized by division (B)(2) of this section. A person employed by or affiliated with a health care facility who determines in accordance with the protocol

established by the facility that a disclosure is authorized by 51140
division (B)(2) of this section is immune from liability to any 51141
person in a civil action for damages for injury, death, or loss to 51142
person or property resulting from the disclosure. 51143

(C)(1) Any person or government agency may seek access to or 51144
authority to disclose the HIV test records of an individual in 51145
accordance with the following provisions: 51146

(a) The person or government agency shall bring an action in 51147
a court of common pleas requesting disclosure of or authority to 51148
disclose the results of an HIV test of a specific individual, who 51149
shall be identified in the complaint by a pseudonym but whose name 51150
shall be communicated to the court confidentially, pursuant to a 51151
court order restricting the use of the name. The court shall 51152
provide the individual with notice and an opportunity to 51153
participate in the proceedings if the individual is not named as a 51154
party. Proceedings shall be conducted in chambers unless the 51155
individual agrees to a hearing in open court. 51156

(b) The court may issue an order granting the plaintiff 51157
access to or authority to disclose the test results only if the 51158
court finds by clear and convincing evidence that the plaintiff 51159
has demonstrated a compelling need for disclosure of the 51160
information that cannot be accommodated by other means. In 51161
assessing compelling need, the court shall weigh the need for 51162
disclosure against the privacy right of the individual tested and 51163
against any disservice to the public interest that might result 51164
from the disclosure, such as discrimination against the individual 51165
or the deterrence of others from being tested. 51166

(c) If the court issues an order, it shall guard against 51167
unauthorized disclosure by specifying the persons who may have 51168
access to the information, the purposes for which the information 51169
shall be used, and prohibitions against future disclosure. 51170

(2) A person or government agency that considers it necessary to disclose the results of an HIV test of a specific individual in an action in which it is a party may seek authority for the disclosure by filing an in camera motion with the court in which the action is being heard. In hearing the motion, the court shall employ procedures for confidentiality similar to those specified in division (C)(1) of this section. The court shall grant the motion only if it finds by clear and convincing evidence that a compelling need for the disclosure has been demonstrated.

(3) Except for an order issued in a criminal prosecution or an order under division (C)(1) or (2) of this section granting disclosure of the result of an HIV test of a specific individual, a court shall not compel a blood bank, hospital blood center, or blood collection facility to disclose the result of HIV tests performed on the blood of voluntary donors in a way that reveals the identity of any donor.

(4) In a civil action in which the plaintiff seeks to recover damages from an individual defendant based on an allegation that the plaintiff contracted the HIV virus as a result of actions of the defendant, the prohibitions against disclosure in this section do not bar discovery of the results of any HIV test given to the defendant or any diagnosis that the defendant suffers from AIDS or an AIDS-related condition.

(D) The results of an HIV test or the identity of an individual on whom an HIV test is performed or who is diagnosed as having AIDS or an AIDS-related condition may be disclosed to a federal, state, or local government agency, or the official representative of such an agency, for purposes of the ~~medical assistance~~ medicaid program established under section 5111.01 of the Revised Code, the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935) 42 U.S.C.A. 301, as amended, or any other public assistance program.

(E) Any disclosure pursuant to this section shall be in 51203
writing and accompanied by a written statement that includes the 51204
following or substantially similar language: "This information has 51205
been disclosed to you from confidential records protected from 51206
disclosure by state law. You shall make no further disclosure of 51207
this information without the specific, written, and informed 51208
release of the individual to whom it pertains, or as otherwise 51209
permitted by state law. A general authorization for the release of 51210
medical or other information is not sufficient for the purpose of 51211
the release of HIV test results or diagnoses." 51212

(F) An individual who knows that the individual has received 51213
a positive result on an HIV test or has been diagnosed as having 51214
AIDS or an AIDS-related condition shall disclose this information 51215
to any other person with whom the individual intends to make 51216
common use of a hypodermic needle or engage in sexual conduct as 51217
defined in section 2907.01 of the Revised Code. An individual's 51218
compliance with this division does not prohibit a prosecution of 51219
the individual for a violation of division (B) of section 2903.11 51220
of the Revised Code. 51221

(G) Nothing in this section prohibits the introduction of 51222
evidence concerning an HIV test of a specific individual in a 51223
criminal proceeding. 51224

Sec. 3701.261. (A) As used in this section, "state 51225
university" has the same meaning as in section 3345.011 of the 51226
Revised Code. 51227

(B) The director of health shall: 51228

(1) Establish a population-based cancer registry, which shall 51229
be known as the Ohio cancer incidence surveillance system, to 51230
monitor the incidence of various types of malignant diseases in 51231
Ohio, make appropriate epidemiologic studies to determine any 51232
causal relations of such diseases with occupational, nutritional, 51233

environmental, or infectious conditions, and alleviate or 51234
eliminate any such conditions; 51235

(2) Advise, consult, cooperate with, and assist, by contract 51236
or otherwise, agencies of the state and federal government, 51237
agencies of the governments of other states, agencies of political 51238
subdivisions of this state, universities, private organizations, 51239
corporations, and associations for the purposes of division 51240
~~(A)~~(B)(1) of this section; 51241

(3) Accept and administer grants from the federal government 51242
or other sources, public or private, for carrying out any of the 51243
functions enumerated in divisions ~~(A)~~(B)(1) and (2) of this 51244
section. 51245

~~(B)~~(C) The Ohio cancer incidence surveillance system shall 51246
follow a model of cancer data collection as set forth by the 51247
survey epidemiology and end results system (SEERS). 51248

(D) The department may, by contract, designate a state 51249
university as an agent to implement some or all of this section 51250
and section 3701.262 of the Revised Code and the rules adopted 51251
under those sections. 51252

Sec. 3701.262. (A) As used in this section ~~and section 51253
3701.263 of the Revised Code:~~ 51254

(1) "Physician" means a person who holds a valid certificate 51255
issued under Chapter 4731. of the Revised Code authorizing the 51256
person to practice medicine ~~or~~ and surgery or osteopathic medicine 51257
and surgery. 51258

(2) "Dentist" means a person who is licensed under Chapter 51259
4715. of the Revised Code to practice dentistry. 51260

(3) "Hospital" has the same meaning as in section 3727.01 of 51261
the Revised Code. 51262

(4) "Cancer" includes those diseases specified by rule of the 51263

director of health under division (B)(2) of this section. 51264

(B) The director of health shall adopt rules in accordance 51265
with Chapter 119. of the Revised Code to do all of the following: 51266

(1) Establish the Ohio cancer incidence surveillance system 51267
required by section 3701.261 of the Revised Code; 51268

(2) Specify the types of cancer and other tumorous and 51269
precancerous diseases to be reported to the department of health 51270
under division (D) of this section; 51271

(3) Establish reporting requirements for information 51272
concerning diagnosed cancer cases as the director considers 51273
necessary to conduct epidemiologic surveys of cancer in this 51274
state; 51275

(4) Establish standards that must be met by research projects 51276
to be eligible to receive information concerning individual cancer 51277
patients from the department of health ~~under division (B) of~~ 51278
~~section 3701.263 of the Revised Code.~~ 51279

(C) The department of health shall record in the registry all 51280
reports of cancer received by it. In the development and 51281
administration of the cancer registry the department may use 51282
information compiled by public or private cancer registries and 51283
may contract for the collection and analysis of, and research 51284
related to, the information recorded under this section. 51285

(D)(1) Each physician, dentist, hospital, or person providing 51286
diagnostic or treatment services to patients with cancer shall 51287
report each case of cancer to the department. Any person required 51288
to report pursuant to this section may elect to report to the 51289
department through an existing cancer registry if the registry 51290
meets the reporting standards established by the director and 51291
reports to the department. 51292

(2) No person shall fail to make the cancer reports required 51293

by division (D)(1) of this section. 51294

(E) All physicians, dentists, hospitals, or persons providing 51295
diagnostic or treatment services to patients with cancer shall 51296
grant to the department or its authorized representative access to 51297
all records that identify cases of cancer or establish 51298
characteristics of cancer, the treatment of cancer, or the medical 51299
status of any identified cancer patient. 51300

(F) The Arthur G. James cancer hospital and Richard J. Solove 51301
research institute of the Ohio state university, shall analyze and 51302
evaluate the cancer reports collected pursuant to this section. 51303
The department shall publish and make available to the public 51304
reports summarizing the information collected. Reports shall be 51305
made on a calendar year basis and published not later than ninety 51306
days after the end of each calendar year. 51307

(G) Furnishing information, including records, reports, 51308
statements, notes, memoranda, or other information, to the 51309
department of health, either voluntarily or as required by this 51310
section, or to a person or governmental entity designated as a 51311
medical research project by the department, does not subject a 51312
physician, dentist, hospital, or person providing diagnostic or 51313
treatment services to patients with cancer to liability in an 51314
action for damages or other relief for furnishing the information. 51315

(H) This section does not affect the authority of any person 51316
or facility providing diagnostic or treatment services to patients 51317
with cancer to maintain facility-based tumor registries, in 51318
addition to complying with the reporting requirements of this 51319
section. 51320

~~(I) No person shall fail to make the cancer reports required 51321
by division (D) of this section. 51322~~

Sec. 3701.264. There is hereby created the Ohio cancer 51323

incidence surveillance system advisory board. The board shall 51324
consist of the director of health, who shall serve as chair of the 51325
board, and one representative, appointed by the governor, from 51326
each medical school accredited by the liaison committee on medical 51327
education and each osteopathic medical school accredited by the 51328
American osteopathic association in Ohio. In addition, the 51329
director of health shall appoint up to three additional members of 51330
the board. Vacancies on the board shall be filled in the same 51331
manner as the initial appointments. Members shall serve without 51332
compensation. 51333

The board shall provide oversight of the collection and 51334
analysis of data by the Ohio cancer incidence surveillance system 51335
to the director of health and the Arthur G. James cancer hospital 51336
and Richard J. Solove research institute of the Ohio state 51337
university and advise in the implementation of sections 3701.261 51338
~~to 3701.263~~ and 3701.262 of the Revised Code. The board shall meet 51339
and conduct its business as directed by the chair. 51340

~~The board shall report to the finance committees of both 51341
houses of the general assembly, not later than March 1, 2001, on 51342
the progress made in implementing sections 3701.261 to 3701.263 of 51343
the Revised Code. 51344~~

The board is not subject to sections 101.82 to 101.87 of the 51345
Revised Code. 51346

Sec. 3701.342. ~~After consultation with the public health 51347
standards task force established under section 3701.343 of the 51348
Revised Code, the~~ The director of health shall adopt rules 51349
establishing minimum standards and optimum achievable standards 51350
for boards of health and local health departments. The minimum 51351
standards shall assure that boards of health and local health 51352
departments provide for: 51353

(A) Analysis and prevention of communicable disease;	51354
(B) Analysis of the causes of, and appropriate treatment for, the leading causes of morbidity and mortality;	51355 51356
(C) The administration and management of the local health department;	51357 51358
(D) Access to primary health care by medically underserved individuals;	51359 51360
(E) Environmental health management programs;	51361
(F) Health promotion services designed to encourage individual and community wellness;	51362 51363
<u>(G) Annual completion of two continuing education units by each member of a board of health.</u>	51364 51365
The director shall adopt rules establishing a formula for distribution of state health district subsidy funds to boards of health and local health departments. The formula shall provide no subsidy funds to a board or department unless it meets minimum standards and shall provide higher funding levels for boards and districts that meet optimum achievable standards.	51366 51367 51368 51369 51370 51371
Notwithstanding section 119.03 of the Revised Code, rules adopted under this section shall not take effect unless approved by concurrent resolution of the general assembly.	51372 51373 51374
Sec. 3701.344. As used in this section and sections 3701.345, 3701.346, and 3701.347 of the Revised Code:	51375 51376
(A) "Private water system" means any water system for the provision of water for human consumption, if such system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days out of the year. A private water system includes any well, spring, cistern, pond, or hauled water and any equipment for the	51377 51378 51379 51380 51381 51382

collection, transportation, filtration, disinfection, treatment, 51383
or storage of such water extending from and including the source 51384
of the water to the point of discharge from any pressure tank or 51385
other storage vessel; to the point of discharge from the water 51386
pump where no pressure tank or other storage vessel is present; 51387
or, in the case of multiple service connections serving more than 51388
one dwelling, to the point of discharge from each service 51389
connection. "Private water system" does not include the water 51390
service line extending from the point of discharge to a structure. 51391

(B) Notwithstanding section 3701.347 of the Revised Code and 51392
subject to division (C) of this section, rules adopted by the 51393
director of health regarding private water systems shall provide 51394
for the following: 51395

(1) Except as otherwise provided in this division, boards of 51396
health of city or general health districts shall be given the 51397
exclusive power to establish fees in accordance with section 51398
3709.09 of the Revised Code for administering and enforcing such 51399
rules. Such fees shall establish a different rate for 51400
administering and enforcing the rules relative to private water 51401
systems serving single-family dwelling houses and nonsingle-family 51402
dwelling houses. Except for an amount established by the director, 51403
pursuant to division (B)(5) of this section, for each new private 51404
water system installation, no portion of any fee for administering 51405
and enforcing such rules shall be returned to the department of 51406
health. If the director of health determines that a board of 51407
health of a city or general health district is unable to 51408
administer and enforce a private water system program in the 51409
district, the director shall administer and enforce such a program 51410
in the district and establish fees for such administration and 51411
enforcement. 51412

(2) Boards of health of city or general health districts 51413
shall be given the exclusive power to determine the number of 51414

inspections necessary for determining the safe drinking 51415
characteristics of a private water system. 51416

(3) Private water systems contractors, as a condition of 51417
doing business in this state, shall annually register with, and 51418
comply with surety bonding requirements of, the department of 51419
health. No such contractor shall be permitted to register if the 51420
contractor fails to comply with all applicable rules adopted by 51421
the director and the board of health of the city or general health 51422
district. The annual registration fee for private water systems 51423
contractors shall be sixty-five dollars. The director, by rule 51424
adopted in accordance with Chapter 119. of the Revised Code, may 51425
increase the annual registration fee. 51426

(4) Subject to rules adopted by the director, boards of 51427
health of city or general health districts shall have the option 51428
of determining whether bacteriological examinations shall be 51429
performed at approved laboratories of the state or at approved 51430
private laboratories. 51431

(5) The director may establish fees for each new private 51432
water system installation, which shall be collected by the 51433
appropriate board of health and transmitted to the director 51434
pursuant to section 3709.092 of the Revised Code. 51435

(6) All fees received by the director of health under 51436
divisions (B)(1), (3), and (5) of this section shall be deposited 51437
in the state treasury to the credit of the general operations fund 51438
created in section 3701.83 of the Revised Code for use in the 51439
administration and enforcement of sections 3701.344 to 3701.347 of 51440
the Revised Code and the rules pertaining to private water systems 51441
adopted under those sections. 51442

(C) To the extent that rules adopted under division (B) of 51443
this section require health districts to follow specific 51444
procedures or use prescribed forms, no such procedure or form 51445

shall be implemented until it is approved by majority vote of an approval board of health commissioners, hereby created. Members of the board shall be the officers of the association of Ohio health commissioners, or any successor organization, and membership on the board shall be coterminous with holding an office of the association. No health district is required to follow a procedure or use a form required by a rule adopted under division (B) of this section without the approval of the board.

(D) A board of health shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

(E) A water system that does not provide water for human consumption shall not be required to obtain a permit or license issued under, pay any fees assessed or levied under, or comply with any rule adopted under sections 3701.34 to 3701.347 of the Revised Code.

Sec. 3701.507. (A) To assist in implementing sections 3701.503 to 3701.509 of the Revised Code, the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code shall appoint a permanent infant hearing screening subcommittee. The subcommittee shall consist of the following members:

- (1) One otolaryngologist;
- (2) One neonatologist;
- (3) One pediatrician;
- (4) One neurologist;
- (5) One hospital administrator;
- (6) Two or more audiologists who are experienced in infant

hearing screening and evaluation;	51476
(7) One speech-language pathologist licensed under section 4753.07 of the Revised Code;	51477 51478
(8) Two persons who are each a parent of a hearing-impaired child;	51479 51480
(9) One geneticist;	51481
(10) One epidemiologist;	51482
(11) One adult who is deaf or hearing impaired;	51483
(12) One representative from an organization for the deaf or hearing impaired;	51484 51485
(13) One family advocate;	51486
(14) One nurse from a well-baby neonatal nursery;	51487
(15) One nurse from a special care neonatal nursery;	51488
(16) One teacher of the deaf who works with infants and toddlers;	51489 51490
(17) One representative of the health insurance industry;	51491
(18) One representative of the bureau for children with medical handicaps;	51492 51493
(19) One representative of the department of education;	51494
(20) One representative of the Ohio department of job and family services who has responsibilities regarding medicaid;	51495 51496
(21) Any other person the advisory council appoints.	51497
(B) The infant hearing subcommittee shall:	51498
(1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code;	51499 51500 51501
(2) Advise and make recommendations regarding proposed rules	51502

prior to their adoption by the director under section 3701.508 of the Revised Code; 51503
51504

(3) Consult with the director of health and advise and make recommendations regarding program development and implementation under sections 3701.503 to 3701.509 of the Revised Code, including all of the following: 51505
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51507
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(a) Establishment under section 3701.504 of the Revised Code of the statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment; 51509
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(b) Identification of locations where hearing evaluations may be conducted; 51513
51514

(c) Recommendations for methods and techniques of hearing screening and hearing evaluation; 51515
51516

(d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care; 51517
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(e) Maintenance of a register of newborns and infants who do not pass the hearing screening; 51519
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(f) Preparation of the information required by section 3701.506 of the Revised Code. 51521
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Sec. 3701.5010. (A) As used in this section: 51523

(1) "Critical congenital heart defects screening" means the identification of a newborn that may have a critical congenital heart defect, through the use of a physiologic test; 51524
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(2) "Freestanding birthing center" has the same meaning as in section 3702.141 of the Revised Code; 51527
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(3) "Hospital," "maternity unit," "newborn," and "physician" have the same meanings as in section 3701.503 of the Revised Code. 51529
51530

(B) Except as provided in division (C) of this section, each 51531

hospital and each freestanding birthing center shall conduct a 51532
critical congenital heart defects screening on each newborn born 51533
in the hospital or center, unless the newborn is being transferred 51534
to another hospital. The screening shall be performed after the 51535
newborn reaches twenty-four hours of age but before discharge. If 51536
the newborn is transferred to another hospital, that hospital 51537
shall conduct the screening when determined to be medically 51538
appropriate. 51539

The hospital or center shall promptly notify the newborn's 51540
parent, guardian, or custodian and attending physician of the 51541
screening results. The hospital or center shall notify the 51542
department of health of the screening results for each newborn 51543
screened. 51544

(C) A hospital or freestanding birthing center shall not 51545
conduct a critical congenital heart defects screening if the 51546
newborn's parent objects on the grounds that the screening 51547
conflicts with the parent's religious tenets and practices. 51548

(D) The director of health shall establish and maintain a 51549
statewide tracking and monitoring system to ensure that universal 51550
critical congenital heart defects screening is implemented. 51551

(E) The director shall adopt rules in accordance with Chapter 51552
119. of the Revised Code establishing standards and procedures for 51553
the screening required by this section, including all of the 51554
following: 51555

(1) Identifying the critical congenital heart defects to be 51556
included in the screening; 51557

(2) Specifying equipment to be used for and methods of 51558
screening for critical congenital heart defects; 51559

(3) Designating the person or persons who will be responsible 51560
for causing screenings and rescreenings to be performed; 51561

(4) Providing notice to the newborn's parent, guardian, or custodian of the required initial screening and the possibility that rescreenings may be necessary; 51562
51563
51564

(5) Communicating to the newborn's parent, guardian, or custodian and attending physician the results of the screening and any rescreenings; 51565
51566
51567

(6) Causing rescreenings to be performed when initial screenings have abnormal results; 51568
51569

(7) Referring newborns who receive abnormal screening or rescreening results to providers of follow-up services. 51570
51571

Sec. 3701.541. As used in this section, "board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code. 51572
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Any state funds or funds from the federal government distributed by the department of health to a board of health or a city or general health district shall be distributed directly to the board or district. The department shall not distribute any such funds on a regional basis. 51576
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Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code: 51581
51582

(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. 51583
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"Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or 51590
51591

group practice.	51592
(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.	51593 51594
(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.	51595 51596 51597
(4) "Health care practitioner" means all of the following:	51598
(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	51599 51600
(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	51601 51602
(c) An optometrist licensed under Chapter 4725. of the Revised Code;	51603 51604
(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;	51605 51606 51607 51608
(e) A pharmacist licensed under Chapter 4729. of the Revised Code;	51609 51610
(f) A physician;	51611
(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	51612 51613
(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;	51614 51615
(i) A psychologist licensed under Chapter 4732. of the Revised Code;	51616 51617
(j) A chiropractor;	51618
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	51619 51620

(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	51621 51622
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	51623 51624
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	51625 51626
(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	51627 51628 51629 51630
(p) A dietitian licensed under Chapter 4759. of the Revised Code;	51631 51632
(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	51633 51634
(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	51635 51636 51637
(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	51638 51639 51640
(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	51641 51642
(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.22 <u>5119.34</u> of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility or intermediate care facility for the mentally retarded , as those terms are defined in section 5111.20 <u>5165.01</u> of the Revised Code;	51643 51644 51645 51646 51647 51648 51649 51650

~~a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for the mentally retarded, as defined in section 5124.01 of the Revised Code.~~

(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.

(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.

(10) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.

(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751.

of the Revised Code, or any other person not named in this 51682
division. 51683

(12) "Pharmacy" has the same meaning as in section 4729.01 of 51684
the Revised Code. 51685

(13) "Physician" means a person authorized under Chapter 51686
4731. of the Revised Code to practice medicine and surgery, 51687
osteopathic medicine and surgery, or podiatric medicine and 51688
surgery. 51689

(14) "Authorized person" means a person to whom a patient has 51690
given written authorization to act on the patient's behalf 51691
regarding the patient's medical record. 51692

(B) A patient, a patient's personal representative or an 51693
authorized person who wishes to examine or obtain a copy of part 51694
or all of a medical record shall submit to the health care 51695
provider a written request signed by the patient, personal 51696
representative, or authorized person dated not more than one year 51697
before the date on which it is submitted. The request shall 51698
indicate whether the copy is to be sent to the requestor, 51699
physician or chiropractor, or held for the requestor at the office 51700
of the health care provider. Within a reasonable time after 51701
receiving a request that meets the requirements of this division 51702
and includes sufficient information to identify the record 51703
requested, a health care provider that has the patient's medical 51704
records shall permit the patient to examine the record during 51705
regular business hours without charge or, on request, shall 51706
provide a copy of the record in accordance with section 3701.741 51707
of the Revised Code, except that if a physician or chiropractor 51708
who has treated the patient determines for clearly stated 51709
treatment reasons that disclosure of the requested record is 51710
likely to have an adverse effect on the patient, the health care 51711
provider shall provide the record to a physician or chiropractor 51712
designated by the patient. The health care provider shall take 51713

reasonable steps to establish the identity of the person making 51714
the request to examine or obtain a copy of the patient's record. 51715

(C) If a health care provider fails to furnish a medical 51716
record as required by division (B) of this section, the patient, 51717
personal representative, or authorized person who requested the 51718
record may bring a civil action to enforce the patient's right of 51719
access to the record. 51720

(D)(1) This section does not apply to medical records whose 51721
release is covered by section 173.20 or 3721.13 of the Revised 51722
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 51723
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 51724
Records," or by 42 C.F.R. 483.10. 51725

(2) Nothing in this section is intended to supersede the 51726
confidentiality provisions of sections 2305.24, 2305.25, 2305.251, 51727
and 2305.252 of the Revised Code. 51728

Sec. 3701.741. (A) Each health care provider and medical 51729
records company shall provide copies of medical records in 51730
accordance with this section. 51731

(B) Except as provided in divisions (C) and (E) of this 51732
section, a health care provider or medical records company that 51733
receives a request for a copy of a patient's medical record shall 51734
charge not more than the amounts set forth in this section. 51735

(1) If the request is made by the patient or the patient's 51736
personal representative, total costs for copies and all services 51737
related to those copies shall not exceed the sum of the following: 51738

(a) Except as provided in division (B)(1)(b) of this section, 51739
with respect to data recorded on paper or electronically, the 51740
following amounts adjusted in accordance with section 3701.742 of 51741
the Revised Code: 51742

(i) Two dollars and seventy-four cents per page for the first 51743

ten pages; 51744

(ii) Fifty-seven cents per page for pages eleven through 51745
fifty; 51746

(iii) Twenty-three cents per page for pages fifty-one and 51747
higher; 51748

(b) With respect to data resulting from an x-ray, magnetic 51749
resonance imaging (MRI), or computed axial tomography (CAT) scan 51750
and recorded on paper or film, one dollar and eighty-seven cents 51751
per page; 51752

(c) The actual cost of any related postage incurred by the 51753
health care provider or medical records company. 51754

(2) If the request is made other than by the patient or the 51755
patient's personal representative, total costs for copies and all 51756
services related to those copies shall not exceed the sum of the 51757
following: 51758

(a) An initial fee of sixteen dollars and eighty-four cents 51759
adjusted in accordance with section 3701.742 of the Revised Code, 51760
which shall compensate for the records search; 51761

(b) Except as provided in division (B)(2)(c) of this section, 51762
with respect to data recorded on paper or electronically, the 51763
following amounts adjusted in accordance with section 3701.742 of 51764
the Revised Code: 51765

(i) One dollar and eleven cents per page for the first ten 51766
pages; 51767

(ii) Fifty-seven cents per page for pages eleven through 51768
fifty; 51769

(iii) Twenty-three cents per page for pages fifty-one and 51770
higher. 51771

(c) With respect to data resulting from an x-ray, magnetic 51772
resonance imaging (MRI), or computed axial tomography (CAT) scan 51773

and recorded on paper or film, one dollar and eighty-seven cents 51774
per page; 51775

(d) The actual cost of any related postage incurred by the 51776
health care provider or medical records company. 51777

(C)(1) On request, a health care provider or medical records 51778
company shall provide one copy of the patient's medical record and 51779
one copy of any records regarding treatment performed subsequent 51780
to the original request, not including copies of records already 51781
provided, without charge to the following: 51782

(a) The bureau of workers' compensation, in accordance with 51783
Chapters 4121. and 4123. of the Revised Code and the rules adopted 51784
under those chapters; 51785

(b) The industrial commission, in accordance with Chapters 51786
4121. and 4123. of the Revised Code and the rules adopted under 51787
those chapters; 51788

(c) The department of ~~job and family services~~ medicaid or a 51789
county department of job and family services, in accordance with 51790
Chapters ~~5101.~~ 5160., 5161., 5162., 5163., 5164., 5165., 5166., 51791
and ~~5111.~~ 5167. of the Revised Code and the rules adopted under 51792
those chapters; 51793

(d) The attorney general, in accordance with sections 2743.51 51794
to 2743.72 of the Revised Code and any rules that may be adopted 51795
under those sections; 51796

(e) A patient, patient's personal representative, or 51797
authorized person if the medical record is necessary to support a 51798
claim under Title II or Title XVI of the "Social Security Act," 49 51799
Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, and the 51800
request is accompanied by documentation that a claim has been 51801
filed. 51802

(2) Nothing in division (C)(1) of this section requires a 51803

health care provider or medical records company to provide a copy 51804
without charge to any person or entity not listed in division 51805
(C)(1) of this section. 51806

(D) Division (C) of this section shall not be construed to 51807
supersede any rule of the bureau of workers' compensation, the 51808
industrial commission, or the department of ~~job and family~~ 51809
~~services~~ medicaid. 51810

(E) A health care provider or medical records company may 51811
enter into a contract with either of the following for the copying 51812
of medical records at a fee other than as provided in division (B) 51813
of this section: 51814

(1) A patient, a patient's personal representative, or an 51815
authorized person; 51816

(2) An insurer authorized under Title XXXIX of the Revised 51817
Code to do the business of sickness and accident insurance in this 51818
state or health insuring corporations holding a certificate of 51819
authority under Chapter 1751. of the Revised Code. 51820

(F) This section does not apply to medical records the 51821
copying of which is covered by section 173.20 of the Revised Code 51822
or by 42 C.F.R. 483.10. 51823

Sec. 3701.742. ~~Not later than January 31, 2006, the~~ The 51824
amounts specified in division (B) of section 3701.741 of the 51825
Revised Code ~~and, not later than the first day of January of each~~ 51826
~~year thereafter,~~ shall be adjusted annually in accordance with 51827
this section. These amounts plus any amounts previously computed 51828
by annual adjustments made under this section, shall be increased 51829
or decreased by the average percentage of increase or decrease in 51830
the consumer price index for all urban consumers (United States 51831
city average, all items), prepared by the United States department 51832
of labor, bureau of labor statistics, for the 51833

~~twelve calendar month period prior to the immediately preceding~~ 51834
~~first day of January calendar year over the calendar year~~ 51835
immediately preceding ~~twelve calendar month period~~ that year, as 51836
reported by the bureau. The director of health shall make this 51837
determination and adjust the amounts accordingly. The director 51838
shall ~~provide a list of the adjusted amounts to any party upon~~ 51839
~~request and the department of health shall make the~~ a list of the 51840
adjusted amounts available to the public on ~~its~~ the internet web 51841
site maintained by the department of health. 51842

Sec. 3701.78. (A) There is hereby created the commission on 51843
minority health, consisting of twenty-one members. The governor 51844
shall appoint to the commission nine members from among health 51845
researchers, health planners, and health professionals. The 51846
governor also shall appoint two members who are representatives of 51847
the lupus awareness and education program. The speaker of the 51848
house of representatives shall appoint to the commission two 51849
members of the house of representatives, not more than one of whom 51850
is a member of the same political party, and the president of the 51851
senate shall appoint to the commission two members of the senate, 51852
not more than one of whom is a member of the same political party. 51853
The following shall be members of the commission: the directors of 51854
health, ~~mental health~~ mental health and addiction services, 51855
developmental disabilities, ~~alcohol and drug addiction services,~~ 51856
and job and family services, or their designees; the medicaid 51857
director, or the director's designee; and the superintendent of 51858
public instruction, or the superintendent's designee, ~~shall be~~ 51859
~~members of the commission. The~~ 51860

The commission shall elect a chairperson from among its 51861
members. ~~Of~~ 51862

Of the members appointed by the governor, five shall be 51863
appointed to initial terms of one year, and four shall be 51864

appointed to initial terms of two years. Thereafter, all members 51865
appointed by the governor shall be appointed to terms of two 51866
years. All members of the commission appointed by the speaker of 51867
the house of representatives or the president of the senate shall 51868
be nonvoting members of the commission and be appointed within 51869
thirty days after the commencement of the first regular session of 51870
each general assembly, and shall serve until the expiration of the 51871
session of the general assembly during which they were appointed. 51872
~~Members~~ 51873

Members of the commission shall serve without compensation, 51874
but shall be reimbursed for the actual and necessary expenses they 51875
incur in the performance of their official duties. 51876

(B) The commission shall promote health and the prevention of 51877
disease among members of minority groups. Each year the commission 51878
shall distribute grants from available funds to community-based 51879
health groups to be used to promote health and the prevention of 51880
disease among members of minority groups. As used in this 51881
division, "minority group" means any of the following economically 51882
disadvantaged groups: Blacks, American Indians, Hispanics, and 51883
Orientals. The commission shall adopt and maintain rules pursuant 51884
to Chapter 119. of the Revised Code to provide for the 51885
distribution of these grants. No group shall qualify to receive a 51886
grant from the commission unless it receives at least twenty per 51887
cent of its funds from sources other than grants distributed under 51888
this section. 51889

(C) The commission may appoint such employees as it considers 51890
necessary to carry out its duties under this section. The 51891
department of health shall provide office space for the 51892
commission. 51893

(D) The commission shall meet at the call of its chairperson 51894
to conduct its official business. A majority of the voting members 51895
of the commission constitute a quorum. The votes of at least eight 51896

voting members of the commission are necessary for the commission 51897
to take any official action or to approve the distribution of 51898
grants under this section. 51899

Sec. 3701.83. (A) There is hereby created in the state 51900
treasury the general operations fund. Moneys in the fund shall be 51901
used for the purposes specified in sections 3701.04, 3701.344, 51902
3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, 3721.022, 51903
3729.07, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 51904
3749.04, 3749.07, 4747.04, ~~4751.04~~, and 4769.09 of the Revised 51905
Code. 51906

(B) The alcohol testing program fund is hereby created in the 51907
state treasury. The director of health shall use the fund to 51908
administer and enforce the alcohol testing and permit program 51909
authorized by section 3701.143 of the Revised Code. 51910

The fund shall receive transfers from the liquor control fund 51911
created under section 4301.12 of the Revised Code. All investment 51912
earnings of the alcohol testing program fund shall be credited to 51913
the fund. 51914

Sec. 3701.881. (A) As used in this section: 51915

(1) "Applicant" means a person who is under final 51916
consideration for employment with a home health agency in a 51917
full-time, part-time, or temporary position that involves 51918
providing direct care to an individual or is referred to a home 51919
health agency by an employment service for such a position. 51920

(2) "Community-based long-term care agency provider" ~~has the~~ 51921
~~same meaning~~ means a provider as defined in section 173.39 of the 51922
Revised Code. 51923

(3) "Community-based long-term care subcontractor" means a 51924
subcontractor as defined in section 173.38 of the Revised Code. 51925

<u>(4)</u> "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	51926 51927
(4) <u>(5)</u> "Direct care" means any of the following:	51928
(a) Any service identified in divisions (A) (7) <u>(8)</u> (a) to (f) of this section that is provided in a patient's place of residence used as the patient's home;	51929 51930 51931
(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;	51932 51933 51934 51935
(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.	51936 51937 51938
(5) <u>(6)</u> "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.	51939 51940 51941
(6) <u>(7)</u> "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.	51942 51943 51944 51945 51946
(7) <u>(8)</u> "Home health agency" means a person or government entity, other than a nursing home, residential care facility, hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:	51947 51948 51949 51950 51951
(a) Skilled nursing care;	51952
(b) Physical therapy;	51953
(c) Speech-language pathology;	51954
(d) Occupational therapy;	51955

(e) Medical social services;	51956
(f) Home health aide services.	51957
(8) <u>(9)</u> "Home health aide services" means any of the following services provided by an employee of a home health agency:	51958 51959
(a) Hands-on bathing or assistance with a tub bath or shower;	51960
(b) Assistance with dressing, ambulation, and toileting;	51961
(c) Catheter care but not insertion;	51962
(d) Meal preparation and feeding.	51963
(9) <u>(10)</u> "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	51964 51965 51966
(10) <u>(11)</u> "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	51967 51968 51969
(11) <u>(12)</u> "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	51970 51971
(12) <u>(13)</u> "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	51972 51973 51974
(13) <u>(14)</u> "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.	51975 51976
(14) <u>(15)</u> "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.	51977 51978
(15) <u>(16)</u> "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	51979 51980 51981
(16) <u>(17)</u> "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.	51982 51983

~~(17)~~(18) "Waiver agency" has the same meaning as in section 51984
~~5111.033~~ 5164.342 of the Revised Code. 51985

(B) No home health agency shall employ an applicant or 51986
continue to employ an employee in a position that involves 51987
providing direct care to an individual if any of the following 51988
apply: 51989

(1) A review of the databases listed in division (D) of this 51990
section reveals any of the following: 51991

(a) That the applicant or employee is included in one or more 51992
of the databases listed in divisions (D)(1) to (5) of this 51993
section; 51994

(b) That there is in the state nurse aide registry 51995
established under section 3721.32 of the Revised Code a statement 51996
detailing findings by the director of health that the applicant or 51997
employee neglected or abused a long-term care facility or 51998
residential care facility resident or misappropriated property of 51999
such a resident; 52000

(c) That the applicant or employee is included in one or more 52001
of the databases, if any, specified in rules adopted under this 52002
section and the rules prohibit the home health agency from 52003
employing an applicant or continuing to employ an employee 52004
included in such a database in a position that involves providing 52005
direct care to an individual. 52006

(2) After the applicant or employee is provided, pursuant to 52007
division (E)(2)(a) of this section, a copy of the form prescribed 52008
pursuant to division (C)(1) of section 109.572 of the Revised Code 52009
and the standard impression sheet prescribed pursuant to division 52010
(C)(2) of that section, the applicant or employee fails to 52011
complete the form or provide the applicant's or employee's 52012
fingerprint impressions on the standard impression sheet. 52013

(3) Except as provided in rules adopted under this section, 52014

the applicant or employee is found by a criminal records check 52015
required by this section to have been convicted of, pleaded guilty 52016
to, or been found eligible for intervention in lieu of conviction 52017
for a disqualifying offense. 52018

(C) Except as provided by division (F) of this section, the 52019
chief administrator of a home health agency shall inform each 52020
applicant of both of the following at the time of the applicant's 52021
initial application for employment or referral to the home health 52022
agency by an employment service for a position that involves 52023
providing direct care to an individual: 52024

(1) That a review of the databases listed in division (D) of 52025
this section will be conducted to determine whether the home 52026
health agency is prohibited by division (B)(1) of this section 52027
from employing the applicant in the position; 52028

(2) That, unless the database review reveals that the 52029
applicant may not be employed in the position, a criminal records 52030
check of the applicant will be conducted and the applicant is 52031
required to provide a set of the applicant's fingerprint 52032
impressions as part of the criminal records check. 52033

(D) As a condition of employing any applicant in a position 52034
that involves providing direct care to an individual, the chief 52035
administrator of a home health agency shall conduct a database 52036
review of the applicant in accordance with rules adopted under 52037
this section. If rules adopted under this section so require, the 52038
chief administrator of a home health agency shall conduct a 52039
database review of an employee in accordance with the rules as a 52040
condition of continuing to employ the employee in a position that 52041
involves providing direct care to an individual. However, the 52042
chief administrator is not required to conduct a database review 52043
of an applicant or employee if division (F) of this section 52044
applies. A database review shall determine whether the applicant 52045
or employee is included in any of the following: 52046

- (1) The excluded parties list system that is maintained by 52047
the United States general services administration pursuant to 52048
subpart 9.4 of the federal acquisition regulation and available at 52049
the federal web site known as the system for award management; 52050
- (2) The list of excluded individuals and entities maintained 52051
by the office of inspector general in the United States department 52052
of health and human services pursuant to ~~section 1128~~ of the 52053
"Social Security Act," ~~94 Stat. 2619 (1980)~~ sections 1128 and 52054
1156, 42 U.S.C. 1320a-7, ~~as amended, and section 1156~~ of the 52055
~~"Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. and 1320c-5,~~ 52056
~~as amended;~~ 52057
- (3) The registry of MR/DD employees established under section 52058
5123.52 of the Revised Code; 52059
- (4) The internet-based sex offender and child-victim offender 52060
database established under division (A)(11) of section 2950.13 of 52061
the Revised Code; 52062
- (5) The internet-based database of inmates established under 52063
section 5120.66 of the Revised Code; 52064
- (6) The state nurse aide registry established under section 52065
3721.32 of the Revised Code; 52066
- (7) Any other database, if any, specified in rules adopted 52067
under this section. 52068
- (E)(1) As a condition of employing any applicant in a 52069
position that involves providing direct care to an individual, the 52070
chief administrator of a home health agency shall request the 52071
superintendent of the bureau of criminal identification and 52072
investigation to conduct a criminal records check of the 52073
applicant. If rules adopted under this section so require, the 52074
chief administrator of a home health agency shall request the 52075
superintendent to conduct a criminal records check of an employee 52076
at times specified in the rules as a condition of continuing to 52077

employ the employee in a position that involves providing direct 52078
care to an individual. However, the chief administrator is not 52079
required to request the criminal records check of the applicant or 52080
the employee if division (F) of this section applies or the home 52081
health agency is prohibited by division (B)(1) of this section 52082
from employing the applicant or continuing to employ the employee 52083
in a position that involves providing direct care to an 52084
individual. If an applicant or employee for whom a criminal 52085
records check request is required by this section does not present 52086
proof of having been a resident of this state for the five-year 52087
period immediately prior to the date upon which the criminal 52088
records check is requested or does not provide evidence that 52089
within that five-year period the superintendent has requested 52090
information about the applicant from the federal bureau of 52091
investigation in a criminal records check, the chief administrator 52092
shall request that the superintendent obtain information from the 52093
federal bureau of investigation as a part of the criminal records 52094
check. Even if an applicant or employee for whom a criminal 52095
records check request is required by this section presents proof 52096
that the applicant or employee has been a resident of this state 52097
for that five-year period, the chief administrator may request 52098
that the superintendent include information from the federal 52099
bureau of investigation in the criminal records check. 52100

(2) The chief administrator shall do all of the following: 52101

(a) Provide to each applicant and employee for whom a 52102
criminal records check request is required by this section a copy 52103
of the form prescribed pursuant to division (C)(1) of section 52104
109.572 of the Revised Code and a standard impression sheet 52105
prescribed pursuant to division (C)(2) of that section; 52106

(b) Obtain the completed form and standard impression sheet 52107
from each applicant and employee; 52108

(c) Forward the completed form and standard impression sheet 52109

to the superintendent at the time the chief administrator requests 52110
the criminal records check. 52111

(3) A home health agency shall pay to the bureau of criminal 52112
identification and investigation the fee prescribed pursuant to 52113
division (C)(3) of section 109.572 of the Revised Code for each 52114
criminal records check the agency requests under this section. A 52115
home health agency may charge an applicant a fee not exceeding the 52116
amount the agency pays to the bureau under this section if both of 52117
the following apply: 52118

(a) The home health agency notifies the applicant at the time 52119
of initial application for employment of the amount of the fee and 52120
that, unless the fee is paid, the applicant will not be considered 52121
for employment. 52122

(b) The medicaid program ~~established under Chapter 5111. of~~ 52123
~~the Revised Code~~ does not reimburse the home health agency for the 52124
fee it pays to the bureau under this section. 52125

(F) Divisions (C) to (E) of this section do not apply with 52126
regard to an applicant or employee if the applicant or employee is 52127
referred to a home health agency by an employment service that 52128
supplies full-time, part-time, or temporary staff for positions 52129
that involve providing direct care to an individual and both of 52130
the following apply: 52131

(1) The chief administrator of the home health agency 52132
receives from the employment service confirmation that a review of 52133
the databases listed in division (D) of this section was conducted 52134
with regard to the applicant or employee. 52135

(2) The chief administrator of the home health agency 52136
receives from the employment service, applicant, or employee a 52137
report of the results of a criminal records check of the applicant 52138
or employee that has been conducted by the superintendent within 52139
the one-year period immediately preceding the following: 52140

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the home health agency; 52141
52142

(b) In the case of an employee, the date by which the home health agency would otherwise have to request a criminal records check of the employee under division (E) of this section. 52143
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(G)(1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required by this section before obtaining the results of the criminal records check if the agency is not prohibited by division (B) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies: 52146
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(a) The chief administrator of the home health agency requests the criminal records check in accordance with division (E) of this section not later than five business days after the applicant begins conditional employment. 52153
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(b) The applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following: 52157
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(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant; 52163
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(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense; 52166
52167
52168
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(iii) That the employment service has not received the results of the criminal records check as of the date set forth on 52170
52171

the letter; 52172

(iv) That the employment service promptly will send a copy of 52173
the results of the criminal records check to the chief 52174
administrator of the home health agency when the employment 52175
service receives the results. 52176

(2) If a home health agency employs an applicant 52177
conditionally pursuant to division (G)(1)(b) of this section, the 52178
employment service, on its receipt of the results of the criminal 52179
records check, promptly shall send a copy of the results to the 52180
chief administrator of the agency. 52181

(3) A home health agency that employs an applicant 52182
conditionally pursuant to division (G)(1)(a) or (b) of this 52183
section shall terminate the applicant's employment if the results 52184
of the criminal records check, other than the results of any 52185
request for information from the federal bureau of investigation, 52186
are not obtained within the period ending sixty days after the 52187
date the request for the criminal records check is made. 52188
Regardless of when the results of the criminal records check are 52189
obtained, if the results indicate that the applicant has been 52190
convicted of, pleaded guilty to, or been found eligible for 52191
intervention in lieu of conviction for a disqualifying offense, 52192
the home health agency shall terminate the applicant's employment 52193
unless circumstances specified in rules adopted under this section 52194
that permit the agency to employ the applicant exist and the 52195
agency chooses to employ the applicant. Termination of employment 52196
under this division shall be considered just cause for discharge 52197
for purposes of division (D)(2) of section 4141.29 of the Revised 52198
Code if the applicant makes any attempt to deceive the home health 52199
agency about the applicant's criminal record. 52200

(H) The report of any criminal records check conducted by the 52201
bureau of criminal identification and investigation in accordance 52202
with section 109.572 of the Revised Code and pursuant to a request 52203

made under this section is not a public record for the purposes of 52204
section 149.43 of the Revised Code and shall not be made available 52205
to any person other than the following: 52206

(1) The applicant or employee who is the subject of the 52207
criminal records check or the applicant's or employee's 52208
representative; 52209

(2) The home health agency requesting the criminal records 52210
check or its representative; 52211

(3) The administrator of any other facility, agency, or 52212
program that provides direct care to individuals that is owned or 52213
operated by the same entity that owns or operates the home health 52214
agency that requested the criminal records check; 52215

(4) The employment service that requested the criminal 52216
records check; 52217

(5) The director of health and the staff of the department of 52218
health who monitor a home health agency's compliance with this 52219
section; 52220

(6) The director of aging or the director's designee if 52221
either of the following apply: 52222

(a) In the case of a criminal records check requested by a 52223
home health agency, the home health agency also is a 52224
community-based long-term care ~~agency~~ provider or community-based 52225
long-term care subcontractor; 52226

(b) In the case of a criminal records check requested by an 52227
employment service, the employment service makes the request for 52228
an applicant or employee the employment service refers to a home 52229
health agency that also is a community-based long-term care ~~agency~~ 52230
provider or community-based long-term care subcontractor. 52231

(7) The medicaid director ~~of job and family services~~ and the 52232
staff of the department of ~~job and family services~~ medicaid who 52233

are involved in the administration of the medicaid program if 52234
either of the following apply: 52235

(a) In the case of a criminal records check requested by a 52236
home health agency, the home health agency also is a waiver 52237
agency; 52238

(b) In the case of a criminal records check requested by an 52239
employment service, the employment service makes the request for 52240
an applicant or employee the employment service refers to a home 52241
health agency that also is a waiver agency. 52242

(8) Any court, hearing officer, or other necessary individual 52243
involved in a case dealing with any of the following: 52244

(a) A denial of employment of the applicant or employee; 52245

(b) Employment or unemployment benefits of the applicant or 52246
employee; 52247

(c) A civil or criminal action regarding the medicaid 52248
program. 52249

(I) In a tort or other civil action for damages that is 52250
brought as the result of an injury, death, or loss to person or 52251
property caused by an applicant or employee who a home health 52252
agency employs in a position that involves providing direct care 52253
to an individual, all of the following shall apply: 52254

(1) If the home health agency employed the applicant or 52255
employee in good faith and reasonable reliance on the report of a 52256
criminal records check requested under this section, the agency 52257
shall not be found negligent solely because of its reliance on the 52258
report, even if the information in the report is determined later 52259
to have been incomplete or inaccurate. 52260

(2) If the home health agency employed the applicant in good 52261
faith on a conditional basis pursuant to division (G) of this 52262
section, the agency shall not be found negligent solely because it 52263

employed the applicant prior to receiving the report of a criminal records check requested under this section. 52264
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(3) If the home health agency in good faith employed the applicant or employee according to the personal character standards established in rules adopted under this section, the agency shall not be found negligent solely because the applicant or employee had been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. 52266
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(J) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. 52273
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(1) The rules may do the following: 52275

(a) Require employees to undergo database reviews and criminal records checks under this section; 52276
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(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements; 52278
52279
52280

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section. 52281
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52283

(2) The rules shall specify all of the following: 52284

(a) The procedures for conducting database reviews under this section; 52285
52286

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted; 52287
52288
52289
52290

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a home health agency is prohibited from employing an applicant or 52291
52292
52293

continuing to employ an employee who is found by a database review 52294
to be included in one or more of those databases; 52295

(d) Circumstances under which a home health agency may employ 52296
an applicant or employee who is found by a criminal records check 52297
required by this section to have been convicted of, pleaded guilty 52298
to, or been found eligible for intervention in lieu of conviction 52299
for a disqualifying offense but meets personal character 52300
standards. 52301

Sec. 3701.921. There is hereby established the patient 52302
centered medical home education program in the department of 52303
health. For the purpose of advancing education in the patient 52304
centered medical home model of care, the director of health may 52305
implement and administer the program pursuant to sections 3701.922 52306
to 3701.929 of the Revised Code. The patient centered medical home 52307
model of care is an enhanced model of primary care in which care 52308
teams attend to the multifaceted needs of patients, providing 52309
whole person comprehensive and coordinate patient centered care. 52310

To the extent that funds are available, the program shall 52311
include the patient centered medical home education pilot project 52312
and may include any other ~~pilot~~ projects the director establishes 52313
pursuant to division (A)(3) of section 3701.922 of the Revised 52314
Code. 52315

Sec. 3701.922. (A) The director of health may do any of the 52316
following to implement and administer the patient centered medical 52317
home education program: 52318

(1) Develop and implement programs of education or training 52319
on the patient centered medical home model of care or other 52320
similar enhanced models of coordinated patient centered care that 52321
are intended to address the multifaceted needs of patients and 52322
provide whole person comprehensive and coordinated patient 52323

centered care; 52324

(2) Advise, consult, cooperate with, and assist, by contract 52325
or other arrangement, government agencies or institutions or 52326
private organizations, corporations, or associations in the 52327
development and promotion of programs pertaining to the evaluation 52328
and implementation of the patient centered medical home model of 52329
care or other similar enhanced models of coordinated patient 52330
centered care; 52331

(3) Establish ~~pilot~~ projects that ~~do any of the following:~~ 52332

~~(a) Evaluate or implement the patient centered medical home 52333
model of care or other similar enhanced models of coordinated 52334
patient centered care;~~ 52335

~~(b) Provide~~ provide education or training on the patient 52336
centered medical home model of care or other similar enhanced 52337
models of coordinated patient centered care. 52338

(4) Seek and administer state funds or grants from other 52339
sources to carry out any functions of the patient centered medical 52340
home education program. 52341

Any funds or grants received by the director for purposes of 52342
the program shall be used for the program. 52343

(B) The director may adopt rules as necessary to implement 52344
and administer the patient centered medical home education 52345
program, including rules that define what constitutes a "patient 52346
centered medical home" for purposes of an entity authorized to 52347
provide care coordination services. The rules shall be adopted in 52348
accordance with Chapter 119. of the Revised Code. 52349

Sec. 3701.94. There is hereby established the patient 52350
centered medical home program in the department of health. The 52351
patient centered medical home model of care is an advanced model 52352
of primary care in which care teams attend to the multifaceted 52353

needs of patients, providing whole person comprehensive and 52354
coordinated patient centered care. 52355

Sec. 3701.941. (A) As part of the patient centered medical 52356
home program established under section 3701.94 of the Revised 52357
Code, the department of health shall establish a voluntary patient 52358
centered medical home certification program. 52359

(B) Each primary care practice, that seeks a patient centered 52360
medical home certificate shall submit an application on a form 52361
prepared by the department. The department may require an 52362
application fee and annual renewal fee as determined by the 52363
department. If the department establishes a fee under this 52364
section, the fee shall be in an amount that is sufficient to cover 52365
the cost of any on-site evaluations conducted by the department or 52366
an entity under contract with the department pursuant to section 52367
3701.942 of the Revised Code. 52368

(C) A practice certified under this section shall do all of 52369
the following: 52370

(1) Meet any standards developed by national independent 52371
accrediting and medical home organizations, as determined by the 52372
department; 52373

(2) Develop a systematic follow-up procedure for patients, 52374
including the use of health information technology and patient 52375
registries; 52376

(3) Implement and maintain health information technology that 52377
meets the requirements of 42 U.S.C. 300jj; 52378

(4) Comply with the reporting requirements of section 52379
3701.942 of the Revised Code; 52380

(5) Meet any process, outcome, and quality standards 52381
specified by the department of health; 52382

<u>(6) Meet any other requirements established by the</u>	52383
<u>department.</u>	52384
<u>(D) The department shall seek to do all of the following</u>	52385
<u>through the certification of patient centered medical homes:</u>	52386
<u>(1) Expand, enhance, and encourage the use of primary care</u>	52387
<u>providers, including primary care physicians, advanced practice</u>	52388
<u>registered nurses, and physician assistants, as personal</u>	52389
<u>clinicians;</u>	52390
<u>(2) Develop a focus on delivering high-quality, efficient,</u>	52391
<u>and effective health care services;</u>	52392
<u>(3) Encourage patient centered care and the provision of care</u>	52393
<u>that is appropriate for a patient's race, ethnicity, and language;</u>	52394
<u>(4) Encourage the education and active participation of</u>	52395
<u>patients and patients' families or legal guardians, as</u>	52396
<u>appropriate, in decision making and care plan development;</u>	52397
<u>(5) Provide patients with consistent, ongoing contact with a</u>	52398
<u>personal clinician or team of clinical professionals to ensure</u>	52399
<u>continuous and appropriate care;</u>	52400
<u>(6) Ensure that patient centered medical homes develop and</u>	52401
<u>maintain appropriate comprehensive care plans for patients with</u>	52402
<u>complex or chronic conditions, including an assessment of health</u>	52403
<u>risks and chronic conditions;</u>	52404
<u>(7) Ensure that patient centered medical homes plan for</u>	52405
<u>transition of care from youth to adult to senior;</u>	52406
<u>(8) Enable and encourage use of a range of qualified health</u>	52407
<u>care professionals, including dedicated care coordinators, in a</u>	52408
<u>manner that enables those professionals to practice to the fullest</u>	52409
<u>extent of their professional licenses.</u>	52410
<u>Sec. 3701.942. (A) Each certified patient centered medical</u>	52411

home shall report health care quality and performance information 52412
to the department of health, including any data necessary for 52413
monitoring compliance with certification standards and for 52414
evaluating the impact of patient centered medical homes on health 52415
care quality, cost, and outcomes. 52416

(B) The department may contract with a private entity to 52417
evaluate the effectiveness of certified patient centered medical 52418
homes. The department may provide the entity with data collected 52419
under division (A) of this section. 52420

(C) The department may contract with national independent 52421
accrediting and medical home organizations to provide on-site 52422
evaluation of primary care practices and verification of data 52423
collected under division (A) of this section. 52424

(D) Data collected under this section is not a public record 52425
under section 149.43 of the Revised Code. 52426

Sec. 3701.943. (A) The department of health shall submit a 52427
report to the governor and, in accordance with section 101.68 of 52428
the Revised Code, the general assembly, evaluating the patient 52429
centered medical home program not later than three years after 52430
rules adopted pursuant to section 3701.944 of the Revised Code 52431
first become effective. The department shall submit a second 52432
report not later than five years after those rules first become 52433
effective. 52434

(B) The reports submitted under division (A) of this section 52435
shall include all of the following: 52436

(1) The number of patients receiving primary care services 52437
from certified patient centered medical homes and the number and 52438
characteristics of those patients with complex or chronic 52439
conditions. To the extent available, information regarding the 52440
income, race, ethnicity, and language of patients shall be 52441

<u>included in the reports;</u>	52442
<u>(2) The number and geographic distribution of certified patient centered medical homes;</u>	52443
<u>(3) Performance of and quality of care measures implemented by certified patient centered medical homes;</u>	52444
<u>(4) Preventive care measures implemented by certified patient centered medical homes;</u>	52445
<u>(5) Payment arrangements of certified patient centered medical homes;</u>	52446
<u>(6) Costs related to implementation of the patient centered medical home program and payment of care coordination fees;</u>	52447
<u>(7) The estimated effect of certified patient centered medical homes on health disparities;</u>	52448
<u>(8) The estimated savings from establishing the patient centered medical home program, as those savings apply to the fee for service, managed care, and state-based purchasing sectors.</u>	52449
<u>Sec. 3701.944. The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:</u>	52450
<u>(A) Considering the goals set forth in section 3701.941 of the Revised Code, establish standards and procedures for certifying a primary care practice as a patient centered medical home;</u>	52451
<u>(B) Specify the types of medical practices that constitute primary care practices for the purpose of certifying patient centered medical homes;</u>	52452
<u>(C) Specify the health care quality and performance information that certified patient centered medical homes must report to the department pursuant to section 3701.942 of the</u>	52453
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Revised Code. 52471

Sec. 3701.95. (A) As used in this section, "direct care services" and "direct care worker" have the same meanings as in section 191.061 of the Revised Code. 52472
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(B) Not later than October 1, 2014, the director of health shall establish a direct care worker certification program. The director may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the program. The rules may address standards, procedures, and application fees charged for certification. 52475
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(C) For purposes of the program, the director shall do both of the following: 52481
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(1) Specify the minimum standards that must be met by a direct care worker to attain certification, which may include standards pertaining to education, experience, and continuing education requirements, as well as standards for compliance with administrative requirements. 52483
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(2) Specify a procedure for determining whether a direct care worker satisfies the standards specified under division (C)(1) of this section. 52488
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Sec. 3701.99. (A) Whoever violates division (C) of section 3701.23, division (C) of section 3701.232, division (C) of section 3701.24, division (B) of section 3701.25, division ~~(I)~~(D)(2) of section 3701.262, ~~division (D) of section 3701.263,~~ or sections 3701.46 to 3701.55 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree. 52491
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(B) Whoever violates section 3701.82 of the Revised Code is guilty of a misdemeanor of the first degree. 52498
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(C) Whoever violates section 3701.352 or 3701.81 of the Revised Code is guilty of a misdemeanor of the second degree.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "Service area" means the current and projected primary and secondary service areas to which the long-term care facility is, or will be, providing long-term care services.

(E) "Primary service area" means the geographic region, usually comprised of the Ohio zip code in which the long-term care facility is located and contiguous zip codes, from which approximately seventy-five to eighty per cent of the facility's residents currently originate or are expected to originate.

(F) "Secondary service area" means the geographic region, usually comprised of Ohio zip codes not included in the primary service area, excluding isolated exceptions, from which the facility's remaining residents currently originate or are expected to originate.

(G) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (I) of this section, an insurance company that issues sickness and accident

insurance in conformity with Chapter 3923. of the Revised Code, a 52530
state-financed health insurance program under Chapter 3701.7, or 52531
4123., ~~or 5111.~~ of the Revised Code, the medicaid program, or any 52532
self-insurance plan. 52533

(H) "Government unit" means the state and any county, 52534
municipal corporation, township, or other political subdivision of 52535
the state, or any department, division, board, or other agency of 52536
the state or a political subdivision. 52537

(I) "Health maintenance organization" means a public or 52538
private organization organized under the law of any state that is 52539
qualified under section 1310(d) of Title XIII of the "Public 52540
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 52541

(J) "Existing long-term care facility" means either of the 52542
following: 52543

(1) A long-term care facility that is licensed or otherwise 52544
authorized to operate in this state in accordance with applicable 52545
law, including a county home or a county nursing home that is 52546
certified under Title XVIII or Title XIX of the "Social Security 52547
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, is staffed 52548
and equipped to provide long-term care services, and is actively 52549
providing long-term care services; 52550

(2) A long-term care facility that is licensed or otherwise 52551
authorized to operate in this state in accordance with applicable 52552
law, including a county home or a county nursing home that is 52553
certified under Title XVIII or Title XIX of the "Social Security 52554
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or that has 52555
beds registered under section 3701.07 of the Revised Code as 52556
skilled nursing beds or long-term care beds and has provided 52557
long-term care services for at least three hundred sixty-five 52558
consecutive days within the twenty-four months immediately 52559
preceding the date a certificate of need application is filed with 52560

the director of health. 52561

(K) "State" means the state of Ohio, including, but not 52562
limited to, the general assembly, the supreme court, the offices 52563
of all elected state officers, and all departments, boards, 52564
offices, commissions, agencies, institutions, and other 52565
instrumentalities of the state of Ohio. "State" does not include 52566
political subdivisions. 52567

(L) "Political subdivision" means a municipal corporation, 52568
township, county, school district, and all other bodies corporate 52569
and politic responsible for governmental activities only in 52570
geographic areas smaller than that of the state to which the 52571
sovereign immunity of the state attaches. 52572

(M) "Affected person" means: 52573

(1) An applicant for a certificate of need, including an 52574
applicant whose application was reviewed comparatively with the 52575
application in question; 52576

(2) The person that requested the reviewability ruling in 52577
question; 52578

(3) Any person that resides or regularly uses long-term care 52579
facilities within the service area served or to be served by the 52580
long-term care services that would be provided under the 52581
certificate of need or reviewability ruling in question; 52582

(4) Any long-term care facility that is located in the 52583
service area where the long-term care services would be provided 52584
under the certificate of need or reviewability ruling in question; 52585

(5) Third-party payers that reimburse long-term care 52586
facilities for services in the service area where the long-term 52587
care services would be provided under the certificate of need or 52588
reviewability ruling in question. 52589

(N) "Long-term care facility" means any of the following: 52590

(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

(0) "Long-term care bed" or "bed" means a bed that is categorized as one of the following:

(1) A bed that is located in a facility that is a nursing home licensed under section 3721.02 of the Revised Code or a facility licensed by a political subdivision certified under section 3721.09 of the Revised Code and is included in the authorized maximum licensed capacity of the facility;

(2) A bed that is located in the portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility under the medicare program or a nursing facility under the medicaid program and is included in the authorized maximum certified capacity of that portion of the facility;

(3) A bed that is registered under section 3701.07 of the Revised Code as a skilled nursing bed, a long-term care bed, or a special skilled nursing bed;

(4) A bed in a county home or county nursing home that has been certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and is eligible for licensure as a nursing home bed;

(5) A bed held as an approved bed under a certificate of need 52621
approved by the director. 52622

A bed cannot simultaneously be both a bed described in 52623
division (O)(1), (2), (3), or (4) of this section and a bed 52624
described in division (O)(5) of this section. 52625

(P) "Reviewability ruling" means a ruling issued by the 52626
director of health under division (A) of section 3702.52 of the 52627
Revised Code as to whether a particular proposed project is or is 52628
not a reviewable activity. 52629

(Q) "County nursing home" has the same meaning as in section 52630
5155.31 of the Revised Code. 52631

(R) "Principal participant" means both of the following: 52632

(1) A person who has an ownership or controlling interest of 52633
at least five per cent in an applicant, in a long-term care 52634
facility that is the subject of an application for a certificate 52635
of need, or in the owner or operator of the applicant or such a 52636
facility; 52637

(2) An officer, director, trustee, or general partner of an 52638
applicant, of a long-term care facility that is the subject of an 52639
application for a certificate of need, or of the owner or operator 52640
of the applicant or such a facility. 52641

(S) "Actual harm but not immediate jeopardy deficiency" means 52642
a deficiency that, under 42 C.F.R. 488.404, either constitutes a 52643
pattern of deficiencies resulting in actual harm that is not 52644
immediate jeopardy or represents widespread deficiencies resulting 52645
in actual harm that is not immediate jeopardy. 52646

(T) "Immediate jeopardy deficiency" means a deficiency that, 52647
under 42 C.F.R. 488.404, either constitutes a pattern of 52648
deficiencies resulting in immediate jeopardy to resident health or 52649
safety or represents widespread deficiencies resulting in 52650

immediate jeopardy to resident health or safety. 52651

(U) "Existing bed" or "existing long-term care bed" means a 52652
bed from an existing long-term care facility, a bed described in 52653
division (0)(5) of this section, or a bed correctly reported as a 52654
long-term care bed pursuant to section 5155.38 of the Revised 52655
Code. 52656

Sec. 3702.521. (A) Reviews of applications for certificates 52657
of need to recategorize hospital beds to skilled nursing beds 52658
shall be conducted in accordance with this division and rules 52659
adopted by the director of health. 52660

(1) No hospital recategorizing beds shall apply for a 52661
certificate of need for more than twenty skilled nursing beds. 52662

(2) No beds for which a certificate of need is requested 52663
under this division shall be reviewed under or counted in any 52664
formula developed under rules adopted by the director for the 52665
purpose of determining the number of long-term care beds that may 52666
be needed within the state. 52667

(3) No beds shall be approved under this division unless the 52668
hospital certifies and demonstrates in the application that the 52669
beds will be dedicated to patients with a length of stay of no 52670
more than thirty days. 52671

(4) No beds shall be approved under this division unless the 52672
hospital can satisfactorily demonstrate in the application that it 52673
is routinely unable to place the patients planned for the beds in 52674
accessible skilled nursing facilities. 52675

(5) In developing rules to implement this division, the 52676
director shall give special attention to the required 52677
documentation of the need for such beds, including the efforts 52678
made by the hospital to place patients in suitable skilled nursing 52679
facilities, and special attention to the appropriate size of units 52680

with such beds given the historical pattern of the applicant 52681
hospital's documented difficulty in placing skilled nursing 52682
patients. 52683

(B) For assistance in monitoring the use of hospital beds 52684
recategorized as skilled nursing beds after August 5, 1989, the 52685
director shall adopt rules specifying appropriate quarterly 52686
procedures for reporting to the department of health. 52687

(C) A patient may stay in a hospital bed that, after August 52688
5, 1989, has been recategorized as a skilled nursing bed for more 52689
than thirty days if the hospital is able to demonstrate that it 52690
made a good faith effort to place the patient in an accessible 52691
skilled nursing facility acceptable to the patient within the 52692
thirty-day period, but was unable to do so. 52693

(D) No hospital bed recategorized after August 5, 1989, as a 52694
skilled nursing bed shall be covered by a provider agreement under 52695
the ~~medical assistance~~ medicaid program ~~established under Chapter~~ 52696
~~5111. of the Revised Code.~~ 52697

(E) Nothing in this section requires a hospital to place a 52698
patient in any nursing home if the patient does not wish to be 52699
placed in the nursing home. Nothing in this section limits the 52700
ability of a hospital to file a certificate of need application 52701
for the addition of long-term care beds that meet the definition 52702
of "home" in section 3721.01 of the Revised Code. Nothing in this 52703
section limits the ability of the director to grant certificates 52704
of need necessary for hospitals to engage in demonstration 52705
projects authorized by the federal government for the purpose of 52706
enhancing long-term quality of care and cost containment. Nothing 52707
in this section limits the ability of hospitals to develop swing 52708
bed programs in accordance with federal regulations. 52709

No hospital that is granted a certificate of need after 52710
August 5, 1989, to recategorize hospital beds as skilled nursing 52711

beds is subject to sections 3721.01 to 3721.09 of the Revised 52712
Code. If the portion of the hospital in which the recategorized 52713
beds are located is certified as a skilled nursing facility under 52714
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 52715
U.S.C.A. 301, as amended, that portion of the hospital is subject 52716
to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of 52717
the Revised Code. If the beds are registered pursuant to section 52718
3701.07 of the Revised Code as long-term care beds, the beds are 52719
subject to sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the 52720
Revised Code. 52721

Sec. 3702.55. A person that the director of health determines 52722
has violated section 3702.53 of the Revised Code shall cease 52723
conducting the activity that constitutes the violation or 52724
utilizing the facility resulting from the violation not later than 52725
thirty days after the person receives the notice mailed under 52726
section 3702.532 of the Revised Code or, if the person appeals the 52727
director's determination under section 3702.60 of the Revised 52728
Code, thirty days after the person receives an order upholding the 52729
director's determination that is not subject to further appeal. 52730

If any person determined to have violated section 3702.53 of 52731
the Revised Code fails to cease conducting an activity or using a 52732
facility as required by this section or if the person continues to 52733
seek payment or reimbursement for services rendered or costs 52734
incurred in conducting the activity as prohibited by section 52735
3702.56 of the Revised Code, in addition to the penalties imposed 52736
under section 3702.54 or 3702.541 of the Revised Code: 52737

(A) The director of health may refuse to include any beds 52738
involved in the activity in the bed capacity of a hospital for 52739
purposes of registration under section 3701.07 of the Revised 52740
Code; 52741

(B) The director of health may refuse to license, or may 52742

revoke a license or reduce bed capacity previously granted to, a 52743
hospice care program under section 3712.04 of the Revised Code; a 52744
nursing home, residential care facility, or home for the aging 52745
under section 3721.02 of the Revised Code; or any beds within any 52746
of those facilities that are involved in the activity; 52747

(C) A political subdivision certified under section 3721.09 52748
of the Revised Code may refuse to license, or may revoke a license 52749
or reduce bed capacity previously granted to, a nursing home, 52750
residential care facility, or home for the aging, or any beds 52751
within any of those facilities that are involved in the activity; 52752

(D) The director of ~~mental health~~ mental health and addiction 52753
services may refuse to license under section ~~5119.20~~ 5119.33 of 52754
the Revised Code, or may revoke a license or reduce bed capacity 52755
previously granted to, a hospital receiving mentally ill persons 52756
or beds within such a hospital that are involved in the activity; 52757

(E) The department of ~~job and family services~~ medicaid may 52758
refuse to enter into a provider agreement that includes a 52759
facility, beds, or services that result from the activity. 52760

Sec. 3702.62. Sections 3702.51 to 3702.61 of the Revised Code 52761
do not apply to any part of a long-term care facility's campus 52762
that is certified as an intermediate care facility for the 52763
mentally retarded ~~under Title XIX of the "Social Security Act," 79~~ 52764
~~Stat. 343 (1965), 42 U.S.C. 1396 et seq., as amended, as defined~~ 52765
in section 5124.01 of the Revised Code. 52766

Sec. 3702.74. (A) A primary care physician who has signed a 52767
letter of intent under section 3702.73 of the Revised Code and the 52768
director of health may enter into a contract for the physician's 52769
participation in the physician loan repayment program. The 52770
physician's employer or other funding source may also be a party 52771
to the contract. 52772

(B) The contract shall include all of the following obligations: 52773
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(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years; 52775
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(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following: 52778
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(a) Provide primary care services for a minimum of forty hours per week, of which at least twenty-one hours will be spent providing patient care in an outpatient or ambulatory setting; 52781
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52783

(b) Provide primary care services without regard to a patient's ability to pay; 52784
52785

(c) Meet the ~~conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services requirements for participation in the a~~ medicaid program established under Chapter 5111. of the Revised Code provider agreement and enter into a ~~contract~~ the agreement with the department of medicaid to provide primary care services to medicaid recipients ~~of the medical assistance program.~~ 52786
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(3) The department of health agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code; 52794
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(4) The primary care physician agrees to pay the department of health an amount established by rules adopted under section 3702.79 of the Revised Code if the physician fails to complete the 52801
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service obligation agreed to under division (B)(1) of this 52804
section. 52805

(C) The contract may include any other terms agreed upon by 52806
the parties. 52807

Sec. 3702.91. (A) An individual who has signed a letter of 52808
intent under section 3702.90 of the Revised Code may enter into a 52809
contract with the director of health for participation in the 52810
dentist loan repayment program. The dentist's employer or other 52811
funding source may also be a party to the contract. 52812

(B) The contract shall include all of the following 52813
obligations: 52814

(1) The individual agrees to provide dental services in the 52815
dental health resource shortage area identified in the letter of 52816
intent for at least two years. 52817

(2) When providing dental services in the dental health 52818
resource shortage area, the individual agrees to do all of the 52819
following: 52820

(a) Provide dental services for a minimum of forty hours per 52821
week; 52822

(b) Provide dental services without regard to a patient's 52823
ability to pay; 52824

(c) Meet the ~~conditions prescribed by the "Social Security~~ 52825
~~Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the~~ 52826
~~department of job and family services requirements for~~ 52827
~~participation in the a medicaid program established under Chapter~~ 52828
~~5111. of the Revised Code provider agreement and enter into a~~ 52829
~~contract the agreement with the department of medicaid to provide~~ 52830
dental services to medicaid recipients. 52831

(3) The department of health agrees, as provided in section 52832
3702.85 of the Revised Code, to repay, so long as the individual 52833

performs the service obligation agreed to under division (B)(1) of 52834
this section, all or part of the principal and interest of a 52835
government or other educational loan taken by the individual for 52836
expenses described in section 3702.85 of the Revised Code. 52837

(4) The individual agrees to pay the department of health an 52838
amount established by rules adopted under section 3702.86 of the 52839
Revised Code, if the individual fails to complete the service 52840
obligation agreed to under division (B)(1) of this section. 52841

(C) The contract may include any other terms agreed upon by 52842
the parties. 52843

(D) Not later than the thirty-first day of January of each 52844
year, the department of health shall mail to each individual to 52845
whom or on whose behalf repayment is made under the dentist loan 52846
repayment program a statement showing the amount of principal and 52847
interest repaid by the department pursuant to the contract in the 52848
preceding year. The statement shall be sent by ordinary mail with 52849
address correction and forwarding requested in the manner 52850
prescribed by the United States postal service. 52851

Sec. 3704.144. (A) Gifts, grants, and contributions for the 52852
purpose of adding pollution control equipment to diesel-powered 52853
school buses and converting diesel-powered school buses to 52854
alternative fuels, including contributions that are made pursuant 52855
to the settlement of an administrative action or civil action that 52856
is brought at the request of the director of environmental 52857
protection pursuant to Chapter 3704., 3714., 3734., 6109., or 52858
6111. of the Revised Code, shall be credited to the clean diesel 52859
school bus fund, which is hereby created in the state treasury. 52860
The director shall use money credited to the fund to make grants 52861
to school districts in the state and to county boards of 52862
developmental disabilities for the purpose of adding pollution 52863
control equipment to diesel-powered school buses and converting 52864

diesel-powered school buses to alternative fuels by means of 52865
certified engine configurations and verified technologies that are 52866
consistent with the requirements of section 793 and any 52867
regulations adopted under that section and to pay the 52868
environmental protection agency's costs incurred in administering 52869
this section. In addition, the director may use money credited to 52870
the fund to make grants to school districts and to county boards 52871
of developmental disabilities for the purpose of maintaining 52872
pollution control equipment that is installed on diesel-powered 52873
school buses ~~and to pay the additional cost incurred by a school~~ 52874
~~district or a county board for using ultra low sulfur diesel fuel~~ 52875
~~instead of diesel fuel for the operation of diesel powered school~~ 52876
~~buses.~~ 52877

(B) In making grants under this section, the director shall 52878
give priority to school districts and to county boards of 52879
developmental disabilities that are located in a county that is 52880
designated as nonattainment by the United States environmental 52881
protection agency for the fine particulate national ambient air 52882
quality standard under the federal Clean Air Act. In addition, the 52883
director may give a higher priority to a school district or a 52884
county board of developmental disabilities that employs additional 52885
measures that reduce air pollution from the district's or the 52886
county board's school bus fleet. 52887

(C) The director shall adopt rules establishing procedures 52888
and requirements that are necessary to implement this section, 52889
including procedures and requirements governing applications for 52890
grants. 52891

(D) As used in this section: 52892

(1) "Alternative fuel" has the same meaning as in section 52893
125.831 of the Revised Code. 52894

(2) "Certified engine configuration" and "section 793" have 52895

the same meanings as in section 122.861 of the Revised Code. 52896

(3) "Verified technology" means a pollution control 52897
technology, including retrofit technology and auxiliary power 52898
unit, that has been verified by the administrator of the United 52899
States environmental protection agency or the California air 52900
resources board. 52901

Sec. 3706.01. As used in this chapter: 52902

(A) "Governmental agency" means a department, division, or 52903
other unit of state government, a municipal corporation, county, 52904
township, and other political subdivision, or any other public 52905
corporation or agency having the power to acquire, construct, or 52906
operate air quality facilities, the United States or any agency 52907
thereof, and any agency, commission, or authority established 52908
pursuant to an interstate compact or agreement. 52909

(B) "Person" means any individual, firm, partnership, 52910
association, or corporation, or any combination thereof. 52911

(C) "Air contaminant" means particulate matter, dust, fumes, 52912
gas, mist, smoke, noise, vapor, heat, radioactivity, radiation, or 52913
odorous substance, or any combination thereof. 52914

(D) "Air pollution" means the presence in the ambient air of 52915
one or more air contaminants in sufficient quantity and of such 52916
characteristics and duration as to injure human health or welfare, 52917
plant or animal life, or property, or that unreasonably interferes 52918
with the comfortable enjoyment of life or property. 52919

(E) "Ambient air" means that portion of the atmosphere 52920
outside of buildings and other enclosures, stacks, or ducts that 52921
surrounds human, plant, or animal life, or property. 52922

(F) "Emission" means the release into the outdoor atmosphere 52923
of an air contaminant. 52924

(G) "Air quality facility" means any of the following: 52925

(1) Any method, modification or replacement of property,	52926
process, device, structure, or equipment that removes, reduces,	52927
prevents, contains, alters, conveys, stores, disperses, or	52928
disposes of air contaminants or substances containing air	52929
contaminants, or that renders less noxious or reduces the	52930
concentration of air contaminants in the ambient air, including,	52931
without limitation, facilities and expenditures that qualify as	52932
air pollution control facilities under section 103 (C)(4)(F) of	52933
the Internal Revenue Code of 1954, as amended, and regulations	52934
adopted thereunder;	52935
(2) Motor vehicle inspection stations operated in accordance	52936
with, and any equipment used for motor vehicle inspections	52937
conducted under, section 3704.14 of the Revised Code and rules	52938
adopted under it;	52939
(3) Ethanol or other biofuel facilities, including any	52940
equipment used at the ethanol or other biofuel facility for the	52941
production of ethanol or other biofuels;	52942
(4) Any property or portion thereof used for the collection,	52943
storage, treatment, utilization, processing, or final disposal of	52944
a by-product or solid waste resulting from any method, process,	52945
device, structure, or equipment that removes, reduces, prevents,	52946
contains, alters, conveys, stores, disperses, or disposes of air	52947
contaminants, or that renders less noxious or reduces the	52948
concentration of air contaminants in the ambient air;	52949
(5) Any property, device, or equipment that promotes the	52950
reduction of emissions of air contaminants into the ambient air	52951
through improvements in the efficiency of energy utilization or	52952
energy conservation;	52953
(6) Any coal research and development project conducted under	52954
Chapter 1555. of the Revised Code;	52955
(7) As determined by the director of the Ohio coal	52956

development office, any property or portion thereof that is used 52957
for the collection, storage, treatment, utilization, processing, 52958
or final disposal of a by-product resulting from a coal research 52959
and development project as defined in section 1555.01 of the 52960
Revised Code or from the use of clean coal technology, excluding 52961
any property or portion thereof that is used primarily for other 52962
subsequent commercial purposes; 52963

(8) Any property or portion thereof that is part of the 52964
FutureGen project of the United States department of energy or 52965
related to the siting of the FutureGen project; ~~i~~ 52966

(9) Any property, device, or equipment that promotes the 52967
reduction of emissions of air contaminants into the ambient air 52968
through the generation of clean, renewable energy with renewable 52969
energy resources or advanced energy resources as defined in 52970
section 3706.25 of the Revised Code; ~~i~~ 52971

(10) Any property, device, structure or equipment necessary 52972
for the manufacture and production of equipment described as an 52973
air quality facility under this chapter; 52974

(11) Any property, device, or equipment related to the 52975
recharging or refueling of vehicles that promotes the reduction of 52976
emissions of air contaminants into the ambient air through the use 52977
of an alternative fuel as defined in section 125.831 of the 52978
Revised Code or the use of a renewable energy resource as defined 52979
in section 3706.25 of the Revised Code. 52980

"Air quality facility" further includes any property or 52981
system to be used in whole or in part for any of the purposes in 52982
divisions (G)(1) to ~~(10)~~(11) of this section, whether another 52983
purpose is also served, and any property or system incidental to 52984
or that has to do with, or the end purpose of which is, any of the 52985
foregoing. Air quality facilities that are defined in this 52986
division for industry, commerce, distribution, or research, 52987

including public utility companies, are hereby determined to be 52988
those that qualify as facilities for the control of air pollution 52989
and thermal pollution related to air under Section 13 of Article 52990
VIII, Ohio Constitution. 52991

(H) "Project" or "air quality project" means any air quality 52992
facility, including undivided or other interests therein, acquired 52993
or to be acquired or constructed or to be constructed by the Ohio 52994
air quality development authority under this chapter, or acquired 52995
or to be acquired or constructed or to be constructed by a 52996
governmental agency or person with all or a part of the cost 52997
thereof being paid from a loan or grant from the authority under 52998
this chapter or otherwise paid from the proceeds of air quality 52999
revenue bonds, including all buildings and facilities that the 53000
authority determines necessary for the operation of the project, 53001
together with all property, rights, easements, and interests that 53002
may be required for the operation of the project. 53003

(I) "Cost" as applied to an air quality project means the 53004
cost of acquisition and construction, the cost of acquisition of 53005
all land, rights-of-way, property rights, easements, franchise 53006
rights, and interests required for such acquisition and 53007
construction, the cost of demolishing or removing any buildings or 53008
structures on land so acquired, including the cost of acquiring 53009
any lands to which such buildings or structures may be moved, the 53010
cost of acquiring or constructing and equipping a principal office 53011
and sub-offices of the authority, the cost of diverting highways, 53012
interchange of highways, and access roads to private property, 53013
including the cost of land or easements for such access roads, the 53014
cost of public utility and common carrier relocation or 53015
duplication, the cost of all machinery, furnishings, and 53016
equipment, financing charges, interest prior to and during 53017
construction and for no more than eighteen months after completion 53018
of construction, engineering, expenses of research and development 53019

with respect to air quality facilities, the cost of any commodity 53020
contract, including fees and expenses related thereto, legal 53021
expenses, plans, specifications, surveys, studies, estimates of 53022
cost and revenues, working capital, other expenses necessary or 53023
incident to determining the feasibility or practicability of 53024
acquiring or constructing such project, administrative expense, 53025
and such other expense as may be necessary or incident to the 53026
acquisition or construction of the project, the financing of such 53027
acquisition or construction, including the amount authorized in 53028
the resolution of the authority providing for the issuance of air 53029
quality revenue bonds to be paid into any special funds from the 53030
proceeds of such bonds, and the financing of the placing of such 53031
project in operation. Any obligation, cost, or expense incurred by 53032
any governmental agency or person for surveys, borings, 53033
preparation of plans and specifications, and other engineering 53034
services, or any other cost described above, in connection with 53035
the acquisition or construction of a project may be regarded as a 53036
part of the cost of that project and may be reimbursed out of the 53037
proceeds of air quality revenue bonds as authorized by this 53038
chapter. 53039

(J) "Owner" includes an individual, copartnership, 53040
association, or corporation having any title or interest in any 53041
property, rights, easements, or interests authorized to be 53042
acquired by this chapter. 53043

(K) "Revenues" means all rentals and other charges received 53044
by the authority for the use or services of any air quality 53045
project, any gift or grant received with respect to any air 53046
quality project, any moneys received with respect to the lease, 53047
sublease, sale, including installment sale or conditional sale, or 53048
other disposition of an air quality project, moneys received in 53049
repayment of and for interest on any loans made by the authority 53050
to a person or governmental agency, whether from the United States 53051

or any department, administration, or agency thereof, or 53052
otherwise, proceeds of such bonds to the extent that use thereof 53053
for payment of principal of, premium, if any, or interest on the 53054
bonds is authorized by the authority, amounts received or 53055
otherwise derived from a commodity contract or from the sale of 53056
the related commodity under such a contract, proceeds from any 53057
insurance, condemnation, or guaranty pertaining to a project or 53058
property mortgaged to secure bonds or pertaining to the financing 53059
of the project, and income and profit from the investment of the 53060
proceeds of air quality revenue bonds or of any revenues. 53061

(L) "Public roads" includes all public highways, roads, and 53062
streets in the state, whether maintained by the state, county, 53063
city, township, or other political subdivision. 53064

(M) "Public utility facilities" includes tracks, pipes, 53065
mains, conduits, cables, wires, towers, poles, and other equipment 53066
and appliances of any public utility. 53067

(N) "Construction," unless the context indicates a different 53068
meaning or intent, includes reconstruction, enlargement, 53069
improvement, or providing furnishings or equipment. 53070

(O) "Air quality revenue bonds," unless the context indicates 53071
a different meaning or intent, includes air quality revenue notes, 53072
air quality revenue renewal notes, and air quality revenue 53073
refunding bonds, except that notes issued in anticipation of the 53074
issuance of bonds shall have a maximum maturity of five years as 53075
provided in section 3706.05 of the Revised Code and notes or 53076
renewal notes issued as the definitive obligation may be issued 53077
maturing at such time or times with a maximum maturity of forty 53078
years from the date of issuance of the original note. 53079

(P) "Solid waste" means any garbage; refuse; sludge from a 53080
waste water treatment plant, water supply treatment plant, or air 53081
pollution control facility; and other discarded material, 53082

including solid, liquid, semisolid, or contained gaseous material 53083
resulting from industrial, commercial, mining, and agricultural 53084
operations, and from community activities, but not including solid 53085
or dissolved material in domestic sewage, or solid or dissolved 53086
material in irrigation return flows or industrial discharges that 53087
are point sources subject to permits under section 402 of the 53088
"Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 53089
880, 33 U.S.C.A. 1342, as amended, or source, special nuclear, or 53090
byproduct material as defined by the "Atomic Energy Act of 1954," 53091
68 Stat. 921, 42 U.S.C.A. 2011, as amended. 53092

(Q) "Sludge" means any solid, semisolid, or liquid waste, 53093
other than a recyclable by-product, generated from a municipal, 53094
commercial, or industrial waste water treatment plant, water 53095
supply plant, or air pollution control facility or any other such 53096
wastes having similar characteristics and effects. 53097

(R) "Ethanol or other biofuel facility" means a plant at 53098
which ethanol or other biofuel is produced. 53099

(S) "Ethanol" means fermentation ethyl alcohol derived from 53100
agricultural products, including potatoes, cereal, grains, cheese 53101
whey, and sugar beets; forest products; or other renewable or 53102
biomass resources, including residue and waste generated from the 53103
production, processing, and marketing of agricultural products, 53104
forest products, and other renewable or biomass resources, that 53105
meets all of the specifications in the American society for 53106
testing and materials (ASTM) specification D 4806-88 and is 53107
denatured as specified in Parts 20 and 21 of Title 27 of the Code 53108
of Federal Regulations. 53109

(T) "Biofuel" means any fuel that is made from cellulosic 53110
biomass resources, including renewable organic matter, crop waste 53111
residue, wood, aquatic plants and other crops, animal waste, solid 53112
waste, or sludge, and that is used for the production of energy 53113
for transportation or other purposes. 53114

(U) "FutureGen project" means the buildings, equipment, and 53115
real property and functionally related buildings, equipment, and 53116
real property, including related research projects that support 53117
the development and operation of the buildings, equipment, and 53118
real property, designated by the United States department of 53119
energy and the FutureGen industrial alliance, inc., as the 53120
coal-fueled, zero-emissions power plant designed to prove the 53121
technical and economic feasibility of producing electricity and 53122
hydrogen from coal and nearly eliminating carbon dioxide emissions 53123
through capture and permanent storage. 53124

(V) "Commodity contract" means a contract or series of 53125
contracts entered into in connection with the acquisition or 53126
construction of air quality facilities for the purchase or sale of 53127
a commodity that is eligible for prepayment with the proceeds of 53128
federally tax exempt bonds under sections 103, 141, and 148 of the 53129
Internal Revenue Code of 1986, as amended, and regulations adopted 53130
under it. 53131

Sec. 3707.511. (A) As used in this section, ~~"physician":~~ 53132

"Physician" means a person authorized under Chapter 4731. of 53133
the Revised Code to practice medicine and surgery or osteopathic 53134
medicine and surgery. 53135

"Chiropractor" means a person licensed under Chapter 4734. of 53136
the Revised Code to practice chiropractic. 53137

(B) A youth sports organization shall provide to the parent, 53138
guardian, or other person having care or charge of an individual 53139
who wishes to practice for or compete in an athletic activity 53140
organized by a youth sports organization the concussion and head 53141
injury information sheet required by section 3707.52 of the 53142
Revised Code. The organization shall provide the information sheet 53143
annually for each sport or other category of athletic activity for 53144
or in which the individual practices or competes. 53145

(C)(1) No individual shall act as a coach or referee for a youth sports organization unless the individual holds a pupil-activity program permit issued under section 3319.303 of the Revised Code for coaching interscholastic athletics or presents evidence that the individual has successfully completed, within the previous three years, a training program in recognizing the symptoms of concussions and head injuries to which the department of health has provided a link on its internet web site under section 3707.52 of the Revised Code.

(2) The youth sports organization for which the individual intends to act as a coach or referee shall inform the individual of the requirement described in division (C)(1) of this section.

(D) If an individual practicing for or competing in an athletic event organized by a youth sports organization exhibits signs, symptoms, or behaviors consistent with having sustained a concussion or head injury while participating in the practice or competition, the individual shall be removed from the practice or competition by one of the following:

(1) The individual who is serving as the individual's coach during that practice or competition;

(2) An individual who is serving as a referee during that practice or competition;

(3) An official of the youth sports organization who is supervising that practice or competition.

(E)(1) If an individual is removed from practice or competition under division (D) of this section, the coach, referee, or official who removed the individual shall not allow the individual, on the same day the individual is removed, to return to that practice or competition or to participate in any other practice or competition for which the coach, referee, or official is responsible. Thereafter, the coach, referee, or

official shall not allow the student to return to that practice or 53177
competition or to participate in any other practice or competition 53178
for which the coach, referee, or official is responsible until 53179
both of the following conditions are satisfied: 53180

(a) The individual's condition is assessed by ~~either~~ any of 53181
the following: 53182

(i) A physician; 53183

(ii) A chiropractor; 53184

(iii) Any other licensed health care provider the youth 53185
sports organization, pursuant to division (E)(2) of this section, 53186
authorizes to assess an individual who has been removed from 53187
practice or competition under division (D) of this section. 53188

(b) The individual receives written clearance that it is safe 53189
for the individual to return to practice or competition from a 53190
physician, chiropractor, or ~~from~~ another licensed health care 53191
provider authorized pursuant to division (E)(2) of this section to 53192
grant the clearance. 53193

(2) A youth sports organization may authorize a licensed 53194
health care provider who is not a physician or a chiropractor to 53195
make an assessment or grant a clearance for purposes of division 53196
(E)(1) of this section only if the provider is acting in 53197
accordance with one of the following, as applicable to the 53198
provider's authority to practice in this state: 53199

(a) In consultation with a physician; 53200

(b) Pursuant to the referral of a physician; 53201

(c) In collaboration with a physician; 53202

(d) Under the supervision of a physician. 53203

(3) A physician, chiropractor, or other licensed health care 53204
provider who makes an assessment or grants a clearance for 53205
purposes of division (E)(1) of this section may be a volunteer. 53206

(F)(1) A youth sports organization or official, employee, or volunteer of a youth sports organization, including a coach or referee, is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from providing services or performing duties under this section, unless the act or omission constitutes willful or wanton misconduct.

(2) This section does not eliminate, limit, or reduce any other immunity or defense that a public entity, public official, or public employee may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.

Sec. 3709.01. The state shall be divided into health districts. Each city constitutes a health district and shall be known as a "city health district."

The townships and villages in each county shall be combined into a health district and shall be known as a "general health district."

As provided for in sections 3709.051, 3709.07, ~~3709.071~~, and 3709.10 of the Revised Code, there may be a union of two or more ~~contiguous~~ general health districts, ~~not to exceed five~~, a union of two or more ~~contiguous~~ city health districts to form a single city health district, or a union of a general health district and one or more city health districts located within or partially within such general health district.

Sec. 3709.051. Two or more ~~contiguous~~ city health districts may be united to form a single city health district by a majority affirmative vote of the legislative authority of each city affected by the union.

If at least three per cent of the qualified electors residing within each of two or more ~~contiguous~~ city health districts sign a

petition proposing a union into a single city health district, an 53237
election shall be held as provided in this section to determine 53238
whether a single city health district shall be formed. The 53239
petition for union may specify regarding the board of health of 53240
the new district: 53241

(A) The qualifications for membership; 53242

(B) The term of office; 53243

(C) The number of members or a method by which the number may 53244
be determined from time to time; 53245

(D) The method of appointment. 53246

Such petition shall be filed with the boards of county 53247
commissioners of the respective counties affected, subject to 53248
approval of the director of health, and such boards shall promptly 53249
certify the text of the proposal to the boards of election for the 53250
purpose of having the proposal placed on the ballot at the next 53251
general election occurring more than ninety days after such 53252
certification. The election procedures provided in Chapter 3505. 53253
of the Revised Code for questions and issues shall apply to the 53254
election. If a majority of the electors voting on the proposal in 53255
each of the health districts affected vote in favor thereof, the 53256
union of such districts into a single city health district shall 53257
be established on the second succeeding first day of January. 53258

Sec. 3709.10. When it is proposed that two or more ~~contiguous~~ 53259
general health districts, ~~not to exceed five,~~ unite in the 53260
formation of one general health district, the district advisory 53261
council of each general health district shall meet and vote on the 53262
question of union. An affirmative majority vote of the district 53263
advisory council shall be required for approval. When the district 53264
advisory councils have voted affirmatively on the question, they 53265
shall meet in joint session and shall elect a board of health for 53266

the combined districts. Each original general health district 53267
shall be entitled to at least one member on the board of health of 53268
the combined districts. 53269

When such union is completed, ~~such~~ the district shall 53270
constitute a general health district and shall be governed in the 53271
manner provided for general health districts. When two or more 53272
general health districts unite to form one district, the office of 53273
the board of health shall be located at the county seat of the 53274
county selected by the joint board of district advisory councils. 53275

When two or more general health districts have been combined 53276
into a single district, the county auditor of the county selected 53277
by the joint board of district advisory councils as the location 53278
of the central office of the board of health shall be the auditor 53279
of such district and the county treasurer of such county shall be 53280
the custodian of the health funds of such district. When the 53281
budget of such combined general health district is a matter for 53282
consideration, the members of the budget commissions of the 53283
counties constituting the district shall sit as a joint board for 53284
considering and acting on such budget. 53285

Sec. 3712.051. (A) As used in this division, "person" does 53286
not include a member of an interdisciplinary team, as defined in 53287
section 3712.01 of the Revised Code, or any individual who is 53288
employed by a person or public agency licensed under section 53289
3712.041 of the Revised Code. 53290

Except as provided in division (B) of this section, no person 53291
or public agency, other than a person or public agency licensed 53292
pursuant to section 3712.041 of the Revised Code, shall hold 53293
itself out as providing a pediatric respite care program, or 53294
provide a pediatric respite care program, or use the term 53295
"pediatric respite care program" or any term containing "pediatric 53296
respite care" to describe or refer to a health program, facility, 53297

or agency. 53298

(B) Division (A) of this section does not apply to any of the 53299
following: 53300

(1) A hospital; 53301

(2) A nursing home or residential care facility, as those 53302
terms are defined in section 3721.01 of the Revised Code; 53303

(3) A home health agency, if it provides services under 53304
contract with a person or public agency providing a pediatric 53305
respite care program licensed under section 3712.041 of the 53306
Revised Code; 53307

(4) A regional, state, or national nonprofit organization 53308
whose members are providers of pediatric respite care programs, 53309
individuals interested in pediatric respite care programs, or 53310
both, as long as the organization does not provide or represent 53311
that it provides pediatric respite care programs; 53312

(5) A person or government entity certified under section 53313
5123.161 of the Revised Code as a supported living provider; 53314

(6) A residential facility licensed under section 5123.19 of 53315
the Revised Code; 53316

(7) A respite care home certified under section 5126.05 of 53317
the Revised Code; 53318

(8) A person providing respite care under a family support 53319
services program established under section 5126.11 of the Revised 53320
Code; 53321

(9) A person or government entity providing respite care 53322
under a medicaid waiver component that the department of 53323
developmental disabilities administers pursuant to section 53324
~~5111.871~~ 5166.21 of the Revised Code. 53325

(C) The department of health shall petition the court of 53326
common pleas of any county in which a person or public agency, 53327

without a license granted under section 3712.041 of the Revised Code, is holding itself out as providing a pediatric respite care program, is providing a pediatric respite care program, or is representing a health program, facility, or agency as a pediatric respite care program, for an order enjoining that person or public agency from conducting those activities without a license. The court has jurisdiction to grant injunctive relief upon a showing that the respondent named in the petition is conducting those activities without a license.

Any person or public agency may request the department to petition the court for injunctive relief under this division, and the department shall do so if it determines that the person or public agency named in the request is violating division (A) of this section.

Sec. 3712.07. (A) As used in this section, "terminal care facility for the homeless" means a facility that provides accommodations to homeless individuals who are terminally ill.

(B) A person or public agency licensed under this chapter to provide a hospice care program may enter into an agreement with a terminal care facility for the homeless under which hospice care program services may be provided to individuals residing at the facility, if all of the following apply:

(1) Each resident of the facility has been diagnosed by a physician as having a terminal condition and an anticipated life expectancy of six months or less;

(2) No resident of the facility has a relative or other person willing or capable of providing the care necessary to cope with ~~his~~ the resident's terminal illness or is financially capable of hiring a person to provide such care;

(3) Each resident of the facility is under the direct care of

a physician; 53358

(4) No resident of the facility requires the staff of the 53359
facility to administer medication by injection; 53360

(5) The facility does not receive any remuneration, directly 53361
or indirectly, from the residents; 53362

(6) The facility does not receive any remuneration, directly 53363
or indirectly, from the ~~medical assistance~~ medicaid program 53364
~~established under section 5111.01 of the Revised Code or the~~ 53365
~~medicare program established under Title XVIII of the "Social~~ 53366
~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~ 53367

(7) The facility meets all applicable state and federal 53368
health and safety standards, including standards for fire 53369
prevention, maintenance of safe and sanitary conditions, and 53370
proper preparation and storage of foods. 53371

(C) Hospice care program services may be provided at a 53372
terminal care facility for the homeless only by the personnel of 53373
the person or public agency that has entered into an agreement 53374
with the facility under this section. 53375

(D) A terminal care facility for the homeless that has 53376
entered into an agreement under this section may assist its 53377
residents with the self-administration of medication if the 53378
medication has been prescribed by a physician and is not 53379
administered by injection. In the event that a resident has 53380
entered the final stages of dying and is no longer mentally alert, 53381
the facility may administer medication to that resident if the 53382
medication has been prescribed by a physician and is not 53383
administered by injection. Determinations of whether an individual 53384
has entered the final stages of dying and is no longer mentally 53385
alert shall be based on directions from the personnel who provide 53386
hospice care program services at the facility. 53387

Sec. 3712.09. (A) As used in this section: 53388

(1) "Applicant" means a person who is under final 53389
consideration for employment with a hospice care program or 53390
pediatric respite care program in a full-time, part-time, or 53391
temporary position that involves providing direct care to an older 53392
adult or pediatric respite care patient. "Applicant" does not 53393
include a person who provides direct care as a volunteer without 53394
receiving or expecting to receive any form of remuneration other 53395
than reimbursement for actual expenses. 53396

(2) "Criminal records check" has the same meaning as in 53397
section 109.572 of the Revised Code. 53398

(3) "Older adult" means a person age sixty or older. 53399

(B)(1) Except as provided in division (I) of this section, 53400
the chief administrator of a hospice care program or pediatric 53401
respite care program shall request that the superintendent of the 53402
bureau of criminal identification and investigation conduct a 53403
criminal records check of each applicant. If an applicant for whom 53404
a criminal records check request is required under this division 53405
does not present proof of having been a resident of this state for 53406
the five-year period immediately prior to the date the criminal 53407
records check is requested or provide evidence that within that 53408
five-year period the superintendent has requested information 53409
about the applicant from the federal bureau of investigation in a 53410
criminal records check, the chief administrator shall request that 53411
the superintendent obtain information from the federal bureau of 53412
investigation as part of the criminal records check of the 53413
applicant. Even if an applicant for whom a criminal records check 53414
request is required under this division presents proof of having 53415
been a resident of this state for the five-year period, the chief 53416
administrator may request that the superintendent include 53417
information from the federal bureau of investigation in the 53418

criminal records check. 53419

(2) A person required by division (B)(1) of this section to 53420
request a criminal records check shall do both of the following: 53421

(a) Provide to each applicant for whom a criminal records 53422
check request is required under that division a copy of the form 53423
prescribed pursuant to division (C)(1) of section 109.572 of the 53424
Revised Code and a standard fingerprint impression sheet 53425
prescribed pursuant to division (C)(2) of that section, and obtain 53426
the completed form and impression sheet from the applicant; 53427

(b) Forward the completed form and impression sheet to the 53428
superintendent of the bureau of criminal identification and 53429
investigation. 53430

(3) An applicant provided the form and fingerprint impression 53431
sheet under division (B)(2)(a) of this section who fails to 53432
complete the form or provide fingerprint impressions shall not be 53433
employed in any position for which a criminal records check is 53434
required by this section. 53435

(C)(1) Except as provided in rules adopted by the director of 53436
health in accordance with division (F) of this section and subject 53437
to division (C)(2) of this section, no hospice care program or 53438
pediatric respite care program shall employ a person in a position 53439
that involves providing direct care to an older adult or pediatric 53440
respite care patient if the person has been convicted of or 53441
pleaded guilty to any of the following: 53442

(a) A violation of section 2903.01, 2903.02, 2903.03, 53443
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 53444
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 53445
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 53446
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 53447
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 53448
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 53449

2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 53450
2925.22, 2925.23, or 3716.11 of the Revised Code. 53451

(b) A violation of an existing or former law of this state, 53452
any other state, or the United States that is substantially 53453
equivalent to any of the offenses listed in division (C)(1)(a) of 53454
this section. 53455

(2)(a) A hospice care program or pediatric respite care 53456
program may employ conditionally an applicant for whom a criminal 53457
records check request is required under division (B) of this 53458
section prior to obtaining the results of a criminal records check 53459
regarding the individual, provided that the program shall request 53460
a criminal records check regarding the individual in accordance 53461
with division (B)(1) of this section not later than five business 53462
days after the individual begins conditional employment. In the 53463
circumstances described in division (I)(2) of this section, a 53464
hospice care program or pediatric respite care program may employ 53465
conditionally an applicant who has been referred to the hospice 53466
care program or pediatric respite care program by an employment 53467
service that supplies full-time, part-time, or temporary staff for 53468
positions involving the direct care of older adults or pediatric 53469
respite care patients and for whom, pursuant to that division, a 53470
criminal records check is not required under division (B) of this 53471
section. 53472

(b) A hospice care program or pediatric respite care program 53473
that employs an individual conditionally under authority of 53474
division (C)(2)(a) of this section shall terminate the 53475
individual's employment if the results of the criminal records 53476
check requested under division (B) of this section or described in 53477
division (I)(2) of this section, other than the results of any 53478
request for information from the federal bureau of investigation, 53479
are not obtained within the period ending thirty days after the 53480
date the request is made. Regardless of when the results of the 53481

criminal records check are obtained, if the results indicate that 53482
the individual has been convicted of or pleaded guilty to any of 53483
the offenses listed or described in division (C)(1) of this 53484
section, the program shall terminate the individual's employment 53485
unless the program chooses to employ the individual pursuant to 53486
division (F) of this section. Termination of employment under this 53487
division shall be considered just cause for discharge for purposes 53488
of division (D)(2) of section 4141.29 of the Revised Code if the 53489
individual makes any attempt to deceive the program about the 53490
individual's criminal record. 53491

(D)(1) Each hospice care program or pediatric respite care 53492
program shall pay to the bureau of criminal identification and 53493
investigation the fee prescribed pursuant to division (C)(3) of 53494
section 109.572 of the Revised Code for each criminal records 53495
check conducted pursuant to a request made under division (B) of 53496
this section. 53497

(2) A hospice care program or pediatric respite care program 53498
may charge an applicant a fee not exceeding the amount the program 53499
pays under division (D)(1) of this section. A program may collect 53500
a fee only if both of the following apply: 53501

(a) The program notifies the person at the time of initial 53502
application for employment of the amount of the fee and that, 53503
unless the fee is paid, the person will not be considered for 53504
employment; 53505

(b) The ~~medical assistance~~ medicaid program ~~established under~~ 53506
~~Chapter 5111. of the Revised Code~~ does not reimburse the program 53507
the fee it pays under division (D)(1) of this section. 53508

(E) The report of a criminal records check conducted pursuant 53509
to a request made under this section is not a public record for 53510
the purposes of section 149.43 of the Revised Code and shall not 53511
be made available to any person other than the following: 53512

- (1) The individual who is the subject of the criminal records check or the individual's representative; 53513
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- (2) The chief administrator of the program requesting the criminal records check or the administrator's representative; 53515
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- (3) The administrator of any other facility, agency, or program that provides direct care to older adults or pediatric respite care patients that is owned or operated by the same entity that owns or operates the hospice care program or pediatric respite care program; 53517
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- (4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant; 53522
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- (5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section. 53526
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- (F) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a hospice care program or pediatric respite care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director. 53528
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- (G) The chief administrator of a hospice care program or pediatric respite care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult or pediatric respite care patient, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment. 53535
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- (H) In a tort or other civil action for damages that is 53543

brought as the result of an injury, death, or loss to person or 53544
property caused by an individual who a hospice care program or 53545
pediatric respite care program employs in a position that involves 53546
providing direct care to older adults or pediatric respite care 53547
patients, all of the following shall apply: 53548

(1) If the program employed the individual in good faith and 53549
reasonable reliance on the report of a criminal records check 53550
requested under this section, the program shall not be found 53551
negligent solely because of its reliance on the report, even if 53552
the information in the report is determined later to have been 53553
incomplete or inaccurate; 53554

(2) If the program employed the individual in good faith on a 53555
conditional basis pursuant to division (C)(2) of this section, the 53556
program shall not be found negligent solely because it employed 53557
the individual prior to receiving the report of a criminal records 53558
check requested under this section; 53559

(3) If the program in good faith employed the individual 53560
according to the personal character standards established in rules 53561
adopted under division (F) of this section, the program shall not 53562
be found negligent solely because the individual prior to being 53563
employed had been convicted of or pleaded guilty to an offense 53564
listed or described in division (C)(1) of this section. 53565

(I)(1) The chief administrator of a hospice care program or 53566
pediatric respite care program is not required to request that the 53567
superintendent of the bureau of criminal identification and 53568
investigation conduct a criminal records check of an applicant if 53569
the applicant has been referred to the program by an employment 53570
service that supplies full-time, part-time, or temporary staff for 53571
positions involving the direct care of older adults or pediatric 53572
respite care patients and both of the following apply: 53573

(a) The chief administrator receives from the employment 53574

service or the applicant a report of the results of a criminal 53575
records check regarding the applicant that has been conducted by 53576
the superintendent within the one-year period immediately 53577
preceding the applicant's referral; 53578

(b) The report of the criminal records check demonstrates 53579
that the person has not been convicted of or pleaded guilty to an 53580
offense listed or described in division (C)(1) of this section, or 53581
the report demonstrates that the person has been convicted of or 53582
pleaded guilty to one or more of those offenses, but the hospice 53583
care program or pediatric respite care program chooses to employ 53584
the individual pursuant to division (F) of this section. 53585

(2) The chief administrator of a hospice care program or 53586
pediatric respite care program is not required to request that the 53587
superintendent of the bureau of criminal identification and 53588
investigation conduct a criminal records check of an applicant and 53589
may employ the applicant conditionally as described in this 53590
division, if the applicant has been referred to the program by an 53591
employment service that supplies full-time, part-time, or 53592
temporary staff for positions involving the direct care of older 53593
adults or pediatric respite care patients and if the chief 53594
administrator receives from the employment service or the 53595
applicant a letter from the employment service that is on the 53596
letterhead of the employment service, dated, and signed by a 53597
supervisor or another designated official of the employment 53598
service and that states that the employment service has requested 53599
the superintendent to conduct a criminal records check regarding 53600
the applicant, that the requested criminal records check will 53601
include a determination of whether the applicant has been 53602
convicted of or pleaded guilty to any offense listed or described 53603
in division (C)(1) of this section, that, as of the date set forth 53604
on the letter, the employment service had not received the results 53605
of the criminal records check, and that, when the employment 53606

service receives the results of the criminal records check, it 53607
promptly will send a copy of the results to the hospice care 53608
program or pediatric respite care program. If a hospice care 53609
program or pediatric respite care program employs an applicant 53610
conditionally in accordance with this division, the employment 53611
service, upon its receipt of the results of the criminal records 53612
check, promptly shall send a copy of the results to the hospice 53613
care program or pediatric respite care program, and division 53614
(C)(2)(b) of this section applies regarding the conditional 53615
employment. 53616

Sec. 3713.06. (A) Any person required to register under 53617
division (A) of section 3713.02 of the Revised Code who imports 53618
bedding or stuffed toys into this state for retail sale or use in 53619
this state and any person required to register under division (A) 53620
of section 3713.02 of the Revised Code who manufactures bedding or 53621
stuffed toys in this state for retail sale or use in this state 53622
shall submit a report to the superintendent of industrial 53623
compliance, in a form and manner prescribed by the superintendent. 53624
The form shall be submitted once ~~every six months~~ per year and 53625
shall show the total number of items of bedding or stuffed toys 53626
imported into this state or manufactured in this state. Each 53627
report shall be accompanied by a fee of four cents for each item 53628
of bedding or stuffed toy imported into this state or manufactured 53629
in this state. 53630

(B) Every importer, manufacturer, or wholesaler of stuffed 53631
toys or articles of bedding, and every mobile home and 53632
recreational vehicle dealer, conversion van dealer, secondhand 53633
dealer, and auction house shall retain records, designated by the 53634
superintendent in rule, for the time period established in rule. 53635

(C) Every importer, manufacturer, or wholesaler of stuffed 53636
toys or articles of bedding, and every mobile home and 53637

recreational vehicle dealer, conversion van dealer, secondhand 53638
dealer, and auction house shall make sufficient investigation of 53639
its records to ensure that the information reported to the 53640
superintendent under division (A) of this section is accurate. 53641

Sec. 3714.07. (A)(1) For the purpose of assisting boards of 53642
health and the environmental protection agency in administering 53643
and enforcing this chapter and rules adopted under it, there is 53644
hereby levied a fee of thirty cents per cubic yard or sixty cents 53645
per ton, as applicable, on both of the following: 53646

(a) The disposal of construction and demolition debris at a 53647
construction and demolition debris facility that is licensed under 53648
this chapter or at a solid waste facility that is licensed under 53649
Chapter 3734. of the Revised Code; 53650

(b) The disposal of asbestos or asbestos-containing materials 53651
or products at a construction and demolition debris facility that 53652
is licensed under this chapter or at a solid waste facility that 53653
is licensed under Chapter 3734. of the Revised Code. 53654

(2) The owner or operator of a construction and demolition 53655
debris facility or a solid waste facility shall determine if cubic 53656
yards or tons will be used as the unit of measurement. If basing 53657
the fee on cubic yards, the owner or operator shall utilize either 53658
the maximum cubic yard capacity of the container, or the hauling 53659
volume of the vehicle, that transports the construction and 53660
demolition debris to the facility or the cubic yards actually 53661
logged for disposal by the owner or operator in accordance with 53662
rules adopted under section 3714.02 of the Revised Code. If basing 53663
the fee on tonnage, the owner or operator shall use certified 53664
scales to determine the tonnage of construction and demolition 53665
debris that is disposed of. 53666

(3) The owner or operator of a construction and demolition 53667
debris facility or a solid waste facility shall calculate the 53668

amount of money generated from the fee levied under division 53669
(A)(1) of this section and shall hold that amount as a trustee for 53670
the health district having jurisdiction over the facility, if that 53671
district is on the approved list under section 3714.09 of the 53672
Revised Code, or for the state. The owner or operator shall 53673
prepare and file with the appropriate board of health or the 53674
director of environmental protection monthly returns indicating 53675
the total volume or weight, as applicable, of construction and 53676
demolition debris and asbestos or asbestos-containing materials or 53677
products disposed of at the facility and the total amount of money 53678
generated during that month from the fee levied under division 53679
(A)(1) of this section on the disposal of construction and 53680
demolition debris and asbestos or asbestos-containing materials or 53681
products. Not later than thirty days after the last day of the 53682
month to which the return applies, the owner or operator shall 53683
mail to the board of health or the director the return for that 53684
month together with the amount of money calculated under division 53685
(A)(3) of this section on the disposal of construction and 53686
demolition debris and asbestos or asbestos-containing materials or 53687
products during that month or may submit the return and money 53688
electronically in a manner approved by the director. The owner or 53689
operator may request, in writing, an extension of not more than 53690
thirty days after the last day of the month to which the return 53691
applies. A request for extension may be denied. If the owner or 53692
operator submits the money late, the owner or operator shall pay a 53693
penalty of ten per cent of the amount of the money due for each 53694
month that it is late. 53695

(4) Of the money that is submitted by a construction and 53696
demolition debris facility or a solid waste facility on a per 53697
cubic yard or per ton basis under this section, a board of health 53698
shall transmit three cents per cubic yard or six cents per ton, as 53699
applicable, to the director not later than forty-five days after 53700
the receipt of the money. The money retained by a board of health 53701

under this section shall be paid into a special fund, which is 53702
hereby created in each health district, and used solely ~~to~~ for the 53703
following purposes: 53704

(a) To administer and enforce this chapter and rules adopted 53705
under it; 53706

(b) To abate accumulations of construction and demolition 53707
debris as provided in section 3714.074 of the Revised Code. 53708

The director shall transmit all money received under this 53709
section to the treasurer of state to be credited to the 53710
construction and demolition debris facility oversight fund, which 53711
is hereby created in the state treasury. The fund shall be 53712
administered by the director, and money credited to the fund shall 53713
be used exclusively for the administration and enforcement of this 53714
chapter and rules adopted under it. 53715

(B) The board of health of a health district or the director 53716
may enter into an agreement with the owner or operator of a 53717
construction and demolition debris facility or a solid waste 53718
facility for the quarterly payment of money generated from the 53719
disposal fee as calculated in division (A)(3) of this section. The 53720
board of health shall notify the director of any such agreement. 53721
Not later than forty-five days after receipt of the quarterly 53722
payment, the board of health shall transmit the amount established 53723
in division (A)(4) of this section to the director. The money 53724
retained by the board of health shall be deposited in the special 53725
fund of the district as required under that division. Upon receipt 53726
of the money from a board of health, the director shall transmit 53727
the money to the treasurer of state to be credited to the 53728
construction and demolition debris facility oversight fund. 53729

(C) If a construction and demolition debris facility or a 53730
solid waste facility is located within the territorial boundaries 53731
of a municipal corporation or the unincorporated area of a 53732

township, the municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A)(1) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money generated from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money generated from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as appropriate, shall maintain separate records of the money received under this division.

The legislative authority of a municipal corporation or

township may cease appropriating money under this division by 53765
repealing the ordinance or resolution that was enacted or adopted 53766
under this division. 53767

The director shall adopt rules in accordance with Chapter 53768
119. of the Revised Code establishing requirements for prorating 53769
the amount of the fee that may be appropriated under this division 53770
by a municipal corporation or township in which only a portion of 53771
a construction and demolition debris facility is located within 53772
the territorial boundaries of the municipal corporation or 53773
township. 53774

(D) The board of county commissioners of a county in which a 53775
construction and demolition debris facility or a solid waste 53776
facility is located may appropriate up to three cents per cubic 53777
yard or up to six cents per ton of the disposal fee required to be 53778
paid by the facility under division (A)(1) of this section for the 53779
same purposes that a solid waste management district may levy a 53780
fee under division (B) of section 3734.57 of the Revised Code. 53781

The board of county commissioners may appropriate the money 53782
from the fee by adopting a resolution establishing the amount of 53783
the fee to be appropriated. Upon doing so, the board of county 53784
commissioners shall mail a certified copy of the resolution to the 53785
board of health of the health district in which the construction 53786
and demolition debris facility or the solid waste facility is 53787
located or, if the facility is located in a health district that 53788
is not on the approved list under section 3714.09 of the Revised 53789
Code, to the director. Upon receipt of the copy of the resolution 53790
and not later than forty-five days after receipt of money 53791
generated from the fee, the board of health or the director, as 53792
applicable, shall transmit to the treasurer of the county that 53793
portion of the money generated from the disposal fee by the owner 53794
or operator of the facility that is required by the resolution to 53795
be paid to that county. 53796

Money received by a county treasurer under this division 53797
shall be paid into the general fund of the county. The county 53798
treasurer shall maintain separate records of the money received 53799
under this division. 53800

A board of county commissioners may cease appropriating money 53801
under this division by repealing the resolution that was adopted 53802
under this division. 53803

(E)(1) This section does not apply to the disposal of 53804
construction and demolition debris at a solid waste facility that 53805
is licensed under Chapter 3734. of the Revised Code if there is no 53806
construction and demolition debris facility licensed under this 53807
chapter within thirty-five miles of the solid waste facility as 53808
determined by a facility's property boundaries. 53809

(2) This section does not apply to the disposal of 53810
construction and demolition debris at a solid waste facility that 53811
is licensed under Chapter 3734. of the Revised Code if the owner 53812
or operator of the facility chooses to collect fees on the 53813
disposal of the construction and demolition debris and asbestos or 53814
asbestos-containing materials or products that are identical to 53815
the fees that are collected under Chapters 343. and 3734. of the 53816
Revised Code on the disposal of solid wastes at that facility. 53817

(3) This section does not apply to the disposal of source 53818
separated materials that are exclusively composed of reinforced or 53819
nonreinforced concrete, asphalt, clay tile, building or paving 53820
brick, or building or paving stone at a construction and 53821
demolition debris facility that is licensed under this chapter 53822
when either of the following applies: 53823

(a) The materials are placed within the limits of 53824
construction and demolition debris placement at the facility as 53825
specified in the license issued to the facility under section 53826
3714.06 of the Revised Code, are not placed within the unloading 53827

zone of the facility, and are used as a fire prevention measure in 53828
accordance with rules adopted by the director under section 53829
3714.02 of the Revised Code. 53830

(b) The materials are not placed within the unloading zone of 53831
the facility or within the limits of construction and demolition 53832
debris placement at the facility as specified in the license 53833
issued to the facility under section 3714.06 of the Revised Code, 53834
but are used as fill material, either alone or in conjunction with 53835
clean soil, sand, gravel, or other clean aggregates, in legitimate 53836
fill operations for construction purposes at the facility or to 53837
bring the facility up to a consistent grade. 53838

Sec. 3714.074. (A) A board of health may use money in the 53839
board's special fund created in section 3714.07 of the Revised 53840
Code for the purpose specified in division (B) of this section if 53841
both of the following apply: 53842

(1) It is the end of the fiscal year. 53843

(2) The board determines that it has more money in the fund 53844
than is necessary for the board to administer and enforce this 53845
chapter and rules adopted under it for the following fiscal year. 53846

(B) A board of health may use excess money as described in 53847
division (A) of this section to abate accumulations of 53848
construction and demolition debris at a location for which a 53849
license has not been issued pursuant to section 3714.05 of the 53850
Revised Code if all of the following apply to the property on 53851
which the accumulations are located: 53852

(1) The construction and demolition debris was placed on the 53853
property under either of the following circumstances: 53854

(a) After the owner of the property acquired title to it; 53855

(b) Before the owner of the property acquired title to it if 53856
the owner acquired title to the property by bequest or devise. 53857

(2) The owner of the property did not have knowledge that the construction and demolition debris was being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of construction and demolition debris on the property. 53858
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(3) The owner of the property did not participate in or consent to the placement of the construction and demolition debris on the property. 53863
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(4) The owner of the property did not receive any financial benefit from the placement of the construction and demolition debris on the property or from having the construction and demolition debris on the property. 53866
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(5) Title to the property was not transferred to the owner of that property for the purpose of avoiding liability for violations of this chapter or rules adopted under it. 53870
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(6) The person responsible for the placement of the construction and demolition debris on the property, in placing the construction and demolition debris on the property, was not acting as an agent for the owner of the property. 53873
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Sec. 3717.08. (A) The director of agriculture and director of health shall strive to increase consumer confidence in the state's food supply by promoting food safety awareness and education. The efforts of the director of agriculture and director of health shall be made, when appropriate and available, through partnerships with representatives of retail food establishments, representatives of food service operations, and representatives of the academic community, including ~~the Ohio state university~~ OSU extension ~~service~~. 53877
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(B) As part of their promotion of food safety awareness, the director of agriculture and the director of health shall do the 53886
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following: 53888

(1) Develop training programs regarding the Ohio uniform food 53889
safety code. The directors may offer the training programs 53890
separately but shall coordinate the content of the programs to the 53891
greatest extent practicable. The training programs shall be made 53892
available to the employees of the department of agriculture, 53893
employees of the department of health, representatives of boards 53894
of health and the health officials employed by the boards, 53895
representatives of retail food establishments, and representatives 53896
of food service operations. 53897

(2) Co-sponsor a biennial statewide food safety conference. 53898
Additional statewide food safety conferences may be held as 53899
considered appropriate by the director of agriculture and director 53900
of health. 53901

Sec. 3718.06. (A) A board of health shall establish fees in 53902
accordance with section 3709.09 of the Revised Code for the 53903
purpose of carrying out its duties under this chapter and rules 53904
adopted under it, including fees for installation permits, 53905
operation permits, and alteration permits issued by the board. All 53906
fees so established and collected by the board shall be deposited 53907
in a special fund of the district to be used exclusively by the 53908
board in carrying out those duties. 53909

(B) In accordance with Chapter 119. of the Revised Code, the 53910
director of health may establish by rule a fee to be collected 53911
from applicants for installation permits and alteration permits 53912
issued under rules adopted under this chapter. The director of 53913
health shall use not more than ~~seventy-five~~ ninety per cent of the 53914
proceeds from that fee for administering and enforcing this 53915
chapter and the rules adopted under it by the director. The 53916
director shall use not less than ~~twenty-five~~ ten per cent of the 53917
proceeds from that fee to establish a program in cooperation with 53918

boards of health to fund installation and evaluation of sewage 53919
treatment system new technology pilot projects through grants or 53920
other agreements. In the selection of pilot projects, the director 53921
shall consult with the sewage treatment system technical advisory 53922
committee. A board of health shall collect and transmit the fee to 53923
the director pursuant to section 3709.092 of the Revised Code. 53924

Sec. 3719.61. Nothing in the laws dealing with drugs of abuse 53925
shall be construed to prohibit treatment of narcotic drug 53926
dependent persons by the continuing maintenance of their 53927
dependence through the administration of methadone in accordance 53928
with the rules adopted by the department of ~~alcohol and drug~~ 53929
~~addiction services~~ mental health and addiction services under 53930
section ~~3793.11~~ 5119.39 of the Revised Code, when all of the 53931
following apply: 53932

(A) The likelihood that any person undergoing maintenance 53933
treatment will be cured of dependence on narcotic drugs is remote, 53934
the treatment is prescribed for the purpose of alleviating or 53935
controlling the patient's drug dependence, and the patient's 53936
prognosis while undergoing treatment is at least a partial 53937
improvement in the patient's asocial or antisocial behavior 53938
patterns; 53939

(B) In the case of an inpatient in a hospital or clinic, the 53940
amount of the maintenance drug dispensed at any one time does not 53941
exceed the quantity necessary for a single dose, and the dose is 53942
administered to the patient immediately; 53943

(C) In the case of an outpatient, the amount of the 53944
maintenance drug dispensed at any one time shall be determined by 53945
the patient's treatment provider taking into account the patient's 53946
progress in the treatment program and the patient's needs for 53947
gainful employment, education, and responsible homemaking, except 53948
that in no event shall the dosage be greater than the amount 53949

permitted by federal law and rules adopted by the department 53950
pursuant to section ~~3793.11~~ 5119.39 of the Revised Code; 53951

(D) The drug is not dispensed in any case to replace or 53952
supplement any part of a supply of the drug previously dispensed, 53953
or when there is reasonable cause to believe it will be used or 53954
disposed of unlawfully; 53955

(E) The drug is dispensed through a program licensed and 53956
operated in accordance with section ~~3793.11~~ 5119.39 of the Revised 53957
Code. 53958

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 53959
3721.99 of the Revised Code: 53960

(1)(a) "Home" means an institution, residence, or facility 53961
that provides, for a period of more than twenty-four hours, 53962
whether for a consideration or not, accommodations to three or 53963
more unrelated individuals who are dependent upon the services of 53964
others, including a nursing home, residential care facility, home 53965
for the aging, and a veterans' home operated under Chapter 5907. 53966
of the Revised Code. 53967

(b) "Home" also means both of the following: 53968

(i) Any facility that a person, as defined in section 3702.51 53969
of the Revised Code, proposes for certification as a skilled 53970
nursing facility or nursing facility under Title XVIII or XIX of 53971
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 53972
as amended, and for which a certificate of need, other than a 53973
certificate to recategorize hospital beds as described in section 53974
3702.521 of the Revised Code or division (R)(7)(d) of the version 53975
of section 3702.51 of the Revised Code in effect immediately prior 53976
to April 20, 1995, has been granted to the person under sections 53977
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 53978

(ii) A county home or district home that is or has been 53979

licensed as a residential care facility. 53980

(c) "Home" does not mean any of the following: 53981

(i) Except as provided in division (A)(1)(b) of this section, 53982
a public hospital or hospital as defined in section 3701.01 or 53983
5122.01 of the Revised Code; 53984

(ii) A residential facility as defined in section ~~5119.22~~ 53985
5119.34 of the Revised Code; 53986

(iii) A residential facility as defined in section 5123.19 of 53987
the Revised Code; 53988

(iv) ~~An alcohol or drug~~ A community addiction ~~program~~ 53989
services provider as defined in section ~~3793.01~~ 5119.01 of the 53990
Revised Code; 53991

(v) A facility licensed to provide methadone treatment under 53992
section ~~3793.11~~ 5119.39 of the Revised Code; 53993

(vi) A facility providing services under contract with the 53994
department of developmental disabilities under section 5123.18 of 53995
the Revised Code; 53996

(vii) A facility operated by a hospice care program licensed 53997
under section 3712.04 of the Revised Code that is used exclusively 53998
for care of hospice patients; 53999

(viii) A facility operated by a pediatric respite care 54000
program licensed under section 3712.041 of the Revised Code that 54001
is used exclusively for care of pediatric respite care patients; 54002

(ix) A facility, infirmary, or other entity that is operated 54003
by a religious order, provides care exclusively to members of 54004
religious orders who take vows of celibacy and live by virtue of 54005
their vows within the orders as if related, and does not 54006
participate in the medicare program ~~established under Title XVIII~~ 54007
~~of the "Social Security Act"~~ or the medical assistance medicaid 54008
program ~~established under Chapter 5111. of the Revised Code and~~ 54009

~~Title XIX of the "Social Security Act,"~~ if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

(x) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in

administration. 54040

(5)(a) "Personal care services" means services including, but 54041
not limited to, the following: 54042

(i) Assisting residents with activities of daily living; 54043

(ii) Assisting residents with self-administration of 54044
medication, in accordance with rules adopted under section 3721.04 54045
of the Revised Code; 54046

(iii) Preparing special diets, other than complex therapeutic 54047
diets, for residents pursuant to the instructions of a physician 54048
or a licensed dietitian, in accordance with rules adopted under 54049
section 3721.04 of the Revised Code. 54050

(b) "Personal care services" does not include "skilled 54051
nursing care" as defined in division (A)(4) of this section. A 54052
facility need not provide more than one of the services listed in 54053
division (A)(5)(a) of this section to be considered to be 54054
providing personal care services. 54055

(6) "Nursing home" means a home used for the reception and 54056
care of individuals who by reason of illness or physical or mental 54057
impairment require skilled nursing care and of individuals who 54058
require personal care services but not skilled nursing care. A 54059
nursing home is licensed to provide personal care services and 54060
skilled nursing care. 54061

(7) "Residential care facility" means a home that provides 54062
either of the following: 54063

(a) Accommodations for seventeen or more unrelated 54064
individuals and supervision and personal care services for three 54065
or more of those individuals who are dependent on the services of 54066
others by reason of age or physical or mental impairment; 54067

(b) Accommodations for three or more unrelated individuals, 54068
supervision and personal care services for at least three of those 54069

individuals who are dependent on the services of others by reason 54070
of age or physical or mental impairment, and, to at least one of 54071
those individuals, any of the skilled nursing care authorized by 54072
section 3721.011 of the Revised Code. 54073

(8) "Home for the aging" means a home that provides services 54074
as a residential care facility and a nursing home, except that the 54075
home provides its services only to individuals who are dependent 54076
on the services of others by reason of both age and physical or 54077
mental impairment. 54078

The part or unit of a home for the aging that provides 54079
services only as a residential care facility is licensed as a 54080
residential care facility. The part or unit that may provide 54081
skilled nursing care beyond the extent authorized by section 54082
3721.011 of the Revised Code is licensed as a nursing home. 54083

(9) "County home" and "district home" mean a county home or 54084
district home operated under Chapter 5155. of the Revised Code. 54085

(B) The director of health may further classify homes. For 54086
the purposes of this chapter, any residence, institution, hotel, 54087
congregate housing project, or similar facility that meets the 54088
definition of a home under this section is such a home regardless 54089
of how the facility holds itself out to the public. 54090

(C) For purposes of this chapter, personal care services or 54091
skilled nursing care shall be considered to be provided by a 54092
facility if they are provided by a person employed by or 54093
associated with the facility or by another person pursuant to an 54094
agreement to which neither the resident who receives the services 54095
nor the resident's sponsor is a party. 54096

(D) Nothing in division (A)(4) of this section shall be 54097
construed to permit skilled nursing care to be imposed on an 54098
individual who does not require skilled nursing care. 54099

Nothing in division (A)(5) of this section shall be construed 54100

to permit personal care services to be imposed on an individual 54101
who is capable of performing the activity in question without 54102
assistance. 54103

(E) Division (A)(1)(c)(ix) of this section does not prohibit 54104
a facility, infirmary, or other entity described in that division 54105
from seeking licensure under sections 3721.01 to 3721.09 of the 54106
Revised Code or certification under Title XVIII or XIX of the 54107
"Social Security Act." However, such a facility, infirmary, or 54108
entity that applies for licensure or certification must meet the 54109
requirements of those sections or titles and the rules adopted 54110
under them and obtain a certificate of need from the director of 54111
health under section 3702.52 of the Revised Code. 54112

(F) Nothing in this chapter, or rules adopted pursuant to it, 54113
shall be construed as authorizing the supervision, regulation, or 54114
control of the spiritual care or treatment of residents or 54115
patients in any home who rely upon treatment by prayer or 54116
spiritual means in accordance with the creed or tenets of any 54117
recognized church or religious denomination. 54118

Sec. 3721.011. (A) In addition to providing accommodations, 54119
supervision, and personal care services to its residents, a 54120
residential care facility may do the following: 54121

(1) Provide the following skilled nursing care to its 54122
residents: 54123

(a) Supervision of special diets; 54124

(b) Application of dressings, in accordance with rules 54125
adopted under section 3721.04 of the Revised Code; 54126

(c) Subject to division (B)(1) of this section, 54127
administration of medication. 54128

(2) Subject to division (C) of this section, provide other 54129
skilled nursing care on a part-time, intermittent basis for not 54130

more than a total of one hundred twenty days in a twelve-month period; 54131
54132

(3) Provide skilled nursing care for more than one hundred 54133
twenty days in a twelve-month period to a resident when the 54134
requirements of division (D) of this section are met. 54135

A residential care facility may not admit or retain an 54136
individual requiring skilled nursing care that is not authorized 54137
by this section. A residential care facility may not provide 54138
skilled nursing care beyond the limits established by this 54139
section. 54140

(B)(1) A residential care facility may admit or retain an 54141
individual requiring medication, including biologicals, only if 54142
the individual's personal physician has determined in writing that 54143
the individual is capable of self-administering the medication or 54144
the facility provides for the medication to be administered to the 54145
individual by a home health agency certified under Title XVIII of 54146
the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as 54147
amended; a hospice care program licensed under Chapter 3712. of 54148
the Revised Code; or a member of the staff of the residential care 54149
facility who is qualified to perform medication administration. 54150
Medication may be administered in a residential care facility only 54151
by the following persons authorized by law to administer 54152
medication: 54153

(a) A registered nurse licensed under Chapter 4723. of the 54154
Revised Code; 54155

(b) A licensed practical nurse licensed under Chapter 4723. 54156
of the Revised Code who holds proof of successful completion of a 54157
course in medication administration approved by the board of 54158
nursing and who administers the medication only at the direction 54159
of a registered nurse or a physician authorized under Chapter 54160
4731. of the Revised Code to practice medicine and surgery or 54161

osteopathic medicine and surgery; 54162

(c) A medication aide certified under Chapter 4723. of the 54163
Revised Code; 54164

(d) A physician authorized under Chapter 4731. of the Revised 54165
Code to practice medicine and surgery or osteopathic medicine and 54166
surgery. 54167

(2) In assisting a resident with self-administration of 54168
medication, any member of the staff of a residential care facility 54169
may do the following: 54170

(a) Remind a resident when to take medication and watch to 54171
ensure that the resident follows the directions on the container; 54172

(b) Assist a resident by taking the medication from the 54173
locked area where it is stored, in accordance with rules adopted 54174
pursuant to section 3721.04 of the Revised Code, and handing it to 54175
the resident. If the resident is physically unable to open the 54176
container, a staff member may open the container for the resident. 54177

(c) Assist a physically impaired but mentally alert resident, 54178
such as a resident with arthritis, cerebral palsy, or Parkinson's 54179
disease, in removing oral or topical medication from containers 54180
and in consuming or applying the medication, upon request by or 54181
with the consent of the resident. If a resident is physically 54182
unable to place a dose of medicine to the resident's mouth without 54183
spilling it, a staff member may place the dose in a container and 54184
place the container to the mouth of the resident. 54185

(C) Except as provided in division (D) of this section, a 54186
residential care facility may admit or retain individuals who 54187
require skilled nursing care beyond the supervision of special 54188
diets, application of dressings, or administration of medication, 54189
only if the care will be provided on a part-time, intermittent 54190
basis for not more than a total of one hundred twenty days in any 54191
twelve-month period. In accordance with Chapter 119. of the 54192

Revised Code, the director of health shall adopt rules specifying 54193
what constitutes the need for skilled nursing care on a part-time, 54194
intermittent basis. The director shall adopt rules that are 54195
consistent with rules pertaining to home health care adopted by 54196
the medicaid director ~~of job and family services~~ for the medicaid 54197
program ~~established under Chapter 5111. of the Revised Code.~~ 54198
Skilled nursing care provided pursuant to this division may be 54199
provided by a home health agency certified ~~under Title XVIII of~~ 54200
~~the "Social Security Act for participation in the medicare~~ 54201
program," a hospice care program licensed under Chapter 3712. of 54202
the Revised Code, or a member of the staff of a residential care 54203
facility who is qualified to perform skilled nursing care. 54204

A residential care facility that provides skilled nursing 54205
care pursuant to this division shall do both of the following: 54206

(1) Evaluate each resident receiving the skilled nursing care 54207
at least once every seven days to determine whether the resident 54208
should be transferred to a nursing home; 54209

(2) Meet the skilled nursing care needs of each resident 54210
receiving the care. 54211

(D)(1) A residential care facility may admit or retain an 54212
individual who requires skilled nursing care for more than one 54213
hundred twenty days in any twelve-month period only if the 54214
facility has entered into a written agreement with each of the 54215
following: 54216

(a) The individual or individual's sponsor; 54217

(b) The individual's personal physician; 54218

(c) Unless the individual's personal physician oversees the 54219
skilled nursing care, the provider of the skilled nursing care; 54220

(d) If the individual is a hospice patient as defined in 54221
section 3712.01 of the Revised Code, a hospice care program 54222

licensed under Chapter 3712. of the Revised Code. 54223

(2) The agreement required by division (D)(1) of this section 54224
shall include all of the following provisions: 54225

(a) That the individual will be provided skilled nursing care 54226
in the facility only if a determination has been made that the 54227
individual's needs can be met at the facility; 54228

(b) That the individual will be retained in the facility only 54229
if periodic redeterminations are made that the individual's needs 54230
are being met at the facility; 54231

(c) That the redeterminations will be made according to a 54232
schedule specified in the agreement; 54233

(d) If the individual is a hospice patient, that the 54234
individual has been given an opportunity to choose the hospice 54235
care program that best meets the individual's needs; 54236

(e) Unless the individual is a hospice patient, that the 54237
individual's personal physician has determined that the skilled 54238
nursing care the individual needs is routine. 54239

(E) Notwithstanding any other provision of this chapter, a 54240
residential care facility in which residents receive skilled 54241
nursing care pursuant to this section is not a nursing home. 54242

Sec. 3721.02. (A) As used in this section, "residential 54243
facility" means a residential facility licensed under section 54244
~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, 54245
supervision, and personal care services for three to sixteen 54246
unrelated adults. 54247

(B) The director of health shall license homes and establish 54248
procedures to be followed in inspecting and licensing homes. The 54249
director may inspect a home at any time. Each home shall be 54250
inspected by the director at least once prior to the issuance of a 54251
license and at least once every fifteen months thereafter. The 54252

state fire marshal or a township, municipal, or other legally 54253
constituted fire department approved by the marshal shall also 54254
inspect a home prior to issuance of a license, at least once every 54255
fifteen months thereafter, and at any other time requested by the 54256
director. A home does not have to be inspected prior to issuance 54257
of a license by the director, state fire marshal, or a fire 54258
department if ownership of the home is assigned or transferred to 54259
a different person and the home was licensed under this chapter 54260
immediately prior to the assignment or transfer. The director may 54261
enter at any time, for the purposes of investigation, any 54262
institution, residence, facility, or other structure that has been 54263
reported to the director or that the director has reasonable cause 54264
to believe is operating as a nursing home, residential care 54265
facility, or home for the aging without a valid license required 54266
by section 3721.05 of the Revised Code or, in the case of a county 54267
home or district home, is operating despite the revocation of its 54268
residential care facility license. The director may delegate the 54269
director's authority and duties under this chapter to any 54270
division, bureau, agency, or official of the department of health. 54271

(C) A single facility may be licensed both as a nursing home 54272
pursuant to this chapter and as a residential facility pursuant to 54273
section ~~5119.22~~ 5119.34 of the Revised Code if the director 54274
determines that the part or unit to be licensed as a nursing home 54275
can be maintained separate and discrete from the part or unit to 54276
be licensed as a residential facility. 54277

(D) In determining the number of residents in a home for the 54278
purpose of licensing, the director shall consider all the 54279
individuals for whom the home provides accommodations as one group 54280
unless one of the following is the case: 54281

(1) The home is a home for the aging, in which case all the 54282
individuals in the part or unit licensed as a nursing home shall 54283
be considered as one group, and all the individuals in the part or 54284

unit licensed as a rest home shall be considered as another group. 54285

(2) The home is both a nursing home and a residential 54286
facility. In that case, all the individuals in the part or unit 54287
licensed as a nursing home shall be considered as one group, and 54288
all the individuals in the part or unit licensed as an adult care 54289
facility shall be considered as another group. 54290

(3) The home maintains, in addition to a nursing home or 54291
residential care facility, a separate and discrete part or unit 54292
that provides accommodations to individuals who do not require or 54293
receive skilled nursing care and do not receive personal care 54294
services from the home, in which case the individuals in the 54295
separate and discrete part or unit shall not be considered in 54296
determining the number of residents in the home if the separate 54297
and discrete part or unit is in compliance with the Ohio basic 54298
building code established by the board of building standards under 54299
Chapters 3781. and 3791. of the Revised Code and the home permits 54300
the director, on request, to inspect the separate and discrete 54301
part or unit and speak with the individuals residing there, if 54302
they consent, to determine whether the separate and discrete part 54303
or unit meets the requirements of this division. 54304

(E)(1) The director of health shall charge the following 54305
application fee and annual renewal licensing and inspection fee 54306
for each fifty persons or part thereof of a home's licensed 54307
capacity: 54308

(a) For state fiscal year 2010, two hundred twenty dollars; 54309

(b) For state fiscal year 2011, two hundred seventy dollars; 54310

(c) For each state fiscal year thereafter, three hundred 54311
twenty dollars. 54312

(2) All fees collected by the director for the issuance or 54313
renewal of licenses shall be deposited into the state treasury to 54314
the credit of the general operations fund created in section 54315

3701.83 of the Revised Code for use only in administering and 54316
enforcing this chapter and rules adopted under it. 54317

(F)(1) Except as otherwise provided in this section, the 54318
results of an inspection or investigation of a home that is 54319
conducted under this section, including any statement of 54320
deficiencies and all findings and deficiencies cited in the 54321
statement on the basis of the inspection or investigation, shall 54322
be used solely to determine the home's compliance with this 54323
chapter or another chapter of the Revised Code in any action or 54324
proceeding other than an action commenced under division (I) of 54325
section 3721.17 of the Revised Code. Those results of an 54326
inspection or investigation, that statement of deficiencies, and 54327
the findings and deficiencies cited in that statement shall not be 54328
used in any court or in any action or proceeding that is pending 54329
in any court and are not admissible in evidence in any action or 54330
proceeding unless that action or proceeding is an appeal of an 54331
action by the department of health under this chapter or is an 54332
action by any department or agency of the state to enforce this 54333
chapter or another chapter of the Revised Code. 54334

(2) Nothing in division (E)(1) of this section prohibits the 54335
results of an inspection or investigation conducted under this 54336
section from being used in a criminal investigation or 54337
prosecution. 54338

Sec. 3721.022. (A) As used in this section: 54339

(1) "Nursing facility" has the same meaning as in section 54340
~~5111.20~~ 5165.01 of the Revised Code. 54341

(2) "Deficiency" and "survey" have the same meanings as in 54342
section ~~5111.35~~ 5165.60 of the Revised Code. 54343

(3) "Title XIX" and "Title XVIII" have the same meanings as 54344
in section 5165.01 of the Revised Code. 54345

(B) The department of health is hereby designated the state agency responsible for establishing and maintaining health standards and serving as the state survey agency for the purposes of ~~Titles~~ Title XVIII and Title XIX of the "~~Social Security Act,~~" ~~49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~ The department shall carry out these functions in accordance with the regulations, guidelines, and procedures issued under ~~Titles~~ Title XVIII and Title XIX by the United States secretary of health and human services and with sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. The director of health shall enter into agreements with regard to these functions with the department of ~~job and family services~~ medicaid and the United States department of health and human services. The director may also enter into agreements with the department of ~~job and family services~~ medicaid under which the department of health is designated to perform functions under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code.

The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement the survey and certification requirements for skilled nursing facilities and nursing facilities established by the United States secretary of health and human services under ~~Titles~~ Title XVIII and Title XIX of the "~~Social Security Act,~~" and the survey requirements established under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. The rules shall include an informal process by which a facility may obtain up to two reviews of any deficiencies that have been cited on a statement of deficiencies made by the department of health under 42 C.F.R. Part 488 and cause the facility to be in noncompliance as defined in 42 C.F.R. 488.301. The first review shall be conducted by an employee of the department who did not participate in and was not otherwise involved in any way with the survey. A facility that is not satisfied with the results of a first review may receive a second

review on payment of a fee to the department. The amount of the 54379
fee shall be specified in rules adopted under this section. The 54380
fee shall be deposited into the state treasury to the credit of 54381
the general operations fund created in section 3701.83 of the 54382
Revised Code for use in the implementation of this section. The 54383
second review shall be conducted by either of the following as 54384
selected by the facility: a hearing officer employed by the 54385
department or a hearing officer included on a list the department 54386
shall provide the facility. A final determination that any 54387
deficiency citation is unjustified shall be reflected clearly in 54388
all records relating to the survey. 54389

The director need not adopt as rules any of the regulations, 54390
guidelines, or procedures issued under ~~Titles~~ Title XVIII and 54391
Title XIX of the "~~Social Security Act~~" by the United States 54392
secretary of health and human services. 54393

Sec. 3721.024. As used in this section, "nursing facility" 54394
has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised 54395
Code. 54396

The department of health may establish a program of 54397
recognition of nursing facilities that provide the highest quality 54398
care to residents who are medicaid recipients ~~of medical~~ 54399
~~assistance under Chapter 5111. of the Revised Code.~~ The program 54400
may be funded with public funds appropriated by the general 54401
assembly for the purpose of the program or any funds appropriated 54402
for nursing home licensure. 54403

Sec. 3721.027. (A) As used in this section, "survey" has the 54404
same meaning as in section 5165.60 of the Revised Code. 54405

(B) The department of health shall investigate within ten 54406
working days after referral, in accordance with procedures and 54407
criteria to be established by the department of health and the 54408

department of aging, any unresolved complaint that the office of 54409
the state long-term care ~~ombudsperson~~ ombudsman has investigated 54410
and found to be valid and refers to the department of health. This 54411
requirement does not supersede federal requirements for survey 54412
agency complaint investigations. 54413

Sec. 3721.042. The director of health may not deny a nursing 54414
home license to a facility seeking a license under this chapter as 54415
a nursing home on the grounds that the facility does not satisfy a 54416
requirement established in rules adopted under section 3721.04 of 54417
the Revised Code regarding the toilet rooms and dining and 54418
recreational areas of nursing homes if all of the following 54419
requirements are met: 54420

(A) The facility seeks a license under this chapter because 54421
it is a county home or district home being sold under section 54422
5155.31 of the Revised Code to a person who may not operate the 54423
facility without a nursing home license under this chapter. 54424

(B) The requirement would not have applied to the facility 54425
had the facility been a nursing home first licensed under this 54426
chapter before October 20, 2001. 54427

(C) The facility was a nursing facility, as defined in 54428
section ~~5111.20~~ 5165.01 of the Revised Code, on the date 54429
immediately preceding the date the facility is sold to the person 54430
seeking the license. 54431

Sec. 3721.071. The buildings in which a home is housed shall 54432
be equipped with both an automatic fire extinguishing system and 54433
fire alarm system. Such systems shall conform to standards set 54434
forth in the regulations of the board of building standards and 54435
the state fire marshal. 54436

The time for compliance with the requirements imposed by this 54437
section shall be January 1, 1975, except that the date for 54438

compliance with the automatic fire extinguishing requirements is 54439
extended to January 1, 1976, provided the buildings of the home 54440
are otherwise in compliance with fire safety laws and regulations 54441
and: 54442

(A) The home within thirty days after August 4, 1975, files a 54443
written plan with the state fire marshal's office that: 54444

(1) Outlines the interim safety procedures which shall be 54445
carried out to reduce the possibility of a fire; 54446

(2) Provides evidence that the home has entered into an 54447
agreement for a fire safety inspection to be conducted not less 54448
than monthly by a qualified independent safety engineer consultant 54449
or a township, municipal, or other legally constituted fire 54450
department, or by a township or municipal fire prevention officer; 54451

(3) Provides verification that the home has entered into a 54452
valid contract for the installation of an automatic fire 54453
extinguishing system or fire alarm system, or both, as required to 54454
comply with this section; 54455

(4) Includes a statement regarding the expected date for the 54456
completion of the fire extinguishing system or fire alarm system, 54457
or both. 54458

(B) Inspections by a qualified independent safety engineer 54459
consultant or a township, municipal, or other legally constituted 54460
fire department, or by a township or municipal fire prevention 54461
officer are initiated no later than sixty days after August 4, 54462
1975, and are conducted no less than monthly thereafter, and 54463
reports of the consultant, fire department, or fire prevention 54464
officer identifying existing hazards and recommended corrective 54465
actions are submitted to the state fire marshal, the division of 54466
industrial compliance in the department of commerce, and the 54467
department of health. 54468

It is the express intent of the general assembly that the 54469

department of ~~job and family services~~ medicaid shall terminate 54470
~~payments under Title XIX of the "Social Security Act," 49 Stat.~~ 54471
~~620 (1935), 42 U.S.C. 301, as amended, to~~ the medicaid provider 54472
agreements of those homes ~~which~~ that do not comply with the 54473
requirements of this section for the submission of a written fire 54474
safety plan and the deadline for entering into contracts for the 54475
installation of systems. 54476

Sec. 3721.072. (A) As used in this section: 54477

(1) "Advance care planning" means providing each nursing home 54478
resident, or the resident's sponsor if the resident is unable to 54479
participate, on admission to the nursing home and quarterly 54480
thereafter, with the opportunity to discuss the resident's care 54481
goals. 54482

(2) "Overhead paging" means sending audible announcements via 54483
an electronic sound amplification and distribution system 54484
throughout part or all of a nursing home to staff, residents, 54485
residents' families, or others. 54486

(3) "Quality improvement project" means a project listed by 54487
the department of aging under the nursing home quality initiative 54488
established under section 173.60 of the Revised Code. 54489

(B) Beginning July 1, 2013, each nursing home shall 54490
participate in at least one quality improvement project each year. 54491
Each nursing facility shall select the project in which it will 54492
participate from the list the department of aging makes available 54493
pursuant to section 173.60 of the Revised Code. 54494

(C) Beginning July 1, 2015, each nursing home shall 54495
participate in advance care planning with all residents or their 54496
sponsors. 54497

(D) Beginning July 1, 2015, each nursing home shall prohibit 54498
the use of overhead paging within the nursing home, except that 54499

the nursing home may permit the use of overhead paging for matters 54500
of urgent public safety or urgent clinical operations and in 54501
accordance with the preferences of the nursing home's residents. 54502
The nursing home shall develop a written policy regarding its use 54503
of overhead paging and make the policy available to staff, 54504
residents, and residents' families. 54505

Sec. 3721.08. (A) As used in this section, "real and present 54506
danger" means imminent danger of serious physical or 54507
life-threatening harm to one or more occupants of a home. 54508

(B) The director of health may petition the court of common 54509
pleas of the county in which the home is located for an order 54510
enjoining any person from operating a home without a license or 54511
enjoining a county home or district home that has had its license 54512
revoked from continuing to operate. The court shall have 54513
jurisdiction to grant such injunctive relief upon a showing that 54514
the respondent named in the petition is operating a home without a 54515
license or that the county home or district home named in the 54516
petition is operating despite the revocation of its license. The 54517
court shall have jurisdiction to grant such injunctive relief 54518
against the operation of a home without a valid license regardless 54519
of whether the home meets essential licensing requirements. 54520

(C) Unless the department of ~~job and family services~~ medicaid 54521
or contracting agency has taken action under section ~~5111.51~~ 54522
5165.77 of the Revised Code to appoint a temporary manager or seek 54523
injunctive relief, if, in the judgment of the director of health, 54524
real and present danger exists at any home, the director may 54525
petition the court of common pleas of the county in which the home 54526
is located for such injunctive relief as is necessary to close the 54527
home, transfer one or more occupants to other homes or other 54528
appropriate care settings, or otherwise eliminate the real and 54529
present danger. The court shall have the jurisdiction to grant 54530

such injunctive relief upon a showing that there is real and present danger. 54531
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(D)(1) If the director determines that real and present danger exists at a home and elects not to immediately seek injunctive relief under division (C) of this section, the director may give written notice of proposed action to the home. The notice shall specify all of the following: 54533
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(a) The nature of the conditions giving rise to the real and present danger; 54538
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(b) The measures that the director determines the home must take to respond to the conditions; 54540
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(c) The date on which the director intends to seek injunctive relief under division (C) of this section if the director determines that real and present danger exists at the home. 54542
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(2) If the home notifies the director, within the time specified pursuant to division (D)(1)(c) of this section, that it believes the conditions giving rise to the real and present danger have been substantially corrected, the director shall conduct an inspection to determine whether real and present danger exists. If the director determines on the basis of the inspection that real and present danger exists, the director may petition under division (C) of this section for injunctive relief. 54545
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(E)(1) If in the judgment of the director of health conditions exist at a home that will give rise to real and present danger if not corrected, the director shall give written notice of proposed action to the home. The notice shall specify all of the following: 54553
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(a) The nature of the conditions giving rise to the director's judgment; 54558
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(b) The measures that the director determines the home must 54560

take to respond to the conditions; 54561

(c) The date, which shall be no less than ten days after the 54562
notice is delivered, on which the director intends to seek 54563
injunctive relief under division (C) of this section if the 54564
conditions are not substantially corrected and the director 54565
determines that a real and present danger exists. 54566

(2) If the home notifies the director, within the period of 54567
time specified pursuant to division (E)(1)(c) of this section, 54568
that the conditions giving rise to the director's determination 54569
have been substantially corrected, the director shall conduct an 54570
inspection. If the director determines on the basis of the 54571
inspection that the conditions have not been corrected and a real 54572
and present danger exists, the director may petition under 54573
division (C) of this section for injunctive relief. 54574

(F)(1) A court that grants injunctive relief under division 54575
(C) of this section may also appoint a special master who, subject 54576
to division (F)(2) of this section, shall have such powers and 54577
authority over the home and length of appointment as the court 54578
considers necessary. Subject to division (F)(2) of this section, 54579
the salary of a special master and any costs incurred by a special 54580
master shall be the obligation of the home. 54581

(2) No special master shall enter into any employment 54582
contract on behalf of a home, or purchase with the home's funds 54583
any capital goods totaling more than ten thousand dollars, unless 54584
the special master has obtained approval for the contract or 54585
purchase from the home's operator or the court. 54586

(G) If the director takes action under division (C), (D), or 54587
(E) of this section, the director may also appoint employees of 54588
the department of health to conduct on-site monitoring of the 54589
home. Appointment of monitors is not subject to appeal under 54590
Chapter 119. or any other section of the Revised Code. No employee 54591

of a home for which monitors are appointed, no person employed by 54592
the home within the previous two years, and no person who 54593
currently has a consulting contract with the department or a home, 54594
shall be appointed under this division. Every monitor shall have 54595
the professional qualifications necessary to monitor correction of 54596
the conditions that give rise to or, in the director's judgment, 54597
will give rise to real and present danger. The number of monitors 54598
present at a home at any given time shall not exceed one for every 54599
fifty residents, or fraction thereof. 54600

(H) On finding that the real and present danger for which 54601
injunctive relief was granted under division (C) of this section 54602
has been eliminated and that the home's operator has demonstrated 54603
the capacity to prevent the real and present danger from 54604
recurring, the court shall terminate its jurisdiction over the 54605
home and return control and management of the home to the 54606
operator. If the real and present danger cannot be eliminated 54607
practicably within a reasonable time following appointment of a 54608
special master, the court may order the special master to close 54609
the home and transfer all residents to other homes or other 54610
appropriate care settings. 54611

(I) The director of health shall give notice of proposed 54612
action under divisions (D) and (E) of this section to both of the 54613
following: 54614

(1) The home's administrator; 54615

(2) If the home is operated by an organization described in 54616
subsection 501(c)(3) and tax exempt under subsection 501(a) of the 54617
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as 54618
amended, the board of trustees of the organization; or, if the 54619
home is not operated by such an organization, the owner of the 54620
home. 54621

Notices shall be delivered by certified mail or hand 54622

delivery. If notices are mailed, they shall be addressed to the 54623
persons specified in divisions (I)(1) and (2) of this section, as 54624
indicated in the department of health's records. If they are hand 54625
delivered, they shall be delivered to persons who would reasonably 54626
appear to the average prudent person to have authority to accept 54627
them. 54628

(J) If ownership of a home is assigned or transferred to a 54629
different person, the new owner is responsible and liable for 54630
compliance with any notice of proposed action or order issued 54631
under this section prior to the effective date of the assignment 54632
or transfer. 54633

Sec. 3721.10. As used in sections 3721.10 to 3721.18 of the 54634
Revised Code: 54635

(A) "Home" means all of the following: 54636

(1) A home as defined in section 3721.01 of the Revised Code; 54637

(2) Any facility or part of a facility not defined as a home 54638
under section 3721.01 of the Revised Code that is ~~certified as a~~ 54639
skilled nursing facility ~~under Title XVIII of the "Social Security~~ 54640
~~Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395 and 1396, as amended,~~ 54641
~~or as a~~ or nursing facility, both as defined in section ~~5111.20~~ 54642
5165.01 of the Revised Code; 54643

(3) A county home or district home operated pursuant to 54644
Chapter 5155. of the Revised Code. 54645

(B) "Resident" means a resident or a patient of a home. 54646

(C) "Administrator" means all of the following: 54647

(1) With respect to a home as defined in section 3721.01 of 54648
the Revised Code, a nursing home administrator as defined in 54649
section 4751.01 of the Revised Code; 54650

(2) With respect to a facility or part of a facility not 54651

defined as a home in section 3721.01 of the Revised Code that is 54652
authorized to provide skilled nursing facility or nursing facility 54653
services, the administrator of the facility or part of a facility; 54654

(3) With respect to a county home or district home, the 54655
superintendent appointed under Chapter 5155. of the Revised Code. 54656

(D) "Sponsor" means an adult relative, friend, or guardian of 54657
a resident who has an interest or responsibility in the resident's 54658
welfare. 54659

(E) "Residents' rights advocate" means: 54660

(1) An employee or representative of any state or local 54661
government entity that has a responsibility regarding residents 54662
and that has registered with the department of health under 54663
division (B) of section 3701.07 of the Revised Code; 54664

(2) An employee or representative of any private nonprofit 54665
corporation or association that qualifies for tax-exempt status 54666
under section 501(a) of the "Internal Revenue Code of 1986," 100 54667
Stat. 2085, 26 U.S.C.A. 1, as amended, and that has registered 54668
with the department of health under division (B) of section 54669
3701.07 of the Revised Code and whose purposes include educating 54670
and counseling residents, assisting residents in resolving 54671
problems and complaints concerning their care and treatment, and 54672
assisting them in securing adequate services to meet their needs; 54673

(3) A member of the general assembly. 54674

(F) "Physical restraint" means, but is not limited to, any 54675
article, device, or garment that interferes with the free movement 54676
of the resident and that the resident is unable to remove easily, 54677
a geriatric chair, or a locked room door. 54678

(G) "Chemical restraint" means any medication bearing the 54679
American hospital formulary service therapeutic class ~~4-00~~ 4:00, 54680
28:16:08, 28:24:08, or 28:24:92 that alters the functioning of the 54681

central nervous system in a manner that limits physical and 54682
cognitive functioning to the degree that the resident cannot 54683
attain the resident's highest practicable physical, mental, and 54684
psychosocial well-being. 54685

(H) "Ancillary service" means, but is not limited to, 54686
podiatry, dental, hearing, vision, physical therapy, occupational 54687
therapy, speech therapy, and psychological and social services. 54688

(I) "Facility" means a facility, or part of a facility, 54689
certified as a nursing facility or skilled nursing facility ~~under~~ 54690
~~Title XVIII or Title XIX of the "Social Security Act, both as~~ 54691
~~defined in section 5165.01 of the Revised Code."~~ "Facility" does 54692
not include an intermediate care facility for the mentally 54693
retarded, as defined in section ~~5111.20~~ 5124.01 of the Revised 54694
Code. 54695

~~(J) "Medicare" means the program established by Title XVIII~~ 54696
~~of the "Social Security Act."~~ 54697

~~(K) "Medicaid" means the program established by Title XIX of~~ 54698
~~the "Social Security Act" and Chapter 5111. of the Revised Code.~~ 54699

Sec. 3721.12. (A) The administrator of a home shall: 54700

(1) With the advice of residents, their sponsors, or both, 54701
establish and review at least annually, written policies regarding 54702
the applicability and implementation of residents' rights under 54703
sections 3721.10 to 3721.17 of the Revised Code, the 54704
responsibilities of residents regarding the rights, and the home's 54705
grievance procedure established under division (A)(2) of this 54706
section. The administrator is responsible for the development of, 54707
and adherence to, procedures implementing the policies. 54708

(2) Establish a grievance committee for review of complaints 54709
by residents. The grievance committee shall be comprised of the 54710
home's staff and residents, sponsors, or outside representatives 54711

in a ratio of not more than one staff member to every two 54712
residents, sponsors, or outside representatives. 54713

(3) Furnish to each resident and sponsor prior to or at the 54714
time of admission, and to each member of the home's staff, at 54715
least one of each of the following: 54716

(a) A copy of the rights established under sections 3721.10 54717
to 3721.17 of the Revised Code; 54718

(b) A written explanation of the provisions of sections 54719
3721.16 to 3721.162 of the Revised Code; 54720

(c) A copy of the home's policies and procedures established 54721
under this section; 54722

(d) A copy of the home's rules; 54723

(e) A copy of the addresses and telephone numbers of the 54724
board of health of the health district of the county in which the 54725
home is located, the county department of job and family services 54726
of the county in which the home is located, the state departments 54727
of health and ~~job and family services~~ medicaid, the state and 54728
local offices of the department of aging, and any Ohio nursing 54729
home ~~ombudsman~~ ombudsman program. 54730

(B) Written acknowledgment of the receipt of copies of the 54731
materials listed in this section shall be made part of the 54732
resident's record and the staff member's personnel record. 54733

(C) The administrator shall post all of the following 54734
prominently within the home: 54735

(1) A copy of the rights of residents as listed in division 54736
(A) of section 3721.13 of the Revised Code; 54737

(2) A copy of the home's rules and its policies and 54738
procedures regarding the rights and responsibilities of residents; 54739

(3) A notice that a copy of this chapter, rules of the 54740
department of health applicable to the home, and federal 54741

regulations adopted under the medicare and medicaid programs, and 54742
the materials required to be available in the home under section 54743
3721.021 of the Revised Code, are available for inspection in the 54744
home at reasonable hours; 54745

(4) A list of residents' rights advocates; 54746

(5) A notice that the following are available in a place 54747
readily accessible to residents: 54748

(a) If the home is licensed under section 3721.02 of the 54749
Revised Code, a copy of the most recent licensure inspection 54750
report prepared for the home under that section; 54751

(b) If the home is a facility, a copy of the most recent 54752
statement of deficiencies issued to the home under section ~~5111.42~~ 54753
5165.68 of the Revised Code. 54754

(D) The administrator of a home may, with the advice of 54755
residents, their sponsors, or both, establish written policies 54756
regarding the applicability and administration of any additional 54757
residents' rights beyond those set forth in sections 3721.10 to 54758
3721.17 of the Revised Code, and the responsibilities of residents 54759
regarding the rights. Policies established under this division 54760
shall be reviewed, and procedures developed and adhered to as in 54761
division (A)(1) of this section. 54762

Sec. 3721.121. (A) As used in this section: 54763

(1) "Adult day-care program" means a program operated 54764
pursuant to rules adopted by the director of health under section 54765
3721.04 of the Revised Code and provided by and on the same site 54766
as homes licensed under this chapter. 54767

(2) "Applicant" means a person who is under final 54768
consideration for employment with a home or adult day-care program 54769
in a full-time, part-time, or temporary position that involves 54770
providing direct care to an older adult. "Applicant" does not 54771

include a person who provides direct care as a volunteer without 54772
receiving or expecting to receive any form of remuneration other 54773
than reimbursement for actual expenses. 54774

(3) "Community-based long-term care services provider" means 54775
a provider as defined in section 173.39 of the Revised Code. 54776

(4) "Criminal records check" has the same meaning as in 54777
section 109.572 of the Revised Code. 54778

~~(4)~~(5) "Home" means a home as defined in section 3721.10 of 54779
the Revised Code. 54780

~~(5)~~(6) "Older adult" means a person age sixty or older. 54781

(B)(1) Except as provided in division (I) of this section, 54782
the chief administrator of a home or adult day-care program shall 54783
request that the superintendent of the bureau of criminal 54784
identification and investigation conduct a criminal records check 54785
of each applicant. If an applicant for whom a criminal records 54786
check request is required under this division does not present 54787
proof of having been a resident of this state for the five-year 54788
period immediately prior to the date the criminal records check is 54789
requested or provide evidence that within that five-year period 54790
the superintendent has requested information about the applicant 54791
from the federal bureau of investigation in a criminal records 54792
check, the chief administrator shall request that the 54793
superintendent obtain information from the federal bureau of 54794
investigation as part of the criminal records check of the 54795
applicant. Even if an applicant for whom a criminal records check 54796
request is required under this division presents proof of having 54797
been a resident of this state for the five-year period, the chief 54798
administrator may request that the superintendent include 54799
information from the federal bureau of investigation in the 54800
criminal records check. 54801

(2) A person required by division (B)(1) of this section to 54802

request a criminal records check shall do both of the following: 54803

(a) Provide to each applicant for whom a criminal records 54804
check request is required under that division a copy of the form 54805
prescribed pursuant to division (C)(1) of section 109.572 of the 54806
Revised Code and a standard fingerprint impression sheet 54807
prescribed pursuant to division (C)(2) of that section, and obtain 54808
the completed form and impression sheet from the applicant; 54809

(b) Forward the completed form and impression sheet to the 54810
superintendent of the bureau of criminal identification and 54811
investigation. 54812

(3) An applicant provided the form and fingerprint impression 54813
sheet under division (B)(2)(a) of this section who fails to 54814
complete the form or provide fingerprint impressions shall not be 54815
employed in any position for which a criminal records check is 54816
required by this section. 54817

(C)(1) Except as provided in rules adopted by the director of 54818
health in accordance with division (F) of this section and subject 54819
to division (C)(2) of this section, no home or adult day-care 54820
program shall employ a person in a position that involves 54821
providing direct care to an older adult if the person has been 54822
convicted of or pleaded guilty to any of the following: 54823

(a) A violation of section 2903.01, 2903.02, 2903.03, 54824
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 54825
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 54826
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 54827
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 54828
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 54829
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 54830
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 54831
2925.22, 2925.23, or 3716.11 of the Revised Code. 54832

(b) A violation of an existing or former law of this state, 54833

any other state, or the United States that is substantially 54834
equivalent to any of the offenses listed in division (C)(1)(a) of 54835
this section. 54836

(2)(a) A home or an adult day-care program may employ 54837
conditionally an applicant for whom a criminal records check 54838
request is required under division (B) of this section prior to 54839
obtaining the results of a criminal records check regarding the 54840
individual, provided that the home or program shall request a 54841
criminal records check regarding the individual in accordance with 54842
division (B)(1) of this section not later than five business days 54843
after the individual begins conditional employment. In the 54844
circumstances described in division (I)(2) of this section, a home 54845
or adult day-care program may employ conditionally an applicant 54846
who has been referred to the home or adult day-care program by an 54847
employment service that supplies full-time, part-time, or 54848
temporary staff for positions involving the direct care of older 54849
adults and for whom, pursuant to that division, a criminal records 54850
check is not required under division (B) of this section. 54851

(b) A home or adult day-care program that employs an 54852
individual conditionally under authority of division (C)(2)(a) of 54853
this section shall terminate the individual's employment if the 54854
results of the criminal records check requested under division (B) 54855
of this section or described in division (I)(2) of this section, 54856
other than the results of any request for information from the 54857
federal bureau of investigation, are not obtained within the 54858
period ending thirty days after the date the request is made. 54859
Regardless of when the results of the criminal records check are 54860
obtained, if the results indicate that the individual has been 54861
convicted of or pleaded guilty to any of the offenses listed or 54862
described in division (C)(1) of this section, the home or program 54863
shall terminate the individual's employment unless the home or 54864
program chooses to employ the individual pursuant to division (F) 54865

of this section. Termination of employment under this division 54866
shall be considered just cause for discharge for purposes of 54867
division (D)(2) of section 4141.29 of the Revised Code if the 54868
individual makes any attempt to deceive the home or program about 54869
the individual's criminal record. 54870

(D)(1) Each home or adult day-care program shall pay to the 54871
bureau of criminal identification and investigation the fee 54872
prescribed pursuant to division (C)(3) of section 109.572 of the 54873
Revised Code for each criminal records check conducted pursuant to 54874
a request made under division (B) of this section. 54875

(2) A home or adult day-care program may charge an applicant 54876
a fee not exceeding the amount the home or program pays under 54877
division (D)(1) of this section. A home or program may collect a 54878
fee only if both of the following apply: 54879

(a) The home or program notifies the person at the time of 54880
initial application for employment of the amount of the fee and 54881
that, unless the fee is paid, the person will not be considered 54882
for employment; 54883

(b) The ~~medical assistance~~ medicaid program ~~established under~~ 54884
~~Chapter 5111. of the Revised Code~~ does not reimburse the home or 54885
program the fee it pays under division (D)(1) of this section. 54886

(E) The report of any criminal records check conducted 54887
pursuant to a request made under this section is not a public 54888
record for the purposes of section 149.43 of the Revised Code and 54889
shall not be made available to any person other than the 54890
following: 54891

(1) The individual who is the subject of the criminal records 54892
check or the individual's representative; 54893

(2) The chief administrator of the home or program requesting 54894
the criminal records check or the administrator's representative; 54895

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program; 54896
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(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant; 54900
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(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section; 54904
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(6) The board of nursing for purposes of accepting and processing an application for a medication aide certificate issued under Chapter 4723. of the Revised Code; 54906
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(7) The director of aging or the director's designee if the criminal records check is requested by the chief administrator of a home that is also a community-based long-term care services provider. 54909
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(F) In accordance with section 3721.11 of the Revised Code, the director of health shall adopt rules to implement this section. The rules shall specify circumstances under which a home or adult day-care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director. 54913
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(G) The chief administrator of a home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment. 54920
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(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment

service receives the results of the criminal records check, it 54990
promptly will send a copy of the results to the home or adult 54991
day-care program. If a home or adult day-care program employs an 54992
applicant conditionally in accordance with this division, the 54993
employment service, upon its receipt of the results of the 54994
criminal records check, promptly shall send a copy of the results 54995
to the home or adult day-care program, and division (C)(2)(b) of 54996
this section applies regarding the conditional employment. 54997

Sec. 3721.13. (A) The rights of residents of a home shall 54998
include, but are not limited to, the following: 54999

(1) The right to a safe and clean living environment pursuant 55000
to the medicare and medicaid programs and applicable state laws 55001
and rules adopted by the director of health; 55002

(2) The right to be free from physical, verbal, mental, and 55003
emotional abuse and to be treated at all times with courtesy, 55004
respect, and full recognition of dignity and individuality; 55005

(3) Upon admission and thereafter, the right to adequate and 55006
appropriate medical treatment and nursing care and to other 55007
ancillary services that comprise necessary and appropriate care 55008
consistent with the program for which the resident contracted. 55009
This care shall be provided without regard to considerations such 55010
as race, color, religion, national origin, age, or source of 55011
payment for care. 55012

(4) The right to have all reasonable requests and inquiries 55013
responded to promptly; 55014

(5) The right to have clothes and bed sheets changed as the 55015
need arises, to ensure the resident's comfort or sanitation; 55016

(6) The right to obtain from the home, upon request, the name 55017
and any specialty of any physician or other person responsible for 55018
the resident's care or for the coordination of care; 55019

(7) The right, upon request, to be assigned, within the 55020
capacity of the home to make the assignment, to the staff 55021
physician of the resident's choice, and the right, in accordance 55022
with the rules and written policies and procedures of the home, to 55023
select as the attending physician a physician who is not on the 55024
staff of the home. If the cost of a physician's services is to be 55025
met under a federally supported program, the physician shall meet 55026
the federal laws and regulations governing such services. 55027

(8) The right to participate in decisions that affect the 55028
resident's life, including the right to communicate with the 55029
physician and employees of the home in planning the resident's 55030
treatment or care and to obtain from the attending physician 55031
complete and current information concerning medical condition, 55032
prognosis, and treatment plan, in terms the resident can 55033
reasonably be expected to understand; the right of access to all 55034
information in the resident's medical record; and the right to 55035
give or withhold informed consent for treatment after the 55036
consequences of that choice have been carefully explained. When 55037
the attending physician finds that it is not medically advisable 55038
to give the information to the resident, the information shall be 55039
made available to the resident's sponsor on the resident's behalf, 55040
if the sponsor has a legal interest or is authorized by the 55041
resident to receive the information. The home is not liable for a 55042
violation of this division if the violation is found to be the 55043
result of an act or omission on the part of a physician selected 55044
by the resident who is not otherwise affiliated with the home. 55045

(9) The right to withhold payment for physician visitation if 55046
the physician did not visit the resident; 55047

(10) The right to confidential treatment of personal and 55048
medical records, and the right to approve or refuse the release of 55049
these records to any individual outside the home, except in case 55050
of transfer to another home, hospital, or health care system, as 55051

required by law or rule, or as required by a third-party payment 55052
contract; 55053

(11) The right to privacy during medical examination or 55054
treatment and in the care of personal or bodily needs; 55055

(12) The right to refuse, without jeopardizing access to 55056
appropriate medical care, to serve as a medical research subject; 55057

(13) The right to be free from physical or chemical 55058
restraints or prolonged isolation except to the minimum extent 55059
necessary to protect the resident from injury to self, others, or 55060
to property and except as authorized in writing by the attending 55061
physician for a specified and limited period of time and 55062
documented in the resident's medical record. Prior to authorizing 55063
the use of a physical or chemical restraint on any resident, the 55064
attending physician shall make a personal examination of the 55065
resident and an individualized determination of the need to use 55066
the restraint on that resident. 55067

Physical or chemical restraints or isolation may be used in 55068
an emergency situation without authorization of the attending 55069
physician only to protect the resident from injury to self or 55070
others. Use of the physical or chemical restraints or isolation 55071
shall not be continued for more than twelve hours after the onset 55072
of the emergency without personal examination and authorization by 55073
the attending physician. The attending physician or a staff 55074
physician may authorize continued use of physical or chemical 55075
restraints for a period not to exceed thirty days, and at the end 55076
of this period and any subsequent period may extend the 55077
authorization for an additional period of not more than thirty 55078
days. The use of physical or chemical restraints shall not be 55079
continued without a personal examination of the resident and the 55080
written authorization of the attending physician stating the 55081
reasons for continuing the restraint. 55082

If physical or chemical restraints are used under this 55083
division, the home shall ensure that the restrained resident 55084
receives a proper diet. In no event shall physical or chemical 55085
restraints or isolation be used for punishment, incentive, or 55086
convenience. 55087

(14) The right to the pharmacist of the resident's choice and 55088
the right to receive pharmaceutical supplies and services at 55089
reasonable prices not exceeding applicable and normally accepted 55090
prices for comparably packaged pharmaceutical supplies and 55091
services within the community; 55092

(15) The right to exercise all civil rights, unless the 55093
resident has been adjudicated incompetent pursuant to Chapter 55094
2111. of the Revised Code and has not been restored to legal 55095
capacity, as well as the right to the cooperation of the home's 55096
administrator in making arrangements for the exercise of the right 55097
to vote; 55098

(16) The right of access to opportunities that enable the 55099
resident, at the resident's own expense or at the expense of a 55100
third-party payer, to achieve the resident's fullest potential, 55101
including educational, vocational, social, recreational, and 55102
habilitation programs; 55103

(17) The right to consume a reasonable amount of alcoholic 55104
beverages at the resident's own expense, unless not medically 55105
advisable as documented in the resident's medical record by the 55106
attending physician or unless contradictory to written admission 55107
policies; 55108

(18) The right to use tobacco at the resident's own expense 55109
under the home's safety rules and under applicable laws and rules 55110
of the state, unless not medically advisable as documented in the 55111
resident's medical record by the attending physician or unless 55112
contradictory to written admission policies; 55113

(19) The right to retire and rise in accordance with the resident's reasonable requests, if the resident does not disturb others or the posted meal schedules and upon the home's request remains in a supervised area, unless not medically advisable as documented by the attending physician;

(20) The right to observe religious obligations and participate in religious activities; the right to maintain individual and cultural identity; and the right to meet with and participate in activities of social and community groups at the resident's or the group's initiative;

(21) The right upon reasonable request to private and unrestricted communications with the resident's family, social worker, and any other person, unless not medically advisable as documented in the resident's medical record by the attending physician, except that communications with public officials or with the resident's attorney or physician shall not be restricted. Private and unrestricted communications shall include, but are not limited to, the right to:

(a) Receive, send, and mail sealed, unopened correspondence;

(b) Reasonable access to a telephone for private communications;

(c) Private visits at any reasonable hour.

(22) The right to assured privacy for visits by the spouse, or if both are residents of the same home, the right to share a room within the capacity of the home, unless not medically advisable as documented in the resident's medical record by the attending physician;

(23) The right upon reasonable request to have room doors closed and to have them not opened without knocking, except in the case of an emergency or unless not medically advisable as documented in the resident's medical record by the attending

physician; 55145

(24) The right to retain and use personal clothing and a 55146
reasonable amount of possessions, in a reasonably secure manner, 55147
unless to do so would infringe on the rights of other residents or 55148
would not be medically advisable as documented in the resident's 55149
medical record by the attending physician; 55150

(25) The right to be fully informed, prior to or at the time 55151
of admission and during the resident's stay, in writing, of the 55152
basic rate charged by the home, of services available in the home, 55153
and of any additional charges related to such services, including 55154
charges for services not covered under the medicare or medicaid 55155
program. The basic rate shall not be changed unless thirty days' 55156
notice is given to the resident or, if the resident is unable to 55157
understand this information, to the resident's sponsor. 55158

(26) The right of the resident and person paying for the care 55159
to examine and receive a bill at least monthly for the resident's 55160
care from the home that itemizes charges not included in the basic 55161
rates; 55162

(27)(a) The right to be free from financial exploitation; 55163

(b) The right to manage the resident's own personal financial 55164
affairs, or, if the resident has delegated this responsibility in 55165
writing to the home, to receive upon written request at least a 55166
quarterly accounting statement of financial transactions made on 55167
the resident's behalf. The statement shall include: 55168

(i) A complete record of all funds, personal property, or 55169
possessions of a resident from any source whatsoever, that have 55170
been deposited for safekeeping with the home for use by the 55171
resident or the resident's sponsor; 55172

(ii) A listing of all deposits and withdrawals transacted, 55173
which shall be substantiated by receipts which shall be available 55174
for inspection and copying by the resident or sponsor. 55175

(28) The right of the resident to be allowed unrestricted access to the resident's property on deposit at reasonable hours, unless requests for access to property on deposit are so persistent, continuous, and unreasonable that they constitute a nuisance;

(29) The right to receive reasonable notice before the resident's room or roommate is changed, including an explanation of the reason for either change.

(30) The right not to be transferred or discharged from the home unless the transfer is necessary because of one of the following:

(a) The welfare and needs of the resident cannot be met in the home.

(b) The resident's health has improved sufficiently so that the resident no longer needs the services provided by the home.

(c) The safety of individuals in the home is endangered.

(d) The health of individuals in the home would otherwise be endangered.

(e) The resident has failed, after reasonable and appropriate notice, to pay or to have the medicare or medicaid program pay on the resident's behalf, for the care provided by the home. A resident shall not be considered to have failed to have the resident's care paid for if the resident has applied for medicaid, unless both of the following are the case:

(i) The resident's application, or a substantially similar previous application, has been denied ~~by the county department of job and family services.~~

(ii) If the resident appealed the denial ~~pursuant to division (C) of section 5101.35 of the Revised Code, the director of job and family services has upheld the denial~~ was upheld.

(f) The home's license has been revoked, the home is being 55206
closed pursuant to section 3721.08, sections ~~5111.35~~ 5165.60 to 55207
~~5111.62~~ 5165.89, or section 5155.31 of the Revised Code, or the 55208
home otherwise ceases to operate. 55209

(g) The resident is a recipient of medicaid, and the home's 55210
participation in the medicaid program is involuntarily terminated 55211
or denied. 55212

(h) The resident is a beneficiary under the medicare program, 55213
and the home's participation in the medicare program is 55214
involuntarily terminated or denied. 55215

(31) The right to voice grievances and recommend changes in 55216
policies and services to the home's staff, to employees of the 55217
department of health, or to other persons not associated with the 55218
operation of the home, of the resident's choice, free from 55219
restraint, interference, coercion, discrimination, or reprisal. 55220
This right includes access to a residents' rights advocate, and 55221
the right to be a member of, to be active in, and to associate 55222
with persons who are active in organizations of relatives and 55223
friends of nursing home residents and other organizations engaged 55224
in assisting residents. 55225

(32) The right to have any significant change in the 55226
resident's health status reported to the resident's sponsor. As 55227
soon as such a change is known to the home's staff, the home shall 55228
make a reasonable effort to notify the sponsor within twelve 55229
hours. 55230

(B) A sponsor may act on a resident's behalf to assure that 55231
the home does not deny the residents' rights under sections 55232
3721.10 to 3721.17 of the Revised Code. 55233

(C) Any attempted waiver of the rights listed in division (A) 55234
of this section is void. 55235

Sec. 3721.14. To assist in the implementation of the rights	55236
granted in division (A) of section 3721.13 of the Revised Code,	55237
each home shall provide:	55238
(A) Appropriate staff training to implement each resident's	55239
rights under division (A) of section 3721.13 of the Revised Code,	55240
including, but not limited to, explaining:	55241
(1) The resident's rights and the staff's responsibility in	55242
the implementation of the rights;	55243
(2) The staff's obligation to provide all residents who have	55244
similar needs with comparable service.	55245
(B) Arrangements for a resident's needed ancillary services;	55246
(C) Protected areas outside the home for residents to enjoy	55247
outdoor activity, within the capacity of the facility, consistent	55248
with applicable laws and rules;	55249
(D) Adequate indoor space, which need not be dedicated to	55250
that purpose, for families of residents to meet privately with	55251
families of other residents;	55252
(E) Access to the following persons to enter the home during	55253
reasonable hours, except where such access would interfere with	55254
resident care or the privacy of residents:	55255
(1) Employees of the department of health, department of	55256
mental health <u>mental health and addiction services</u> , department of	55257
developmental disabilities, department of aging, department of job	55258
and family services, and county departments of job and family	55259
services;	55260
(2) Prospective residents and their sponsors;	55261
(3) A resident's sponsors;	55262
(4) Residents' rights advocates;	55263
(5) A resident's attorney;	55264

(6) A minister, priest, rabbi, or other person ministering to a resident's religious needs. 55265
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(F) In writing, a description of the home's grievance procedures. 55267
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Sec. 3721.15. (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the home or its administrator. The home shall maintain accounts pursuant to division (A)(27) of section 3721.13 of the Revised Code. Upon the resident's transfer, discharge, or death, the account shall be closed and a final accounting made. All remaining funds shall be returned to the resident or resident's sponsor, except in the case of death, when all remaining funds shall be transferred or used in accordance with section ~~5111.113~~ 5162.22 of the Revised Code. 55269
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(B) A home that manages a resident's financial affairs shall deposit the resident's funds in excess of one hundred dollars, and may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned on the resident's funds shall be credited to the resident's account. A resident's funds that are one hundred dollars or less and have not been deposited in an interest-bearing account may be deposited in a noninterest-bearing account or petty cash fund. 55281
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(C) Each resident whose financial affairs are managed by a home shall be promptly notified by the home when the total of the amount of funds in the resident's accounts and the petty cash fund plus other nonexempt resources reaches two hundred dollars less than the maximum amount permitted a recipient of medicaid. The notice shall include an explanation of the potential effect on the 55290
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resident's eligibility for medicaid if the amount in the 55296
resident's accounts and the petty cash fund, plus the value of 55297
other nonexempt resources, exceeds the maximum assets a medicaid 55298
recipient may retain. 55299

(D) Each home that manages the financial affairs of residents 55300
shall purchase a surety bond or otherwise provide assurance 55301
satisfactory to the director of health, or, in the case of a home 55302
that participates in the medicaid program, to the medicaid 55303
~~director of job and family services~~, to assure the security of all 55304
residents' funds managed by the home. 55305

Sec. 3721.16. For each resident of a home, notice of a 55306
proposed transfer or discharge shall be in accordance with this 55307
section. 55308

(A)(1) The administrator of a home shall notify a resident in 55309
writing, and the resident's sponsor in writing by certified mail, 55310
return receipt requested, in advance of any proposed transfer or 55311
discharge from the home. The administrator shall send a copy of 55312
the notice to the state department of health. The notice shall be 55313
provided at least thirty days in advance of the proposed transfer 55314
or discharge, unless any of the following applies: 55315

(a) The resident's health has improved sufficiently to allow 55316
a more immediate discharge or transfer to a less skilled level of 55317
care; 55318

(b) The resident has resided in the home less than thirty 55319
days; 55320

(c) An emergency arises in which the safety of individuals in 55321
the home is endangered; 55322

(d) An emergency arises in which the health of individuals in 55323
the home would otherwise be endangered; 55324

(e) An emergency arises in which the resident's urgent 55325

medical needs necessitate a more immediate transfer or discharge. 55326

In any of the circumstances described in divisions (A)(1)(a) 55327
to (e) of this section, the notice shall be provided as many days 55328
in advance of the proposed transfer or discharge as is 55329
practicable. 55330

(2) The notice required under division (A)(1) of this section 55331
shall include all of the following: 55332

(a) The reasons for the proposed transfer or discharge; 55333

(b) The proposed date the resident is to be transferred or 55334
discharged; 55335

(c) Subject to division (A)(3) of this section, a proposed 55336
location to which the resident may relocate and a notice that the 55337
resident and resident's sponsor may choose another location to 55338
which the resident will relocate; 55339

(d) Notice of the right of the resident and the resident's 55340
sponsor to an impartial hearing at the home on the proposed 55341
transfer or discharge, and of the manner in which and the time 55342
within which the resident or sponsor may request a hearing 55343
pursuant to section 3721.161 of the Revised Code; 55344

(e) A statement that the resident will not be transferred or 55345
discharged before the date specified in the notice unless the home 55346
and the resident or, if the resident is not competent to make a 55347
decision, the home and the resident's sponsor, agree to an earlier 55348
date; 55349

(f) The address of the legal services office of the 55350
department of health; 55351

(g) The name, address, and telephone number of a 55352
representative of the state long-term care ~~ombuds~~ombudsman 55353
program and, if the resident or patient has a developmental 55354
disability or mental illness, the name, address, and telephone 55355

number of the Ohio protection and advocacy system. 55356

(3) The proposed location to which a resident may relocate as 55357
specified pursuant to division (A)(2)(c) of this section in the 55358
proposed transfer or discharge notice shall be capable of meeting 55359
the resident's health-care and safety needs. The proposed location 55360
for relocation need not have accepted the resident at the time the 55361
notice is issued to the resident and resident's sponsor. 55362

(B) No home shall transfer or discharge a resident before the 55363
date specified in the notice required by division (A) of this 55364
section unless the home and the resident or, if the resident is 55365
not competent to make a decision, the home and the resident's 55366
sponsor, agree to an earlier date. 55367

(C) Transfer or discharge actions shall be documented in the 55368
resident's medical record by the home if there is a medical basis 55369
for the action. 55370

(D) A resident or resident's sponsor may challenge a transfer 55371
or discharge by requesting an impartial hearing pursuant to 55372
section 3721.161 of the Revised Code, unless the transfer or 55373
discharge is required because of one of the following reasons: 55374

(1) The home's license has been revoked under this chapter; 55375

(2) The home is being closed pursuant to section 3721.08, 55376
sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89, or section 5155.31 of 55377
the Revised Code; 55378

(3) The resident is a recipient of medicaid and the home's 55379
participation in the medicaid program has been involuntarily 55380
terminated or denied by the federal government; 55381

(4) The resident is a beneficiary under the medicare program 55382
and the home's certification under the medicare program has been 55383
involuntarily terminated or denied by the federal government. 55384

(E) If a resident is transferred or discharged pursuant to 55385

this section, the home from which the resident is being 55386
transferred or discharged shall provide the resident with adequate 55387
preparation prior to the transfer or discharge to ensure a safe 55388
and orderly transfer or discharge from the home, and the home or 55389
alternative setting to which the resident is to be transferred or 55390
discharged shall have accepted the resident for transfer or 55391
discharge. 55392

(F) At the time of a transfer or discharge of a resident who 55393
is a recipient of medicaid from a home to a hospital or for 55394
therapeutic leave, the home shall provide notice in writing to the 55395
resident and in writing by certified mail, return receipt 55396
requested, to the resident's sponsor, specifying the number of 55397
days, if any, during which the resident will be permitted under 55398
the medicaid program to return and resume residence in the home 55399
and specifying the medicaid program's coverage of the days during 55400
which the resident is absent from the home. An individual who is 55401
absent from a home for more than the number of days specified in 55402
the notice and continues to require the services provided by the 55403
facility shall be given priority for the first available bed in a 55404
semi-private room. 55405

Sec. 3721.17. (A) Any resident who believes that the 55406
resident's rights under sections 3721.10 to 3721.17 of the Revised 55407
Code have been violated may file a grievance under procedures 55408
adopted pursuant to division (A)(2) of section 3721.12 of the 55409
Revised Code. 55410

When the grievance committee determines a violation of 55411
sections 3721.10 to 3721.17 of the Revised Code has occurred, it 55412
shall notify the administrator of the home. If the violation 55413
cannot be corrected within ten days, or if ten days have elapsed 55414
without correction of the violation, the grievance committee shall 55415
refer the matter to the department of health. 55416

(B) Any person who believes that a resident's rights under sections 3721.10 to 3721.17 of the Revised Code have been violated may report or cause reports to be made of the information directly to the department of health. No person who files a report is liable for civil damages resulting from the report.

(C)(1) Within thirty days of receiving a complaint under this section, the department of health shall investigate any complaint referred to it by a home's grievance committee and any complaint from any source that alleges that the home provided substantially less than adequate care or treatment, or substantially unsafe conditions, or, within seven days of receiving a complaint, refer it to the attorney general, if the attorney general agrees to investigate within thirty days.

(2) Within thirty days of receiving a complaint under this section, the department of health may investigate any alleged violation of sections 3721.10 to 3721.17 of the Revised Code, or of rules, policies, or procedures adopted pursuant to those sections, not covered by division (C)(1) of this section, or it may, within seven days of receiving a complaint, refer the complaint to the grievance committee at the home where the alleged violation occurred, or to the attorney general if the attorney general agrees to investigate within thirty days.

(D) If, after an investigation, the department of health finds probable cause to believe that a violation of sections 3721.10 to 3721.17 of the Revised Code, or of rules, policies, or procedures adopted pursuant to those sections, has occurred at a home that is certified under the medicare or medicaid program, it shall cite one or more findings or deficiencies under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. If the home is not so certified, the department shall hold an adjudicative hearing within thirty days under Chapter 119. of the Revised Code.

(E) Upon a finding at an adjudicative hearing under division 55449
(D) of this section that a violation of sections 3721.10 to 55450
3721.17 of the Revised Code, or of rules, policies, or procedures 55451
adopted pursuant thereto, has occurred, the department of health 55452
shall make an order for compliance, set a reasonable time for 55453
compliance, and assess a fine pursuant to division (F) of this 55454
section. The fine shall be paid to the general revenue fund only 55455
if compliance with the order is not shown to have been made within 55456
the reasonable time set in the order. The department of health may 55457
issue an order prohibiting the continuation of any violation of 55458
sections 3721.10 to 3721.17 of the Revised Code. 55459

Findings at the hearings conducted under this section may be 55460
appealed pursuant to Chapter 119. of the Revised Code, except that 55461
an appeal may be made to the court of common pleas of the county 55462
in which the home is located. 55463

The department of health shall initiate proceedings in court 55464
to collect any fine assessed under this section that is unpaid 55465
thirty days after the violator's final appeal is exhausted. 55466

(F) Any home found, pursuant to an adjudication hearing under 55467
division (D) of this section, to have violated sections 3721.10 to 55468
3721.17 of the Revised Code, or rules, policies, or procedures 55469
adopted pursuant to those sections may be fined not less than one 55470
hundred nor more than five hundred dollars for a first offense. 55471
For each subsequent offense, the home may be fined not less than 55472
two hundred nor more than one thousand dollars. 55473

A violation of sections 3721.10 to 3721.17 of the Revised 55474
Code is a separate offense for each day of the violation and for 55475
each resident who claims the violation. 55476

(G) No home or employee of a home shall retaliate against any 55477
person who: 55478

(1) Exercises any right set forth in sections 3721.10 to 55479

3721.17 of the Revised Code, including, but not limited to, filing 55480
a complaint with the home's grievance committee or reporting an 55481
alleged violation to the department of health; 55482

(2) Appears as a witness in any hearing conducted under this 55483
section or section 3721.162 of the Revised Code; 55484

(3) Files a civil action alleging a violation of sections 55485
3721.10 to 3721.17 of the Revised Code, or notifies a county 55486
prosecuting attorney or the attorney general of a possible 55487
violation of sections 3721.10 to 3721.17 of the Revised Code. 55488

If, under the procedures outlined in this section, a home or 55489
its employee is found to have retaliated, the violator may be 55490
fined up to one thousand dollars. 55491

(H) When legal action is indicated, any evidence of criminal 55492
activity found in an investigation under division (C) of this 55493
section shall be given to the prosecuting attorney in the county 55494
in which the home is located for investigation. 55495

(I)(1)(a) Any resident whose rights under sections 3721.10 to 55496
3721.17 of the Revised Code are violated has a cause of action 55497
against any person or home committing the violation. 55498

(b) An action under division (I)(1)(a) of this section may be 55499
commenced by the resident or by the resident's legal guardian or 55500
other legally authorized representative on behalf of the resident 55501
or the resident's estate. If the resident or the resident's legal 55502
guardian or other legally authorized representative is unable to 55503
commence an action under that division on behalf of the resident, 55504
the following persons in the following order of priority have the 55505
right to and may commence an action under that division on behalf 55506
of the resident or the resident's estate: 55507

(i) The resident's spouse; 55508

(ii) The resident's parent or adult child; 55509

(iii) The resident's guardian if the resident is a minor 55510
child; 55511

(iv) The resident's brother or sister; 55512

(v) The resident's niece, nephew, aunt, or uncle. 55513

(c) Notwithstanding any law as to priority of persons 55514
entitled to commence an action, if more than one eligible person 55515
within the same level of priority seeks to commence an action on 55516
behalf of a resident or the resident's estate, the court shall 55517
determine, in the best interest of the resident or the resident's 55518
estate, the individual to commence the action. A court's 55519
determination under this division as to the person to commence an 55520
action on behalf of a resident or the resident's estate shall bar 55521
another person from commencing the action on behalf of the 55522
resident or the resident's estate. 55523

(d) The result of an action commenced pursuant to division 55524
(I)(1)(a) of this section by a person authorized under division 55525
(I)(1)(b) of this section shall bind the resident or the 55526
resident's estate that is the subject of the action. 55527

(e) A cause of action under division (I)(1)(a) of this 55528
section shall accrue, and the statute of limitations applicable to 55529
that cause of action shall begin to run, based upon the violation 55530
of a resident's rights under sections 3721.10 to 3721.17 of the 55531
Revised Code, regardless of the party commencing the action on 55532
behalf of the resident or the resident's estate as authorized 55533
under divisions (I)(1)(b) and (c) of this section. 55534

(2)(a) The plaintiff in an action filed under division (I)(1) 55535
of this section may obtain injunctive relief against the violation 55536
of the resident's rights. The plaintiff also may recover 55537
compensatory damages based upon a showing, by a preponderance of 55538
the evidence, that the violation of the resident's rights resulted 55539
from a negligent act or omission of the person or home and that 55540

the violation was the proximate cause of the resident's injury, 55541
death, or loss to person or property. 55542

(b) If compensatory damages are awarded for a violation of 55543
the resident's rights, section 2315.21 of the Revised Code shall 55544
apply to an award of punitive or exemplary damages for the 55545
violation. 55546

(c) The court, in a case in which only injunctive relief is 55547
granted, may award to the prevailing party reasonable attorney's 55548
fees limited to the work reasonably performed. 55549

(3) Division (I)(2) (b) of this section shall be considered 55550
to be purely remedial in operation and shall be applied in a 55551
remedial manner in any civil action in which this section is 55552
relevant, whether the action is pending in court or commenced on 55553
or after July 9, 1998. 55554

(4) Within thirty days after the filing of a complaint in an 55555
action for damages brought against a home under division (I)(1)(a) 55556
of this section by or on behalf of a resident or former resident 55557
of the home, the plaintiff or plaintiff's counsel shall send 55558
written notice of the filing of the complaint to the department of 55559
~~job and family services~~ medicaid if the department has a right of 55560
recovery under section ~~5101.58~~ 5160.37 of the Revised Code against 55561
the liability of the home for the cost of ~~medical~~ medicaid 55562
services ~~and care~~ arising out of injury, disease, or disability of 55563
the resident or former resident. 55564

Sec. 3721.19. (A) As used in this section: 55565

(1) "Home" and "residential care facility" have the same 55566
meanings as in section 3721.01 of the Revised Code; 55567

(2) "Provider agreement" has the same meaning as in section 55568
5165.01 of the Revised Code. 55569

(3) "Sponsor" and "residents' rights advocate" have the same 55570

meanings as in section 3721.10 of the Revised Code. 55571

A home licensed under this chapter that is not a party to a 55572
provider agreement, ~~as defined in section 5111.20 of the Revised~~ 55573
~~Code,~~ shall provide each prospective resident, before admission, 55574
with the following information, orally and in a separate written 55575
notice on which is printed in a conspicuous manner: "This home is 55576
not a participant in the ~~medical assistance~~ medicaid program 55577
administered by the Ohio department of ~~job and family services~~ 55578
medicaid. Consequently, you may be discharged from this home if 55579
you are unable to pay for the services provided by this home." 55580

If the prospective resident has a sponsor whose identity is 55581
made known to the home, the home shall also inform the sponsor, 55582
before admission of the resident, of the home's status relative to 55583
the ~~medical assistance~~ medicaid program. Written acknowledgement 55584
of the receipt of the information shall be provided by the 55585
resident and, if the prospective resident has a sponsor who has 55586
been identified to the home, by the sponsor. The written 55587
acknowledgement shall be made part of the resident's record by the 55588
home. 55589

No home shall terminate its ~~status as a provider under the~~ 55590
~~medicaid program agreement~~ unless it has complied with section 55591
~~5111.66~~ 5165.50 of the Revised Code and, at least ninety days 55592
prior to such termination, provided written notice to the 55593
residents of the home and their sponsors of such action. This 55594
requirement shall not apply in cases where the department of ~~job~~ 55595
~~and family services~~ medicaid terminates a home's provider 55596
agreement or provider status. 55597

(B) A home licensed under this chapter as a residential care 55598
facility shall provide notice to each prospective resident or the 55599
individual's sponsor of the services offered by the facility and 55600
the types of skilled nursing care that the facility may provide. A 55601
residential care facility that, pursuant to section 3721.012 of 55602

the Revised Code, has a policy of entering into risk agreements 55603
with residents or their sponsors shall provide each prospective 55604
resident or the individual's sponsor a written explanation of the 55605
policy and the provisions that may be contained in a risk 55606
agreement. At the time the information is provided, the facility 55607
shall obtain a statement signed by the individual receiving the 55608
information acknowledging that the individual received the 55609
information. The facility shall maintain on file the individual's 55610
signed statement. 55611

(C) A resident has a cause of action against a home for 55612
breach of any duty imposed by this section. The action may be 55613
commenced by the resident, or on the resident's behalf by the 55614
resident's sponsor or a residents' rights advocate, by the filing 55615
of a civil action in the court of common pleas of the county in 55616
which the home is located, or in the court of common pleas of 55617
Franklin county. 55618

If the court finds that a breach of any duty imposed by this 55619
section has occurred, the court shall enjoin the home from 55620
discharging the resident from the home until arrangements 55621
satisfactory to the court are made for the orderly transfer of the 55622
resident to another mode of health care including, but not limited 55623
to, another home, and may award the resident and a person or 55624
public agency that brings an action on behalf of a resident 55625
reasonable attorney's fees. If a home discharges a resident to 55626
whom or to whose sponsor information concerning its status 55627
relative to the ~~medical assistance~~ medicaid program was not 55628
provided as required under this section, the court shall grant any 55629
appropriate relief including, but not limited to, actual damages, 55630
reasonable attorney's fees, and costs. 55631

Sec. 3727.01. (A) As used in this section, "health 55632
maintenance organization" means a public or private organization 55633

organized under the law of any state that is qualified under 55634
section 1310(d) of Title XIII of the "Public Health Service Act," 55635
87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the 55636
following: 55637

(1) Provides or otherwise makes available to enrolled 55638
participants health care services including at least the following 55639
basic health care services: usual physician services, 55640
hospitalization, laboratory, x-ray, emergency and preventive 55641
service, and out-of-area coverage; 55642

(2) Is compensated, except for copayments, for the provision 55643
of basic health care services to enrolled participants by a 55644
payment that is paid on a periodic basis without regard to the 55645
date the health care services are provided and that is fixed 55646
without regard to the frequency, extent, or kind of health service 55647
actually provided; 55648

(3) Provides physician services primarily in either of the 55649
following ways: 55650

(a) Directly through physicians who are either employees or 55651
partners of the organization; 55652

(b) Through arrangements with individual physicians or one or 55653
more groups of physicians organized on a group-practice or 55654
individual-practice basis. 55655

(B) As used in this chapter: 55656

(1) "Children's hospital" means any of the following: 55657

(a) A hospital registered under section 3701.07 of the 55658
Revised Code that provides general pediatric medical and surgical 55659
care, and in which at least seventy-five per cent of annual 55660
inpatient discharges for the preceding two calendar years were 55661
individuals less than eighteen years of age; 55662

(b) A distinct portion of a hospital registered under section 55663

3701.07 of the Revised Code that provides general pediatric 55664
medical and surgical care, has a total of at least one hundred 55665
fifty registered pediatric special care and pediatric acute care 55666
beds, and in which at least seventy-five per cent of annual 55667
inpatient discharges for the preceding two calendar years were 55668
individuals less than eighteen years of age; 55669

(c) A distinct portion of a hospital, if the hospital is 55670
registered under section 3701.07 of the Revised Code as a 55671
children's hospital and the children's hospital meets all the 55672
requirements of division (B)(1)(a) of this section. 55673

(2) "Hospital" means an institution classified as a hospital 55674
under section 3701.07 of the Revised Code in which are provided to 55675
inpatients diagnostic, medical, surgical, obstetrical, 55676
psychiatric, or rehabilitation care for a continuous period longer 55677
than twenty-four hours or a hospital operated by a health 55678
maintenance organization. "Hospital" does not include a facility 55679
licensed under Chapter 3721. of the Revised Code, a health care 55680
facility operated by the department of ~~mental health~~ mental health 55681
and addiction services or the department of developmental 55682
disabilities, a health maintenance organization that does not 55683
operate a hospital, the office of any private licensed health care 55684
professional, whether organized for individual or group practice, 55685
or a clinic that provides ambulatory patient services and where 55686
patients are not regularly admitted as inpatients. "Hospital" also 55687
does not include an institution for the sick that is operated 55688
exclusively for patients who use spiritual means for healing and 55689
for whom the acceptance of medical care is inconsistent with their 55690
religious beliefs, accredited by a national accrediting 55691
organization, exempt from federal income taxation under section 55692
501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 55693
U.S.C.A. 1, as amended, and providing twenty-four hour nursing 55694
care pursuant to the exemption in division (E) of section 4723.32 55695

of the Revised Code from the licensing requirements of Chapter 55696
4723. of the Revised Code. 55697

(3) "Joint commission" means the commission formerly known as 55698
the joint commission on accreditation of healthcare organizations 55699
or the joint commission on accreditation of hospitals. 55700

Sec. 3734.28. Except as otherwise provided in sections 55701
3734.281 and 3734.282 of the Revised Code, moneys collected under 55702
sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 55703
of the Revised Code and under the "Comprehensive Environmental 55704
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 55705
42 U.S.C.A. 9601, et seq., as amended, including moneys recovered 55706
under division (B)(1) of this section, shall be paid into the 55707
state treasury to the credit of the hazardous waste clean-up fund, 55708
which is hereby created. In addition, both of the following shall 55709
be credited to the fund: 55710

(A) Moneys recovered for costs paid from the fund for 55711
activities described in divisions (A)(1) and (2) of section 55712
3745.12 of the Revised Code; 55713

(B) Natural resource damage assessment costs recovered under 55714
any of the following: 55715

(1) The "Comprehensive Environmental Response, Compensation, 55716
and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et 55717
seq., as amended; 55718

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 55719
2701, et seq., as amended; 55720

(3) ~~The Federal Water Pollution Control Act as defined in~~ 55721
~~section 6111.01 of the Revised Code~~ "Clean Water Act of 1977," 91 55722
Stat. 1566, 33 U.S.C. 1321, et seq., as amended; 55723

(4) Any other applicable federal or state law. 55724

The environmental protection agency shall use the moneys in 55725

the fund for the purposes set forth in division (D) of section 55726
3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 55727
3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, 55728
and Chapter 3746. of the Revised Code, including any related 55729
enforcement expenses and administrative expenses of any related 55730
closure or corrective action program. In addition, the agency 55731
shall use the moneys in the fund to pay the state's long-term 55732
operation and maintenance costs or matching share for actions 55733
taken under the "Comprehensive Environmental Response, 55734
Compensation, and Liability Act of 1980," as amended. If those 55735
moneys are reimbursed by grants or other moneys from the United 55736
States or any other person, the moneys shall be placed in the fund 55737
and not in the general revenue fund. 55738

The director of environmental protection may enter into 55739
contracts and grant agreements with federal, state, or local 55740
government agencies, nonprofit organizations, and colleges and 55741
universities for the purpose of carrying out the responsibilities 55742
of the environmental protection agency for which money may be 55743
expended from the fund. 55744

Sec. 3734.57. (A) The following fees are hereby levied on the 55745
transfer or disposal of solid wastes in this state: 55746

(1) One dollar per ton through June 30, ~~2014~~ 2016, ~~one-half~~ 55747
thirty per cent of the proceeds of which shall be deposited in the 55748
state treasury to the credit of the hazardous waste facility 55749
management fund created in section 3734.18 of the Revised Code and 55750
~~one-half~~ seventy per cent of the proceeds of which shall be 55751
deposited in the state treasury to the credit of the hazardous 55752
waste clean-up fund created in section 3734.28 of the Revised 55753
Code; 55754

(2) An additional one dollar per ton through June 30, ~~2014~~ 55755
2016, the proceeds of which shall be deposited in the state 55756

treasury to the credit of the solid waste fund, which is hereby 55757
created. The environmental protection agency shall use money in 55758
the solid waste fund to pay the costs of administering and 55759
enforcing the laws pertaining to solid wastes, infectious wastes, 55760
and construction and demolition debris, including, without 55761
limitation, ground water evaluations related to solid wastes, 55762
infectious wastes, and construction and demolition debris, under 55763
this chapter and Chapter 3714. of the Revised Code and any rules 55764
adopted under them, providing compliance assistance to small 55765
businesses, and paying a share of the administrative costs of the 55766
environmental protection agency pursuant to section 3745.014 of 55767
the Revised Code. 55768

(3) An additional two dollars and fifty cents per ton through 55769
June 30, ~~2014~~ 2016, the proceeds of which shall be deposited in 55770
the state treasury to the credit of the environmental protection 55771
fund created in section 3745.015 of the Revised Code; 55772

(4) An additional twenty-five cents per ton through June 30, 55773
~~2013~~ 2016, the proceeds of which shall be deposited in the state 55774
treasury to the credit of the soil and water conservation district 55775
assistance fund created in section 1515.14 of the Revised Code. 55776

In the case of solid wastes that are taken to a solid waste 55777
transfer facility located in this state prior to being transported 55778
for disposal at a solid waste disposal facility located in this 55779
state or outside of this state, the fees levied under this 55780
division shall be collected by the owner or operator of the 55781
transfer facility as a trustee for the state. The amount of fees 55782
required to be collected under this division at such a transfer 55783
facility shall equal the total tonnage of solid wastes received at 55784
the facility multiplied by the fees levied under this division. In 55785
the case of solid wastes that are not taken to a solid waste 55786
transfer facility located in this state prior to being transported 55787
to a solid waste disposal facility, the fees shall be collected by 55788

the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in

writing, on a form prescribed by the director, and shall be 55854
supported by evidence that may be required in rules adopted by the 55855
director under this chapter. After reviewing the request, and if 55856
the request and evidence submitted with the request indicate that 55857
a refund or credit is warranted, the director shall grant a refund 55858
to the owner or operator or shall permit a credit to be taken by 55859
the owner or operator on a subsequent monthly return submitted by 55860
the owner or operator. The amount of a refund or credit shall not 55861
exceed an amount that is equal to ninety days' worth of fees owed 55862
to an owner or operator by a particular debtor of the owner or 55863
operator. A refund or credit shall not be granted by the director 55864
to an owner or operator more than once in any twelve-month period 55865
for fees owed to the owner or operator by a particular debtor. 55866

If, after receiving a refund or credit from the director, an 55867
owner or operator receives payment of all or part of the fees, the 55868
owner or operator shall remit the fees with the next monthly 55869
return submitted to the director together with a written 55870
explanation of the reason for the submittal. 55871

For purposes of computing the fees levied under this division 55872
or division (B) of this section, any solid waste transfer or 55873
disposal facility that does not use scales as a means of 55874
determining gate receipts shall use a conversion factor of three 55875
cubic yards per ton of solid waste or one cubic yard per ton for 55876
baled waste, as applicable. 55877

The fees levied under this division and divisions (B) and (C) 55878
of this section are in addition to all other applicable fees and 55879
taxes and shall be paid by the customer or a political subdivision 55880
to the owner or operator of a solid waste transfer or disposal 55881
facility. In the alternative, the fees shall be paid by a customer 55882
or political subdivision to a transporter of waste who 55883
subsequently transfers the fees to the owner or operator of such a 55884
facility. The fees shall be paid notwithstanding the existence of 55885

any provision in a contract that the customer or a political 55886
subdivision may have with the owner or operator or with a 55887
transporter of waste to the facility that would not require or 55888
allow such payment regardless of whether the contract was entered 55889
prior to or after October 16, 2009. For those purposes, "customer" 55890
means a person who contracts with, or utilizes the solid waste 55891
services of, the owner or operator of a solid waste transfer or 55892
disposal facility or a transporter of solid waste to such a 55893
facility. 55894

(B) For the purposes specified in division (G) of this 55895
section, the solid waste management policy committee of a county 55896
or joint solid waste management district may levy fees upon the 55897
following activities: 55898

(1) The disposal at a solid waste disposal facility located 55899
in the district of solid wastes generated within the district; 55900

(2) The disposal at a solid waste disposal facility within 55901
the district of solid wastes generated outside the boundaries of 55902
the district, but inside this state; 55903

(3) The disposal at a solid waste disposal facility within 55904
the district of solid wastes generated outside the boundaries of 55905
this state. 55906

The solid waste management plan of the county or joint 55907
district approved under section 3734.521 or 3734.55 of the Revised 55908
Code and any amendments to it, or the resolution adopted under 55909
this division, as appropriate, shall establish the rates of the 55910
fees levied under divisions (B)(1), (2), and (3) of this section, 55911
if any, and shall specify whether the fees are levied on the basis 55912
of tons or cubic yards as the unit of measurement. A solid waste 55913
management district that levies fees under this division on the 55914
basis of cubic yards shall do so in accordance with division (A) 55915
of this section. 55916

The fee levied under division (B)(1) of this section shall be 55917
not less than one dollar per ton nor more than two dollars per 55918
ton, the fee levied under division (B)(2) of this section shall be 55919
not less than two dollars per ton nor more than four dollars per 55920
ton, and the fee levied under division (B)(3) of this section 55921
shall be not more than the fee levied under division (B)(1) of 55922
this section. 55923

Prior to the approval of the solid waste management plan of a 55924
district under section 3734.55 of the Revised Code, the solid 55925
waste management policy committee of a district may levy fees 55926
under this division by adopting a resolution establishing the 55927
proposed amount of the fees. Upon adopting the resolution, the 55928
committee shall deliver a copy of the resolution to the board of 55929
county commissioners of each county forming the district and to 55930
the legislative authority of each municipal corporation and 55931
township under the jurisdiction of the district and shall prepare 55932
and publish the resolution and a notice of the time and location 55933
where a public hearing on the fees will be held. Upon adopting the 55934
resolution, the committee shall deliver written notice of the 55935
adoption of the resolution; of the amount of the proposed fees; 55936
and of the date, time, and location of the public hearing to the 55937
director and to the fifty industrial, commercial, or institutional 55938
generators of solid wastes within the district that generate the 55939
largest quantities of solid wastes, as determined by the 55940
committee, and to their local trade associations. The committee 55941
shall make good faith efforts to identify those generators within 55942
the district and their local trade associations, but the 55943
nonprovision of notice under this division to a particular 55944
generator or local trade association does not invalidate the 55945
proceedings under this division. The publication shall occur at 55946
least thirty days before the hearing. After the hearing, the 55947
committee may make such revisions to the proposed fees as it 55948
considers appropriate and thereafter, by resolution, shall adopt 55949

the revised fee schedule. Upon adopting the revised fee schedule, 55950
the committee shall deliver a copy of the resolution doing so to 55951
the board of county commissioners of each county forming the 55952
district and to the legislative authority of each municipal 55953
corporation and township under the jurisdiction of the district. 55954
Within sixty days after the delivery of a copy of the resolution 55955
adopting the proposed revised fees by the policy committee, each 55956
such board and legislative authority, by ordinance or resolution, 55957
shall approve or disapprove the revised fees and deliver a copy of 55958
the ordinance or resolution to the committee. If any such board or 55959
legislative authority fails to adopt and deliver to the policy 55960
committee an ordinance or resolution approving or disapproving the 55961
revised fees within sixty days after the policy committee 55962
delivered its resolution adopting the proposed revised fees, it 55963
shall be conclusively presumed that the board or legislative 55964
authority has approved the proposed revised fees. The committee 55965
shall determine if the resolution has been ratified in the same 55966
manner in which it determines if a draft solid waste management 55967
plan has been ratified under division (B) of section 3734.55 of 55968
the Revised Code. 55969

The committee may amend the schedule of fees levied pursuant 55970
to a resolution adopted and ratified under this division by 55971
adopting a resolution establishing the proposed amount of the 55972
amended fees. The committee may repeal the fees levied pursuant to 55973
such a resolution by adopting a resolution proposing to repeal 55974
them. Upon adopting such a resolution, the committee shall proceed 55975
to obtain ratification of the resolution in accordance with this 55976
division. 55977

Not later than fourteen days after declaring the new fees to 55978
be ratified or the fees to be repealed under this division, the 55979
committee shall notify by certified mail the owner or operator of 55980
each solid waste disposal facility that is required to collect the 55981

fees of the ratification and the amount of the fees or of the 55982
repeal of the fees. Collection of any fees shall commence or 55983
collection of repealed fees shall cease on the first day of the 55984
second month following the month in which notification is sent to 55985
the owner or operator. 55986

Fees levied under this division also may be established, 55987
amended, or repealed by a solid waste management policy committee 55988
through the adoption of a new district solid waste management 55989
plan, the adoption of an amended plan, or the amendment of the 55990
plan or amended plan in accordance with sections 3734.55 and 55991
3734.56 of the Revised Code or the adoption or amendment of a 55992
district plan in connection with a change in district composition 55993
under section 3734.521 of the Revised Code. 55994

Not later than fourteen days after the director issues an 55995
order approving a district's solid waste management plan, amended 55996
plan, or amendment to a plan or amended plan that establishes, 55997
amends, or repeals a schedule of fees levied by the district, the 55998
committee shall notify by certified mail the owner or operator of 55999
each solid waste disposal facility that is required to collect the 56000
fees of the approval of the plan or amended plan, or the amendment 56001
to the plan, as appropriate, and the amount of the fees, if any. 56002
In the case of an initial or amended plan approved under section 56003
3734.521 of the Revised Code in connection with a change in 56004
district composition, other than one involving the withdrawal of a 56005
county from a joint district, the committee, within fourteen days 56006
after the change takes effect pursuant to division (G) of that 56007
section, shall notify by certified mail the owner or operator of 56008
each solid waste disposal facility that is required to collect the 56009
fees that the change has taken effect and of the amount of the 56010
fees, if any. Collection of any fees shall commence or collection 56011
of repealed fees shall cease on the first day of the second month 56012
following the month in which notification is sent to the owner or 56013

operator. 56014

If, in the case of a change in district composition involving 56015
the withdrawal of a county from a joint district, the director 56016
completes the actions required under division (G)(1) or (3) of 56017
section 3734.521 of the Revised Code, as appropriate, forty-five 56018
days or more before the beginning of a calendar year, the policy 56019
committee of each of the districts resulting from the change that 56020
obtained the director's approval of an initial or amended plan in 56021
connection with the change, within fourteen days after the 56022
director's completion of the required actions, shall notify by 56023
certified mail the owner or operator of each solid waste disposal 56024
facility that is required to collect the district's fees that the 56025
change is to take effect on the first day of January immediately 56026
following the issuance of the notice and of the amount of the fees 56027
or amended fees levied under divisions (B)(1) to (3) of this 56028
section pursuant to the district's initial or amended plan as so 56029
approved or, if appropriate, the repeal of the district's fees by 56030
that initial or amended plan. Collection of any fees set forth in 56031
such a plan or amended plan shall commence on the first day of 56032
January immediately following the issuance of the notice. If such 56033
an initial or amended plan repeals a schedule of fees, collection 56034
of the fees shall cease on that first day of January. 56035

If, in the case of a change in district composition involving 56036
the withdrawal of a county from a joint district, the director 56037
completes the actions required under division (G)(1) or (3) of 56038
section 3734.521 of the Revised Code, as appropriate, less than 56039
forty-five days before the beginning of a calendar year, the 56040
director, on behalf of each of the districts resulting from the 56041
change that obtained the director's approval of an initial or 56042
amended plan in connection with the change proceedings, shall 56043
notify by certified mail the owner or operator of each solid waste 56044
disposal facility that is required to collect the district's fees 56045

that the change is to take effect on the first day of January 56046
immediately following the mailing of the notice and of the amount 56047
of the fees or amended fees levied under divisions (B)(1) to (3) 56048
of this section pursuant to the district's initial or amended plan 56049
as so approved or, if appropriate, the repeal of the district's 56050
fees by that initial or amended plan. Collection of any fees set 56051
forth in such a plan or amended plan shall commence on the first 56052
day of the second month following the month in which notification 56053
is sent to the owner or operator. If such an initial or amended 56054
plan repeals a schedule of fees, collection of the fees shall 56055
cease on the first day of the second month following the month in 56056
which notification is sent to the owner or operator. 56057

If the schedule of fees that a solid waste management 56058
district is levying under divisions (B)(1) to (3) of this section 56059
is amended or repealed, the fees in effect immediately prior to 56060
the amendment or repeal shall continue to be collected until 56061
collection of the amended fees commences or collection of the 56062
repealed fees ceases, as applicable, as specified in this 56063
division. In the case of a change in district composition, money 56064
so received from the collection of the fees of the former 56065
districts shall be divided among the resulting districts in 56066
accordance with division (B) of section 343.012 of the Revised 56067
Code and the agreements entered into under division (B) of section 56068
343.01 of the Revised Code to establish the former and resulting 56069
districts and any amendments to those agreements. 56070

For the purposes of the provisions of division (B) of this 56071
section establishing the times when newly established or amended 56072
fees levied by a district are required to commence and the 56073
collection of fees that have been amended or repealed is required 56074
to cease, "fees" or "schedule of fees" includes, in addition to 56075
fees levied under divisions (B)(1) to (3) of this section, those 56076
levied under section 3734.573 or 3734.574 of the Revised Code. 56077

(C) For the purposes of defraying the added costs to a 56078
municipal corporation or township of maintaining roads and other 56079
public facilities and of providing emergency and other public 56080
services, and compensating a municipal corporation or township for 56081
reductions in real property tax revenues due to reductions in real 56082
property valuations resulting from the location and operation of a 56083
solid waste disposal facility within the municipal corporation or 56084
township, a municipal corporation or township in which such a 56085
solid waste disposal facility is located may levy a fee of not 56086
more than twenty-five cents per ton on the disposal of solid 56087
wastes at a solid waste disposal facility located within the 56088
boundaries of the municipal corporation or township regardless of 56089
where the wastes were generated. 56090

The legislative authority of a municipal corporation or 56091
township may levy fees under this division by enacting an 56092
ordinance or adopting a resolution establishing the amount of the 56093
fees. Upon so doing the legislative authority shall mail a 56094
certified copy of the ordinance or resolution to the board of 56095
county commissioners or directors of the county or joint solid 56096
waste management district in which the municipal corporation or 56097
township is located or, if a regional solid waste management 56098
authority has been formed under section 343.011 of the Revised 56099
Code, to the board of trustees of that regional authority, the 56100
owner or operator of each solid waste disposal facility in the 56101
municipal corporation or township that is required to collect the 56102
fee by the ordinance or resolution, and the director of 56103
environmental protection. Although the fees levied under this 56104
division are levied on the basis of tons as the unit of 56105
measurement, the legislative authority, in its ordinance or 56106
resolution levying the fees under this division, may direct that 56107
the fees be levied on the basis of cubic yards as the unit of 56108
measurement based upon a conversion factor of three cubic yards 56109
per ton generally or one cubic yard per ton for baled wastes. 56110

Not later than five days after enacting an ordinance or 56111
adopting a resolution under this division, the legislative 56112
authority shall so notify by certified mail the owner or operator 56113
of each solid waste disposal facility that is required to collect 56114
the fee. Collection of any fee levied on or after March 24, 1992, 56115
shall commence on the first day of the second month following the 56116
month in which notification is sent to the owner or operator. 56117

(D)(1) The fees levied under divisions (A), (B), and (C) of 56118
this section do not apply to the disposal of solid wastes that: 56119

(a) Are disposed of at a facility owned by the generator of 56120
the wastes when the solid waste facility exclusively disposes of 56121
solid wastes generated at one or more premises owned by the 56122
generator regardless of whether the facility is located on a 56123
premises where the wastes are generated; 56124

(b) Are generated from the combustion of coal, or from the 56125
combustion of primarily coal, regardless of whether the disposal 56126
facility is located on the premises where the wastes are 56127
generated; 56128

(c) Are asbestos or asbestos-containing materials or products 56129
disposed of at a construction and demolition debris facility that 56130
is licensed under Chapter 3714. of the Revised Code or at a solid 56131
waste facility that is licensed under this chapter. 56132

(2) Except as provided in section 3734.571 of the Revised 56133
Code, any fees levied under division (B)(1) of this section apply 56134
to solid wastes originating outside the boundaries of a county or 56135
joint district that are covered by an agreement for the joint use 56136
of solid waste facilities entered into under section 343.02 of the 56137
Revised Code by the board of county commissioners or board of 56138
directors of the county or joint district where the wastes are 56139
generated and disposed of. 56140

(3) When solid wastes, other than solid wastes that consist 56141

of scrap tires, are burned in a disposal facility that is an 56142
incinerator or energy recovery facility, the fees levied under 56143
divisions (A), (B), and (C) of this section shall be levied upon 56144
the disposal of the fly ash and bottom ash remaining after burning 56145
of the solid wastes and shall be collected by the owner or 56146
operator of the sanitary landfill where the ash is disposed of. 56147

(4) When solid wastes are delivered to a solid waste transfer 56148
facility, the fees levied under divisions (B) and (C) of this 56149
section shall be levied upon the disposal of solid wastes 56150
transported off the premises of the transfer facility for disposal 56151
and shall be collected by the owner or operator of the solid waste 56152
disposal facility where the wastes are disposed of. 56153

(5) The fees levied under divisions (A), (B), and (C) of this 56154
section do not apply to sewage sludge that is generated by a waste 56155
water treatment facility holding a national pollutant discharge 56156
elimination system permit and that is disposed of through 56157
incineration, land application, or composting or at another 56158
resource recovery or disposal facility that is not a landfill. 56159

(6) The fees levied under divisions (A), (B), and (C) of this 56160
section do not apply to solid wastes delivered to a solid waste 56161
composting facility for processing. When any unprocessed solid 56162
waste or compost product is transported off the premises of a 56163
composting facility and disposed of at a landfill, the fees levied 56164
under divisions (A), (B), and (C) of this section shall be 56165
collected by the owner or operator of the landfill where the 56166
unprocessed waste or compost product is disposed of. 56167

(7) When solid wastes that consist of scrap tires are 56168
processed at a scrap tire recovery facility, the fees levied under 56169
divisions (A), (B), and (C) of this section shall be levied upon 56170
the disposal of the fly ash and bottom ash or other solid wastes 56171
remaining after the processing of the scrap tires and shall be 56172
collected by the owner or operator of the solid waste disposal 56173

facility where the ash or other solid wastes are disposed of. 56174

(8) The director of environmental protection may issue an 56175
order exempting from the fees levied under this section solid 56176
wastes, including, but not limited to, scrap tires, that are 56177
generated, transferred, or disposed of as a result of a contract 56178
providing for the expenditure of public funds entered into by the 56179
administrator or regional administrator of the United States 56180
environmental protection agency, the director of environmental 56181
protection, or the director of administrative services on behalf 56182
of the director of environmental protection for the purpose of 56183
remediating conditions at a hazardous waste facility, solid waste 56184
facility, or other location at which the administrator or regional 56185
administrator or the director of environmental protection has 56186
reason to believe that there is a substantial threat to public 56187
health or safety or the environment or that the conditions are 56188
causing or contributing to air or water pollution or soil 56189
contamination. An order issued by the director of environmental 56190
protection under division (D)(8) of this section shall include a 56191
determination that the amount of the fees not received by a solid 56192
waste management district as a result of the order will not 56193
adversely impact the implementation and financing of the 56194
district's approved solid waste management plan and any approved 56195
amendments to the plan. Such an order is a final action of the 56196
director of environmental protection. 56197

(E) The fees levied under divisions (B) and (C) of this 56198
section shall be collected by the owner or operator of the solid 56199
waste disposal facility where the wastes are disposed of as a 56200
trustee for the county or joint district and municipal corporation 56201
or township where the wastes are disposed of. Moneys from the fees 56202
levied under division (B) of this section shall be forwarded to 56203
the board of county commissioners or board of directors of the 56204
district in accordance with rules adopted under division (H) of 56205

this section. Moneys from the fees levied under division (C) of 56206
this section shall be forwarded to the treasurer or such other 56207
officer of the municipal corporation as, by virtue of the charter, 56208
has the duties of the treasurer or to the fiscal officer of the 56209
township, as appropriate, in accordance with those rules. 56210

(F) Moneys received by the treasurer or other officer of the 56211
municipal corporation under division (E) of this section shall be 56212
paid into the general fund of the municipal corporation. Moneys 56213
received by the fiscal officer of the township under that division 56214
shall be paid into the general fund of the township. The treasurer 56215
or other officer of the municipal corporation or the township 56216
fiscal officer, as appropriate, shall maintain separate records of 56217
the moneys received from the fees levied under division (C) of 56218
this section. 56219

(G) Moneys received by the board of county commissioners or 56220
board of directors under division (E) of this section or section 56221
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 56222
shall be paid to the county treasurer, or other official acting in 56223
a similar capacity under a county charter, in a county district or 56224
to the county treasurer or other official designated by the board 56225
of directors in a joint district and kept in a separate and 56226
distinct fund to the credit of the district. If a regional solid 56227
waste management authority has been formed under section 343.011 56228
of the Revised Code, moneys received by the board of trustees of 56229
that regional authority under division (E) of this section shall 56230
be kept by the board in a separate and distinct fund to the credit 56231
of the district. Moneys in the special fund of the county or joint 56232
district arising from the fees levied under division (B) of this 56233
section and the fee levied under division (A) of section 3734.573 56234
of the Revised Code shall be expended by the board of county 56235
commissioners or directors of the district in accordance with the 56236
district's solid waste management plan or amended plan approved 56237

under section 3734.521, 3734.55, or 3734.56 of the Revised Code 56238
exclusively for the following purposes: 56239

(1) Preparation of the solid waste management plan of the 56240
district under section 3734.54 of the Revised Code, monitoring 56241
implementation of the plan, and conducting the periodic review and 56242
amendment of the plan required by section 3734.56 of the Revised 56243
Code by the solid waste management policy committee; 56244

(2) Implementation of the approved solid waste management 56245
plan or amended plan of the district, including, without 56246
limitation, the development and implementation of solid waste 56247
recycling or reduction programs; 56248

(3) Providing financial assistance to boards of health within 56249
the district, if solid waste facilities are located within the 56250
district, for enforcement of this chapter and rules, orders, and 56251
terms and conditions of permits, licenses, and variances adopted 56252
or issued under it, other than the hazardous waste provisions of 56253
this chapter and rules adopted and orders and terms and conditions 56254
of permits issued under those provisions; 56255

(4) Providing financial assistance to each county within the 56256
district to defray the added costs of maintaining roads and other 56257
public facilities and of providing emergency and other public 56258
services resulting from the location and operation of a solid 56259
waste facility within the county under the district's approved 56260
solid waste management plan or amended plan; 56261

(5) Pursuant to contracts entered into with boards of health 56262
within the district, if solid waste facilities contained in the 56263
district's approved plan or amended plan are located within the 56264
district, for paying the costs incurred by those boards of health 56265
for collecting and analyzing samples from public or private water 56266
wells on lands adjacent to those facilities; 56267

(6) Developing and implementing a program for the inspection 56268

of solid wastes generated outside the boundaries of this state 56269
that are disposed of at solid waste facilities included in the 56270
district's approved solid waste management plan or amended plan; 56271

(7) Providing financial assistance to boards of health within 56272
the district for the enforcement of section 3734.03 of the Revised 56273
Code or to local law enforcement agencies having jurisdiction 56274
within the district for enforcing anti-littering laws and 56275
ordinances; 56276

(8) Providing financial assistance to boards of health of 56277
health districts within the district that are on the approved list 56278
under section 3734.08 of the Revised Code to defray the costs to 56279
the health districts for the participation of their employees 56280
responsible for enforcement of the solid waste provisions of this 56281
chapter and rules adopted and orders and terms and conditions of 56282
permits, licenses, and variances issued under those provisions in 56283
the training and certification program as required by rules 56284
adopted under division (L) of section 3734.02 of the Revised Code; 56285

(9) Providing financial assistance to individual municipal 56286
corporations and townships within the district to defray their 56287
added costs of maintaining roads and other public facilities and 56288
of providing emergency and other public services resulting from 56289
the location and operation within their boundaries of a 56290
composting, energy or resource recovery, incineration, or 56291
recycling facility that either is owned by the district or is 56292
furnishing solid waste management facility or recycling services 56293
to the district pursuant to a contract or agreement with the board 56294
of county commissioners or directors of the district; 56295

(10) Payment of any expenses that are agreed to, awarded, or 56296
ordered to be paid under section 3734.35 of the Revised Code and 56297
of any administrative costs incurred pursuant to that section. In 56298
the case of a joint solid waste management district, if the board 56299
of county commissioners of one of the counties in the district is 56300

negotiating on behalf of affected communities, as defined in that 56301
section, in that county, the board shall obtain the approval of 56302
the board of directors of the district in order to expend moneys 56303
for administrative costs incurred. 56304

Prior to the approval of the district's solid waste 56305
management plan under section 3734.55 of the Revised Code, moneys 56306
in the special fund of the district arising from the fees shall be 56307
expended for those purposes in the manner prescribed by the solid 56308
waste management policy committee by resolution. 56309

Notwithstanding division (G)(6) of this section as it existed 56310
prior to October 29, 1993, or any provision in a district's solid 56311
waste management plan prepared in accordance with division 56312
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 56313
prior to that date, any moneys arising from the fees levied under 56314
division (B)(3) of this section prior to January 1, 1994, may be 56315
expended for any of the purposes authorized in divisions (G)(1) to 56316
(10) of this section. 56317

(H) The director shall adopt rules in accordance with Chapter 56318
119. of the Revised Code prescribing procedures for collecting and 56319
forwarding the fees levied under divisions (B) and (C) of this 56320
section to the boards of county commissioners or directors of 56321
county or joint solid waste management districts and to the 56322
treasurers or other officers of municipal corporations and the 56323
fiscal officers of townships. The rules also shall prescribe the 56324
dates for forwarding the fees to the boards and officials and may 56325
prescribe any other requirements the director considers necessary 56326
or appropriate to implement and administer divisions (A), (B), and 56327
(C) of this section. 56328

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 56329
defray the cost of administering and enforcing the scrap tire 56330
provisions of this chapter, rules adopted under those provisions, 56331

and terms and conditions of orders, variances, and licenses issued 56332
under those provisions; to abate accumulations of scrap tires; to 56333
make grants supporting market development activities for scrap 56334
tires and synthetic rubber from tire manufacturing processes and 56335
tire recycling processes and to support scrap tire amnesty and 56336
cleanup events; to make loans to promote the recycling or recovery 56337
of energy from scrap tires; and to defray the costs of 56338
administering and enforcing sections 3734.90 to 3734.9014 of the 56339
Revised Code, a fee of fifty cents per tire is hereby levied on 56340
the sale of tires. The proceeds of the fee shall be deposited in 56341
the state treasury to the credit of the scrap tire management fund 56342
created in section 3734.82 of the Revised Code. The fee is levied 56343
from the first day of the calendar month that begins next after 56344
thirty days from October 29, 1993, through June 30, ~~2013~~ 2016. 56345

(2) Beginning on July 1, 2011, and ending on June 30, ~~2013~~ 56346
2016, there is hereby levied an additional fee of fifty cents per 56347
tire on the sale of tires the proceeds of which shall be deposited 56348
in the state treasury to the credit of the soil and water 56349
conservation district assistance fund created in section 1515.14 56350
of the Revised Code. 56351

(B) Only one sale of the same article shall be used in 56352
computing the amount of the fee due. 56353

Sec. 3734.907. (A) Any person required to pay the fee imposed 56354
by section 3734.901 of the Revised Code is personally liable for 56355
the fee. The tax commissioner may make an assessment, based upon 56356
any information in the commissioner's possession, against any 56357
person who fails to file a return or pay any fee, interest, or 56358
additional charge as required by sections 3734.90 to 3734.9014 of 56359
the Revised Code. The commissioner shall give the person assessed 56360
written notice of the assessment in the manner provided in section 56361
5703.37 of the Revised Code. With the notice, the commissioner 56362

shall provide instructions on how to petition for reassessment and 56363
request a hearing on the petition. 56364

(B) When the information in the possession of the tax 56365
commissioner indicates that a person liable for the fee imposed by 56366
section 3734.901 of the Revised Code has not paid the full amount 56367
of fee due, the commissioner may audit a representative sample of 56368
the person's business and may issue an assessment based on the 56369
audit. 56370

(C) A penalty of up to fifteen per cent may be added to all 56371
amounts assessed under this section. The commissioner may adopt 56372
rules providing for the imposition and remission of the penalties. 56373

(D) Unless the person assessed files with the tax 56374
commissioner within sixty days after service of the notice of 56375
assessment, either personally or by certified mail, a written 56376
petition for reassessment signed by the person assessed or that 56377
person's authorized agent having knowledge of the facts, the 56378
assessment becomes final and the amount of the assessment is due 56379
and payable from the person assessed to the treasurer of state. 56380
The petition shall indicate the objections of the person assessed, 56381
but additional objections may be raised in writing if received by 56382
the commissioner prior to the date shown on the final 56383
determination. If the petition has been properly filed, the 56384
commissioner shall proceed under section 5703.60 of the Revised 56385
Code. 56386

(E) After an assessment becomes final, if any portion of the 56387
assessment, including accrued interest, remains unpaid, a 56388
certified copy of the tax commissioner's entry making the 56389
assessment final may be filed in the office of the clerk of the 56390
court of common pleas in the county in which the person assessed 56391
resides or in which the person's business is conducted. If the 56392
person assessed maintains no place of business in this state and 56393
is not a resident of this state, the certified copy of the entry 56394

may be filed in the office of the clerk of the court of common 56395
pleas of Franklin county. 56396

Immediately upon the filing of the entry, the clerk shall 56397
enter a judgment for the state against the person assessed in the 56398
amount shown on the entry. The judgment may be filed by the clerk 56399
in a loose-leaf book entitled "special judgments for state tire 56400
fee," and shall have the same effect as other judgments. Execution 56401
shall issue upon the judgment upon the request of the tax 56402
commissioner, and all laws applicable to sales on execution shall 56403
apply to sales made under the judgment. 56404

~~The portion of~~ If the assessment is not paid in its entirety 56405
within sixty days after the day the assessment was issued, the 56406
portion of the assessment consisting of tax due shall bear 56407
interest at the rate per annum prescribed by section 5703.47 of 56408
the Revised Code from the day the commissioner issues the 56409
assessment until the day the assessment is paid or until it is 56410
certified to the attorney general for collection under section 56411
131.02 of the Revised Code, whichever comes first. If the unpaid 56412
portion of the assessment is certified to the attorney general for 56413
collection, the entire unpaid portion of the assessment shall bear 56414
interest at the rate per annum prescribed by section 5703.47 of 56415
the Revised Code from the date of certification until the date it 56416
is paid in its entirety. Interest shall be paid in the same manner 56417
as the fee and may be collected by the issuance of an assessment 56418
under this section. 56419

(F) If the tax commissioner believes that collection of the 56420
fee will be jeopardized unless proceedings to collect or secure 56421
collection of the fee are instituted without delay, the 56422
commissioner may issue a jeopardy assessment against the person 56423
liable for the fee. Immediately upon the issuance of the jeopardy 56424
assessment, the commissioner shall file an entry with the clerk of 56425
the court of common pleas in the manner prescribed by division (E) 56426

of this section. Notice of the jeopardy assessment shall be served 56427
on the person assessed or the person's legal representative, as 56428
provided in section 5703.37 of the Revised Code, within five days 56429
of the filing of the entry with the clerk. The total amount 56430
assessed is immediately due and payable, unless the person 56431
assessed files a petition for reassessment in accordance with 56432
division (D) of this section and provides security in a form 56433
satisfactory to the commissioner and in an amount sufficient to 56434
satisfy the unpaid balance of the assessment. Full or partial 56435
payment of the assessment does not prejudice the commissioner's 56436
consideration of the petition for reassessment. 56437

(G) All money collected by the tax commissioner under this 56438
section shall be paid to the treasurer of state as revenue arising 56439
from the fee imposed by section 3734.901 of the Revised Code. 56440

Sec. 3735.58. (A) The director of ~~mental health~~ mental health 56441
and addiction services, the director of developmental 56442
disabilities, or the director of rehabilitation and correction may 56443
enter into contracts for the sale of land not needed by their 56444
departments and under their jurisdiction or supervision to 56445
metropolitan housing authorities for use by such an authority for 56446
a housing project or projects. Such contract may contain such 56447
conditions and terms as are, in the discretion of the directors, 56448
in the best interests of the state and the welfare of the 56449
residents of the state. 56450

(B) The director may, upon receipt of a request from a 56451
metropolitan housing authority, request the approval of the 56452
governor to sell and convey land not needed by the director's 56453
department and under the director's jurisdiction or supervision to 56454
an authority, subject to such terms and conditions consistent with 56455
the public interest and welfare of the residents of the state as 56456
the director considers necessary. The governor, with the approval 56457

of the controlling board, may approve the request. Such property 56458
shall be appraised at its fair market value before it is conveyed. 56459
The director of administrative services shall cause it to be 56460
appraised by three disinterested persons and shall determine the 56461
fee which each appraiser shall receive, not to exceed fifty 56462
dollars. All appraisal fees shall be paid by the authority which 56463
shall deposit with the director one hundred fifty dollars before 56464
the appraisal is made. If the deposit exceeds the appraisal fee, 56465
the balance shall be returned to the authority. The appraisal 56466
value, when approved by the director, is the purchase price. If 56467
the purchase price is not paid within ninety days after notice to 56468
the authority of the approved appraisal value, the director shall 56469
withdraw approval of the appraisal value and no deed shall be 56470
delivered to the authority without the written approval of the 56471
director of the purchase price. If the purchase price is paid 56472
within ninety days, a deed shall be prepared and recorded pursuant 56473
to section 5301.13 of the Revised Code. 56474

(C) Moneys received from sales of land to a metropolitan 56475
housing authority shall be placed in the state treasury in special 56476
funds, to be used for such purposes of the department of ~~mental~~ 56477
~~health~~ mental health and addiction services, the department of 56478
developmental disabilities, or the department of rehabilitation 56479
and correction as is appropriate. 56480

Sec. 3737.02. (A) The fire marshal may collect fees to cover 56481
the costs of performing inspections and other duties that the fire 56482
marshal is authorized or required by law to perform. Except as 56483
provided in division (B) of this section, all fees collected by 56484
the fire marshal shall be deposited to the credit of the fire 56485
marshal's fund. 56486

(B) All of the following shall be credited to the underground 56487
storage tank administration fund, which is hereby created in the 56488

state treasury: 56489

(1) Fees collected under sections 3737.88 and 3737.881 of the 56490
Revised Code for operation of the underground storage tank and 56491
underground storage tank installer certification programs, ~~moneys;~~ 56492

(2) Moneys recovered under section 3737.89 of the Revised 56493
Code for the state's costs of undertaking corrective or 56494
enforcement actions under that section or section 3737.882 of the 56495
Revised Code, ~~and fines;~~ 56496

(3) Fines and penalties collected under section 3737.882 of 56497
the Revised Code ~~shall be credited to the underground storage tank~~ 56498
~~administration fund, which is hereby created in the state~~ 56499
~~treasury. All;~~ 56500

(4) Amounts repaid for underground storage tank revolving 56501
loans under section 3737.883 of the Revised Code. 56502

(C) All interest earned on moneys credited to the underground 56503
storage tank administration fund shall be credited to the fund. 56504
Moneys credited to the underground storage tank administration 56505
fund shall be used by the fire marshal for implementation and 56506
enforcement of underground storage tank, corrective action, and 56507
installer certification programs under sections 3737.88 to 3737.89 56508
of the Revised Code. Only moneys described in divisions (B)(3) and 56509
(4) of this section shall be used by the fire marshal to make 56510
underground storage tank revolving loans under section 3737.883 of 56511
the Revised Code, and no other moneys may be used to make those 56512
loans. 56513

~~(C)~~(D) The fire marshal shall take all actions necessary to 56514
obtain any federal funding available to carry out the fire 56515
marshal's responsibilities under sections 3737.88 to 3737.89 of 56516
the Revised Code and federal laws regarding the cleaning up of 56517
releases of petroleum, as "release" is defined in section 3737.87 56518
of the Revised Code, including, without limitation, any federal 56519

funds that are available to reimburse the state for the costs of 56520
undertaking corrective actions for such releases of petroleum. The 56521
state may, when appropriate, return to the United States any 56522
federal funds recovered under sections 3737.882 and 3737.89 of the 56523
Revised Code. 56524

Sec. 3737.83. The fire marshal shall, as part of the state 56525
fire code, adopt rules to: 56526

(A) Establish minimum standards of performance for fire 56527
protection equipment and fire fighting equipment; 56528

(B) Establish minimum standards of training, fix minimum 56529
qualifications, and require certificates for all persons who 56530
engage in the business for profit of installing, testing, 56531
repairing, or maintaining fire protection equipment; 56532

(C) Provide for the issuance of certificates required under 56533
division (B) of this section and establish the fees to be charged 56534
for such certificates. A certificate shall be granted, renewed, or 56535
revoked according to rules the fire marshal shall adopt. 56536

(D) Establish minimum standards of flammability for consumer 56537
goods in any case where the federal government or any department 56538
or agency thereof has established, or may from time to time 56539
establish standards of flammability for consumer goods. The 56540
standards established by the fire marshal shall be identical to 56541
the minimum federal standards. 56542

In any case where the federal government or any department or 56543
agency thereof, establishes standards of flammability for consumer 56544
goods subsequent to the adoption of a flammability standard by the 56545
fire marshal, standards previously adopted by the fire marshal 56546
shall not continue in effect to the extent such standards are not 56547
identical to the minimum federal standards. 56548

With respect to the adoption of minimum standards of 56549

flammability, this division shall supersede any authority granted 56550
a political subdivision by any other section of the Revised Code. 56551

(E) Establish minimum standards pursuant to section 5104.05 56552
of the Revised Code for fire prevention and fire safety in child 56553
day-care centers and in type A family day-care homes, as defined 56554
in section 5104.01 of the Revised Code. 56555

(F) Establish minimum standards for fire prevention and 56556
safety in a residential facility licensed under section ~~5119.22~~ 56557
5119.34 of the Revised Code that provides accommodations, 56558
supervision, and personal care services for three to sixteen 56559
unrelated adults. The fire marshal shall adopt the rules under 56560
this division in consultation with the director of ~~mental health~~ 56561
mental health and addiction services and interested parties 56562
designated by the director of ~~mental health~~ mental health and 56563
addiction services. 56564

Sec. 3737.841. As used in this section and section 3737.842 56565
of the Revised Code: 56566

(A) "Public occupancy" means all of the following: 56567

(1) Any state correctional institution as defined in section 56568
2967.01 of the Revised Code and any county, multicounty, 56569
municipal, or municipal-county jail or workhouse; 56570

(2) Any hospital as defined in section 3727.01 of the Revised 56571
Code, any hospital licensed by the department of ~~mental health~~ 56572
mental health and addiction services under section ~~5119.20~~ 5119.33 56573
of the Revised Code, and any institution, hospital, or other place 56574
established, controlled, or supervised by the department of ~~mental~~ 56575
~~health~~ mental health and addiction services under Chapter 5119. of 56576
the Revised Code; 56577

(3) Any nursing home, residential care facility, or home for 56578
the aging as defined in section 3721.01 of the Revised Code and 56579

any residential facility licensed under section ~~5119.22~~ 5119.34 of 56580
the Revised Code that provides accommodations, supervision, and 56581
personal care services for three to sixteen unrelated adults; 56582

(4) Any child day-care center and any type A family day-care 56583
home as defined in section 5104.01 of the Revised Code; 56584

(5) Any public auditorium or stadium; 56585

(6) Public assembly areas of hotels and motels containing 56586
more than ten articles of seating furniture. 56587

(B) "Sell" includes sell, offer or expose for sale, barter, 56588
trade, deliver, give away, rent, consign, lease, possess for sale, 56589
or dispose of in any other commercial manner. 56590

(C) Except as provided in division (D) of this section, 56591
"seating furniture" means any article of furniture, including 56592
children's furniture, that can be used as a support for an 56593
individual, or an individual's limbs or feet, when sitting or 56594
resting in an upright or reclining position and that either: 56595

(1) Is made with loose or attached cushions or pillows; 56596

(2) Is stuffed or filled in whole or in part with any filling 56597
material; 56598

(3) Is or can be stuffed or filled in whole or in part with 56599
any substance or material, concealed by fabric or any other 56600
covering. 56601

"Seating furniture" includes the cushions or pillows 56602
belonging to or forming a part of the furniture, the structural 56603
unit, and the filling material and its container or covering. 56604

(D) "Seating furniture" does not include, except if intended 56605
for use by children or in facilities designed for the care or 56606
treatment of humans, any of the following: 56607

(1) Cushions or pads intended solely for outdoor use; 56608

(2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;

(3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.

(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or artificial material or substance that is used or can be used as stuffing in seating furniture.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those rules, enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and perform such other duties, as are consistent with those programs. The fire marshal, by rule, may delegate the authority to conduct inspections of underground storage tanks to certified fire safety inspectors.

(2) In the place of any rules regarding release containment and release detection for underground storage tanks adopted under division (A)(1) of this section, the fire marshal, by rule, shall designate areas as being sensitive for the protection of human health and the environment and adopt alternative rules regarding release containment and release detection methods for new and

upgraded underground storage tank systems located in those areas. 56640
In designating such areas, the fire marshal shall take into 56641
consideration such factors as soil conditions, hydrogeology, water 56642
use, and the location of public and private water supplies. Not 56643
later than July 11, 1990, the fire marshal shall file the rules 56644
required under this division with the secretary of state, director 56645
of the legislative service commission, and joint committee on 56646
agency rule review in accordance with divisions (B) and (H) of 56647
section 119.03 of the Revised Code. 56648

(3) Notwithstanding sections 3737.87 to 3737.89 of the 56649
Revised Code, a person who is not a responsible person, as 56650
determined by the fire marshal pursuant to this chapter, may 56651
conduct a voluntary action in accordance with Chapter 3746. of the 56652
Revised Code and rules adopted under it for either of the 56653
following: 56654

(a) A class C release; 56655

(b) A release, other than a class C release, that is subject 56656
to the rules adopted by the fire marshal under division (B) of 56657
section 3737.882 of the Revised Code pertaining to a corrective 56658
action, provided that both of the following apply: 56659

(i) The voluntary action also addresses hazardous substances 56660
or petroleum that is not subject to the rules adopted under 56661
division (B) of section 3737.882 of the Revised Code pertaining to 56662
a corrective action. 56663

(ii) The fire marshal has not issued an administrative order 56664
concerning the release or referred the release to the attorney 56665
general for enforcement. 56666

The director of environmental protection, pursuant to section 56667
3746.12 of the Revised Code, may issue a covenant not to sue to 56668
any person who properly completes a voluntary action with respect 56669
to any such release in accordance with Chapter 3746. of the 56670

Revised Code and rules adopted under it. 56671

(B) Before adopting any rule under this section or section 56672
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 56673
file written notice of the proposed rule with the chairperson of 56674
the state fire council, and, within sixty days after notice is 56675
filed, the council may file responses to or comments on and may 56676
recommend alternative or supplementary rules to the fire marshal. 56677
At the end of the sixty-day period or upon the filing of 56678
responses, comments, or recommendations by the council, the fire 56679
marshal may adopt the rule filed with the council or any 56680
alternative or supplementary rule recommended by the council. 56681

(C) The state fire council may recommend courses of action to 56682
be taken by the fire marshal in carrying out the fire marshal's 56683
duties under this section. The council shall file its 56684
recommendations in the office of the fire marshal, and, within 56685
sixty days after the recommendations are filed, the fire marshal 56686
shall file with the chairperson of the council comments on, and 56687
proposed action in response to, the recommendations. 56688

(D) For the purpose of sections 3737.87 to 3737.89 of the 56689
Revised Code, the fire marshal shall adopt, and may amend and 56690
rescind, rules identifying or listing hazardous substances. The 56691
rules shall be consistent with and equivalent in scope, coverage, 56692
and content to regulations identifying or listing hazardous 56693
substances adopted under the "Comprehensive Environmental 56694
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 56695
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 56696
not identify or list as a hazardous substance any hazardous waste 56697
identified or listed in rules adopted under division (A) of 56698
section 3734.12 of the Revised Code. 56699

(E) Except as provided in division (A)(3) of this section, 56700
the fire marshal shall have exclusive jurisdiction to regulate the 56701
storage, treatment, and disposal of petroleum contaminated soil 56702

generated from corrective actions undertaken in response to 56703
releases of petroleum from underground storage tank systems. The 56704
fire marshal may adopt, amend, or rescind such rules as the fire 56705
marshal considers to be necessary or appropriate to regulate the 56706
storage, treatment, or disposal of petroleum contaminated soil so 56707
generated. 56708

(F) The fire marshal shall adopt, amend, and rescind rules 56709
under sections 3737.88 to ~~3737.882~~ 3737.883 of the Revised Code in 56710
accordance with Chapter 119. of the Revised Code. 56711

Sec. 3737.883. (A) As used in this section, "political 56712
subdivision" has the same meaning as in section 2744.01 of the 56713
Revised Code, but includes a community improvement corporation as 56714
that term is defined in section 1724.01 of the Revised Code. 56715

(B) A political subdivision may do any of the following for 56716
an underground storage tank located within its territorial 56717
boundaries if the responsible person is not identifiable or if the 56718
state fire marshal determines that an identified responsible 56719
person is unable to pay the costs of the action to be taken by the 56720
political subdivision: 56721

(1) Initiate, continue, or properly complete the removal of 56722
an underground storage tank system; 56723

(2) Initiate, continue, or properly complete an assessment of 56724
the site of an underground storage tank or the site of an 56725
underground storage tank system; 56726

(3) Initiate, continue, or properly complete a corrective 56727
action. 56728

(C) The state fire marshal or the state fire marshal's 56729
designee shall administer an underground storage tank revolving 56730
loan program under which the state fire marshal issues loans to 56731
assist with the costs of actions described in divisions (B)(1) to 56732

(3) of this section. The state fire marshal shall issue a loan 56733
under the program to a political subdivision that meets the 56734
application requirements of division (D) of this section and 56735
agrees to written terms and conditions of the loan with the state 56736
fire marshal. 56737

(D) A political subdivision shall apply to the state fire 56738
marshal for a loan under this section on a form prescribed by the 56739
state fire marshal. In the application, the political subdivision 56740
shall do all of the following: 56741

(1) Describe the action for which it is requesting a loan; 56742

(2) State the requested loan amount; 56743

(3) Explain how the political subdivision plans to spend, of 56744
its own funds, in undertaking the action for which the loan is 56745
requested, an amount equal to at least five per cent of the 56746
requested loan amount; 56747

(4) Provide any other information requested by the state fire 56748
marshal. 56749

(E) The state fire marshal shall consult with the director of 56750
development services before issuing any loan under this section. 56751

(F) A loan issued under this section shall not carry 56752
interest. No loan issued under this section shall have a term of 56753
more than ten years. The political subdivision shall repay a loan 56754
issued under this section to the state fire marshal. 56755

(G) If, at any time after the expenditure of loan funds by a 56756
political subdivision under this section, the state fire marshal 56757
or any law enforcement agency identifies the responsible person or 56758
determines, for any reason, that the previously identified 56759
responsible person was or is able to pay the costs of the action 56760
for which the loan was issued, the political subdivision may bring 56761
any appropriate proceedings against the responsible person to 56762

recover the costs incurred by the political subdivision. The 56763
proceedings may be brought in either the court of common pleas 56764
having jurisdiction where the underground storage tank is located 56765
or the court of common pleas of Franklin county. 56766

(H)(1) The state fire marshal shall adopt and may amend and 56767
rescind rules as necessary for the administration and operation of 56768
the underground storage tank revolving loan program. The rules may 56769
do any of the following: 56770

(a) Further define the entities considered "political 56771
subdivisions" eligible to receive loans; 56772

(b) Establish qualifying criteria for loan recipients; 56773

(c) Establish criteria for awarding loans, loan amounts, loan 56774
payment terms, and permissible expenditures of loan funds, 56775
including methods that the state fire marshal may use to verify 56776
the proper use of loan funds or to obtain reimbursement for or the 56777
return of improperly used loan funds. 56778

(2) The state fire marshal may adopt and may amend and 56779
rescind rules for the issuance of emergency underground storage 56780
tank revolving loans to qualifying entities during a natural 56781
disaster or another similar event as defined in the rules. 56782

Sec. ~~3737.883~~ 3737.884. On receipt of a notice pursuant to 56783
section 3123.43 of the Revised Code, the state fire marshal shall 56784
comply with sections 3123.41 to 3123.50 of the Revised Code and 56785
any applicable rules adopted under section 3123.63 of the Revised 56786
Code with respect to a certificate issued pursuant to section 56787
3737.34, 3737.65, 3737.83, or 3737.881 of the Revised Code. 56788

Sec. 3742.30. Each child at risk of lead poisoning shall 56789
undergo a blood lead screening test to determine whether the child 56790
has lead poisoning. The at-risk children shall undergo the test at 56791
times determined by rules the director of health shall adopt in 56792

accordance with Chapter 119. of the Revised Code that are 56793
consistent with the guidelines established by the centers for 56794
disease control and prevention in the public health service of the 56795
United States department of health and human services. The rules 56796
shall specify which children are at risk of lead poisoning. 56797

Neither this section nor the rules adopted under it affect 56798
the coverage of blood lead screening tests by any publicly funded 56799
health program, including the medicaid program ~~established by~~ 56800
~~Chapter 5111. of the Revised Code.~~ Neither this section nor the 56801
rules adopted under it apply to a child if a parent of the child 56802
objects to the test on the grounds that the test conflicts with 56803
the parent's religious tenets and practices. 56804

Sec. 3742.31. (A) The director of health shall establish, 56805
promote, and maintain a child lead poisoning prevention program. 56806
The program shall provide statewide coordination of screening, 56807
diagnosis, and treatment services for children under age six, 56808
including both of the following: 56809

(1) Collecting the social security numbers of all children 56810
screened, diagnosed, or treated as part of the program's case 56811
management system; 56812

(2) Disclosing to the ~~office of medical assistance in the~~ 56813
department of ~~job and family services~~ medicaid on at least an 56814
annual basis the identity and lead screening test results of each 56815
child screened pursuant to section 3742.30 of the Revised Code. 56816
The director shall collect and disseminate information relating to 56817
child lead poisoning and controlling lead hazards. 56818

(B) The director of health shall operate the child lead 56819
poisoning prevention program in accordance with rules adopted 56820
under section 3742.50 of the Revised Code. The director may enter 56821
into an interagency agreement with one or more other state 56822

agencies to perform one or more of the program's duties. The 56823
director shall supervise and direct an agency's performance of 56824
such a duty. 56825

Sec. 3742.32. (A) The director of health shall appoint an 56826
advisory council to assist in the ongoing development and 56827
implementation of the child lead poisoning prevention program 56828
created under section 3742.31 of the Revised Code. The advisory 56829
council shall consist of the following members: 56830

(1) A representative of the ~~office of medical assistance in~~ 56831
~~the~~ department of ~~job and family services~~ medicaid; 56832

(2) A representative of the bureau of child care in the 56833
department of job and family services; 56834

(3) A representative of the department of environmental 56835
protection; 56836

(4) A representative of the department of education; 56837

(5) A representative of the ~~department of~~ development 56838
services agency; 56839

(6) A representative of the Ohio apartment owner's 56840
association; 56841

(7) A representative of the Ohio help end lead poisoning 56842
coalition; 56843

(8) A representative of the Ohio environmental health 56844
association; 56845

(9) An Ohio representative of the national paint and coatings 56846
association. 56847

(B) The advisory council shall do both of the following: 56848

(1) Provide the director with advice regarding the policies 56849
the child lead poisoning prevention program should emphasize, 56850
preferred methods of financing the program, and any other matter 56851

relevant to the program's operation; 56852

(2) Submit a report of the state's activities to the 56853
governor, president of the senate, and speaker of the house of 56854
representatives on or before the first day of March each year. 56855

(C) The advisory council is not subject to sections 101.82 to 56856
101.87 of the Revised Code. 56857

Sec. 3742.51. (A) There is hereby created in the state 56858
treasury the lead poisoning prevention fund. The fund shall 56859
include all moneys appropriated to the department of health for 56860
the administration and enforcement of sections 3742.31 to 3742.50 56861
of the Revised Code and the rules adopted under those sections. 56862
Any grants, contributions, or other moneys collected by the 56863
department for purposes of preventing lead poisoning shall be 56864
deposited in the state treasury to the credit of the fund. 56865

(B) Moneys in the fund shall be used solely for the purposes 56866
of the child lead poisoning prevention program established under 56867
section 3742.31 of the Revised Code, including providing financial 56868
assistance to individuals who are unable to pay for the following: 56869

(1) Costs associated with obtaining lead tests and lead 56870
poisoning treatment for children under six years of age who are 56871
not covered by private medical insurance or are underinsured, are 56872
not eligible for the medicaid program ~~established under Chapter~~ 56873
~~5111. of the Revised Code~~ or any other government health program, 56874
and do not have access to another source of funds to cover the 56875
cost of lead tests and any indicated treatments; 56876

(2) Costs associated with having lead abatement performed or 56877
having the preventive treatments specified in section 3742.41 of 56878
the Revised Code performed. 56879

Sec. 3745.11. (A) Applicants for and holders of permits, 56880
licenses, variances, plan approvals, and certifications issued by 56881

the director of environmental protection pursuant to Chapters 56882
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 56883
to the environmental protection agency for each such issuance and 56884
each application for an issuance as provided by this section. No 56885
fee shall be charged for any issuance for which no application has 56886
been submitted to the director. 56887

(B) Except as otherwise provided in division (C)(2) of this 56888
section, beginning July 1, 1994, each person who owns or operates 56889
an air contaminant source and who is required to apply for and 56890
obtain a Title V permit under section 3704.036 of the Revised Code 56891
shall pay the fees set forth in this division. For the purposes of 56892
this division, total emissions of air contaminants may be 56893
calculated using engineering calculations, emissions factors, 56894
material balance calculations, or performance testing procedures, 56895
as authorized by the director. 56896

The following fees shall be assessed on the total actual 56897
emissions from a source in tons per year of the regulated 56898
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 56899
organic compounds, and lead: 56900

(1) Fifteen dollars per ton on the total actual emissions of 56901
each such regulated pollutant during the period July through 56902
December 1993, to be collected no sooner than July 1, 1994; 56903

(2) Twenty dollars per ton on the total actual emissions of 56904
each such regulated pollutant during calendar year 1994, to be 56905
collected no sooner than April 15, 1995; 56906

(3) Twenty-five dollars per ton on the total actual emissions 56907
of each such regulated pollutant in calendar year 1995, and each 56908
subsequent calendar year, to be collected no sooner than the 56909
fifteenth day of April of the year next succeeding the calendar 56910
year in which the emissions occurred. 56911

The fees levied under this division do not apply to that 56912

portion of the emissions of a regulated pollutant at a facility 56913
that exceed four thousand tons during a calendar year. 56914

(C)(1) The fees assessed under division (B) of this section 56915
are for the purpose of providing funding for the Title V permit 56916
program. 56917

(2) The fees assessed under division (B) of this section do 56918
not apply to emissions from any electric generating unit 56919
designated as a Phase I unit under Title IV of the federal Clean 56920
Air Act prior to calendar year 2000. Those fees shall be assessed 56921
on the emissions from such a generating unit commencing in 56922
calendar year 2001 based upon the total actual emissions from the 56923
generating unit during calendar year 2000 and shall continue to be 56924
assessed each subsequent calendar year based on the total actual 56925
emissions from the generating unit during the preceding calendar 56926
year. 56927

(3) The director shall issue invoices to owners or operators 56928
of air contaminant sources who are required to pay a fee assessed 56929
under division (B) or (D) of this section. Any such invoice shall 56930
be issued no sooner than the applicable date when the fee first 56931
may be collected in a year under the applicable division, shall 56932
identify the nature and amount of the fee assessed, and shall 56933
indicate that the fee is required to be paid within thirty days 56934
after the issuance of the invoice. 56935

(D)(1) Except as provided in division (D)(3) of this section, 56936
from January 1, 1994, through December 31, 2003, each person who 56937
owns or operates an air contaminant source; who is required to 56938
apply for a permit to operate pursuant to rules adopted under 56939
division (G), or a variance pursuant to division (H), of section 56940
3704.03 of the Revised Code; and who is not required to apply for 56941
and obtain a Title V permit under section 3704.036 of the Revised 56942
Code shall pay a single fee based upon the sum of the actual 56943
annual emissions from the facility of the regulated pollutants 56944

particulate matter, sulfur dioxide, nitrogen oxides, organic		56945
compounds, and lead in accordance with the following schedule:		56946
Total tons per year		56947
of regulated pollutants	Annual fee	56948
emitted	per facility	56949
More than 0, but less than 50	\$ 75	56950
50 or more, but less than 100	300	56951
100 or more	700	56952
(2) Except as provided in division (D)(3) of this section,		56953
beginning January 1, 2004, each person who owns or operates an air		56954
contaminant source; who is required to apply for a permit to		56955
operate pursuant to rules adopted under division (G), or a		56956
variance pursuant to division (H), of section 3704.03 of the		56957
Revised Code; and who is not required to apply for and obtain a		56958
Title V permit under section 3704.03 of the Revised Code shall pay		56959
a single fee based upon the sum of the actual annual emissions		56960
from the facility of the regulated pollutants particulate matter,		56961
sulfur dioxide, nitrogen oxides, organic compounds, and lead in		56962
accordance with the following schedule:		56963
Total tons per year		56964
of regulated pollutants	Annual fee	56965
emitted	per facility	56966
More than 0, but less than 10	\$ 100	56967
10 or more, but less than 50	200	56968
50 or more, but less than 100	300	56969
100 or more	700	56970
(3)(a) As used in division (D) of this section, "synthetic		56971
minor facility" means a facility for which one or more permits to		56972
install or permits to operate have been issued for the air		56973
contaminant sources at the facility that include terms and		56974
conditions that lower the facility's potential to emit air		56975
contaminants below the major source thresholds established in		56976

rules adopted under section 3704.036 of the Revised Code. 56977

(b) Beginning January 1, 2000, through June 30, ~~2014~~ 2016, 56978
each person who owns or operates a synthetic minor facility shall 56979
pay an annual fee based on the sum of the actual annual emissions 56980
from the facility of particulate matter, sulfur dioxide, nitrogen 56981
dioxide, organic compounds, and lead in accordance with the 56982
following schedule: 56983

Combined total tons		56984
per year of all regulated	Annual fee	56985
pollutants emitted	per facility	56986
Less than 10	\$ 170	56987
10 or more, but less than 20	340	56988
20 or more, but less than 30	670	56989
30 or more, but less than 40	1,010	56990
40 or more, but less than 50	1,340	56991
50 or more, but less than 60	1,680	56992
60 or more, but less than 70	2,010	56993
70 or more, but less than 80	2,350	56994
80 or more, but less than 90	2,680	56995
90 or more, but less than 100	3,020	56996
100 or more	3,350	56997

(4) The fees assessed under division (D)(1) of this section 56998
shall be collected annually no sooner than the fifteenth day of 56999
April, commencing in 1995. The fees assessed under division (D)(2) 57000
of this section shall be collected annually no sooner than the 57001
fifteenth day of April, commencing in 2005. The fees assessed 57002
under division (D)(3) of this section shall be collected no sooner 57003
than the fifteenth day of April, commencing in 2000. The fees 57004
assessed under division (D) of this section in a calendar year 57005
shall be based upon the sum of the actual emissions of those 57006
regulated pollutants during the preceding calendar year. For the 57007
purpose of division (D) of this section, emissions of air 57008

contaminants may be calculated using engineering calculations, 57009
emission factors, material balance calculations, or performance 57010
testing procedures, as authorized by the director. The director, 57011
by rule, may require persons who are required to pay the fees 57012
assessed under division (D) of this section to pay those fees 57013
biennially rather than annually. 57014

(E)(1) Consistent with the need to cover the reasonable costs 57015
of the Title V permit program, the director annually shall 57016
increase the fees prescribed in division (B) of this section by 57017
the percentage, if any, by which the consumer price index for the 57018
most recent calendar year ending before the beginning of a year 57019
exceeds the consumer price index for calendar year 1989. Upon 57020
calculating an increase in fees authorized by division (E)(1) of 57021
this section, the director shall compile revised fee schedules for 57022
the purposes of division (B) of this section and shall make the 57023
revised schedules available to persons required to pay the fees 57024
assessed under that division and to the public. 57025

(2) For the purposes of division (E)(1) of this section: 57026

(a) The consumer price index for any year is the average of 57027
the consumer price index for all urban consumers published by the 57028
United States department of labor as of the close of the 57029
twelve-month period ending on the thirty-first day of August of 57030
that year. 57031

(b) If the 1989 consumer price index is revised, the director 57032
shall use the revision of the consumer price index that is most 57033
consistent with that for calendar year 1989. 57034

(F) Each person who is issued a permit to install pursuant to 57035
rules adopted under division (F) of section 3704.03 of the Revised 57036
Code on or after July 1, 2003, shall pay the fees specified in the 57037
following schedules: 57038

(1) Fuel-burning equipment (boilers, furnaces, or process 57039

heaters used in the process of burning fuel for the primary		57040
purpose of producing heat or power by indirect heat transfer)		57041
Input capacity (maximum)		57042
(million British thermal units per hour)	Permit to install	57043
Greater than 0, but less than 10	\$ 200	57044
10 or more, but less than 100	400	57045
100 or more, but less than 300	1000	57046
300 or more, but less than 500	2250	57047
500 or more, but less than 1000	3750	57048
1000 or more, but less than 5000	6000	57049
5000 or more	9000	57050
Units burning exclusively natural gas, number two fuel oil,		57051
or both shall be assessed a fee that is one-half the applicable		57052
amount shown in division (F)(1) of this section.		57053
(2) Combustion turbines and stationary internal combustion		57054
engines designed to generate electricity		57055
Generating capacity (mega watts)	Permit to install	57056
0 or more, but less than 10	\$ 25	57057
10 or more, but less than 25	150	57058
25 or more, but less than 50	300	57059
50 or more, but less than 100	500	57060
100 or more, but less than 250	1000	57061
250 or more	2000	57062
(3) Incinerators		57063
Input capacity (pounds per hour)	Permit to install	57064
0 to 100	\$ 100	57065
101 to 500	500	57066
501 to 2000	1000	57067
2001 to 20,000	1500	57068
more than 20,000	3750	57069
(4)(a) Process		57070

Process weight rate (pounds per hour)	Permit to install	57071
0 to 1000	\$ 200	57072
1001 to 5000	500	57073
5001 to 10,000	750	57074
10,001 to 50,000	1000	57075
more than 50,000	1250	57076

In any process where process weight rate cannot be 57077
ascertained, the minimum fee shall be assessed. A boiler, furnace, 57078
combustion turbine, stationary internal combustion engine, or 57079
process heater designed to provide direct heat or power to a 57080
process not designed to generate electricity shall be assessed a 57081
fee established in division (F)(4)(a) of this section. A 57082
combustion turbine or stationary internal combustion engine 57083
designed to generate electricity shall be assessed a fee 57084
established in division (F)(2) of this section. 57085

(b) Notwithstanding division (F)(4)(a) of this section, any 57086
person issued a permit to install pursuant to rules adopted under 57087
division (F) of section 3704.03 of the Revised Code shall pay the 57088
fees set forth in division (F)(4)(c) of this section for a process 57089
used in any of the following industries, as identified by the 57090
applicable two-digit, three-digit, or four-digit standard 57091
industrial classification code according to the Standard 57092
Industrial Classification Manual published by the United States 57093
office of management and budget in the executive office of the 57094
president, 1987, as revised: 57095

Major group 10, metal mining; 57096

Major group 12, coal mining; 57097

Major group 14, mining and quarrying of nonmetallic minerals; 57098

Industry group 204, grain mill products; 57099

2873 Nitrogen fertilizers; 57100

2874 Phosphatic fertilizers; 57101

3281 Cut stone and stone products;		57102
3295 Minerals and earth, ground or otherwise treated;		57103
4221 Grain elevators (storage only);		57104
5159 Farm related raw materials;		57105
5261 Retail nurseries and lawn and garden supply stores.		57106
(c) The fees set forth in the following schedule apply to the		57107
issuance of a permit to install pursuant to rules adopted under		57108
division (F) of section 3704.03 of the Revised Code for a process		57109
identified in division (F)(4)(b) of this section:		57110
Process weight rate (pounds per	Permit to install	57111
hour)		
0 to 10,000	\$ 200	57112
10,001 to 50,000	400	57113
50,001 to 100,000	500	57114
100,001 to 200,000	600	57115
200,001 to 400,000	750	57116
400,001 or more	900	57117
(5) Storage tanks		57118
Gallons (maximum useful capacity)	Permit to install	57119
0 to 20,000	\$ 100	57120
20,001 to 40,000	150	57121
40,001 to 100,000	250	57122
100,001 to 500,000	400	57123
500,001 or greater	750	57124
(6) Gasoline/fuel dispensing facilities		57125
For each gasoline/fuel		57126
dispensing facility (includes all	Permit to install	57127
units at the facility)	\$ 100	57128
(7) Dry cleaning facilities		57129
For each dry cleaning		57130

facility (includes all units	Permit to install	57131
at the facility)	\$ 100	57132
(8) Registration status		57133
For each source covered	Permit to install	57134
by registration status	\$ 75	57135
(G) An owner or operator who is responsible for an asbestos		57136
demolition or renovation project pursuant to rules adopted under		57137
section 3704.03 of the Revised Code shall pay the fees set forth		57138
in the following schedule:		57139
Action	Fee	57140
Each notification	\$75	57141
Asbestos removal	\$3/unit	57142
Asbestos cleanup	\$4/cubic yard	57143
For purposes of this division, "unit" means any combination of		57144
linear feet or square feet equal to fifty.		57145
(H) A person who is issued an extension of time for a permit		57146
to install an air contaminant source pursuant to rules adopted		57147
under division (F) of section 3704.03 of the Revised Code shall		57148
pay a fee equal to one-half the fee originally assessed for the		57149
permit to install under this section, except that the fee for such		57150
an extension shall not exceed two hundred dollars.		57151
(I) A person who is issued a modification to a permit to		57152
install an air contaminant source pursuant to rules adopted under		57153
section 3704.03 of the Revised Code shall pay a fee equal to		57154
one-half of the fee that would be assessed under this section to		57155
obtain a permit to install the source. The fee assessed by this		57156
division only applies to modifications that are initiated by the		57157
owner or operator of the source and shall not exceed two thousand		57158
dollars.		57159
(J) Notwithstanding division (F) of this section, a person		57160
who applies for or obtains a permit to install pursuant to rules		57161

adopted under division (F) of section 3704.03 of the Revised Code 57162
after the date actual construction of the source began shall pay a 57163
fee for the permit to install that is equal to twice the fee that 57164
otherwise would be assessed under the applicable division unless 57165
the applicant received authorization to begin construction under 57166
division (W) of section 3704.03 of the Revised Code. This division 57167
only applies to sources for which actual construction of the 57168
source begins on or after July 1, 1993. The imposition or payment 57169
of the fee established in this division does not preclude the 57170
director from taking any administrative or judicial enforcement 57171
action under this chapter, Chapter 3704., 3714., 3734., or 6111. 57172
of the Revised Code, or a rule adopted under any of them, in 57173
connection with a violation of rules adopted under division (F) of 57174
section 3704.03 of the Revised Code. 57175

As used in this division, "actual construction of the source" 57176
means the initiation of physical on-site construction activities 57177
in connection with improvements to the source that are permanent 57178
in nature, including, without limitation, the installation of 57179
building supports and foundations and the laying of underground 57180
pipework. 57181

(K)(1) Money received under division (B) of this section 57182
shall be deposited in the state treasury to the credit of the 57183
Title V clean air fund created in section 3704.035 of the Revised 57184
Code. Annually, fifty cents per ton of each fee assessed under 57185
division (B) of this section on actual emissions from a source and 57186
received by the environmental protection agency pursuant to that 57187
division shall be transferred using an interstate transfer voucher 57188
to the state treasury to the credit of the small business 57189
assistance fund created in section 3706.19 of the Revised Code. In 57190
addition, annually, the amount of money necessary for the 57191
operation of the office of ombudsperson as determined under 57192
division (B) of that section shall be transferred to the state 57193

treasury to the credit of the small business ombudsperson fund 57194
created by that section. 57195

(2) Money received by the agency pursuant to divisions (D), 57196
(F), (G), (H), (I), and (J) of this section shall be deposited in 57197
the state treasury to the credit of the non-Title V clean air fund 57198
created in section 3704.035 of the Revised Code. 57199

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 57200
or (c) of this section, a person issued a water discharge permit 57201
or renewal of a water discharge permit pursuant to Chapter 6111. 57202
of the Revised Code shall pay a fee based on each point source to 57203
which the issuance is applicable in accordance with the following 57204
schedule: 57205

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	57207
1,001 to 5000	100	57208
5,001 to 50,000	200	57209
50,001 to 100,000	300	57210
100,001 to 300,000	525	57211
over 300,000	750	57212

(b) Notwithstanding the fee schedule specified in division 57213
(L)(1)(a) of this section, the fee for a water discharge permit 57214
that is applicable to coal mining operations regulated under 57215
Chapter 1513. of the Revised Code shall be two hundred fifty 57216
dollars per mine. 57217

(c) Notwithstanding the fee schedule specified in division 57218
(L)(1)(a) of this section, the fee for a water discharge permit 57219
for a public discharger identified by I in the third character of 57220
the permittee's NPDES permit number shall not exceed seven hundred 57221
fifty dollars. 57222

(2) A person applying for a plan approval for a wastewater 57223
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 57224

of the Revised Code shall pay a fee of one hundred dollars plus 57225
sixty-five one-hundredths of one per cent of the estimated project 57226
cost through June 30, ~~2014~~ 2016, and one hundred dollars plus 57227
two-tenths of one per cent of the estimated project cost on and 57228
after July 1, ~~2014~~ 2016, except that the total fee shall not 57229
exceed fifteen thousand dollars through June 30, ~~2014~~ 2016, and 57230
five thousand dollars on and after July 1, ~~2014~~ 2016. The fee 57231
shall be paid at the time the application is submitted. 57232

(3) A person issued a modification of a water discharge 57233
permit shall pay a fee equal to one-half the fee that otherwise 57234
would be charged for a water discharge permit, except that the fee 57235
for the modification shall not exceed four hundred dollars. 57236

(4) A person who has entered into an agreement with the 57237
director under section 6111.14 of the Revised Code shall pay an 57238
administrative service fee for each plan submitted under that 57239
section for approval that shall not exceed the minimum amount 57240
necessary to pay administrative costs directly attributable to 57241
processing plan approvals. The director annually shall calculate 57242
the fee and shall notify all persons who have entered into 57243
agreements under that section, or who have applied for agreements, 57244
of the amount of the fee. 57245

(5)(a)(i) Not later than January 30, ~~2012~~ 2014, and January 57246
30, ~~2013~~ 2015, a person holding an NPDES discharge permit issued 57247
pursuant to Chapter 6111. of the Revised Code with an average 57248
daily discharge flow of five thousand gallons or more shall pay a 57249
nonrefundable annual discharge fee. Any person who fails to pay 57250
the fee at that time shall pay an additional amount that equals 57251
ten per cent of the required annual discharge fee. 57252

(ii) The billing year for the annual discharge fee 57253
established in division (L)(5)(a)(i) of this section shall consist 57254
of a twelve-month period beginning on the first day of January of 57255
the year preceding the date when the annual discharge fee is due. 57256

In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by	
	January 30,	
	2012 <u>2014</u> , and	
	January 30, 2013	
	<u>2015</u>	
5,000 to 49,999	\$ 200	
50,000 to 100,000	500	

100,001 to 250,000	1,050	57288
250,001 to 1,000,000	2,600	57289
1,000,001 to 5,000,000	5,200	57290
5,000,001 to 10,000,000	10,350	57291
10,000,001 to 20,000,000	15,550	57292
20,000,001 to 50,000,000	25,900	57293
50,000,001 to 100,000,000	41,400	57294
100,000,001 or more	62,100	57295

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2012 <u>2014</u> , and January 30, 2013 <u>2015</u>	
5,000 to 49,999	\$ 250	57312
50,000 to 250,000	1,200	57313
250,001 to 1,000,000	2,950	57314
1,000,001 to 5,000,000	5,850	57315
5,000,001 to 10,000,000	8,800	57316
10,000,001 to 20,000,000	11,700	57317
20,000,001 to 100,000,000	14,050	57318

100,000,001 to 250,000,000	16,400	57319
250,000,001 or more	18,700	57320

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2012~~ 2014, and not later than January 30, ~~2013~~ 2015. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2012~~ 2014, and not later than January 30, ~~2013~~ 2015. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under

division (L) of this section to the treasurer of state for deposit 57351
into the state treasury to the credit of the surface water 57352
protection fund created in section 6111.038 of the Revised Code. 57353

(8) As used in division (L) of this section: 57354

(a) "NPDES" means the federally approved national pollutant 57355
discharge elimination system program for issuing, modifying, 57356
revoking, reissuing, terminating, monitoring, and enforcing 57357
permits and imposing and enforcing pretreatment requirements under 57358
Chapter 6111. of the Revised Code and rules adopted under it. 57359

(b) "Public discharger" means any holder of an NPDES permit 57360
identified by P in the second character of the NPDES permit number 57361
assigned by the director. 57362

(c) "Industrial discharger" means any holder of an NPDES 57363
permit identified by I in the second character of the NPDES permit 57364
number assigned by the director. 57365

(d) "Major discharger" means any holder of an NPDES permit 57366
classified as major by the regional administrator of the United 57367
States environmental protection agency in conjunction with the 57368
director. 57369

(M) Through June 30, ~~2014~~ 2016, a person applying for a 57370
license or license renewal to operate a public water system under 57371
section 6109.21 of the Revised Code shall pay the appropriate fee 57372
established under this division at the time of application to the 57373
director. Any person who fails to pay the fee at that time shall 57374
pay an additional amount that equals ten per cent of the required 57375
fee. The director shall transmit all moneys collected under this 57376
division to the treasurer of state for deposit into the drinking 57377
water protection fund created in section 6109.30 of the Revised 57378
Code. 57379

Except as provided in ~~division~~ divisions (M)(4) and (5) of 57380
this section, fees required under this division shall be 57381

calculated and paid in accordance with the following schedule: 57382

(1) For the initial license required under section 6109.21 of 57383
the Revised Code for any public water system that is a community 57384
water system as defined in section 6109.01 of the Revised Code, 57385
and for each license renewal required for such a system prior to 57386
January 31, ~~2014~~ 2016, the fee is: 57387

Number of service connections	Fee amount	
Not more than 49	\$ 112	57389
50 to 99	176	57390
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	57392
2,500 to 4,999	1.48	57393
5,000 to 7,499	1.42	57394
7,500 to 9,999	1.34	57395
10,000 to 14,999	1.16	57396
15,000 to 24,999	1.10	57397
25,000 to 49,999	1.04	57398
50,000 to 99,999	.92	57399
100,000 to 149,999	.86	57400
150,000 to 199,999	.80	57401
200,000 or more	.76	57402

A public water system may determine how it will pay the total 57403
amount of the fee calculated under division (M)(1) of this 57404
section, including the assessment of additional user fees that may 57405
be assessed on a volumetric basis. 57406

As used in division (M)(1) of this section, "service 57407
connection" means the number of active or inactive pipes, 57408
goosenecks, pigtails, and any other fittings connecting a water 57409
main to any building outlet. 57410

(2) For the initial license required under section 6109.21 of 57411
the Revised Code for any public water system that is not a 57412
community water system and serves a nontransient population, and 57413

for each license renewal required for such a system prior to 57414
 January 31, ~~2014~~ 2016, the fee is: 57415

Population served	Fee amount	
Fewer than 150	\$ 112	57417
150 to 299	176	57418
300 to 749	384	57419
750 to 1,499	628	57420
1,500 to 2,999	1,268	57421
3,000 to 7,499	2,816	57422
7,500 to 14,999	5,510	57423
15,000 to 22,499	9,048	57424
22,500 to 29,999	12,430	57425
30,000 or more	16,820	57426

As used in division (M)(2) of this section, "population 57427
 served" means the total number of individuals having access to the 57428
 water supply during a twenty-four-hour period for at least sixty 57429
 days during any calendar year. In the absence of a specific 57430
 population count, that number shall be calculated at the rate of 57431
 three individuals per service connection. 57432

(3) For the initial license required under section 6109.21 of 57433
 the Revised Code for any public water system that is not a 57434
 community water system and serves a transient population, and for 57435
 each license renewal required for such a system prior to January 57436
 31, ~~2014~~ 2016, the fee is: 57437

Number of wells or sources, other 57438 than surface water, supplying system	Fee amount	
1	\$112	57439
2	112	57440
3	176	57441
4	278	57442
5	568	57443

System designated as using a 57444

surface water source 792 57445

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(5) An applicant for an initial license who is proposing to operate a new public water supply system shall submit a fee that equals a prorated amount of the appropriate fee for the remainder of the licensing year.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2014~~ 2016, and fifteen thousand dollars on and after July 1, ~~2014~~ 2016. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2014~~ 2016, the following fee, on a per

survey basis, shall be charged any person for services rendered by 57476
the state in the evaluation of laboratories and laboratory 57477
personnel for compliance with accepted analytical techniques and 57478
procedures established pursuant to Chapter 6109. of the Revised 57479
Code for determining the qualitative characteristics of water: 57480
 microbiological 57481
 MMO-MUG \$2,000 57482
 MF 2,100 57483
 MMO-MUG and MF 2,550 57484
 organic chemical 5,400 57485
 trace metals 5,400 57486
 standard chemistry 2,800 57487
 limited chemistry 1,550 57488

On and after July 1, ~~2014~~ 2016, the following fee, on a per 57489
survey basis, shall be charged any such person: 57490
 microbiological \$ 1,650 57491
 organic chemicals 3,500 57492
 trace metals 3,500 57493
 standard chemistry 1,800 57494
 limited chemistry 1,000 57495

The fee for those services shall be paid at the time the request 57496
for the survey is made. Through June 30, ~~2014~~ 2016, an individual 57497
laboratory shall not be assessed a fee under this division more 57498
than once in any three-year period unless the person requests the 57499
addition of analytical methods or analysts, in which case the 57500
person shall pay eighteen hundred dollars for each additional 57501
survey requested. 57502

- As used in division (N)(3) of this section: 57503
- (a) "MF" means microfiltration. 57504
 - (b) "MMO" means minimal medium ONPG. 57505
 - (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 57506

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 57507

The director shall transmit all moneys collected under this 57508
division to the treasurer of state for deposit into the drinking 57509
water protection fund created in section 6109.30 of the Revised 57510
Code. 57511

(O) Any person applying to the director to take an 57512
examination for certification as an operator of a water supply 57513
system or wastewater system under Chapter 6109. or 6111. of the 57514
Revised Code that is administered by the director, at the time the 57515
application is submitted, shall pay a fee in accordance with the 57516
following schedule through November 30, ~~2014~~ 2016: 57517

Class A operator	\$ 80	57518
Class I operator	105	57519
Class II operator	120	57520
Class III operator	130	57521
Class IV operator	145	57522

On and after December 1, ~~2014~~ 2016, the applicant shall pay a 57523
fee in accordance with the following schedule: 57524

Class A operator	\$ 50	57525
Class I operator	70	57526
Class II operator	80	57527
Class III operator	90	57528
Class IV operator	100	57529

Any person applying to the director for certification as an 57530
operator of a water supply system or wastewater system who has 57531
passed an examination administered by an examination provider 57532
approved by the director shall pay a certification fee of 57533
forty-five dollars. 57534

A person shall pay a biennial certification renewal fee for 57535
each applicable class of certification in accordance with the 57536
following schedule: 57537

Class A operator	\$25	57538
Class I operator	35	57539
Class II operator	45	57540
Class III operator	55	57541
Class IV operator	65	57542

If a certification renewal fee is received by the director 57543
more than thirty days, but not more than one year after the 57544
expiration date of the certification, the person shall pay a 57545
certification renewal fee in accordance with the following 57546
schedule: 57547

Class A operator	\$45	57548
Class I operator	55	57549
Class II operator	65	57550
Class III operator	75	57551
Class IV operator	85	57552

A person who requests a replacement certificate shall pay a 57553
fee of twenty-five dollars at the time the request is made. 57554

Any person applying to be a water supply system or wastewater 57555
treatment system examination provider shall pay an application fee 57556
of five hundred dollars. Any person approved by the director as a 57557
water supply system or wastewater treatment system examination 57558
provider shall pay an annual fee that is equal to ten per cent of 57559
the fees that the provider assesses and collects for administering 57560
water supply system or wastewater treatment system certification 57561
examinations in this state for the calendar year. The fee shall be 57562
paid not later than forty-five days after the end of a calendar 57563
year. 57564

The director shall transmit all moneys collected under this 57565
division to the treasurer of state for deposit into the drinking 57566
water protection fund created in section 6109.30 of the Revised 57567
Code. 57568

(P) Any person submitting an application for an industrial 57569

water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment

facility using incineration as its principal method of treatment, 57603
under that chapter shall pay a fee of one thousand dollars. The 57604
increases in the permit fees under this division resulting from 57605
the amendments made by Amended Substitute House Bill 592 of the 57606
117th general assembly do not apply to any person who submitted an 57607
application for a permit to install a new, or modify an existing, 57608
solid waste disposal facility under that chapter prior to 57609
September 1, 1987; any such person shall pay the permit fee 57610
established in this division as it existed prior to June 24, 1988. 57611
In addition to the applicable permit fee under this division, a 57612
person issued a permit to install or modify a solid waste facility 57613
or an infectious waste treatment facility under that chapter who 57614
fails to pay the permit fee to the director in compliance with 57615
division (V) of this section shall pay an additional ten per cent 57616
of the amount of the fee for each week that the permit fee is 57617
late. 57618

Permit and late payment fees paid to the director under this 57619
division shall be credited to the general revenue fund. 57620

(R)(1) A person issued a registration certificate for a scrap 57621
tire collection facility under section 3734.75 of the Revised Code 57622
shall pay a fee of two hundred dollars, except that if the 57623
facility is owned or operated by a motor vehicle salvage dealer 57624
licensed under Chapter 4738. of the Revised Code, the person shall 57625
pay a fee of twenty-five dollars. 57626

(2) A person issued a registration certificate for a new 57627
scrap tire storage facility under section 3734.76 of the Revised 57628
Code shall pay a fee of three hundred dollars, except that if the 57629
facility is owned or operated by a motor vehicle salvage dealer 57630
licensed under Chapter 4738. of the Revised Code, the person shall 57631
pay a fee of twenty-five dollars. 57632

(3) A person issued a permit for a scrap tire storage 57633
facility under section 3734.76 of the Revised Code shall pay a fee 57634

of one thousand dollars, except that if the facility is owned or 57635
operated by a motor vehicle salvage dealer licensed under Chapter 57636
4738. of the Revised Code, the person shall pay a fee of fifty 57637
dollars. 57638

(4) A person issued a permit for a scrap tire monocell or 57639
monofill facility under section 3734.77 of the Revised Code shall 57640
pay a fee of ten dollars per thousand cubic yards of disposal 57641
capacity or one thousand dollars, whichever is greater, except 57642
that the total fee for any such permit shall not exceed eighty 57643
thousand dollars. 57644

(5) A person issued a registration certificate for a scrap 57645
tire recovery facility under section 3734.78 of the Revised Code 57646
shall pay a fee of one hundred dollars. 57647

(6) A person issued a permit for a scrap tire recovery 57648
facility under section 3734.78 of the Revised Code shall pay a fee 57649
of one thousand dollars. 57650

(7) In addition to the applicable registration certificate or 57651
permit fee under divisions (R)(1) to (6) of this section, a person 57652
issued a registration certificate or permit for any such scrap 57653
tire facility who fails to pay the registration certificate or 57654
permit fee to the director in compliance with division (V) of this 57655
section shall pay an additional ten per cent of the amount of the 57656
fee for each week that the fee is late. 57657

(8) The registration certificate, permit, and late payment 57658
fees paid to the director under divisions (R)(1) to (7) of this 57659
section shall be credited to the scrap tire management fund 57660
created in section 3734.82 of the Revised Code. 57661

(S)(1) Except as provided by divisions (L), (M), (N), (O), 57662
(P), and (S)(2) of this section, division (A)(2) of section 57663
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 57664
and rules adopted under division (T)(1) of this section, any 57665

person applying for a registration certificate under section 57666
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 57667
variance, or plan approval under Chapter 3734. of the Revised Code 57668
shall pay a nonrefundable fee of fifteen dollars at the time the 57669
application is submitted. 57670

Except as otherwise provided, any person applying for a 57671
permit, variance, or plan approval under Chapter 6109. or 6111. of 57672
the Revised Code shall pay a nonrefundable fee of one hundred 57673
dollars at the time the application is submitted through June 30, 57674
~~2014~~ 2016, and a nonrefundable fee of fifteen dollars at the time 57675
the application is submitted on and after July 1, ~~2014~~ 2016. 57676
Except as provided in division (S)(3) of this section, through 57677
June 30, ~~2014~~ 2016, any person applying for a national pollutant 57678
discharge elimination system permit under Chapter 6111. of the 57679
Revised Code shall pay a nonrefundable fee of two hundred dollars 57680
at the time of application for the permit. On and after July 1, 57681
~~2014~~ 2016, such a person shall pay a nonrefundable fee of fifteen 57682
dollars at the time of application. 57683

In addition to the application fee established under division 57684
(S)(1) of this section, any person applying for a national 57685
pollutant discharge elimination system general storm water 57686
construction permit shall pay a nonrefundable fee of twenty 57687
dollars per acre for each acre that is permitted above five acres 57688
at the time the application is submitted. However, the per acreage 57689
fee shall not exceed three hundred dollars. In addition, any 57690
person applying for a national pollutant discharge elimination 57691
system general storm water industrial permit shall pay a 57692
nonrefundable fee of one hundred fifty dollars at the time the 57693
application is submitted. 57694

The director shall transmit all moneys collected under 57695
division (S)(1) of this section pursuant to Chapter 6109. of the 57696
Revised Code to the treasurer of state for deposit into the 57697

drinking water protection fund created in section 6109.30 of the Revised Code. 57698
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The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (S)(3) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. 57700
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If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable. 57705
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If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid. 57710
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(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code. 57721
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(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for 57727
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household sewage treatment systems shall pay the following fees: 57729

(a) A nonrefundable fee of two hundred dollars at the time of 57730
application for initial permit coverage; 57731

(b) A nonrefundable fee of one hundred dollars at the time of 57732
application for a renewal of permit coverage. 57733

(T) The director may adopt, amend, and rescind rules in 57734
accordance with Chapter 119. of the Revised Code that do all of 57735
the following: 57736

(1) Prescribe fees to be paid by applicants for and holders 57737
of any license, permit, variance, plan approval, or certification 57738
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 57739
the Revised Code that are not specifically established in this 57740
section. The fees shall be designed to defray the cost of 57741
processing, issuing, revoking, modifying, denying, and enforcing 57742
the licenses, permits, variances, plan approvals, and 57743
certifications. 57744

The director shall transmit all moneys collected under rules 57745
adopted under division (T)(1) of this section pursuant to Chapter 57746
6109. of the Revised Code to the treasurer of state for deposit 57747
into the drinking water protection fund created in section 6109.30 57748
of the Revised Code. 57749

The director shall transmit all moneys collected under rules 57750
adopted under division (T)(1) of this section pursuant to Chapter 57751
6111. of the Revised Code to the treasurer of state for deposit 57752
into the surface water protection fund created in section 6111.038 57753
of the Revised Code. 57754

(2) Exempt the state and political subdivisions thereof, 57755
including education facilities or medical facilities owned by the 57756
state or a political subdivision, or any person exempted from 57757
taxation by section 5709.07 or 5709.12 of the Revised Code, from 57758
any fee required by this section; 57759

(3) Provide for the waiver of any fee, or any part thereof, 57760
otherwise required by this section whenever the director 57761
determines that the imposition of the fee would constitute an 57762
unreasonable cost of doing business for any applicant, class of 57763
applicants, or other person subject to the fee; 57764

(4) Prescribe measures that the director considers necessary 57765
to carry out this section. 57766

(U) When the director reasonably demonstrates that the direct 57767
cost to the state associated with the issuance of a permit to 57768
install, license, variance, plan approval, or certification 57769
exceeds the fee for the issuance or review specified by this 57770
section, the director may condition the issuance or review on the 57771
payment by the person receiving the issuance or review of, in 57772
addition to the fee specified by this section, the amount, or any 57773
portion thereof, in excess of the fee specified under this 57774
section. The director shall not so condition issuances for which a 57775
fee is prescribed in division (L)(1)(b) of this section. 57776

(V) Except as provided in divisions (L), (M), and (P) of this 57777
section or unless otherwise prescribed by a rule of the director 57778
adopted pursuant to Chapter 119. of the Revised Code, all fees 57779
required by this section are payable within thirty days after the 57780
issuance of an invoice for the fee by the director or the 57781
effective date of the issuance of the license, permit, variance, 57782
plan approval, or certification. If payment is late, the person 57783
responsible for payment of the fee shall pay an additional ten per 57784
cent of the amount due for each month that it is late. 57785

(W) As used in this section, "fuel-burning equipment," 57786
"fuel-burning equipment input capacity," "incinerator," 57787
"incinerator input capacity," "process," "process weight rate," 57788
"storage tank," "gasoline dispensing facility," "dry cleaning 57789
facility," "design flow discharge," and "new source treatment 57790
works" have the meanings ascribed to those terms by applicable 57791

rules or standards adopted by the director under Chapter 3704. or 57792
6111. of the Revised Code. 57793

(X) As used in divisions (B), (D), (E), (F), (H), (I), and 57794
(J) of this section, and in any other provision of this section 57795
pertaining to fees paid pursuant to Chapter 3704. of the Revised 57796
Code: 57797

(1) "Facility," "federal Clean Air Act," "person," and "Title 57798
V permit" have the same meanings as in section 3704.01 of the 57799
Revised Code. 57800

(2) "Title V permit program" means the following activities 57801
as necessary to meet the requirements of Title V of the federal 57802
Clean Air Act and 40 C.F.R. part 70, including at least: 57803

(a) Preparing and adopting, if applicable, generally 57804
applicable rules or guidance regarding the permit program or its 57805
implementation or enforcement; 57806

(b) Reviewing and acting on any application for a Title V 57807
permit, permit revision, or permit renewal, including the 57808
development of an applicable requirement as part of the processing 57809
of a permit, permit revision, or permit renewal; 57810

(c) Administering the permit program, including the 57811
supporting and tracking of permit applications, compliance 57812
certification, and related data entry; 57813

(d) Determining which sources are subject to the program and 57814
implementing and enforcing the terms of any Title V permit, not 57815
including any court actions or other formal enforcement actions; 57816

(e) Emission and ambient monitoring; 57817

(f) Modeling, analyses, or demonstrations; 57818

(g) Preparing inventories and tracking emissions; 57819

(h) Providing direct and indirect support to small business 57820
stationary sources to determine and meet their obligations under 57821

the federal Clean Air Act pursuant to the small business 57822
stationary source technical and environmental compliance 57823
assistance program required by section 507 of that act and 57824
established in sections 3704.18, 3704.19, and 3706.19 of the 57825
Revised Code. 57826

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 57827
of this section, each sewage sludge facility shall pay a 57828
nonrefundable annual sludge fee equal to three dollars and fifty 57829
cents per dry ton of sewage sludge, including the dry tons of 57830
sewage sludge in materials derived from sewage sludge, that the 57831
sewage sludge facility treats or disposes of in this state. The 57832
annual volume of sewage sludge treated or disposed of by a sewage 57833
sludge facility shall be calculated using the first day of January 57834
through the thirty-first day of December of the calendar year 57835
preceding the date on which payment of the fee is due. 57836

(2)(a) Except as provided in division (Y)(2)(d) of this 57837
section, each sewage sludge facility shall pay a minimum annual 57838
sewage sludge fee of one hundred dollars. 57839

(b) The annual sludge fee required to be paid by a sewage 57840
sludge facility that treats or disposes of exceptional quality 57841
sludge in this state shall be thirty-five per cent less per dry 57842
ton of exceptional quality sludge than the fee assessed under 57843
division (Y)(1) of this section, subject to the following 57844
exceptions: 57845

(i) Except as provided in division (Y)(2)(d) of this section, 57846
a sewage sludge facility that treats or disposes of exceptional 57847
quality sludge shall pay a minimum annual sewage sludge fee of one 57848
hundred dollars. 57849

(ii) A sewage sludge facility that treats or disposes of 57850
exceptional quality sludge shall not be required to pay the annual 57851
sludge fee for treatment or disposal in this state of exceptional 57852

quality sludge generated outside of this state and contained in 57853
bags or other containers not greater than one hundred pounds in 57854
capacity. 57855

A thirty-five per cent reduction for exceptional quality 57856
sludge applies to the maximum annual fees established under 57857
division (Y)(3) of this section. 57858

(c) A sewage sludge facility that transfers sewage sludge to 57859
another sewage sludge facility in this state for further treatment 57860
prior to disposal in this state shall not be required to pay the 57861
annual sludge fee for the tons of sewage sludge that have been 57862
transferred. In such a case, the sewage sludge facility that 57863
disposes of the sewage sludge shall pay the annual sludge fee. 57864
However, the facility transferring the sewage sludge shall pay the 57865
one-hundred-dollar minimum fee required under division (Y)(2)(a) 57866
of this section. 57867

In the case of a sewage sludge facility that treats sewage 57868
sludge in this state and transfers it out of this state to another 57869
entity for disposal, the sewage sludge facility in this state 57870
shall be required to pay the annual sludge fee for the tons of 57871
sewage sludge that have been transferred. 57872

(d) A sewage sludge facility that generates sewage sludge 57873
resulting from an average daily discharge flow of less than five 57874
thousand gallons per day is not subject to the fees assessed under 57875
division (Y) of this section. 57876

(3) No sewage sludge facility required to pay the annual 57877
sludge fee shall be required to pay more than the maximum annual 57878
fee for each disposal method that the sewage sludge facility uses. 57879
The maximum annual fee does not include the additional amount that 57880
may be charged under division (Y)(5) of this section for late 57881
payment of the annual sludge fee. The maximum annual fee for the 57882
following methods of disposal of sewage sludge is as follows: 57883

(a) Incineration: five thousand dollars; 57884

(b) Preexisting land reclamation project or disposal in a 57885
landfill: five thousand dollars; 57886

(c) Land application, land reclamation, surface disposal, or 57887
any other disposal method not specified in division (Y)(3)(a) or 57888
(b) of this section: twenty thousand dollars. 57889

(4)(a) In the case of an entity that generates sewage sludge 57890
or a sewage sludge facility that treats sewage sludge and 57891
transfers the sewage sludge to an incineration facility for 57892
disposal, the incineration facility, and not the entity generating 57893
the sewage sludge or the sewage sludge facility treating the 57894
sewage sludge, shall pay the annual sludge fee for the tons of 57895
sewage sludge that are transferred. However, the entity or 57896
facility generating or treating the sewage sludge shall pay the 57897
one-hundred-dollar minimum fee required under division (Y)(2)(a) 57898
of this section. 57899

(b) In the case of an entity that generates sewage sludge and 57900
transfers the sewage sludge to a landfill for disposal or to a 57901
sewage sludge facility for land reclamation or surface disposal, 57902
the entity generating the sewage sludge, and not the landfill or 57903
sewage sludge facility, shall pay the annual sludge fee for the 57904
tons of sewage sludge that are transferred. 57905

(5) Not later than the first day of April of the calendar 57906
year following March 17, 2000, and each first day of April 57907
thereafter, the director shall issue invoices to persons who are 57908
required to pay the annual sludge fee. The invoice shall identify 57909
the nature and amount of the annual sludge fee assessed and state 57910
the first day of May as the deadline for receipt by the director 57911
of objections regarding the amount of the fee and the first day of 57912
July as the deadline for payment of the fee. 57913

Not later than the first day of May following receipt of an 57914

invoice, a person required to pay the annual sludge fee may submit 57915
objections to the director concerning the accuracy of information 57916
regarding the number of dry tons of sewage sludge used to 57917
calculate the amount of the annual sludge fee or regarding whether 57918
the sewage sludge qualifies for the exceptional quality sludge 57919
discount established in division (Y)(2)(b) of this section. The 57920
director may consider the objections and adjust the amount of the 57921
fee to ensure that it is accurate. 57922

If the director does not adjust the amount of the annual 57923
sludge fee in response to a person's objections, the person may 57924
appeal the director's determination in accordance with Chapter 57925
119. of the Revised Code. 57926

Not later than the first day of June, the director shall 57927
notify the objecting person regarding whether the director has 57928
found the objections to be valid and the reasons for the finding. 57929
If the director finds the objections to be valid and adjusts the 57930
amount of the annual sludge fee accordingly, the director shall 57931
issue with the notification a new invoice to the person 57932
identifying the amount of the annual sludge fee assessed and 57933
stating the first day of July as the deadline for payment. 57934

Not later than the first day of July, any person who is 57935
required to do so shall pay the annual sludge fee. Any person who 57936
is required to pay the fee, but who fails to do so on or before 57937
that date shall pay an additional amount that equals ten per cent 57938
of the required annual sludge fee. 57939

(6) The director shall transmit all moneys collected under 57940
division (Y) of this section to the treasurer of state for deposit 57941
into the surface water protection fund created in section 6111.038 57942
of the Revised Code. The moneys shall be used to defray the costs 57943
of administering and enforcing provisions in Chapter 6111. of the 57944
Revised Code and rules adopted under it that govern the use, 57945
storage, treatment, or disposal of sewage sludge. 57946

(7) Beginning in fiscal year 2001, and every two years 57947
thereafter, the director shall review the total amount of moneys 57948
generated by the annual sludge fees to determine if that amount 57949
exceeded six hundred thousand dollars in either of the two 57950
preceding fiscal years. If the total amount of moneys in the fund 57951
exceeded six hundred thousand dollars in either fiscal year, the 57952
director, after review of the fee structure and consultation with 57953
affected persons, shall issue an order reducing the amount of the 57954
fees levied under division (Y) of this section so that the 57955
estimated amount of moneys resulting from the fees will not exceed 57956
six hundred thousand dollars in any fiscal year. 57957

If, upon review of the fees under division (Y)(7) of this 57958
section and after the fees have been reduced, the director 57959
determines that the total amount of moneys collected and 57960
accumulated is less than six hundred thousand dollars, the 57961
director, after review of the fee structure and consultation with 57962
affected persons, may issue an order increasing the amount of the 57963
fees levied under division (Y) of this section so that the 57964
estimated amount of moneys resulting from the fees will be 57965
approximately six hundred thousand dollars. Fees shall never be 57966
increased to an amount exceeding the amount specified in division 57967
(Y)(7) of this section. 57968

Notwithstanding section 119.06 of the Revised Code, the 57969
director may issue an order under division (Y)(7) of this section 57970
without the necessity to hold an adjudicatory hearing in 57971
connection with the order. The issuance of an order under this 57972
division is not an act or action for purposes of section 3745.04 57973
of the Revised Code. 57974

(8) As used in division (Y) of this section: 57975

(a) "Sewage sludge facility" means an entity that performs 57976
treatment on or is responsible for the disposal of sewage sludge. 57977

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or

fertilizing crops or vegetation grown in the soil. 58008

(g) "Land reclamation" means the returning of disturbed land 58009
to productive use. 58010

(h) "Surface disposal" means the placement of sludge on an 58011
area of land for disposal, including, but not limited to, 58012
monofills, surface impoundments, lagoons, waste piles, or 58013
dedicated disposal sites. 58014

(i) "Incinerator" means an entity that disposes of sewage 58015
sludge through the combustion of organic matter and inorganic 58016
matter in sewage sludge by high temperatures in an enclosed 58017
device. 58018

(j) "Incineration facility" includes all incinerators owned 58019
or operated by the same entity and located on a contiguous tract 58020
of land. Areas of land are considered to be contiguous even if 58021
they are separated by a public road or highway. 58022

(k) "Annual sludge fee" means the fee assessed under division 58023
(Y)(1) of this section. 58024

(l) "Landfill" means a sanitary landfill facility, as defined 58025
in rules adopted under section 3734.02 of the Revised Code, that 58026
is licensed under section 3734.05 of the Revised Code. 58027

(m) "Preexisting land reclamation project" means a 58028
property-specific land reclamation project that has been in 58029
continuous operation for not less than five years pursuant to 58030
approval of the activity by the director and includes the 58031
implementation of a community outreach program concerning the 58032
activity. 58033

Sec. 3745.113. (A) A person that applies for a state isolated 58034
wetland permit under Chapter 6111. of the Revised Code and rules 58035
adopted under it shall pay an application fee of two hundred 58036
dollars at the time of application. 58037

In addition, that person shall pay, at the time of application, a review fee of five hundred dollars per acre of the wetlands to be impacted.

However, the review fee shall not exceed five thousand dollars per application. In addition, if an application is denied, the director of environmental protection shall refund to the applicant one-half of the amount of the review fee paid by the applicant under division (A) of this section.

(B) If a person conducts any activities for which an individual state isolated wetland permit is required under Chapter 6111. of the Revised Code and rules adopted under it without first obtaining such a permit, the person shall pay twice the amount of the application and review fees that the person otherwise would have been required to pay under division (A) of this section, not to exceed ten thousand dollars.

(C) All moneys collected under this section shall be deposited in the state treasury to the credit of the ~~dredge and fill~~ surface water protection fund created in section ~~6111.029~~ 6111.038 of the Revised Code.

(D) Fees established under this section shall not apply to any agency or department of the state or to any county, township, or municipal corporation in this state.

Sec. 3769.08. (A) Any person holding a permit to conduct a horse-racing meeting may provide a place in the race meeting grounds or enclosure at which the permit holder may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the live racing programs and simulcast racing programs conducted by the permit holder.

The pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within

such race track, and at the time of such horse-racing meeting, or 58068
at other times authorized by the state racing commission, shall 58069
not be unlawful. No other place, except that provided and 58070
designated by the permit holder and except as provided in section 58071
3769.26 of the Revised Code, nor any other method or system of 58072
betting or wagering on live racing programs and simulcast racing 58073
programs, except the pari-mutuel system, shall be used or 58074
permitted by the permit holder; nor, except as provided in section 58075
3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel 58076
system of wagering be conducted by the permit holder on any races 58077
except the races at the race track, grounds, or enclosure for 58078
which the person holds a permit. Each permit holder may retain as 58079
a commission an amount not to exceed eighteen per cent of the 58080
total of all moneys wagered on live racing programs and simulcast 58081
racing programs. 58082

The pari-mutuel wagering authorized by this section is 58083
subject to sections 3769.25 to 3769.28 of the Revised Code. 58084

(B) At the close of each racing day, each permit holder 58085
authorized to conduct thoroughbred racing, out of the amount 58086
retained on that day by the permit holder, shall pay by check, 58087
draft, or money order to the tax commissioner, as a tax, a sum 58088
equal to the following percentages of the total of all moneys 58089
wagered on live racing programs on that day and shall separately 58090
compute and pay by check, draft, or money order to the tax 58091
commissioner, as a tax, a sum equal to the following percentages 58092
of the total of all money wagered on simulcast racing programs on 58093
that day: 58094

(1) One per cent of the first two hundred thousand dollars 58095
wagered, or any part of that amount; 58096

(2) Two per cent of the next one hundred thousand dollars 58097
wagered, or any part of that amount; 58098

(3) Three per cent of the next one hundred thousand dollars 58099
wagered, or any part of that amount; 58100

(4) Four per cent of all sums over four hundred thousand 58101
dollars wagered. 58102

Except as otherwise provided in section 3769.089 of the 58103
Revised Code, each permit holder authorized to conduct 58104
thoroughbred racing shall use for purse money a sum equal to fifty 58105
per cent of the pari-mutuel revenues retained by the permit holder 58106
as a commission after payment of the state tax. This fifty per 58107
cent payment shall be in addition to the purse distribution from 58108
breakage specified in this section. 58109

Subject to division (M) of this section, from the moneys paid 58110
to the tax commissioner by thoroughbred racing permit holders, 58111
one-half of one per cent of the total of all moneys so wagered on 58112
a racing day shall be paid into the Ohio fairs fund created by 58113
section 3769.082 of the Revised Code, one and one-eighth per cent 58114
of the total of all moneys so wagered on a racing day shall be 58115
paid into the Ohio thoroughbred race fund created by section 58116
3769.083 of the Revised Code, and one-quarter of one per cent of 58117
the total of all moneys wagered on a racing day by each permit 58118
holder shall be paid into the state racing commission operating 58119
fund created by section 3769.03 of the Revised Code. The required 58120
payment to the state racing commission operating fund does not 58121
apply to county and independent fairs and agricultural societies. 58122
The remaining moneys may be retained by the permit holder, except 58123
as provided in this section with respect to the odd cents 58124
redistribution. Amounts paid into the nursing home franchise 58125
permit fee fund pursuant to this section and section 3769.26 of 58126
the Revised Code shall be used solely for the support of the 58127
PASSPORT program as determined in appropriations made by the 58128
general assembly. If the PASSPORT program is abolished, the amount 58129
that would have been paid to the nursing home franchise permit fee 58130

fund under this chapter shall be paid to the general revenue fund 58131
of the state. As used in this chapter, "PASSPORT program" ~~means~~ 58132
~~the PASSPORT program created under~~ has the same meaning as in 58133
section ~~173.40~~ 173.51 of the Revised Code. 58134

The total amount paid to the Ohio thoroughbred race fund 58135
under this section and division (A) of section 3769.087 of the 58136
Revised Code shall not exceed by more than six per cent the total 58137
amount paid to this fund under this section and division (A) of 58138
that section during the immediately preceding calendar year. 58139

Each year, the total amount calculated for payment into the 58140
Ohio fairs fund under this division, division (C) of this section, 58141
and division (A) of section 3769.087 of the Revised Code shall be 58142
an amount calculated using the percentages specified in this 58143
division, division (C) of this section, and division (A) of 58144
section 3769.087 of the Revised Code. 58145

A permit holder may contract with a thoroughbred horsemen's 58146
organization for the organization to act as a representative of 58147
all thoroughbred owners and trainers participating in a 58148
horse-racing meeting conducted by the permit holder. A 58149
"thoroughbred horsemen's organization" is any corporation or 58150
association that represents, through membership or otherwise, more 58151
than one-half of the aggregate of all thoroughbred owners and 58152
trainers who were licensed and actively participated in racing 58153
within this state during the preceding calendar year. Except as 58154
otherwise provided in this paragraph, any moneys received by a 58155
thoroughbred horsemen's organization shall be used exclusively for 58156
the benefit of thoroughbred owners and trainers racing in this 58157
state through the administrative purposes of the organization, 58158
benevolent activities on behalf of the horsemen, promotion of the 58159
horsemen's rights and interests, and promotion of equine research. 58160
A thoroughbred horsemen's organization may expend not more than an 58161
aggregate of five per cent of its annual gross receipts, or a 58162

larger amount as approved by the organization, for dues, 58163
assessments, and other payments to all other local, national, or 58164
international organizations having as their primary purposes the 58165
promotion of thoroughbred horse racing, thoroughbred horsemen's 58166
rights, and equine research. 58167

(C) Except as otherwise provided in division (B) of this 58168
section, at the close of each racing day, each permit holder 58169
authorized to conduct harness or quarter horse racing, out of the 58170
amount retained that day by the permit holder, shall pay by check, 58171
draft, or money order to the tax commissioner, as a tax, a sum 58172
equal to the following percentages of the total of all moneys 58173
wagered on live racing programs and shall separately compute and 58174
pay by check, draft, or money order to the tax commissioner, as a 58175
tax, a sum equal to the following percentages of the total of all 58176
money wagered on simulcast racing programs on that day: 58177

(1) One per cent of the first two hundred thousand dollars 58178
wagered, or any part of that amount; 58179

(2) Two per cent of the next one hundred thousand dollars 58180
wagered, or any part of that amount; 58181

(3) Three per cent of the next one hundred thousand dollars 58182
wagered, or any part of that amount; 58183

(4) Four per cent of all sums over four hundred thousand 58184
dollars wagered. 58185

Except as otherwise provided in division (B) and subject to 58186
division (M) of this section, from the moneys paid to the tax 58187
commissioner by permit holders authorized to conduct harness or 58188
quarter horse racing, one-half of one per cent of all moneys 58189
wagered on that racing day shall be paid into the Ohio fairs fund; 58190
from the moneys paid to the tax commissioner by permit holders 58191
authorized to conduct harness racing, five-eighths of one per cent 58192
of all moneys wagered on that racing day shall be paid into the 58193

Ohio standardbred development fund; and from the moneys paid to 58194
the tax commissioner by permit holders authorized to conduct 58195
quarter horse racing, five-eighths of one per cent of all moneys 58196
wagered on that racing day shall be paid into the Ohio quarter 58197
horse development fund. 58198

(D) In addition, subject to division (M) of this section, 58199
beginning on January 1, 1996, from the money paid to the tax 58200
commissioner as a tax under this section and division (A) of 58201
section 3769.087 of the Revised Code by harness horse permit 58202
holders, one-half of one per cent of the amount wagered on a 58203
racing day shall be paid into the Ohio standardbred development 58204
fund. Beginning January 1, 1998, the payment to the Ohio 58205
standardbred development fund required under this division does 58206
not apply to county agricultural societies or independent 58207
agricultural societies. 58208

The total amount paid to the Ohio standardbred development 58209
fund under this division, division (C) of this section, and 58210
division (A) of section 3769.087 of the Revised Code and the total 58211
amount paid to the Ohio quarter horse development fund under this 58212
division and division (A) of that section shall not exceed by more 58213
than six per cent the total amount paid into the fund under this 58214
division, division (C) of this section, and division (A) of 58215
section 3769.087 of the Revised Code in the immediately preceding 58216
calendar year. 58217

(E) Subject to division (M) of this section, from the money 58218
paid as a tax under this chapter by harness and quarter horse 58219
permit holders, one-quarter of one per cent of the total of all 58220
moneys wagered on a racing day by each permit holder shall be paid 58221
into the state racing commission operating fund created by section 58222
3769.03 of the Revised Code. This division does not apply to 58223
county and independent fairs and agricultural societies. 58224

(F) Except as otherwise provided in section 3769.089 of the 58225

Revised Code, each permit holder authorized to conduct harness racing shall pay to the harness horsemen's purse pool a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment is to be in addition to the purse distribution from breakage specified in this section.

(G) In addition, each permit holder authorized to conduct harness racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten.

Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for purse money for Ohio sired, bred, and owned colts, for purse money for Ohio bred horses, and for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a harness horsemen's health and retirement fund, twenty-five per cent of that portion of that total sum of odd cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that twenty-five per cent shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(H) In addition, each permit holder authorized to conduct thoroughbred racing shall be allowed to retain the odd cents of all redistribution to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of ten. Twenty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse

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58258 races. Upon the formation of the corporation described in section
58259 3769.21 of the Revised Code to establish a thoroughbred horsemen's
58260 health and retirement fund, forty-five per cent of that portion of
58261 that total sum of odd cents shall be paid at the close of each
58262 racing day by the permit holder to that corporation to establish
58263 and fund the health and retirement fund. Until that corporation is
58264 formed, that forty-five per cent shall be paid by the permit
58265 holder to the tax commissioner or the tax commissioner's agent in
58266 the county seat of the county in which the permit holder operates
58267 race meetings, at the close of each racing day. The remaining
58268 thirty-five per cent of that portion of that total sum of odd
58269 cents shall be retained by the permit holder.

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58270 (I) In addition, each permit holder authorized to conduct
58271 quarter horse racing shall be allowed to retain the odd cents of
58272 all redistribution to be made on all mutuel contributions
58273 exceeding a sum equal to the next lowest multiple of ten, subject
58274 to a tax of twenty-five per cent on that portion of the total sum
58275 of such odd cents that is in excess of two thousand dollars during
58276 a calendar year, which tax shall be paid at the close of each
58277 racing day by the permit holder to the tax commissioner or the tax
58278 commissioner's agent in the county seat of the county within which
58279 the permit holder operates race meetings. Forty per cent of that
58280 portion of that total sum of such odd cents shall be used by the
58281 permit holder for increased purse money for horse races. The
58282 remaining thirty-five per cent of that portion of that total sum
58283 of odd cents shall be retained by the permit holder.

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58284 (J)(1) To encourage the improvement of racing facilities for
58285 the benefit of the public, breeders, and horse owners, and to
58286 increase the revenue to the state from the increase in pari-mutuel
58287 wagering resulting from those improvements, the taxes paid by a
58288 permit holder to the state as provided for in this chapter shall
58289 be reduced by three-fourths of one per cent of the total amount

wagered for those permit holders who make capital improvements to 58290
existing race tracks or construct new race tracks. The percentage 58291
of the reduction that may be taken each racing day shall equal 58292
seventy-five per cent of the taxes levied under divisions (B) and 58293
(C) of this section and section 3769.087 of the Revised Code, and 58294
division (F)(2) of section 3769.26 of the Revised Code, as 58295
applicable, divided by the calculated amount each fund should 58296
receive under divisions (B) and (C) of this section and section 58297
3769.087 of the Revised Code, and division (F)(2) of section 58298
3769.26 of the Revised Code and the reduction provided for in this 58299
division. If the resulting percentage is less than one, that 58300
percentage shall be multiplied by the amount of the reduction 58301
provided for in this division. Otherwise, the permit holder shall 58302
receive the full reduction provided for in this division. The 58303
amount of the allowable reduction not received shall be carried 58304
forward and applied against future tax liability. After any 58305
reductions expire, any reduction carried forward shall be treated 58306
as a reduction as provided for in this division. 58307

If more than one permit holder is authorized to conduct 58308
racing at the facility that is being built or improved, the cost 58309
of the new race track or capital improvement shall be allocated 58310
between or among all the permit holders in the ratio that the 58311
permit holders' number of racing days bears to the total number of 58312
racing days conducted at the facility. 58313

A reduction for a new race track or a capital improvement 58314
shall start from the day racing is first conducted following the 58315
date actual construction of the new race track or each capital 58316
improvement is completed and the construction cost has been 58317
approved by the racing commission, unless otherwise provided in 58318
this section. A reduction for a new race track or a capital 58319
improvement shall continue for a period of twenty-five years for 58320
new race tracks and for fifteen years for capital improvements if 58321

the construction of the capital improvement or new race track 58322
commenced prior to March 29, 1988, and for a period of ten years 58323
for new race tracks or capital improvements if the construction of 58324
the capital improvement or new race track commenced on or after 58325
March 29, 1988, but before June 6, 2001, or until the total tax 58326
reduction reaches seventy per cent of the approved cost of the new 58327
race track or capital improvement, as allocated to each permit 58328
holder, whichever occurs first. A reduction for a new race track 58329
or a capital improvement approved after June 6, 2001, shall 58330
continue until the total tax reduction reaches one hundred per 58331
cent of the approved cost of the new race track or capital 58332
improvement, as allocated to each permit holder. 58333

A reduction granted for a new race track or a capital 58334
improvement, the application for which was approved by the racing 58335
commission after March 29, 1988, but before June 6, 2001, shall 58336
not commence nor shall the ten-year period begin to run until all 58337
prior tax reductions with respect to the same race track have 58338
ended. The total tax reduction because of capital improvements 58339
shall not during any one year exceed for all permit holders using 58340
any one track three-fourths of one per cent of the total amount 58341
wagered, regardless of the number of capital improvements made. 58342
Several capital improvements to a race track may be consolidated 58343
in an application if the racing commission approved the 58344
application prior to March 29, 1988. No permit holder may receive 58345
a tax reduction for a capital improvement approved by the racing 58346
commission on or after March 29, 1988, at a race track until all 58347
tax reductions have ended for all prior capital improvements 58348
approved by the racing commission under this section or section 58349
3769.20 of the Revised Code at that race track. If there are two 58350
or more permit holders operating meetings at the same track, they 58351
may consolidate their applications. The racing commission shall 58352
notify the tax commissioner when the reduction of tax begins and 58353
when it ends. 58354

Each fiscal year the racing commission shall submit a report 58355
to the tax commissioner, the office of budget and management, and 58356
the legislative service commission. The report shall identify each 58357
capital improvement project undertaken under this division and in 58358
progress at each race track, indicate the total cost of each 58359
project, state the tax reduction that resulted from each project 58360
during the immediately preceding fiscal year, estimate the tax 58361
reduction that will result from each project during the current 58362
fiscal year, state the total tax reduction that resulted from all 58363
such projects at all race tracks during the immediately preceding 58364
fiscal year, and estimate the total tax reduction that will result 58365
from all such projects at all race tracks during the current 58366
fiscal year. 58367

(2) In order to qualify for the reduction in tax, a permit 58368
holder shall apply to the racing commission in such form as the 58369
commission may require and shall provide full details of the new 58370
race track or capital improvement, including a schedule for its 58371
construction and completion, and set forth the costs and expenses 58372
incurred in connection with it. The racing commission shall not 58373
approve an application unless the permit holder shows that a 58374
contract for the new race track or capital improvement has been 58375
let under an unrestricted competitive bidding procedure, unless 58376
the contract is exempted by the controlling board because of its 58377
unusual nature. In determining whether to approve an application, 58378
the racing commission shall consider whether the new race track or 58379
capital improvement will promote the safety, convenience, and 58380
comfort of the racing public and horse owners and generally tend 58381
towards the improvement of racing in this state. 58382

(3) If a new race track or capital improvement is approved by 58383
the racing commission and construction has started, the tax 58384
reduction may be authorized by the commission upon presentation of 58385
copies of paid bills in excess of one hundred thousand dollars or 58386

ten per cent of the approved cost, whichever is greater. After the 58387
initial authorization, the permit holder shall present copies of 58388
paid bills. If the permit holder is in substantial compliance with 58389
the schedule for construction and completion of the new race track 58390
or capital improvement, the racing commission may authorize the 58391
continuation of the tax reduction upon the presentation of the 58392
additional paid bills. The total amount of the tax reduction 58393
authorized shall not exceed the percentage of the approved cost of 58394
the new race track or capital improvement specified in division 58395
(J)(1) of this section. The racing commission may terminate any 58396
tax reduction immediately if a permit holder fails to complete the 58397
new race track or capital improvement, or to substantially comply 58398
with the schedule for construction and completion of the new race 58399
track or capital improvement. If a permit holder fails to complete 58400
a new race track or capital improvement, the racing commission 58401
shall order the permit holder to repay to the state the total 58402
amount of tax reduced. The normal tax paid by the permit holder 58403
shall be increased by three-fourths of one per cent of the total 58404
amount wagered until the total amount of the additional tax 58405
collected equals the total amount of tax reduced. 58406

(4) As used in this section: 58407

(a) "Capital improvement" means an addition, replacement, or 58408
remodeling of a structural unit of a race track facility costing 58409
at least one hundred thousand dollars, including, but not limited 58410
to, the construction of barns used exclusively for the race track 58411
facility, backstretch facilities for horsemen, paddock facilities, 58412
new pari-mutuel and totalizator equipment and appurtenances to 58413
that equipment purchased by the track, new access roads, new 58414
parking areas, the complete reconstruction, reshaping, and 58415
leveling of the racing surface and appurtenances, the installation 58416
of permanent new heating or air conditioning, roof replacement or 58417
restoration, installations of a permanent nature forming a part of 58418

the track structure, and construction of buildings that are 58419
located on a permit holder's premises. "Capital improvement" does 58420
not include the cost of replacement of equipment that is not 58421
permanently installed, ordinary repairs, painting, and maintenance 58422
required to keep a race track facility in ordinary operating 58423
condition. 58424

(b) "New race track" includes the reconstruction of a race 58425
track damaged by fire or other cause that has been declared by the 58426
racing commission, as a result of the damage, to be an inadequate 58427
facility for the safe operation of horse racing. 58428

(c) "Approved cost" includes all debt service and interest 58429
costs that are associated with a capital improvement or new race 58430
track and that the racing commission approves for a tax reduction 58431
under division (J) of this section. 58432

(5) The racing commission shall not approve an application 58433
for a tax reduction under this section if it has reasonable cause 58434
to believe that the actions or negligence of the permit holder 58435
substantially contributed to the damage suffered by the track due 58436
to fire or other cause. The racing commission shall obtain any 58437
data or information available from a fire marshal, law enforcement 58438
official, or insurance company concerning any fire or other damage 58439
suffered by a track, prior to approving an application for a tax 58440
reduction. 58441

(6) The approved cost to which a tax reduction applies shall 58442
be determined by generally accepted accounting principles and 58443
verified by an audit of the permit holder's records upon 58444
completion of the project by the racing commission, or by an 58445
independent certified public accountant selected by the permit 58446
holder and approved by the commission. 58447

(K) No other license or excise tax or fee, except as provided 58448
in sections 3769.01 to 3769.14 of the Revised Code, shall be 58449

assessed or collected from such licensee by any county, township, 58450
district, municipal corporation, or other body having power to 58451
assess or collect a tax or fee. That portion of the tax paid under 58452
this section by permit holders for racing conducted at and during 58453
the course of an agricultural exposition or fair, and that portion 58454
of the tax that would have been paid by eligible permit holders 58455
into the nursing home franchise permit fee fund as a result of 58456
racing conducted at and during the course of an agricultural 58457
exposition or fair, shall be deposited into the state treasury to 58458
the credit of the horse racing tax fund, which is hereby created 58459
for the use of the agricultural societies of the several counties 58460
in which the taxes originate. The state racing commission shall 58461
determine eligible permit holders for purposes of the preceding 58462
sentence, taking into account the breed of horse, the racing 58463
dates, the geographic proximity to the fair, and the best 58464
interests of Ohio racing. On the first day of any month on which 58465
there is money in the fund, the tax commissioner shall provide for 58466
payment to the treasurer of each agricultural society the amount 58467
of the taxes collected under this section upon racing conducted at 58468
and during the course of any exposition or fair conducted by the 58469
society. 58470

(L) From the tax paid under this section by harness track 58471
permit holders, the tax commissioner shall pay into the Ohio 58472
thoroughbred race fund a sum equal to a percentage of the amount 58473
wagered upon which the tax is paid. The percentage shall be 58474
determined by the tax commissioner and shall be rounded to the 58475
nearest one-hundredth. The percentage shall be such that, when 58476
multiplied by the amount wagered upon which tax was paid by the 58477
harness track permit holders in the most recent year for which 58478
final figures are available, it results in a sum that 58479
substantially equals the same amount of tax paid by the tax 58480
commissioner during that year into the Ohio fairs fund from taxes 58481
paid by thoroughbred permit holders. This division does not apply 58482

to county and independent fairs and agricultural societies. 58483

(M) Twenty-five per cent of the taxes levied on thoroughbred 58484
racing permit holders, harness racing permit holders, and quarter 58485
horse racing permit holders under this section, division (A) of 58486
section 3769.087 of the Revised Code, and division (F)(2) of 58487
section 3769.26 of the Revised Code shall be paid into the nursing 58488
home franchise permit fee fund. The tax commissioner shall pay any 58489
money remaining, after the payment into the nursing home franchise 58490
permit fee fund and the reductions provided for in division (J) of 58491
this section and in section 3769.20 of the Revised Code, into the 58492
Ohio fairs fund, Ohio thoroughbred race fund, Ohio standardbred 58493
development fund, Ohio quarter horse fund, and state racing 58494
commission operating fund as prescribed in this section and 58495
division (A) of section 3769.087 of the Revised Code. The tax 58496
commissioner shall thereafter use and apply the balance of the 58497
money paid as a tax by any permit holder to cover any shortage in 58498
the accounts of such funds resulting from an insufficient payment 58499
as a tax by any other permit holder. The moneys received by the 58500
tax commissioner shall be deposited weekly and paid by the tax 58501
commissioner into the funds to cover the total aggregate amount 58502
due from all permit holders to the funds, as calculated under this 58503
section and division (A) of section 3769.087 of the Revised Code, 58504
as applicable. If, after the payment into the nursing home 58505
franchise permit fee fund, sufficient funds are not available from 58506
the tax deposited by the tax commissioner to pay the required 58507
amounts into the Ohio fairs fund, Ohio standardbred development 58508
fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and 58509
the state racing commission operating fund, the tax commissioner 58510
shall prorate on a proportional basis the amount paid to each of 58511
the funds. Any shortage to the funds as a result of a proration 58512
shall be applied against future deposits for the same calendar 58513
year when funds are available. After this application, the tax 58514
commissioner shall pay any remaining money paid as a tax by all 58515

permit holders into the nursing home franchise permit fee fund. 58516
This division does not apply to permit holders conducting racing 58517
at the course of an agricultural exposition or fair as described 58518
in division (K) of this section. 58519

Sec. 3769.088. (A) If any permit holder required by this 58520
chapter to pay the taxes levied by sections 3769.08, 3769.087, 58521
3769.26, and 3769.28 of the Revised Code fails to pay the taxes, 58522
the tax commissioner may make an assessment against the permit 58523
holder based upon any information in the commissioner's 58524
possession. 58525

A penalty of up to fifteen per cent may be added to the 58526
amount of every assessment made under this section. The 58527
commissioner may adopt rules providing for the imposition and 58528
remission of penalties added to assessments made under this 58529
section. 58530

The commissioner shall give the party assessed written notice 58531
of the assessment in the manner provided in section 5703.37 of the 58532
Revised Code. With the notice, the commissioner shall provide 58533
instructions on how to petition for reassessment and request a 58534
hearing on the petition. 58535

(B) Unless the party assessed files with the tax commissioner 58536
within sixty days after service of the notice of assessment, 58537
either personally or by certified mail, a written petition for 58538
reassessment signed by the party assessed or that party's 58539
authorized agent having knowledge of the facts, the assessment 58540
becomes final and the amount of the assessment is due and payable 58541
from the party assessed to the commissioner. The petition shall 58542
indicate the objections of the party assessed, but additional 58543
objections may be raised in writing if received by the 58544
commissioner prior to the date shown on the final determination. 58545
If the petition has been properly filed, the commissioner shall 58546

proceed under section 5703.60 of the Revised Code. 58547

(C) After an assessment becomes final, if any portion of the 58548
assessment remains unpaid, including accrued interest, a certified 58549
copy of the tax commissioner's entry making the assessment final 58550
may be filed in the office of the clerk of the court of common 58551
pleas in the county in which the place, track, or enclosure for 58552
which the permit was issued is located or the county in which the 58553
party assessed resides or has its principal place of business. If 58554
the party assessed maintains no place of business in this state 58555
and is not a resident of this state, the certified copy of the 58556
entry may be filed in the office of the clerk of the court of 58557
common pleas of Franklin county. 58558

Immediately upon the filing of the entry, the clerk shall 58559
enter a judgment for the state against the party assessed in the 58560
amount shown on the entry. The judgment may be filed by the clerk 58561
in a loose-leaf book entitled "special judgments for state horse 58562
racing tax," and shall have the same effect as other judgments. 58563
Execution shall issue upon the judgment upon the request of the 58564
tax commissioner, and all laws applicable to sales on execution 58565
shall apply to sales made under the judgment. 58566

~~The portion of~~ If the assessment is not paid in its entirety 58567
within sixty days after the day the assessment was issued, the 58568
portion of the assessment consisting of tax due shall bear 58569
interest at the rate per annum prescribed by section 5703.47 of 58570
the Revised Code from the day the tax commissioner issues the 58571
assessment until the day the assessment is paid or until it is 58572
certified to the attorney general for collection under section 58573
131.02 of the Revised Code, whichever comes first. If the unpaid 58574
portion of the assessment is certified to the attorney general for 58575
collection, the entire unpaid portion of the assessment shall bear 58576
interest at the rate per annum prescribed by section 5703.47 of 58577
the Revised Code from the date of certification until the date it 58578

is paid in its entirety. Interest shall be paid in the same manner 58579
as the tax and may be collected by the issuance of an assessment 58580
under this section. 58581

(D) All money collected by the tax commissioner under this 58582
section shall be treated as revenue arising from the taxes imposed 58583
by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised 58584
Code. 58585

Sec. 3770.02. (A) Subject to the advice and consent of the 58586
senate, the governor shall appoint a director of the state lottery 58587
commission who shall serve at the pleasure of the governor. The 58588
director shall devote full time to the duties of the office and 58589
shall hold no other office or employment. The director shall meet 58590
all requirements for appointment as a member of the commission and 58591
shall, by experience and training, possess management skills that 58592
equip the director to administer an enterprise of the nature of a 58593
state lottery. The director shall receive an annual salary in 58594
accordance with pay range 48 of section 124.152 of the Revised 58595
Code. 58596

(B)(1) The director shall attend all meetings of the 58597
commission and shall act as its secretary. The director shall keep 58598
a record of all commission proceedings and shall keep the 58599
commission's records, files, and documents at the commission's 58600
principal office. All records of the commission's meetings shall 58601
be available for inspection by any member of the public, upon a 58602
showing of good cause and prior notification to the director. 58603

(2) The director shall be the commission's executive officer 58604
and shall be responsible for keeping all commission records and 58605
supervising and administering the state lottery in accordance with 58606
this chapter, and carrying out all commission rules adopted under 58607
section 3770.03 of the Revised Code. 58608

(C)(1) The director shall appoint an assistant director, 58609

deputy directors of marketing, operations, sales, finance, public 58610
relations, security, and administration, and as many regional 58611
managers as are required. The director may also appoint necessary 58612
professional, technical, and clerical assistants. All such 58613
officers and employees shall be appointed and compensated pursuant 58614
to Chapter 124. of the Revised Code. Regional and assistant 58615
regional managers, sales representatives, and any lottery 58616
executive account representatives shall remain in the unclassified 58617
service. 58618

(2) The director, in consultation with the director of 58619
administrative services, may establish standards of proficiency 58620
and productivity for commission field representatives. 58621

(D) The director shall request the bureau of criminal 58622
identification and investigation, the department of public safety, 58623
or any other state, local, or federal agency to supply the 58624
director with the criminal records of any job applicant and may 58625
periodically request the criminal records of commission employees. 58626
At or prior to the time of making such a request, the director 58627
shall require a job applicant or commission employee to obtain 58628
fingerprint cards prescribed by the superintendent of the bureau 58629
of criminal identification and investigation at a qualified law 58630
enforcement agency, and the director shall cause these fingerprint 58631
cards to be forwarded to the bureau of criminal identification and 58632
investigation and the federal bureau of investigation. The 58633
commission shall assume the cost of obtaining the fingerprint 58634
cards and shall pay to each agency supplying criminal records for 58635
each investigation under this division a reasonable fee, as 58636
determined by the agency. 58637

(E) The director shall license lottery sales agents pursuant 58638
to section 3770.05 of the Revised Code and, when it is considered 58639
necessary, may revoke or suspend the license of any lottery sales 58640
agent. The director may license video lottery technology 58641

providers, independent testing laboratories, and gaming employees, 58642
and promulgate rules relating thereto. When the director considers 58643
it necessary, the director may suspend or revoke the license of a 58644
video lottery technology provider, independent testing laboratory, 58645
or gaming employee, including suspension or revocation without 58646
affording an opportunity for a prior hearing under section 119.07 58647
of the Revised Code when the public safety, convenience, or trust 58648
requires immediate action. 58649

(F) The director shall confer at least once each month with 58650
the commission, at which time the director shall advise it 58651
regarding the operation and administration of the lottery. The 58652
director shall make available at the request of the commission all 58653
documents, files, and other records pertaining to the operation 58654
and administration of the lottery. The director shall prepare and 58655
make available to the commission each month a complete and 58656
accurate accounting of lottery revenues, prize money disbursements 58657
and the cost of goods and services awarded as prizes, operating 58658
expenses, and all other relevant financial information, including 58659
an accounting of all transfers made from any lottery funds in the 58660
custody of the treasurer of state to benefit education. 58661

(G) The director may enter into contracts for the operation 58662
or promotion of the lottery pursuant to Chapter 125. of the 58663
Revised Code. 58664

(H)(1) Pursuant to rules adopted by the commission under 58665
section 3770.03 of the Revised Code, the director shall require 58666
any lottery sales agents to ~~either mail directly to the commission~~ 58667
~~or~~ deposit to the credit of the state lottery fund, in banking 58668
institutions designated by the treasurer of state, net proceeds 58669
due the commission as determined by the director, ~~and to file with~~ 58670
~~the director or the director's designee reports of their receipts~~ 58671
~~and transactions in the sale of lottery tickets in the form~~ 58672
~~required by the director.~~ 58673

(2) Pursuant to rules adopted by the commission under Chapter 58674
119. of the Revised Code, the director may impose penalties for 58675
the failure of a sales agent to transfer funds to the commission 58676
in a timely manner. Penalties may include monetary penalties, 58677
immediate suspension or revocation of a license, or any other 58678
penalty the commission adopts by rule. 58679

(I) The director may arrange for any person, or any banking 58680
institution, to perform functions and services in connection with 58681
the operation of the lottery as the director may consider 58682
necessary to carry out this chapter. 58683

(J)(1) As used in this chapter, "statewide joint lottery 58684
game" means a lottery game that the commission sells solely within 58685
this state under an agreement with other lottery jurisdictions to 58686
sell the same lottery game solely within their statewide or other 58687
jurisdictional boundaries. 58688

(2) If the governor directs the director to do so, the 58689
director shall enter into an agreement with other lottery 58690
jurisdictions to conduct statewide joint lottery games. If the 58691
governor signs the agreement personally or by means of an 58692
authenticating officer pursuant to section 107.15 of the Revised 58693
Code, the director then may conduct statewide joint lottery games 58694
under the agreement. 58695

(3) The entire net proceeds from any statewide joint lottery 58696
games shall be used to fund elementary, secondary, vocational, and 58697
special education programs in this state. 58698

(4) The commission shall conduct any statewide joint lottery 58699
games in accordance with rules it adopts under division (B)(5) of 58700
section 3770.03 of the Revised Code. 58701

(K)(1) The director shall enter into an agreement with the 58702
department of ~~alcohol and drug addiction services~~ mental health 58703
and addiction services under which the department shall provide a 58704

program of gambling addiction services on behalf of the 58705
commission. The commission shall pay the costs of the program 58706
provided pursuant to the agreement. 58707

(2) As used in this section, "gambling addiction services" 58708
has the same meaning as in section ~~3793.01~~ 5119.01 of the Revised 58709
Code. 58710

Sec. 3770.06. (A) There is hereby created the state lottery 58711
gross revenue fund, which shall be in the custody of the treasurer 58712
of state but shall not be part of the state treasury. All gross 58713
revenues received from sales of lottery tickets, fines, fees, and 58714
related proceeds in connection with the statewide lottery and all 58715
gross proceeds from statewide joint lottery games shall be 58716
deposited into the fund. The treasurer of state shall invest any 58717
portion of the fund not needed for immediate use in the same 58718
manner as, and subject to all provisions of law with respect to 58719
the investment of, state funds. The treasurer of state shall 58720
disburse money from the fund on order of the director of the state 58721
lottery commission or the director's designee. 58722

Except for gross proceeds from statewide joint lottery games, 58723
all revenues of the state lottery gross revenue fund that are not 58724
paid to holders of winning lottery tickets, that are not required 58725
to meet short-term prize liabilities, that are not credited to 58726
lottery sales agents in the form of bonuses, commissions, or 58727
reimbursements, that are not paid to financial institutions to 58728
reimburse those institutions for sales agent nonsufficient funds, 58729
and that are collected from sales agents for remittance to 58730
insurers under contract to provide sales agent bonding services 58731
shall be transferred to the state lottery fund, which is hereby 58732
created in the state treasury. In addition, all revenues of the 58733
state lottery gross revenue fund that represent the gross proceeds 58734
from the statewide joint lottery games and that are not paid to 58735

holders of winning lottery tickets, that are not required to meet 58736
short-term prize liabilities, that are not credited to lottery 58737
sales agents in the form of bonuses, commissions, or 58738
reimbursements, and that are not necessary to cover operating 58739
expenses associated with those games or to otherwise comply with 58740
the agreements signed by the governor that the director enters 58741
into under division (J) of section 3770.02 of the Revised Code or 58742
the rules the commission adopts under division (B)(5) of section 58743
3770.03 of the Revised Code shall be transferred to the state 58744
lottery fund. All investment earnings of the fund shall be 58745
credited to the fund. Moneys shall be disbursed from the fund 58746
pursuant to vouchers approved by the director. Total disbursements 58747
for monetary prize awards to holders of winning lottery tickets in 58748
connection with the statewide lottery and purchases of goods and 58749
services awarded as prizes to holders of winning lottery tickets 58750
shall be of an amount equal to at least fifty per cent of the 58751
total revenue accruing from the sale of lottery tickets. 58752

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 58753
there is hereby established in the state treasury the lottery 58754
profits education fund. Whenever, in the judgment of the director 58755
of the state lottery commission, the amount to the credit of the 58756
state lottery fund that does not represent proceeds from statewide 58757
joint lottery games is in excess of that needed to meet the 58758
maturing obligations of the commission and as working capital for 58759
its further operations, the director of the state lottery 58760
commission shall recommend the amount of the excess to be 58761
transferred to the lottery profits education fund, and the 58762
director of budget and management may transfer the excess to the 58763
lottery profits education fund in connection with the statewide 58764
lottery. In addition, whenever, in the judgment of the director of 58765
the state lottery commission, the amount to the credit of the 58766
state lottery fund that represents proceeds from statewide joint 58767
lottery games equals the entire net proceeds of those games as 58768

described in division (B)(5) of section 3770.03 of the Revised Code and the rules adopted under that division, the director of the state lottery commission shall recommend the amount of the proceeds to be transferred to the lottery profits education fund, and the director of budget and management may transfer those proceeds to the lottery profits education fund. Investment earnings of the lottery profits education fund shall be credited to the fund.

The lottery profits education fund shall be used solely for the support of elementary, secondary, vocational, and special education programs as determined in appropriations made by the general assembly, or as provided in applicable bond proceedings for the payment of debt service on obligations issued to pay costs of capital facilities, including those for a system of common schools throughout the state pursuant to section 2n of Article VIII, Ohio Constitution. When determining the availability of money in the lottery profits education fund, the director of budget and management may consider all balances and estimated revenues of the fund.

(C) There is hereby established in the state treasury the deferred prizes trust fund. With the approval of the director of budget and management, an amount sufficient to fund annuity prizes shall be transferred from the state lottery fund and credited to the trust fund. The treasurer of state shall credit all earnings arising from investments purchased under this division to the trust fund. Within sixty days after the end of each fiscal year, the treasurer of state shall certify to the director of budget and management whether the actuarial amount of the trust fund is sufficient over the fund's life for continued funding of all remaining deferred prize liabilities as of the last day of the fiscal year just ended. Also, within that sixty days, the director of budget and management shall certify the amount of investment

earnings necessary to have been credited to the trust fund during 58801
the fiscal year just ending to provide for such continued funding 58802
of deferred prizes. Any earnings credited in excess of the latter 58803
certified amount shall be transferred to the lottery profits 58804
education fund. 58805

To provide all or a part of the amounts necessary to fund 58806
deferred prizes awarded by the commission in connection with the 58807
statewide lottery, the treasurer of state, in consultation with 58808
the commission, may invest moneys contained in the deferred prizes 58809
trust fund which represents proceeds from the statewide lottery in 58810
obligations of the type permitted for the investment of state 58811
funds but whose maturities are thirty years or less. 58812
Notwithstanding the requirements of any other section of the 58813
Revised Code, to provide all or part of the amounts necessary to 58814
fund deferred prizes awarded by the commission in connection with 58815
statewide joint lottery games, the treasurer of state, in 58816
consultation with the commission, may invest moneys in the trust 58817
fund which represent proceeds derived from the statewide joint 58818
lottery games in accordance with the rules the commission adopts 58819
under division (B)(5) of section 3770.03 of the Revised Code. 58820
Investments of the trust fund are not subject to the provisions of 58821
division (A)(10) of section 135.143 of the Revised Code limiting 58822
to twenty-five per cent the amount of the state's total average 58823
portfolio that may be invested in debt interests and limiting to 58824
one-half of one per cent the amount that may be invested in debt 58825
interests of a single issuer. 58826

All purchases made under this division shall be effected on a 58827
delivery versus payment method and shall be in the custody of the 58828
treasurer of state. 58829

The treasurer of state may retain an investment advisor, if 58830
necessary. The commission shall pay any costs incurred by the 58831
treasurer of state in retaining an investment advisor. 58832

(D) The auditor of state shall conduct annual audits of all 58833
funds and any other audits as the auditor of state or the general 58834
assembly considers necessary. The auditor of state may examine all 58835
records, files, and other documents of the commission, and records 58836
of lottery sales agents that pertain to their activities as 58837
agents, for purposes of conducting authorized audits. 58838

(E) The state lottery commission shall establish an internal 58839
audit ~~program~~ plan before the beginning of each fiscal year, 58840
subject to the approval of the ~~auditor office~~ of ~~state internal~~
audit in the office of budget and management. At the end of each 58841
fiscal year, the commission shall prepare and submit an annual 58842
report to the ~~auditor office~~ of ~~state internal audit~~ for the 58843
~~auditor of state's office's~~ review and approval, specifying the 58844
internal audit work completed by the end of that fiscal year and 58845
reporting on compliance with the annual internal audit ~~program~~. 58846
~~The form and content of the report shall be prescribed by the~~ 58847
~~auditor of state under division (C) of section 117.20 of the~~ 58848
~~Revised Code~~ plan. 58849
58850

~~(E)~~(F) Whenever, in the judgment of the director of budget 58851
and management, an amount of net state lottery proceeds is 58852
necessary to be applied to the payment of debt service on 58853
obligations, all as defined in sections 151.01 and 151.03 of the 58854
Revised Code, the director shall transfer that amount directly 58855
from the state lottery fund or from the lottery profits education 58856
fund to the bond service fund defined in those sections. The 58857
provisions of this division are subject to any prior pledges or 58858
obligation of those amounts to the payment of bond service charges 58859
as defined in division (C) of section 3318.21 of the Revised Code, 58860
as referred to in division (B) of this section. 58861

Sec. 3772.03. (A) To ensure the integrity of casino gaming, 58862
the commission shall have authority to complete the functions of 58863

licensing, regulating, investigating, and penalizing casino operators, management companies, holding companies, key employees, casino gaming employees, and gaming-related vendors. The commission also shall have jurisdiction over all persons participating in casino gaming authorized by Section 6(C) of Article XV, Ohio Constitution, and this chapter.

(B) All rules adopted by the commission under this chapter shall be adopted under procedures established in Chapter 119. of the Revised Code. The commission may contract for the services of experts and consultants to assist the commission in carrying out its duties under this section.

(C) Within six months of September 10, 2010, the commission shall adopt initial rules as are necessary for completing the functions stated in division (A) of this section and for addressing the subjects enumerated in division (D) of this section.

(D) The commission shall adopt, and as advisable and necessary shall amend or repeal, rules that include all of the following:

(1) The prevention of practices detrimental to the public interest;

(2) Prescribing the method of applying, and the form of application, that an applicant for a license under this chapter must follow as otherwise described in this chapter;

(3) Prescribing the information to be furnished by an applicant or licensee as described in section 3772.11 of the Revised Code;

(4) Describing the certification standards and duties of an independent testing laboratory certified under section 3772.31 of the Revised Code and the relationship between the commission, the laboratory, the gaming-related vendor, and the casino operator;

(5) The minimum amount of insurance that must be maintained	58895
by a casino operator, management company, holding company, or	58896
gaming-related vendor;	58897
(6) The approval process for a significant <u>any</u> change in	58898
ownership or transfer of control of a licensee <u>casino operator</u> as	58899
provided in section 3772.091 of the Revised Code;	58900
(7) The design of gaming supplies, devices, and equipment to	58901
be distributed by gaming-related vendors;	58902
(8) Identifying the casino gaming that is permitted,	58903
identifying the gaming supplies, devices, and equipment, that are	58904
permitted, defining the area in which the permitted casino gaming	58905
may be conducted, and specifying the method of operation according	58906
to which the permitted casino gaming is to be conducted as	58907
provided in section 3772.20 of the Revised Code, and requiring	58908
gaming devices and equipment to meet the standards of this state;	58909
(9) Tournament play in any casino facility;	58910
(10) Establishing and implementing a voluntary exclusion	58911
program that provides all of the following:	58912
(a) Except as provided by commission rule, a person who	58913
participates in the program shall agree to refrain from entering a	58914
casino facility.	58915
(b) The name of a person participating in the program shall	58916
be included on a list of persons excluded from all casino	58917
facilities.	58918
(c) Except as provided by commission rule, no person who	58919
participates in the program shall petition the commission for	58920
admittance into a casino facility.	58921
(d) The list of persons participating in the program and the	58922
personal information of those persons shall be confidential and	58923
shall only be disseminated by the commission to a casino operator	58924

and the agents and employees of the casino operator for purposes 58925
of enforcement and to other entities, upon request of the 58926
participant and agreement by the commission. 58927

(e) A casino operator shall make all reasonable attempts as 58928
determined by the commission to cease all direct marketing efforts 58929
to a person participating in the program. 58930

(f) A casino operator shall not cash the check of a person 58931
participating in the program or extend credit to the person in any 58932
manner. However, the program shall not exclude a casino operator 58933
from seeking the payment of a debt accrued by a person before 58934
participating in the program. 58935

(g) Any and all locations at which a person may register as a 58936
participant in the program shall be published. 58937

(11) Requiring the commission to adopt standards regarding 58938
the marketing materials of a licensed casino operator, including 58939
allowing the commission to prohibit marketing materials that are 58940
contrary to the adopted standards; 58941

(12) Requiring that the records, including financial 58942
statements, of any casino operator, management company, holding 58943
company, and gaming-related vendor be maintained in the manner 58944
prescribed by the commission and made available for inspection 58945
upon demand by the commission, but shall be subject to section 58946
3772.16 of the Revised Code; 58947

(13) Permitting a licensed casino operator, management 58948
company, key employee, or casino gaming employee to question a 58949
person suspected of violating this chapter; 58950

(14) The chips, tokens, tickets, electronic cards, or similar 58951
objects that may be purchased by means of an agreement under which 58952
credit is extended to a wagerer by a casino operator; 58953

(15) Establishing standards for provisional key employee 58954

licenses for a person who is required to be licensed as a key 58955
employee and is in exigent circumstances and standards for 58956
provisional licenses for casino gaming employees who submit 58957
complete applications and are compliant under an instant 58958
background check. A provisional license shall be valid not longer 58959
than three months. A provisional license may be renewed one time, 58960
at the commission's discretion, for an additional three months. In 58961
establishing standards with regard to instant background checks 58962
the commission shall take notice of criminal records checks as 58963
they are conducted under section 311.41 of the Revised Code using 58964
electronic fingerprint reading devices. 58965

(16) Establishing approval procedures for third-party 58966
engineering or accounting firms, as described in section 3772.09 58967
of the Revised Code; 58968

(17) Prescribing the manner in which winnings, compensation 58969
from casino gaming, and gross revenue must be computed and 58970
reported by a licensee as described in Chapter 5753. of the 58971
Revised Code; 58972

(18) Prescribing conditions under which a licensee's license 58973
may be suspended or revoked as described in section 3772.04 of the 58974
Revised Code; 58975

(19) Prescribing the manner and procedure of all hearings to 58976
be conducted by the commission or by any hearing examiner; 58977

(20) Prescribing technical standards and requirements that 58978
are to be met by security and surveillance equipment that is used 58979
at and standards and requirements to be met by personnel who are 58980
employed at casino facilities, and standards and requirements for 58981
the provision of security at and surveillance of casino 58982
facilities; 58983

(21) Prescribing requirements for a casino operator to 58984
provide unarmed security services at a casino facility by licensed 58985

casino employees, and the training that shall be completed by	58986
these employees;	58987
(22) Prescribing standards according to which casino	58988
operators shall keep accounts and standards according to which	58989
casino accounts shall be audited, and establish means of assisting	58990
the tax commissioner in levying and collecting the gross casino	58991
revenue tax levied under section 5753.02 of the Revised Code;	58992
(23) Defining penalties for violation of commission rules and	58993
a process for imposing such penalties subject to the review of the	58994
joint committee on gaming and wagering;	58995
(24) Establishing standards for decertifying contractors that	58996
violate statutes or rules of this state or the federal government;	58997
(25) Establishing standards for the repair of casino gaming	58998
equipment;	58999
(26) Establishing procedures to ensure that casino operators,	59000
management companies, and holding companies are compliant with the	59001
compulsive and problem gambling plan submitted under section	59002
3772.18 of the Revised Code;	59003
(27) Prescribing, for institutional investors in or holding	59004
companies of a casino operator, management company, holding	59005
company, or gaming-related vendor that fall below the threshold	59006
needed to be considered an institutional investor or a holding	59007
company, standards regarding what any employees, members, or	59008
owners of those investors or holding companies may do and shall	59009
not do in relation to casino facilities and casino gaming in this	59010
state, which standards shall rationally relate to the need to	59011
proscribe conduct that is inconsistent with passive institutional	59012
investment status;	59013
(28) Providing for any other thing necessary and proper for	59014
successful and efficient regulation of casino gaming under this	59015
chapter.	59016

(E) The commission shall employ and assign gaming agents as necessary to assist the commission in carrying out the duties of this chapter. In order to maintain employment as a gaming agent, the gaming agent shall successfully complete all continuing training programs required by the commission and shall not have been convicted of or pleaded guilty or no contest to a disqualifying offense as defined in section 3772.07 of the Revised Code.

(F) The commission, as a law enforcement agency, and its gaming agents, as law enforcement officers as defined in section 2901.01 of the Revised Code, shall have authority with regard to the detection and investigation of, the seizure of evidence allegedly relating to, and the apprehension and arrest of persons allegedly committing gaming offenses, and shall have access to casino facilities to carry out the requirements of this chapter.

(G) The commission may eject or exclude or authorize the ejection or exclusion of and a gaming agent may eject a person from a casino facility for any of the following reasons:

(1) The person's name is on the list of persons voluntarily excluding themselves from all casinos in a program established according to rules adopted by the commission;

(2) The person violates or conspires to violate this chapter or a rule adopted thereunder; or

(3) The commission determines that the person's conduct or reputation is such that the person's presence within a casino facility may call into question the honesty and integrity of the casino gaming operations or interfere with the orderly conduct of the casino gaming operations.

(H) A person, other than a person participating in a voluntary exclusion program, may petition the commission for a public hearing on the person's ejection or exclusion under this

chapter. 59048

(I) A casino operator or management company shall have the 59049
same authority to eject or exclude a person from the management 59050
company's casino facilities as authorized in division (G) of this 59051
section. The licensee shall immediately notify the commission of 59052
an ejection or exclusion. 59053

(J) The commission shall submit a written annual report with 59054
the governor, president and minority leader of the senate, speaker 59055
and minority leader of the house of representatives, and joint 59056
committee on gaming and wagering before the first day of September 59057
each year. The annual report shall include a statement describing 59058
the receipts and disbursements of the commission, relevant 59059
financial data regarding casino gaming, including gross revenues 59060
and disbursements made under this chapter, actions taken by the 59061
commission, an update on casino operators', management companies', 59062
and holding companies' compulsive and problem gambling plans and 59063
the voluntary exclusion program and list, and any additional 59064
information that the commission considers useful or that the 59065
governor, president or minority leader of the senate, speaker or 59066
minority leader of the house of representatives, or joint 59067
committee on gaming and wagering requests. 59068

(K) Notwithstanding any law to the contrary, beginning on 59069
July 1, 2011, the commission shall assume jurisdiction over and 59070
oversee the regulation of skill-based amusement machines as is 59071
provided in the law of this state. 59072

Sec. 3772.062. (A) The executive director of the commission 59073
shall enter into an agreement with the department of ~~alcohol and~~ 59074
~~drug addiction services~~ mental health and addiction services under 59075
which the department provides a program of gambling and addiction 59076
services on behalf of the commission. 59077

(B) The executive director of the commission, in conjunction 59078

with the department of ~~alcohol and drug addiction services~~ mental 59079
health and addiction services and the state lottery commission, 59080
shall establish, operate, and publicize an in-state, toll-free 59081
telephone number Ohio residents may call to obtain basic 59082
information about problem gambling, the gambling addiction 59083
services available to problem gamblers, and how a problem gambler 59084
may obtain help. The telephone number shall be staffed twenty-four 59085
hours per day, seven days a week, to respond to inquiries and 59086
provide that information. The costs of establishing, operating, 59087
and publicizing the telephone number shall be paid for with money 59088
in the problem casino gambling and addictions fund. 59089

Sec. 3772.091. (A) ~~No~~ A casino operator license issued under 59090
this chapter is transferable, subject to approval by the 59091
commission. ~~Except as provided in division (B) of this section,~~ 59092
~~new majority ownership interest or~~ Any such transfer shall require 59093
the filing of an application for transferring a casino operator 59094
license and submission of an application fee with the commission 59095
before the transfer may be approved. 59096

(B) A new majority ownership interest in or change in or 59097
transfer of control of a licensee casino operator shall require a 59098
new license commission approval. ~~The commission may reopen a~~ 59099
~~licensing investigation at any time. A significant~~ Any such 59100
ownership interest in or change in or transfer of control, ~~as~~ 59101
~~determined by the commission,~~ shall require the filing of an 59102
application for ~~a new~~ transferring the casino operator license and 59103
submission of ~~a license~~ an application fee with the commission 59104
before ~~any such~~ the ownership interest in or the change in or 59105
transfer of control ~~is~~ may be approved. ~~A change in or transfer of~~ 59106
~~control to an immediate family member is not considered a~~ 59107
~~significant change under this section~~ 59108

(C) An application for transferring a casino operator license 59109

shall be made under oath on forms prescribed by the commission and 59110
shall contain the information required by section 3772.11 of the 59111
Revised Code and the rules adopted thereunder. 59112

(D) The fee to obtain an application for transferring a 59113
casino operator license shall be the same as is required to obtain 59114
an application under division (C) of section 3772.17 of the 59115
Revised Code. Such an application fee may be increased to the 59116
extent that the actual review and investigation costs relating to 59117
an applicant exceed the fee set forth in this division. This 59118
application fee is nonrefundable and shall be deposited into the 59119
casino control commission fund. 59120

(E) In the determination of whether to approve the transfer 59121
of a casino operator license, the applicant shall prove their 59122
suitability for licensure by clear and convincing evidence and the 59123
commission shall consider all the factors established in this 59124
chapter that pertain to the granting of a casino operator license. 59125

(F) The commission may reopen a licensing investigation at 59126
any time. 59127

~~(B) An initial license shall not be considered transferred,~~ 59128
~~and a new license shall not be required, when an initial licensee~~ 59129
~~that is licensed before June 1, 2013, does or has done both of the~~ 59130
~~following:~~ 59131

~~(1) Obtains a majority ownership interest in, or a change in~~ 59132
~~or transfer of control of, another initial licensee for the same~~ 59133
~~casino facility; and~~ 59134

~~(2) Was investigated under this chapter as a parent,~~ 59135
~~affiliate, subsidiary, key employee, or partner, or joint venturer~~ 59136
~~with another initial licensee that has held for the same casino~~ 59137
~~facility a majority ownership interest in or control of the~~ 59138
~~initial license when the initial license was issued and when such~~ 59139
~~an initial licensee obtains a majority ownership interest in or a~~ 59140

~~change in or transfer of control.~~ 59141

~~(C)(G) As used in this section+~~ 59142

~~(1) "Control", "control" means either of the following:~~ 59143

~~(a)(1) Either:~~ 59144

~~(i)(a) Holding fifty per cent or more of the outstanding~~ 59145
~~voting securities of a licensee; or~~ 59146

~~(ii)(b) For an unincorporated licensee, having the right to~~ 59147
~~fifty per cent or more of the profits of the licensee, or having~~ 59148
~~the right in the event of dissolution to fifty per cent or more of~~ 59149
~~the assets of the licensee.~~ 59150

~~(b)(2) Having the contractual power presently to designate~~ 59151
~~fifty per cent or more of the directors of a for-profit or~~ 59152
~~not-for-profit corporation, or in the case of trusts described in~~ 59153
~~paragraphs (c)(3) to (5) of 16 C.F.R. 801.1, the trustees of such~~ 59154
~~a trust.~~ 59155

~~(2) "Initial license" means the first plenary license issued~~ 59156
~~to an initial licensee.~~ 59157

~~(3) "Initial licensee" means any of the persons issued an~~ 59158
~~initial license to conduct or participate in conducting casino~~ 59159
~~gaming at each casino facility as either a casino operator, a~~ 59160
~~management company, or a holding company of a casino operator or~~ 59161
~~management company.~~ 59162

Sec. 3772.092. (A) Except as provided in division (A) of 59163
section 3772.091 of the Revised Code, no license issued under this 59164
chapter is transferable. 59165

(B) Except as provided in division (B) of section 3772.091 of 59166
the Revised Code, a new majority ownership interest in or a change 59167
in or transfer of control of a licensee shall require a new 59168
license. Any such ownership interest in or change in or transfer 59169

of control shall require the filing of the applicable application 59170
for a new license and submission of the applicable application and 59171
license fees with the commission before the new license may be 59172
issued. 59173

(C) An application for the applicable new license shall be 59174
made under oath on forms prescribed by the commission and shall 59175
contain the information required by this chapter and the rules 59176
adopted thereunder. 59177

(D) The applicable application and license fees shall be in 59178
the amounts prescribed in section 3772.17 of the Revised Code and 59179
the rules adopted thereunder. Such an application fee may be 59180
increased to the extent that the actual review and investigation 59181
costs relating to an applicant exceed the fee set forth in this 59182
division. The application fee is nonrefundable and shall be 59183
deposited into the casino control commission fund. 59184

(E) In the determination of whether to approve the 59185
application for a new license, the applicant shall prove their 59186
suitability for licensure by clear and convincing evidence and the 59187
commission shall consider all of the factors established in this 59188
chapter that pertain to the granting of such a license. 59189

(F) The commission may reopen a licensing investigation at 59190
any time. 59191

(G) As used in this section, "control" has the same meaning 59192
as in division (G) of section 3772.091 of the Revised Code. 59193

Sec. 3781.112. (A) As used in this section, "secured 59194
facility" means any of the following: 59195

(1) A maternity unit, newborn care nursery, or maternity home 59196
licensed under Chapter 3711. of the Revised Code; 59197

(2) A pediatric intensive care unit subject to rules adopted 59198
by the director of health pursuant to section 3702.11 of the 59199

Revised Code; 59200

(3) A children's hospital, as defined in section 3727.01 of 59201
the Revised Code; 59202

(4) A hospital that is licensed under section ~~5119.20~~ 5119.33 59203
of the Revised Code to receive mentally ill persons; 59204

(5) The portion of a nursing home licensed under section 59205
3721.02 of the Revised Code or in accordance with section 3721.09 59206
of the Revised Code in which specialized care is provided to 59207
residents of the nursing home who have physical or mental 59208
conditions that require a resident to be restricted in the 59209
resident's freedom of movement for the health and safety of the 59210
resident, the staff attending the resident, or the general public. 59211

(B) A secured facility may take reasonable steps in 59212
accordance with rules the board of building standards adopts under 59213
division (A) of section 3781.10 of the Revised Code and in 59214
accordance with the state fire code the fire marshal adopts under 59215
section 3737.82 of the Revised Code, to deny egress to confine and 59216
protect patients or residents of the secured facility who are not 59217
capable of self-preservation. A secured facility that wishes to 59218
deny egress to those patients or residents may use delayed-egress 59219
doors and electronically coded doors to deny egress, on the 59220
condition that those doors are installed and used in accordance 59221
with rules the board of building standards adopts under division 59222
(A) of section 3781.10 of the Revised Code and in accordance with 59223
the state fire code the fire marshal adopts under section 3737.82 59224
of the Revised Code. A secured facility also may install 59225
controlled-egress locks, in compliance with rules the board of 59226
building standards adopts under division (A) of section 3781.10 of 59227
the Revised Code and in compliance with the state fire code the 59228
fire marshal adopts under section 3737.82 of the Revised Code, in 59229
areas of the secured facility where patients or residents who have 59230
physical or mental conditions that would endanger the patients or 59231

residents, the staff attending the patients or residents, or the
general public if those patients or residents are not restricted
in their freedom of movement. A secured facility that uses
delayed-egress doors and electronically coded doors,
controlled-egress locks, or both, shall do both of the following:

(1) Provide continuous, twenty-four-hour custodial care to
the patients or residents of the facility;

(2) Establish a system to evacuate patients or residents in
the event of fire or other emergency.

Sec. 3798.01. As used in this chapter:

(A) "Administrative safeguards," "physical safeguards," and
"technical safeguards" have the same meanings as in 45 C.F.R.
164.304.

(B) "Approved health information exchange" means a health
information exchange that has been approved or reapproved by the
director of job and family services pursuant to the approval or
reapproval process, as applicable, the director establishes in
rules adopted under division (A) of section 3798.15 of the Revised
Code or that has been certified by the office of the national
coordinator for health information technology in the United States
department of health and human services.

(C) "Covered entity," "disclosure," "health care provider,"
"health information," "individually identifiable health
information," "protected health information," and "use" have the
same meanings as in 45 C.F.R. 160.103.

(D) "Designated record set" has the same meaning as in 45
C.F.R. 164.501.

(E) "Direct exchange" means the activity of electronic
transmission of health information through a direct connection
between the electronic record systems of health care providers

without the use of a health information exchange. 59262

(F) "Health care component" and "hybrid entity" have the same 59263
meanings as in 45 C.F.R. 164.103. 59264

(G) "Health information exchange" means any person or 59265
governmental entity that provides in this state a technical 59266
infrastructure to connect computer systems or other electronic 59267
devices used by covered entities to facilitate the secure 59268
transmission of health information. "Health information exchange" 59269
excludes health care providers engaged in direct exchange, 59270
including direct exchange through the use of a health information 59271
service provider. 59272

(H) "HIPAA privacy rule" means the standards for privacy of 59273
individually identifiable health information in 45 C.F.R. part 160 59274
and in 45 C.F.R. part 164, subparts A and E. 59275

(I) "Interoperability" means the capacity of two or more 59276
information systems to exchange information in an accurate, 59277
effective, secure, and consistent manner. 59278

(J) "Minor" means an unemancipated person under eighteen 59279
years of age or a mentally or physically disabled person under 59280
twenty-one years of age who meets criteria specified in rules 59281
adopted by the director of job and family services under section 59282
3798.13 of the Revised Code. 59283

(K) "More stringent" has the same meaning as in 45 C.F.R. 59284
160.202. 59285

(L) "Office of health transformation" means the office of 59286
health transformation created by executive order 2011-02K or a 59287
successor governmental entity responsible for health system 59288
oversight in this state. 59289

(M) "Personal representative" means a person who has 59290
authority under applicable law to make decisions related to health 59291

care on behalf of an adult or emancipated minor, or the parent, 59292
legal guardian, or other person acting in loco parentis who is 59293
authorized under law to make health care decisions on behalf of an 59294
unemancipated minor. "Personal representative" does not include 59295
the parent or legal guardian of, or another person acting in loco 59296
parentis to, a minor who consents to the minor's own receipt of 59297
health care or a minor who makes medical decisions on the minor's 59298
own behalf pursuant to law, court approval, or because the minor's 59299
parent, legal guardian, or other person acting in loco parentis 59300
has assented to an agreement of confidentiality between the 59301
provider and the minor. 59302

(N) "Political subdivision" means a municipal corporation, 59303
township, county, school district, or other body corporate and 59304
politic responsible for governmental activities in a geographic 59305
area smaller than that of the state. 59306

(O) "State agency" means any one or more of the following: 59307

(1) The department of aging; 59308

(2) The department of ~~alcohol and drug addiction services~~ 59309
mental health and addiction services; 59310

(3) The department of developmental disabilities; 59311

(4) The department of education; 59312

(5) The department of health; 59313

(6) The department of insurance; 59314

(7) The department of job and family services; 59315

(8) The department of ~~mental health~~ medicaid; 59316

(9) The department of rehabilitation and correction; 59317

(10) The department of youth services; 59318

(11) The bureau of workers' compensation; 59319

(12) The rehabilitation services commission; 59320

(13) The office of the attorney general;	59321
(14) A health care licensing board created under Title XLVII of the Revised Code that possesses individually identifiable health information.	59322 59323 59324
Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following:	59325 59326
(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;	59327 59328
(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;	59329 59330 59331 59332 59333
(C) A third-party payer for coverage provided under the medicare advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;	59334 59335 59336 59337
(D) A third-party payer for coverage provided under the medicaid program operated under Title XIX of the "Social Security Act," except that if a federal waiver applied for under section 5111.178 <u>5167.25</u> of the Revised Code is granted or the <u>medicaid</u> director of job and family services determines that this provision can be implemented without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code apply to claims submitted electronically or non-electronically that are made with respect to coverage of medicaid recipients by health insuring corporations licensed under Chapter 1751. of the Revised Code, instead of the prompt payment requirements of 42 C.F.R. 447.46;	59338 59339 59340 59341 59342 59343 59344 59345 59346 59347 59348
(E) A third-party payer for coverage provided under the tricicare program offered by the United States department of	59349 59350

defense. 59351

Sec. 3903.14. (A) The superintendent of insurance as 59352
rehabilitator may appoint one or more special deputies, who shall 59353
have all the powers and responsibilities of the rehabilitator 59354
granted under this section, and the superintendent may employ such 59355
clerks and assistants as considered necessary. The compensation of 59356
the special deputies, clerks, and assistants and all expenses of 59357
taking possession of the insurer and of conducting the proceedings 59358
shall be fixed by the superintendent, with the approval of the 59359
court and shall be paid out of the funds or assets of the insurer. 59360
The persons appointed under this section shall serve at the 59361
pleasure of the superintendent. In the event that the property of 59362
the insurer does not contain sufficient cash or liquid assets to 59363
defray the costs incurred, the superintendent may advance the 59364
costs so incurred out of any appropriation for the maintenance of 59365
the department of insurance. Any amounts so advanced for expenses 59366
of administration shall be repaid to the superintendent for the 59367
use of the department out of the first available money of the 59368
insurer. 59369

(B) The rehabilitator may take such action as the 59370
rehabilitator considers necessary or appropriate to reform and 59371
revitalize the insurer. The rehabilitator shall have all the 59372
powers of the directors, officers, and managers, whose authority 59373
shall be suspended, except as they are redelegated by the 59374
rehabilitator. The rehabilitator shall have full power to direct 59375
and manage, to hire and discharge employees subject to any 59376
contract rights they may have, and to deal with the property and 59377
business of the insurer. 59378

(C) If it appears to the rehabilitator that there has been 59379
criminal or tortious conduct, or breach of any contractual or 59380
fiduciary obligation detrimental to the insurer by any officer, 59381

manager, agent, director, trustee, broker, employee, or other 59382
person, the rehabilitator may pursue all appropriate legal 59383
remedies on behalf of the insurer. 59384

(D) If the rehabilitator determines that reorganization, 59385
consolidation, conversion, reinsurance, merger, or other 59386
transformation of the insurer is appropriate, the rehabilitator 59387
shall prepare a plan to effect such changes. Upon application of 59388
the rehabilitator for approval of the plan, and after such notice 59389
and hearings as the court may prescribe, the court may either 59390
approve or disapprove the plan proposed, or may modify it and 59391
approve it as modified. Any plan approved under this section shall 59392
be, in the judgment of the court, fair and equitable to all 59393
parties concerned. If the plan is approved, the rehabilitator 59394
shall carry out the plan. In the case of a life insurer, the plan 59395
proposed may include the imposition of liens upon the policies of 59396
the company, if all rights of shareholders are first relinquished. 59397
A plan for a life insurer may also propose imposition of a 59398
moratorium upon loan and cash surrender rights under policies, for 59399
such period and to such an extent as may be necessary. 59400

(E) In the case of a medicaid health insuring corporation 59401
that has posted a bond or deposited securities in accordance with 59402
section 1751.271 of the Revised Code, the plan proposed under 59403
division (D) of this section may include the use of the proceeds 59404
of the bond or securities to first pay the claims of contracted 59405
providers for covered health care services provided to medicaid 59406
recipients, then next to pay other claimants with any remaining 59407
funds, consistent with the priorities set forth in sections 59408
3903.421 and 3903.42 of the Revised Code. 59409

(F) The rehabilitator shall have the power under sections 59410
3903.26 and 3903.27 of the Revised Code to avoid fraudulent 59411
transfers. 59412

(G) As used in this section: 59413

(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.

(2) "Medicaid recipient" means a person ~~eligible for assistance under~~ enrolled in the medicaid program ~~operated pursuant to Chapter 5111. of the Revised Code.~~

Sec. 3905.40. There shall be paid to the superintendent of insurance the following fees:

(A) Each insurance company doing business in this state shall pay:

(1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;

(2) For filing each statement, one hundred seventy-five dollars;

(3) For each certificate of authority or license, one hundred seventy-five, and for each certified copy thereof, five dollars;

(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;

(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;

(6) For issuing certificates of compliance or certified copies thereof, sixty dollars;

(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars;

(8) For each agent appointment and each annual renewal of an agent appointment, not more than twenty dollars;

~~(9) For each termination of an agent appointment, five dollars.~~

(B) Each domestic life insurance company doing business in 59443
this state shall pay for annual valuation of its policies, one 59444
cent on every one thousand dollars of insurance. 59445

(C) Each applicant for licensure as an insurance agent except 59446
applicants for licensure as surety bail bond agents, surplus line 59447
brokers, and portable electronics insurance vendors shall pay ten 59448
dollars for each line of authority requested. Fees collected under 59449
this division shall be credited to the department of insurance 59450
operating fund created in section 3901.021 of the Revised Code. 59451

(D) Each domestic mutual life insurance company shall pay for 59452
verifying that any amendment to its articles of incorporation was 59453
regularly adopted, two hundred fifty dollars with each application 59454
for verification. Any such amendment shall be considered to have 59455
been regularly adopted when approved by the affirmative vote of 59456
two-thirds of the policyholders present in person or by proxy at 59457
any annual meeting of policyholders or at a special meeting of 59458
policyholders called for that purpose. 59459

(E) Each insurance agent doing business in this state shall 59460
pay a biennial license renewal fee of twenty-five dollars, except 59461
the following insurance agents are not required to pay that 59462
license renewal fee: 59463

(1) Individual resident agents who have met their continuing 59464
education requirements under section 3905.481 of the Revised Code; 59465

(2) Surety bail bond agents; 59466

(3) Surplus line brokers; 59467

(4) Portable electronics insurance vendors. 59468

(F) Each applicant for licensure as a portable electronics 59469
insurance vendor with a portable electronics insurance limited 59470
lines license and each licensed vendor doing business in this 59471
state shall pay the following fees prescribed by the 59472

superintendent: 59473

(1) For vendors engaged in portable electronic transactions 59474
at more than ten locations in this state, an application fee not 59475
to exceed five thousand dollars for an initial license and a 59476
biennial license renewal fee not to exceed two thousand five 59477
hundred dollars for each renewal thereafter; 59478

(2) For vendors engaged in portable electronic transactions 59479
at ten or fewer locations in this state, an application fee not to 59480
exceed three thousand dollars for an initial license and a 59481
biennial license renewal fee not to exceed one thousand dollars 59482
for each renewal thereafter. 59483

(G) All fees collected by the superintendent under this 59484
section except any fees collected under divisions (A)(2), (3), and 59485
(6) of this section shall be credited to the department of 59486
insurance operating fund created under section 3901.021 of the 59487
Revised Code. 59488

Sec. 3905.483. (A) There is hereby created the insurance 59489
agent education advisory council to advise the superintendent of 59490
insurance in carrying out the duties imposed under sections 59491
3905.04 and 3905.481 to 3905.486 of the Revised Code. 59492

(B) The council shall be composed of the superintendent, or 59493
the superintendent's designee, and twelve members appointed by the 59494
superintendent, as follows: 59495

(1) One representative of the association of Ohio life 59496
insurance companies; 59497

(2) One representative of the independent insurance agents of 59498
Ohio; 59499

(3) One representative of the Ohio association of health 59500
underwriters; 59501

(4) One representative of the national association of 59502

insurance and financial advisors-Ohio; 59503

(5) One representative of the Ohio insurance institute; 59504

(6) One representative of the professional insurance agents 59505
association of Ohio; 59506

(7) One representative of the Ohio land title association; 59507

(8) Two insurance agents each of whom has been licensed 59508
continuously during the five-year period immediately preceding the 59509
agent's appointment; 59510

(9) One representative of an insurance company admitted to 59511
transact business in this state; 59512

(10) Two representatives of consumers, one of whom shall be 59513
at least ~~sixty~~ fifty years of age. 59514

(C)(1) Of the initial eleven appointments made by the 59515
superintendent, three shall be for terms ending December 31, 1994, 59516
four shall be for terms ending December 31, 1995, and four shall 59517
be for terms ending December 31, 1996. Thereafter, terms of office 59518
shall be for three years, each term ending on the thirty-first day 59519
of December of the third year. 59520

(2) The initial appointment of the twelfth member made by the 59521
superintendent under division (B)(7) of this section, pursuant to 59522
Am. Sub. S.B. 129 of the 124th general assembly, shall be for a 59523
term ending December 31, 2003. Thereafter, the term of office 59524
shall be for three years, ending on the thirty-first day of 59525
December of the third year. 59526

(D) Each member shall hold office from the date of 59527
appointment until the end of the term for which the member was 59528
appointed. Any member appointed to fill a vacancy occurring prior 59529
to the expiration of the term for which the member's predecessor 59530
was appointed shall hold office for the remainder of such term. 59531
Any member shall continue in office subsequent to the expiration 59532

date of the member's term until the member's successor takes 59533
office, or until a period of sixty days has elapsed, whichever 59534
occurs first. A vacancy shall be filled in the same manner as the 59535
original appointment. 59536

(E) Initial appointments to the council shall be made no 59537
later than thirty days after April 16, 1993. The initial 59538
appointment of the twelfth member to the council under division 59539
(B)(7) of this section, pursuant to Am. Sub. S.B. 129 of the 124th 59540
general assembly, shall be made no later than December 31, 2002. 59541

(F) Any member is eligible for reappointment. The 59542
superintendent, after notice and opportunity for a hearing, may 59543
remove for cause any member the superintendent appoints. 59544

(G) The superintendent or the superintendent's designee shall 59545
serve as chairperson of the council. Meetings shall be held upon 59546
the call of the chairperson and as may be provided by procedures 59547
adopted by the superintendent. Seven members of the council 59548
constitute a quorum. 59549

(H) Each member shall receive mileage and necessary and 59550
actual expenses while engaged in the business of the council. 59551

Sec. 3905.862. Upon the expiration or cancellation of a 59552
surety bail bond agent's appointment, the agent shall not engage 59553
or attempt to engage in any activity requiring such an 59554
appointment. However, an insurer that cancels the appointment of a 59555
surety bail bond agent may authorize the agent to continue to 59556
attempt the arrest and surrender of a defendant for whom a bail 59557
bond had been written prior to the cancellation and to seek 59558
discharge of forfeitures and judgments. 59559

~~An insurer that cancels the appointment of a surety bail bond 59560
agent or allows that appointment to expire shall pay to the 59561
superintendent of insurance a fee pursuant to division (A)(9) of 59562~~

~~section 3905.40 of the Revised Code.~~ 59563

Sec. 3916.06. (A)(1) With each application for a viatical 59564
settlement, a viatical settlement provider or viatical settlement 59565
broker shall disclose at least the following to a viator no later 59566
than the time all parties sign the application for the viatical 59567
settlement contract: 59568

(a) That there are possible alternatives to viatical 59569
settlement contracts, including any accelerated death benefits 59570
offered under the viator's policy; 59571

(b) That some or all of the proceeds of the viatical 59572
settlement may be subject to federal income taxation and state 59573
franchise and income taxation, and that assistance should be 59574
sought from a professional tax advisor; 59575

(c) That the proceeds of the viatical settlement could be 59576
subject to the claims of creditors; 59577

(d) That receipt of the proceeds of the viatical settlement 59578
may adversely affect the viator's eligibility for ~~medical~~ 59579
~~assistance under Chapter 5111. of the Revised Code~~ the medicaid 59580
program or other government benefits or entitlements, and that 59581
advice should be obtained from the appropriate government 59582
agencies; 59583

(e) That the viator has a right to rescind the viatical 59584
settlement contract for at least fifteen calendar days after the 59585
viator receives the viatical settlement proceeds, as provided in 59586
section 3916.08 of the Revised Code. If the insured dies during 59587
the rescission period, the viatical settlement contract shall be 59588
deemed to have been rescinded, subject to repayment of all 59589
viatical settlement proceeds to the viatical settlement company. 59590

(f) That funds will be sent to the viator within three 59591
business days after the viatical settlement provider has received 59592

written acknowledgment from the insurer or group administrator 59593
that ownership of the policy or interest in the certificate has 59594
been transferred and that the beneficiary has been designated 59595
pursuant to the viatical settlement contract; 59596

(g) That entering into a viatical settlement contract may 59597
cause other rights or benefits, including conversion rights and 59598
waiver of premium benefits that may exist under the policy, to be 59599
forfeited by the viator and that assistance should be sought from 59600
a financial advisor. 59601

(h) That following execution of the viatical settlement 59602
contract, the viatical settlement provider or the authorized 59603
representative of the viatical settlement provider may contact the 59604
insured for the purpose of determining the insured's health status 59605
and to confirm the insured's residential or business address and 59606
telephone number or for other purposes permitted by law. Any such 59607
contact shall be limited to once in any three-month period if the 59608
insured has a life expectancy of more than one year or to once per 59609
month if the insured has a life expectancy of one year or less. 59610

(2) The viatical settlement provider or viatical settlement 59611
broker shall provide the disclosures under division (A)(1) of this 59612
section in a separate document that is signed by the viator and 59613
the viatical settlement provider or viatical settlement broker. 59614

(3) Disclosure to a viator under division (A)(1) of this 59615
section shall include distribution of a brochure describing the 59616
process of viatical settlements. The viatical settlement provider 59617
or viatical settlement broker shall use the NAIC's form for the 59618
brochure unless another form is developed or approved by the 59619
superintendent. 59620

(4) The disclosure document under division (A)(1) of this 59621
section shall contain the following language: 59622

"All medical, financial, or personal information solicited or 59623

obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."

(B)(1) A viatical settlement provider shall disclose at least the following to a viator prior to the date the viatical settlement contract is signed by all the necessary parties:

(a) The affiliation, if any, between the viatical settlement provider and the issuer of the policy to be viaticated;

(b) The name, business address, and telephone number of the viatical settlement provider;

(c) Regarding a viatical settlement broker, the amount and method of calculating the broker's compensation. As used in this division, "compensation" includes anything of value paid or given to a viatical settlement broker for the placement of a policy or certificate.

(d) Any affiliations or contractual arrangements between the viatical settlement provider and the viatical settlement broker;

(e) If a policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the possible loss of coverage on the other lives under the policy and that advice should be sought from the viator's insurance agent or the company issuing the policy;

(f) The dollar amount of the current death benefit payable to

the viatical settlement provider under the policy, and, if known, 59655
the availability of any additional guaranteed insurance benefits, 59656
the dollar amount of any accidental death and dismemberment 59657
benefits under the policy, and the extent to which the viator's 59658
interest in those benefits will be transferred as a result of the 59659
viatical settlement contract. 59660

(g) That an escrow agent shall provide escrow services to the 59661
parties pursuant to a written agreement, signed by the viatical 59662
settlement provider, the viatical settlement broker, and the 59663
viator. At the close of escrow, the escrow agent will distribute 59664
the proceeds of the sale to the viator, minus any compensation to 59665
be paid to any other persons who provided services and to whom the 59666
viator has agreed to compensate out of the gross amount offered by 59667
the viatical settlement purchaser. All persons receiving any form 59668
of compensation under the escrow agreement shall be clearly 59669
identified, including name, business address, telephone number, 59670
and tax identification number. 59671

(2) The viatical settlement broker shall disclose at least 59672
the following to a viator prior to the execution of the viatical 59673
settlement contract: 59674

(a) The name, business address, and telephone number of the 59675
viatical settlement broker; 59676

(b) A full, complete, and accurate description of all offers, 59677
counteroffers, acceptances, and rejections relating to the 59678
proposed viatical settlement contract; 59679

(c) Any affiliations or contractual agreements between the 59680
viatical settlement broker and any person making an offer in 59681
connection with the proposed viatical settlement contract; 59682

(d) The amount and method of calculating the viatical 59683
settlement broker's compensation and, if any portion of the 59684
viatical settlement broker's compensation is taken from the 59685

viatical settlement offer, the total amount of the viatical 59686
settlement offer and the viatical settlement broker's compensation 59687
as a percentage of that total. As used in this division, 59688
"compensation" includes anything of value paid or given to a 59689
viatical settlement broker related to the settlement of a policy. 59690

(3) The viatical settlement provider or viatical settlement 59691
broker shall conspicuously display the disclosures required under 59692
divisions (B)(1) and (2) of this section in the viatical 59693
settlement contract or in a separate document signed by the viator 59694
and the viatical settlement provider or viatical settlement 59695
broker, as appropriate. 59696

(C) If the viatical settlement provider transfers ownership 59697
or changes the beneficiary of the policy, the viatical settlement 59698
provider shall communicate in writing the change in ownership or 59699
beneficiary to the insured within twenty days after the change. 59700

Sec. 3923.24. (A) Notwithstanding section 3901.71 of the 59701
Revised Code, every certificate furnished by an insurer in 59702
connection with, or pursuant to any provision of, any group 59703
sickness and accident insurance policy delivered, issued for 59704
delivery, renewed, or used in this state on or after January 1, 59705
1972, every policy of sickness and accident insurance delivered, 59706
issued for delivery, renewed, or used in this state on or after 59707
January 1, 1972, and every multiple employer welfare arrangement 59708
offering an insurance program, which provides that coverage of an 59709
unmarried dependent child of a parent or legal guardian will 59710
terminate upon attainment of the limiting age for dependent 59711
children specified in the contract shall also provide in substance 59712
both of the following: 59713

(1) Once an unmarried child has attained the limiting age for 59714
dependent children, as provided in the policy, upon the request of 59715
the insured, the insurer shall offer to cover the unmarried child 59716

until the child attains twenty-eight years of age if all of the following are true: 59717
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(a) The child is the natural child, stepchild, or adopted child of the insured. 59719
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(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education. 59721
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(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage. 59724
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(d) The child is not eligible for ~~coverage under~~ the medicaid program ~~established under Chapter 5111. of the Revised Code~~ or the medicare program ~~established under Title XVIII of the "Social Security Act," 42 U.S.C. 1395.~~ 59727
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(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a dependent child if the child is and continues to be both of the following: 59731
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(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap; 59735
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(b) Primarily dependent upon the policyholder or certificate holder for support and maintenance. 59737
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(B) Proof of such incapacity and dependence for purposes of division (A)(2) of this section shall be furnished by the policyholder or by the certificate holder to the insurer within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually after the two-year period following the child's attainment of the limiting age, the insurer may require proof satisfactory to it of the continuance of such incapacity and dependency. 59739
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(C) Nothing in this section shall require an insurer to cover a dependent child who is mentally retarded or physically handicapped if the contract is underwritten on evidence of insurability based on health factors set forth in the application, or if such dependent child does not satisfy the conditions of the contract as to any requirement for evidence of insurability or other provision of the contract, satisfaction of which is required for coverage thereunder to take effect. In any such case, the terms of the contract shall apply with regard to the coverage or exclusion of the dependent from such coverage. Nothing in this section shall apply to accidental death or dismemberment benefits provided by any such policy of sickness and accident insurance.

(D) Nothing in this section shall do any of the following:

(1) Require that any policy offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy;

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the policy;

(3) Require an employer to offer health insurance coverage to the dependents of any employee.

(E) This section does not apply to any policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or

equivalent self-insurance. 59778

(F) As used in this section, "health benefit plan" has the 59779
same meaning as in section 3924.01 of the Revised Code and also 59780
includes both of the following: 59781

(1) A public employee benefit plan; 59782

(2) A health benefit plan as regulated under the "Employee 59783
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 59784

Sec. 3923.241. (A) Notwithstanding section 3901.71 of the 59785
Revised Code, any public employee benefit plan that provides that 59786
coverage of an unmarried dependent child will terminate upon 59787
attainment of the limiting age for dependent children specified in 59788
the plan shall also provide in substance both of the following: 59789

(1) Once an unmarried child has attained the limiting age for 59790
dependent children, as provided in the plan, upon the request of 59791
the employee, the public employee benefit plan shall offer to 59792
cover the unmarried child until the child attains twenty-eight 59793
years of age if all of the following are true: 59794

(a) The child is the natural child, stepchild, or adopted 59795
child of the employee. 59796

(b) The child is a resident of this state or a full-time 59797
student at an accredited public or private institution of higher 59798
education. 59799

(c) The child is not employed by an employer that offers any 59800
health benefit plan under which the child is eligible for 59801
coverage. 59802

(d) The child is not eligible for ~~coverage under~~ the medicaid 59803
program ~~established under Chapter 5111. of the Revised Code~~ or the 59804
medicare program ~~established under Title XVIII of the "Social~~ 59805
~~Security Act," 42 U.S.C. 1395.~~ 59806

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a dependent child if the child is and continues to be both of the following:

(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap;

(b) Primarily dependent upon the plan member for support and maintenance.

(B) Proof of incapacity and dependence for purposes of division (A)(2) of this section shall be furnished to the public employee benefit plan within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually, the public employee benefit plan may require proof satisfactory to it of the continuance of such incapacity and dependency.

(C) Nothing in this section shall do any of the following:

(1) Require that any public employee benefit plan offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the public employee benefit plan;

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the plan;

(3) Require an employer to offer health insurance coverage to the dependents of any employee.

(D) This section does not apply to any public employee benefit plan covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months;

coverage issued as a supplement to liability insurance; insurance 59837
arising out of a workers' compensation or similar law; automobile 59838
medical-payment insurance; or insurance under which benefits are 59839
payable with or without regard to fault and which is statutorily 59840
required to be contained in any liability insurance policy or 59841
equivalent self-insurance. 59842

(E) As used in this section, "health benefit plan" has the 59843
same meaning as in section 3924.01 of the Revised Code and also 59844
includes both of the following: 59845

(1) A public employee benefit plan; 59846

(2) A health benefit plan as regulated under the "Employee 59847
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 59848

Sec. 3923.281. (A) As used in this section: 59849

(1) "Biologically based mental illness" means schizophrenia, 59850
schizoaffective disorder, major depressive disorder, bipolar 59851
disorder, paranoia and other psychotic disorders, 59852
obsessive-compulsive disorder, and panic disorder, as these terms 59853
are defined in the most recent edition of the diagnostic and 59854
statistical manual of mental disorders published by the American 59855
psychiatric association. 59856

(2) "Policy of sickness and accident insurance" has the same 59857
meaning as in section 3923.01 of the Revised Code, but excludes 59858
any hospital indemnity, medicare supplement, long-term care, 59859
disability income, one-time-limited-duration policy of not longer 59860
than six months, supplemental benefit, or other policy that 59861
provides coverage for specific diseases or accidents only; any 59862
policy that provides coverage for workers' compensation claims 59863
compensable pursuant to Chapters 4121. and 4123. of the Revised 59864
Code; and any policy that provides coverage to ~~beneficiaries~~ 59865
~~enrolled in Title XIX of the "Social Security Act," 49 Stat. 620~~ 59866

~~(1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, as provided by the Ohio department of job and family services under Chapter 5111. of the Revised Code recipients.~~

(B) Notwithstanding section 3901.71 of the Revised Code, and subject to division (E) of this section, every policy of sickness and accident insurance shall provide benefits for the diagnosis and treatment of biologically based mental illnesses on the same terms and conditions as, and shall provide benefits no less extensive than, those provided under the policy of sickness and accident insurance for the treatment and diagnosis of all other physical diseases and disorders, if both of the following apply:

(1) The biologically based mental illness is clinically diagnosed by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health.

(2) The prescribed treatment is not experimental or investigational, having proven its clinical effectiveness in accordance with generally accepted medical standards.

(C) Division (B) of this section applies to all coverages and terms and conditions of the policy of sickness and accident insurance, including, but not limited to, coverage of inpatient hospital services, outpatient services, and medication; maximum lifetime benefits; copayments; and individual and family deductibles.

(D) Nothing in this section shall be construed as prohibiting

a sickness and accident insurance company from taking any of the following actions:

(1) Negotiating separately with mental health care providers with regard to reimbursement rates and the delivery of health care services;

(2) Offering policies that provide benefits solely for the diagnosis and treatment of biologically based mental illnesses;

(3) Managing the provision of benefits for the diagnosis or treatment of biologically based mental illnesses through the use of pre-admission screening, by requiring beneficiaries to obtain authorization prior to treatment, or through the use of any other mechanism designed to limit coverage to that treatment determined to be necessary;

(4) Enforcing the terms and conditions of a policy of sickness and accident insurance.

(E) An insurer that offers any policy of sickness and accident insurance is not required to provide benefits for the diagnosis and treatment of biologically based mental illnesses pursuant to division (B) of this section if all of the following apply:

(1) The insurer submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to increase by more than one per cent per year.

(2) The insurer submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase described in division

(E)(1) of this section could reasonably justify an increase of 59929
more than one per cent in the annual premiums or rates charged by 59930
the insurer for the coverage of all other physical diseases and 59931
disorders. 59932

(3) The superintendent of insurance makes the following 59933
determinations from the documentation and opinion submitted 59934
pursuant to divisions (E)(1) and (2) of this section: 59935

(a) Incurred claims for diagnostic and treatment services for 59936
biologically based mental illnesses for a period of at least six 59937
months independently caused the insurer's costs for claims and 59938
administrative expenses for the coverage of all other physical 59939
diseases and disorders to increase by more than one per cent per 59940
year. 59941

(b) The increase in costs reasonably justifies an increase of 59942
more than one per cent in the annual premiums or rates charged by 59943
the insurer for the coverage of all other physical diseases and 59944
disorders. 59945

Any determination made by the superintendent under this 59946
division is subject to Chapter 119. of the Revised Code. 59947

Sec. 3923.443. (A)(1) No agent shall sell, solicit, or 59948
negotiate long-term care insurance on or after September 1, 2008, 59949
without completing an initial eight-hour partnership program 59950
training course as described in division (B) of this section. 59951

(2)(a) Any agent that sells, solicits, or negotiates any 59952
long-term care insurance shall complete at least four hours of 59953
continuing education in every twenty-four-month period commencing 59954
on the first day of January of the year immediately following the 59955
year of the issuance of the agent's license. 59956

(b) No agent shall fail to complete the continuing education 59957
requirements in division (A)(2)(a) of this section in the 59958

twenty-four-month period described in that division. 59959

(B) The initial training course and continuing education 59960
required under division (A) of this section may be approved by the 59961
superintendent of insurance as continuing education courses under 59962
sections 3905.481 to 3905.486 of the Revised Code and shall 59963
consist of combined topics related to long-term care insurance, 59964
long-term care services, and state long-term care insurance 59965
partnership programs, including all of the following: 59966

(1) State and federal regulations and requirements and the 59967
relationship between state long-term care insurance partnership 59968
programs and other public and private coverage of long-term care 59969
services, including medicaid; 59970

(2) Available long-term care services and providers; 59971

(3) Changes or improvements in long-term care services or 59972
providers; 59973

(4) Alternatives to the purchase of private long-term care 59974
insurance; 59975

(5) The effect of inflation on benefits and the importance of 59976
inflation protection; 59977

(6) Consumer suitability standards and guidelines; 59978

(7) Any other topics required by the superintendent. 59979

(C) The initial training and continuing education required by 59980
division (A) of this section shall not include training that is 59981
specific to a particular insurer or company product or that 59982
includes any sales or marketing information, materials, or 59983
training other than those required by state or federal law. 59984

(D) A resident agent shall satisfy the training and 59985
continuing education required by division (A) of this section by 59986
completing long-term care courses that are approved by the 59987
superintendent. A nonresident agent may satisfy the training and 59988

continuing education required by division (A) of this section by 59989
completing the training requirements in any other state, provided 59990
that the course is approved for credit by the insurance department 59991
of that state prior to the agent taking the course. 59992

(E) Each insurer shall obtain records of the initial training 59993
and continuing education completed by agents of that insurer 59994
pursuant to division (A) of this section as well as the training 59995
completed by the insurer's agents concerning the distribution of 59996
the insurer's partnership program policies and shall make those 59997
records available to the superintendent upon request. 59998

(F) Each insurer shall maintain records with respect to the 59999
training of its agents concerning the distribution of the 60000
insurer's partnership program policies. Each insurer shall provide 60001
documentation to the superintendent that will allow the 60002
superintendent to provide assurance to the medicaid director ~~of~~ 60003
~~job and family services~~ that agents have received the training 60004
required by this section and that agents have demonstrated an 60005
understanding of the partnership program policies and their 60006
relationship to public and private coverage of long-term care in 60007
this state, including medicaid. The superintendent may audit each 60008
insurer's records annually to verify that the insurer is 60009
maintaining the records required by this division. The 60010
superintendent shall make the records provided to the 60011
superintendent pursuant to division (E) of this section available 60012
to the director. 60013

Sec. 3923.49. The department of insurance shall establish an 60014
outreach program to educate consumers about the following: 60015

(A) The need for long-term care insurance; 60016

(B) Mechanisms for financing long-term care; 60017

(C) The availability of long-term care insurance; 60018

(D) The resource protection provided by the Ohio long-term care insurance program under section ~~5111.18~~ 5164.86 of the Revised Code; 60019
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(E) That a consumer who purchased a long-term care insurance policy that does not meet the requirements of section 3923.50 of the Revised Code may purchase a policy that meets those requirements. 60022
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The department shall develop and make available to consumers information to assist them in choosing long-term care insurance coverage. 60026
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Sec. 3923.50. For the purposes of the Ohio long-term care insurance program established under section ~~5111.18~~ 5164.86 of the Revised Code, the department of insurance shall notify the department of ~~job and family services~~ medicaid of all long-term care insurance policies that meet all of the following requirements: 60029
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(A) Comply with sections 3923.41 to 3923.48 of the Revised Code and the rules adopted under section 3923.47 of the Revised Code; 60035
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(B) Provide benefits for home and community-based services in addition to nursing home care; 60038
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(C) Include case management services in its coverage of home and community-based services; 60040
60041

(D) Provide five per cent inflation protection compounded annually; 60042
60043

(E) Provide for the keeping of records and explanation-of-benefit reports on insurance payments that count toward resource exclusion for the ~~medical assistance~~ medicaid program; 60044
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(F) Provide the information the medicaid director ~~of job and~~ 60048

~~family services~~ determines is necessary to document the extent of 60049
resource exclusion and to evaluate the Ohio long-term care 60050
insurance program; 60051

(G) Comply with other requirements established in rules 60052
adopted under this section. 60053

The superintendent of insurance shall adopt rules in 60054
accordance with Chapter 119. of the Revised Code establishing 60055
requirements under division (G) of this section that policies must 60056
meet to qualify under the Ohio long-term care insurance program. 60057
The superintendent shall consult with the departments of aging and 60058
~~job and family services~~ medicaid in adopting those rules. 60059

Sec. 3923.601. (A)(1) This section applies to both of the 60060
following: 60061

(a) A sickness and accident insurer that issues or requires 60062
the use of a standardized identification card or an electronic 60063
technology for submission and routing of prescription drug claims 60064
pursuant to a policy, contract, or agreement for health care 60065
services; 60066

(b) A person that a sickness and accident insurer contracts 60067
with to issue a standardized identification card or an electronic 60068
technology described in division (A)(1)(a) of this section. 60069

(2) Notwithstanding division (A)(1) of this section, this 60070
section does not apply to the issuance or required use of a 60071
standardized identification card or an electronic technology for 60072
the submission and routing of prescription drug claims in 60073
connection with any of the following: 60074

(a) Any individual or group policy of sickness and accident 60075
insurance covering only accident, credit, dental, disability 60076
income, long-term care, hospital indemnity, medicare supplement, 60077
medicare, tricare, specified disease, or vision care; coverage 60078

under a one-time-limited-duration policy of not longer than six 60079
months; coverage issued as a supplement to liability insurance; 60080
insurance arising out of workers' compensation or similar law; 60081
automobile medical payment insurance; or insurance under which 60082
benefits are payable with or without regard to fault and which is 60083
statutorily required to be contained in any liability insurance 60084
policy or equivalent self-insurance. 60085

(b) Coverage provided under the medicaid, ~~as defined in~~ 60086
~~section 5111.01 of the Revised Code~~ program. 60087

(c) Coverage provided under an employer's self-insurance plan 60088
or by any of its administrators, as defined in section 3959.01 of 60089
the Revised Code, to the extent that federal law supersedes, 60090
preempts, prohibits, or otherwise precludes the application of 60091
this section to the plan and its administrators. 60092

(B) A standardized identification card or an electronic 60093
technology issued or required to be used as provided in division 60094
(A)(1) of this section shall contain uniform prescription drug 60095
information in accordance with either division (B)(1) or (2) of 60096
this section. 60097

(1) The standardized identification card or the electronic 60098
technology shall be in a format and contain information fields 60099
approved by the national council for prescription drug programs or 60100
a successor organization, as specified in the council's or 60101
successor organization's pharmacy identification card 60102
implementation guide in effect on the first day of October most 60103
immediately preceding the issuance or required use of the 60104
standardized identification card or the electronic technology. 60105

(2) If the insurer or person under contract with the insurer 60106
to issue a standardized identification card or an electronic 60107
technology requires the information for the submission and routing 60108
of a claim, the standardized identification card or the electronic 60109

technology shall contain any of the following information: 60110

(a) The insurer's name; 60111

(b) The insured's name, group number, and identification 60112
number; 60113

(c) A telephone number to inquire about pharmacy-related 60114
issues; 60115

(d) The issuer's international identification number, labeled 60116
as "ANSI BIN" or "RxBIN"; 60117

(e) The processor's control number, labeled as "RxPCN"; 60118

(f) The insured's pharmacy benefits group number if different 60119
from the insured's medical group number, labeled as "RxGrp." 60120

(C) If the standardized identification card or the electronic 60121
technology issued or required to be used as provided in division 60122
(A)(1) of this section is also used for submission and routing of 60123
nonpharmacy claims, the designation "Rx" is required to be 60124
included as part of the labels identified in divisions (B)(2)(d) 60125
and (e) of this section if the issuer's international 60126
identification number or the processor's control number is 60127
different for medical and pharmacy claims. 60128

(D) Each sickness and accident insurer described in division 60129
(A) of this section shall annually file a certificate with the 60130
superintendent of insurance certifying that it or any person it 60131
contracts with to issue a standardized identification card or 60132
electronic technology for submission and routing of prescription 60133
drug claims complies with this section. 60134

(E)(1) Except as provided in division (E)(2) of this section, 60135
if there is a change in the information contained in the 60136
standardized identification card or the electronic technology 60137
issued to an insured, the insurer or person under contract with 60138
the insurer to issue a standardized identification card or an 60139

electronic technology shall issue a new card or electronic 60140
technology to the insured. 60141

(2) An insurer or person under contract with the insurer is 60142
not required under division (E)(1) of this section to issue a new 60143
card or electronic technology to an insured more than once during 60144
a twelve-month period. 60145

(F) Nothing in this section shall be construed as requiring 60146
an insurer to produce more than one standardized identification 60147
card or one electronic technology for use by insureds accessing 60148
health care benefits provided under a policy of sickness and 60149
accident insurance. 60150

Sec. 3923.83. (A)(1) This section applies to both of the 60151
following: 60152

(a) A public employee benefit plan that issues or requires 60153
the use of a standardized identification card or an electronic 60154
technology for submission and routing of prescription drug claims 60155
pursuant to a policy, contract, or agreement for health care 60156
services; 60157

(b) A person or entity that a public employee benefit plan 60158
contracts with to issue a standardized identification card or an 60159
electronic technology described in division (A)(1)(a) of this 60160
section. 60161

(2) Notwithstanding division (A)(1) of this section, this 60162
section does not apply to the issuance or required use of a 60163
standardized identification card or an electronic technology for 60164
the submission and routing of prescription drug claims in 60165
connection with either of the following: 60166

(a) Any individual or group policy of insurance covering only 60167
accident, credit, dental, disability income, long-term care, 60168
hospital indemnity, medicare supplement, medicare, tricare, 60169

specified disease, or vision care; coverage under a 60170
one-time-limited-duration policy of not longer than six months; 60171
coverage issued as a supplement to liability insurance; insurance 60172
arising out of workers' compensation or similar law; automobile 60173
medical payment insurance; or insurance under which benefits are 60174
payable with or without regard to fault and which is statutorily 60175
required to be contained in any liability insurance policy or 60176
equivalent self-insurance. 60177

(b) Coverage provided under the medicaid, ~~as defined in~~ 60178
~~section 5111.01 of the Revised Code~~ program. 60179

(B) A standardized identification card or an electronic 60180
technology issued or required to be used as provided in division 60181
(A)(1) of this section shall contain uniform prescription drug 60182
information in accordance with either division (B)(1) or (2) of 60183
this section. 60184

(1) The standardized identification card or the electronic 60185
technology shall be in a format and contain information fields 60186
approved by the national council for prescription drug programs or 60187
a successor organization, as specified in the council's or 60188
successor organization's pharmacy identification card 60189
implementation guide in effect on the first day of October most 60190
immediately preceding the issuance or required use of the 60191
standardized identification card or the electronic technology. 60192

(2) If the public employee benefit plan or person under 60193
contract with the plan to issue a standardized identification card 60194
or an electronic technology requires the information for the 60195
submission and routing of a claim, the standardized identification 60196
card or the electronic technology shall contain any of the 60197
following information: 60198

(a) The plan's name; 60199

(b) The insured's name, group number, and identification 60200

number; 60201

(c) A telephone number to inquire about pharmacy-related 60202
issues; 60203

(d) The issuer's international identification number, labeled 60204
as "ANSI BIN" or "RxBIN"; 60205

(e) The processor's control number, labeled as "RxPCN"; 60206

(f) The insured's pharmacy benefits group number if different 60207
from the insured's medical group number, labeled as "RxGrp." 60208

(C) If the standardized identification card or the electronic 60209
technology issued or required to be used as provided in division 60210
(A)(1) of this section is also used for submission and routing of 60211
nonpharmacy claims, the designation "Rx" is required to be 60212
included as part of the labels identified in divisions (B)(2)(d) 60213
and (e) of this section if the issuer's international 60214
identification number or the processor's control number is 60215
different for medical and pharmacy claims. 60216

(D)(1) Except as provided in division (D)(2) of this section, 60217
if there is a change in the information contained in the 60218
standardized identification card or the electronic technology 60219
issued to an insured, the public employee benefit plan or person 60220
under contract with the plan to issue a standardized 60221
identification card or electronic technology shall issue a new 60222
card or electronic technology to the insured. 60223

(2) A public employee benefit plan or person under contract 60224
with the plan is not required under division (D)(1) of this 60225
section to issue a new card or electronic technology to an insured 60226
more than once during a twelve-month period. 60227

~~(F)~~(E) Nothing in this section shall be construed as 60228
requiring a public employee benefit plan to produce more than one 60229
standardized identification card or one electronic technology for 60230

use by insureds accessing health care benefits provided under a 60231
health benefit plan. 60232

Sec. 3924.41. (A) As used in sections 3924.41 and 3924.42 of 60233
the Revised Code, "health insurer" means any sickness and accident 60234
insurer or health insuring corporation. "Health insurer" also 60235
includes any group health plan as defined in section 607 of the 60236
federal "Employee Retirement Income Security Act of 1974," 88 60237
Stat. 832, 29 U.S.C.A. 1167. 60238

(B) Notwithstanding any other provision of the Revised Code, 60239
no health insurer shall take into consideration the availability 60240
of, or eligibility for, ~~medical assistance~~ the medicaid program in 60241
this state ~~under Chapter 5111. of the Revised Code~~ or in any other 60242
state ~~pursuant to Title XIX of the "Social Security Act," 49 Stat.~~ 60243
~~620 (1935), 42 U.S.C.A. 301, as amended,~~ when determining an 60244
individual's eligibility for coverage or when making payments to 60245
or on behalf of an enrollee, subscriber, policyholder, or 60246
certificate holder. 60247

Sec. 3924.42. No health insurer shall impose requirements on 60248
the department of ~~job and family services~~ medicaid, when it has 60249
been assigned the rights of an individual who is eligible for 60250
~~medical assistance under Chapter 5111. of the Revised Code~~ 60251
medicaid and who is covered under a health care policy, contract, 60252
or plan issued by the health insurer, that are different from the 60253
requirements applicable to an agent or assignee of any other 60254
individual so covered. 60255

Sec. 3963.01. As used in this chapter: 60256

(A) "Affiliate" means any person or entity that has ownership 60257
or control of a contracting entity, is owned or controlled by a 60258
contracting entity, or is under common ownership or control with a 60259
contracting entity. 60260

(B) "Basic health care services" has the same meaning as in 60261
division (A) of section 1751.01 of the Revised Code, except that 60262
it does not include any services listed in that division that are 60263
provided by a pharmacist or nursing home. 60264

(C) "Contracting entity" means any person that has a primary 60265
business purpose of contracting with participating providers for 60266
the delivery of health care services. 60267

(D) "Credentialing" means the process of assessing and 60268
validating the qualifications of a provider applying to be 60269
approved by a contracting entity to provide basic health care 60270
services, specialty health care services, or supplemental health 60271
care services to enrollees. 60272

(E) "Edit" means adjusting one or more procedure codes billed 60273
by a participating provider on a claim for payment or a practice 60274
that results in any of the following: 60275

(1) Payment for some, but not all of the procedure codes 60276
originally billed by a participating provider; 60277

(2) Payment for a different procedure code than the procedure 60278
code originally billed by a participating provider; 60279

(3) A reduced payment as a result of services provided to an 60280
enrollee that are claimed under more than one procedure code on 60281
the same service date. 60282

(F) "Electronic claims transport" means to accept and 60283
digitize claims or to accept claims already digitized, to place 60284
those claims into a format that complies with the electronic 60285
transaction standards issued by the United States department of 60286
health and human services pursuant to the "Health Insurance 60287
Portability and Accountability Act of 1996," 110 Stat. 1996, 42 60288
U.S.C. 1320d, et seq., as those electronic standards are 60289
applicable to the parties and as those electronic standards are 60290
updated from time to time, and to electronically transmit those 60291

claims to the appropriate contracting entity, payer, or 60292
third-party administrator. 60293

(G) "Enrollee" means any person eligible for health care 60294
benefits under a health benefit plan, including an eligible 60295
recipient of medicaid ~~under Chapter 5111. of the Revised Code~~, and 60296
includes all of the following terms: 60297

(1) "Enrollee" and "subscriber" as defined by section 1751.01 60298
of the Revised Code; 60299

(2) "Member" as defined by section 1739.01 of the Revised 60300
Code; 60301

(3) "Insured" and "plan member" pursuant to Chapter 3923. of 60302
the Revised Code; 60303

(4) "Beneficiary" as defined by section 3901.38 of the 60304
Revised Code. 60305

(H) "Health care contract" means a contract entered into, 60306
materially amended, or renewed between a contracting entity and a 60307
participating provider for the delivery of basic health care 60308
services, specialty health care services, or supplemental health 60309
care services to enrollees. 60310

(I) "Health care services" means basic health care services, 60311
specialty health care services, and supplemental health care 60312
services. 60313

(J) "Material amendment" means an amendment to a health care 60314
contract that decreases the participating provider's payment or 60315
compensation, changes the administrative procedures in a way that 60316
may reasonably be expected to significantly increase the 60317
provider's administrative expenses, or adds a new product. A 60318
material amendment does not include any of the following: 60319

(1) A decrease in payment or compensation resulting solely 60320
from a change in a published fee schedule upon which the payment 60321

or compensation is based and the date of applicability is clearly identified in the contract;

(2) A decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;

(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability of which is clearly identified in the contract;

(4) Changes to an existing prior authorization, precertification, notification, or referral program that do not substantially increase the provider's administrative expense;

(5) Changes to an edit program or to specific edits if the participating provider is provided notice of the changes pursuant to division (A)(1) of section 3963.04 of the Revised Code and the notice includes information sufficient for the provider to determine the effect of the change;

(6) Changes to a health care contract described in division (B) of section 3963.04 of the Revised Code.

(K) "Participating provider" means a provider that has a health care contract with a contracting entity and is entitled to reimbursement for health care services rendered to an enrollee under the health care contract.

(L) "Payer" means any person that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services provided to enrollees by participating providers pursuant to a health care contract.

(M) "Primary enrollee" means a person who is responsible for making payments for participation in a health care plan or an enrollee whose employment or other status is the basis of

eligibility for enrollment in a health care plan. 60352

(N) "Procedure codes" includes the American medical 60353
association's current procedural terminology code, the American 60354
dental association's current dental terminology, and the centers 60355
for medicare and medicaid services health care common procedure 60356
coding system. 60357

(O) "Product" means one of the following types of categories 60358
of coverage for which a participating provider may be obligated to 60359
provide health care services pursuant to a health care contract: 60360

(1) A health maintenance organization or other product 60361
provided by a health insuring corporation; 60362

(2) A preferred provider organization; 60363

(3) Medicare; 60364

(4) Medicaid; 60365

(5) Workers' compensation. 60366

(P) "Provider" means a physician, podiatrist, dentist, 60367
chiropractor, optometrist, psychologist, physician assistant, 60368
advanced practice registered nurse, occupational therapist, 60369
massage therapist, physical therapist, professional counselor, 60370
professional clinical counselor, hearing aid dealer, orthotist, 60371
prosthetist, home health agency, hospice care program, pediatric 60372
respite care program, or hospital, or a provider organization or 60373
physician-hospital organization that is acting exclusively as an 60374
administrator on behalf of a provider to facilitate the provider's 60375
participation in health care contracts. "Provider" does not mean a 60376
pharmacist, pharmacy, nursing home, or a provider organization or 60377
physician-hospital organization that leases the provider 60378
organization's or physician-hospital organization's network to a 60379
third party or contracts directly with employers or health and 60380
welfare funds. 60381

(Q) "Specialty health care services" has the same meaning as 60382
in section 1751.01 of the Revised Code, except that it does not 60383
include any services listed in division (B) of section 1751.01 of 60384
the Revised Code that are provided by a pharmacist or a nursing 60385
home. 60386

(R) "Supplemental health care services" has the same meaning 60387
as in division (B) of section 1751.01 of the Revised Code, except 60388
that it does not include any services listed in that division that 60389
are provided by a pharmacist or nursing home. 60390

Sec. 3963.04. (A)(1) If an amendment to a health care 60391
contract is not a material amendment, the contracting entity shall 60392
provide the participating provider notice of the amendment at 60393
least fifteen days prior to the effective date of the amendment. 60394
The contracting entity shall provide all other notices to the 60395
participating provider pursuant to the health care contract. 60396

(2) A material amendment to a health care contract shall 60397
occur only if the contracting entity provides to the participating 60398
provider the material amendment in writing and notice of the 60399
material amendment not later than ninety days prior to the 60400
effective date of the material amendment. The notice shall be 60401
conspicuously entitled "Notice of Material Amendment to Contract." 60402

(3) If within fifteen days after receiving the material 60403
amendment and notice described in division (A)(2) of this section, 60404
the participating provider objects in writing to the material 60405
amendment, and there is no resolution of the objection, either 60406
party may terminate the health care contract upon written notice 60407
of termination provided to the other party not later than sixty 60408
days prior to the effective date of the material amendment. 60409

(4) If the participating provider does not object to the 60410
material amendment in the manner described in division (A)(3) of 60411
this section, the material amendment shall be effective as 60412

specified in the notice described in division (A)(2) of this section. 60413
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(B)(1) Division (A) of this section does not apply if the delay caused by compliance with that division could result in imminent harm to an enrollee, if the material amendment of a health care contract is required by state or federal law, rule, or regulation, or if the provider affirmatively accepts the material amendment in writing and agrees to an earlier effective date than otherwise required by division (A)(2) of this section. 60415
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(2) This section does not apply under any of the following circumstances: 60422
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(a) The participating provider's payment or compensation is based on the current medicaid or medicare physician fee schedule, and the change in payment or compensation results solely from a change in that physician fee schedule. 60424
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(b) A routine change or update of the health care contract is made in response to any addition, deletion, or revision of any service code, procedure code, or reporting code, or a pricing change is made by any third party source. 60428
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For purposes of division (B)(2)(b) of this section: 60432

(i) "Service code, procedure code, or reporting code" means the current procedural terminology (CPT), current dental terminology (CDT), the healthcare common procedure coding system (HCPCS), the international classification of diseases (ICD), or the drug topics redbook average wholesale price (AWP). 60433
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(ii) "Third party source" means the American medical association, American dental association, the centers for medicare and medicaid services, the national center for health statistics, the department of health and human services office of the inspector general, the Ohio department of insurance, or the Ohio department of ~~job and family services~~ medicaid. 60438
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(C) Notwithstanding divisions (A) and (B) of this section, a health care contract may be amended by operation of law as required by any applicable state or federal law, rule, or regulation. Nothing in this section shall be construed to require the renegotiation of a health care contract that is in existence before ~~the effective date of this section~~ June 25, 2008, until the time that the contract is renewed or materially amended.

Sec. 4104.33. There is hereby created the historical boilers licensing board consisting of seven members, three of whom shall be appointed by the governor with the advice and consent of the senate. The governor shall make initial appointments to the board within ninety days after October 24, 2002. Of the initial members appointed by the governor, one shall be for a term ending three years after October 24, 2002, one shall be for a term ending four years after October 24, 2002, and one shall be for a term ending five years after October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term that it succeeds. Of the three members the governor appoints, one member shall be an employee of the division of boiler inspection in the department of commerce; one member shall be an independent mechanical engineer who is not involved in selling or inspecting historical boilers; and one shall be an active member of an association that represents managers of fairs or festivals.

Two members of the board shall be appointed by the president of the senate and two members of the board shall be appointed by the speaker of the house of representatives. The president and speaker shall make initial appointments to the board within ninety days after October 24, 2002. Of the initial members appointed by the president, one shall be for a term ending four years after October 24, 2002 and one shall be for a term ending five years after October 24, 2002. Of the initial members appointed by the

speaker, one shall be for a term ending three years after October 60476
24, 2002 and one shall be for a term ending five years after 60477
October 24, 2002. Thereafter, terms of office shall be for five 60478
years, each term ending on the same day of the same month of the 60479
year as did the term that it succeeds. Of the four members 60480
appointed by the president and speaker, each shall own a 60481
historical boiler and also have at least ten years of experience 60482
in the operation of historical boilers, and each of these four 60483
members shall reside in a different region of the state. 60484

Each member shall hold office from the date of the member's 60485
appointment until the end of the term for which the member was 60486
appointed. Members may be reappointed. Vacancies shall be filled 60487
~~in the manner provided for initial appointments by the director of~~ 60488
commerce, and shall not require the advice and consent of the 60489
senate. Any member appointed to fill a vacancy occurring prior to 60490
the expiration date of the term for which the member's predecessor 60491
was appointed shall hold office as a member for the remainder of 60492
that term. A member shall continue in office subsequent to the 60493
expiration date of the member's term until the successor takes 60494
office or until a period of sixty days has elapsed, whichever 60495
occurs first. 60496

The members of the board, annually, shall elect, by majority 60497
vote, a chairperson from among their members. The board shall meet 60498
at least once annually and at other times at the call of the 60499
chairperson. Board members shall receive their actual and 60500
necessary expenses incurred in the discharge of their duties as 60501
board members. 60502

The superintendent of industrial compliance shall furnish 60503
office space, staff, and supplies to the board as the 60504
superintendent determines are necessary for the board to carry out 60505
its official duties under sections 4104.33 to 4104.37 of the 60506
Revised Code. 60507

Sec. 4112.01. (A) As used in this chapter: 60508

(1) "Person" includes one or more individuals, partnerships, 60509
associations, organizations, corporations, legal representatives, 60510
trustees, trustees in bankruptcy, receivers, and other organized 60511
groups of persons. "Person" also includes, but is not limited to, 60512
any owner, lessor, assignor, builder, manager, broker, 60513
salesperson, appraiser, agent, employee, lending institution, and 60514
the state and all political subdivisions, authorities, agencies, 60515
boards, and commissions of the state. 60516

(2) "Employer" includes the state, any political subdivision 60517
of the state, any person employing four or more persons within the 60518
state, and any person acting directly or indirectly in the 60519
interest of an employer, but shall not include a religious 60520
corporation, association, educational institution, or society with 60521
respect to the employment of individuals of a particular religion 60522
to perform work connected with the carrying on by such 60523
corporation, association, educational institution, or society. 60524

(3) "Employee" means an individual employed by any employer 60525
but does not include any individual employed in the domestic 60526
service of any person. 60527

(4) "Labor organization" includes any organization that 60528
exists, in whole or in part, for the purpose of collective 60529
bargaining or of dealing with employers concerning grievances, 60530
terms or conditions of employment, or other mutual aid or 60531
protection in relation to employment. 60532

(5) "Employment agency" includes any person regularly 60533
undertaking, with or without compensation, to procure 60534
opportunities to work or to procure, recruit, refer, or place 60535
employees. 60536

(6) "Commission" means the Ohio civil rights commission 60537

created by section 4112.03 of the Revised Code. 60538

(7) "Discriminate" includes segregate or separate. 60539

(8) "Unlawful discriminatory practice" means any act 60540
prohibited by section 4112.02, 4112.021, or 4112.022 of the 60541
Revised Code. 60542

(9) "Place of public accommodation" means any inn, 60543
restaurant, eating house, barbershop, public conveyance by air, 60544
land, or water, theater, store, other place for the sale of 60545
merchandise, or any other place of public accommodation or 60546
amusement of which the accommodations, advantages, facilities, or 60547
privileges are available to the public. 60548

(10) "Housing accommodations" includes any building or 60549
structure, or portion of a building or structure, that is used or 60550
occupied or is intended, arranged, or designed to be used or 60551
occupied as the home residence, dwelling, dwelling unit, or 60552
sleeping place of one or more individuals, groups, or families 60553
whether or not living independently of each other; and any vacant 60554
land offered for sale or lease. "Housing accommodations" also 60555
includes any housing accommodations held or offered for sale or 60556
rent by a real estate broker, salesperson, or agent, by any other 60557
person pursuant to authorization of the owner, by the owner, or by 60558
the owner's legal representative. 60559

(11) "Restrictive covenant" means any specification limiting 60560
the transfer, rental, lease, or other use of any housing 60561
accommodations because of race, color, religion, sex, military 60562
status, familial status, national origin, disability, or ancestry, 60563
or any limitation based upon affiliation with or approval by any 60564
person, directly or indirectly, employing race, color, religion, 60565
sex, military status, familial status, national origin, 60566
disability, or ancestry as a condition of affiliation or approval. 60567

(12) "Burial lot" means any lot for the burial of deceased 60568

persons within any public burial ground or cemetery, including, 60569
but not limited to, cemeteries owned and operated by municipal 60570
corporations, townships, or companies or associations incorporated 60571
for cemetery purposes. 60572

(13) "Disability" means a physical or mental impairment that 60573
substantially limits one or more major life activities, including 60574
the functions of caring for one's self, performing manual tasks, 60575
walking, seeing, hearing, speaking, breathing, learning, and 60576
working; a record of a physical or mental impairment; or being 60577
regarded as having a physical or mental impairment. 60578

(14) Except as otherwise provided in section 4112.021 of the 60579
Revised Code, "age" means at least forty years old. 60580

(15) "Familial status" means either of the following: 60581

(a) One or more individuals who are under eighteen years of 60582
age and who are domiciled with a parent or guardian having legal 60583
custody of the individual or domiciled, with the written 60584
permission of the parent or guardian having legal custody, with a 60585
designee of the parent or guardian; 60586

(b) Any person who is pregnant or in the process of securing 60587
legal custody of any individual who is under eighteen years of 60588
age. 60589

(16)(a) Except as provided in division (A)(16)(b) of this 60590
section, "physical or mental impairment" includes any of the 60591
following: 60592

(i) Any physiological disorder or condition, cosmetic 60593
disfigurement, or anatomical loss affecting one or more of the 60594
following body systems: neurological; musculoskeletal; special 60595
sense organs; respiratory, including speech organs; 60596
cardiovascular; reproductive; digestive; genito-urinary; hemic and 60597
lymphatic; skin; and endocrine; 60598

(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; 60599
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(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism. 60602
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(b) "Physical or mental impairment" does not include any of the following: 60608
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(i) Homosexuality and bisexuality; 60610

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders; 60611
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(iii) Compulsive gambling, kleptomania, or pyromania; 60614

(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages. 60615
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(17) "Dwelling unit" means a single unit of residence for a family of one or more persons. 60618
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(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings. 60620
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(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public. 60626
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(20) "Controlled substance" has the same meaning as in 60629
section 3719.01 of the Revised Code. 60630

(21) "Disabled tenant" means a tenant or prospective tenant 60631
who is a person with a disability. 60632

(22) "Military status" means a person's status in "service in 60633
the uniformed services" as defined in section 5923.05 of the 60634
Revised Code. 60635

(23) "Aggrieved person" includes both of the following: 60636

(a) Any person who claims to have been injured by any 60637
unlawful discriminatory practice described in division (H) of 60638
section 4112.02 of the Revised Code; 60639

(b) Any person who believes that the person will be injured 60640
by, any unlawful discriminatory practice described in division (H) 60641
of section 4112.02 of the Revised Code that is about to occur. 60642

(B) For the purposes of divisions (A) to (F) of section 60643
4112.02 of the Revised Code, the terms "because of sex" and "on 60644
the basis of sex" include, but are not limited to, because of or 60645
on the basis of pregnancy, any illness arising out of and 60646
occurring during the course of a pregnancy, childbirth, or related 60647
medical conditions. Women affected by pregnancy, childbirth, or 60648
related medical conditions shall be treated the same for all 60649
employment-related purposes, including receipt of benefits under 60650
fringe benefit programs, as other persons not so affected but 60651
similar in their ability or inability to work, and nothing in 60652
division (B) of section 4111.17 of the Revised Code shall be 60653
interpreted to permit otherwise. This division shall not be 60654
construed to require an employer to pay for health insurance 60655
benefits for abortion, except where the life of the mother would 60656
be endangered if the fetus were carried to term or except where 60657
medical complications have arisen from the abortion, provided that 60658
nothing in this division precludes an employer from providing 60659

abortion benefits or otherwise affects bargaining agreements in 60660
regard to abortion. 60661

Sec. 4112.12. (A) There is hereby created the commission on 60662
African-American males, which shall consist of not more than 60663
twenty-five members as follows: the directors or their designees 60664
of the departments of health, development, ~~alcohol and drug~~ 60665
~~addiction services~~ mental health and addiction services, and job 60666
and family services; the equal employment opportunity officer of 60667
the department of administrative services or the equal employment 60668
opportunity officer's designee; the executive director or the 60669
executive director's designee of the Ohio civil rights commission; 60670
the executive director or the executive director's designee of the 60671
division of criminal justice services in the department of public 60672
safety; the superintendent of public instruction; the chancellor 60673
or the chancellor's designee of the Ohio board of regents; two 60674
members of the house of representatives appointed by the speaker 60675
of the house of representatives each of whom shall be members of 60676
different political parties; and two members of the senate 60677
appointed by the president of the senate each of whom shall be 60678
members of different political parties. The members who are 60679
members of the general assembly shall be nonvoting members. The 60680
Ohio state university African American and African studies 60681
community extension center, in consultation with the governor, 60682
shall appoint four members from the private corporate sector, at 60683
least four members from the public sector, and two members from 60684
the nonprofit sector. 60685

(B) Terms of office shall be for three years, except that 60686
members of the general assembly appointed to the commission shall 60687
be members only so long as they are members of the general 60688
assembly. Each term ends on the same day of the same month as did 60689
the term that it succeeds. Each member shall hold office from the 60690
date of appointment until the end of the term for which the member 60691

was appointed. Members may be reappointed. Vacancies shall be 60692
filled in the manner provided for original appointments. Any 60693
member appointed to fill a vacancy occurring prior to the 60694
expiration date of the term for which the member's predecessor was 60695
appointed shall hold office as a member for the remainder of that 60696
term. A member shall continue in office subsequent to the 60697
expiration date of the member's term until the member's successor 60698
takes office or until a period of sixty days has elapsed, 60699
whichever occurs first. 60700

The commission annually shall elect a chairperson from among 60701
its members. 60702

(C) Members of the commission and members of subcommittees 60703
appointed under division (B) of section 4112.13 of the Revised 60704
Code shall not be compensated, but shall be reimbursed for their 60705
necessary and actual expenses incurred in the performance of their 60706
official duties. 60707

(D) The Ohio state university African American and African 60708
studies community extension center, in consultation with the 60709
governor, shall appoint an executive director of the commission on 60710
African-American males, who shall be in the unclassified civil 60711
service. The executive director shall supervise the commission's 60712
activities and report to the commission and to the Ohio state 60713
university African American and African studies community 60714
extension center on the progress of those activities. The 60715
executive director shall do all things necessary for the efficient 60716
and effective implementation of the duties of the commission. 60717

The responsibilities assigned to the executive director do 60718
not relieve the members of the commission from final 60719
responsibility for the proper performance of the requirements of 60720
this division. 60721

(E) The commission on African-American males shall do all of 60722

the following: 60723

(1) Employ, promote, supervise, and remove all employees, as 60724
needed, in connection with the performance of its duties under 60725
this section; 60726

(2) Maintain its office in Columbus; 60727

(3) Acquire facilities, equipment, and supplies necessary to 60728
house the commission, its employees, and files and records under 60729
its control, and to discharge any duty imposed upon it by law. The 60730
expense of these acquisitions shall be audited and paid for in the 60731
same manner as other state expenses. 60732

(4) Establish the overall policy and management of the 60733
commission in accordance with this chapter; 60734

(5) Follow all state procurement requirements; 60735

(6) Implement the policies and plans of the Ohio state 60736
university African American and African studies community 60737
extension center as those policies and plans are formulated and 60738
adopted by the Ohio state university African American and African 60739
studies community extension center; 60740

(7) Report to the Ohio state university African American and 60741
African studies community extension center on the progress of the 60742
commission on African-American males in implementing the policies 60743
and plans of the Ohio state university African American and 60744
African studies community extension center. 60745

(F) The commission on African-American males may: 60746

(1) Hold sessions at any place within the state, except that 60747
the commission on African-American males shall meet at least 60748
quarterly; 60749

(2) Establish, change, or abolish positions, and assign and 60750
reassign duties and responsibilities of any employee of the 60751
commission on African-American males as necessary to achieve the 60752

most efficient performance of its functions. 60753

(G) The Ohio state university African American and African 60754
studies community extension center shall establish the overall 60755
policy and management of the commission on African-American males 60756
and shall direct, manage, and oversee the commission. The Ohio 60757
state university African American and African studies community 60758
extension center shall develop overall policies and plans, and the 60759
commission on African-American males shall implement those 60760
policies and plans. The commission on African-American males, 60761
through its executive director, shall keep the Ohio state 60762
university African American and African studies community 60763
extension center informed as to the activities of the commission 60764
on African-American males in such manner and at such times as the 60765
Ohio state university African American and African studies 60766
community extension center shall determine. 60767

The Ohio state university African American and African 60768
studies community extension center may prescribe duties and 60769
responsibilities of the commission on African-American males in 60770
addition to those prescribed in section 4112.13 of the Revised 60771
Code. 60772

(H) The Ohio state university African American and African 60773
studies community extension center annually shall contract for a 60774
report on the status of African Americans in this state. Issues to 60775
be evaluated in the report shall include the criminal justice 60776
system, education, employment, health care, and housing, and such 60777
other issues as the Ohio state university African American and 60778
African studies community extension center may specify. The report 60779
shall include policy recommendations relating to the issues 60780
covered in the report. 60781

Sec. 4112.31. The new African immigrants commission shall do 60782
all of the following: 60783

- (A) Gather and disseminate information and conduct hearings, conferences, investigations, and special studies on problems and programs concerning sub-Saharan African people; 60784
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- (B) Secure appropriate recognition of the accomplishments and contributions of sub-Saharan African people to this state; 60787
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- (C) Stimulate public awareness of the problems of sub-Saharan African people by conducting a program of public education; 60789
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- (D) Develop, coordinate, and assist other public and private organizations that serve sub-Saharan African people, including the conducting of training programs for community leadership and service project staff; 60791
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- (E) Advise the governor, general assembly, and state departments and agencies of the nature, magnitude, and priorities of the problems of sub-Saharan African people; 60795
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- (F) Advise the governor, general assembly, and state departments and agencies on, and assist in the development and implementation of, comprehensive and coordinated policies, programs, and procedures focusing on the special problems and needs of sub-Saharan African people, especially in the fields of education, employment, energy, health, housing, welfare, and recreation; 60798
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- (G) Propose new programs concerning sub-Saharan African people to public and private agencies and evaluate for such agencies existing programs or prospective legislation concerning sub-Saharan African people; 60805
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- (H) Review and approve grants to be made from federal, state, or private funds that are administered or subcontracted by the commission; 60809
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- (I) Prepare, review, and approve an annual report; 60812
- (J) Serve as a clearinghouse to review and comment on all 60813

proposals to meet the needs of sub-Saharan African people that are 60814
submitted to it by public and private agencies; 60815

(K) Apply for and accept grants and gifts from governmental 60816
and private sources to be administered by the commission or 60817
subcontracted to local agencies; 60818

(L) Monitor and evaluate all programs subcontracted to local 60819
agencies by the commission; 60820

(M) Endeavor to assure that sub-Saharan African people have 60821
access to decision-making bodies in all state and local 60822
governmental departments and agencies; 60823

(N) Establish advisory committees on special subjects as 60824
needed to facilitate and maximize community participation in the 60825
operation of the commission; 60826

(O) Establish with state and local governments and private 60827
business and industry relationships that promote and assure equal 60828
opportunity for sub-Saharan African people in government, 60829
education, and employment. 60830

(P) Create an interagency council consisting of the following 60831
persons or their authorized representatives: one member of the 60832
senate appointed by the president of the senate; one member of the 60833
house of representatives appointed by the speaker of the house of 60834
representatives; the directors of administrative services, 60835
agriculture, education, development services, health, highway 60836
safety, job and family services, liquor control, ~~mental health~~ 60837
mental health and addiction services, ~~mental retardation~~ and 60838
developmental disabilities, natural resources, rehabilitation and 60839
correction, youth services, transportation, environmental 60840
protection, and budget and management; the chairperson of the Ohio 60841
civil rights commission, the administrators of the bureau of 60842
workers' compensation and the rehabilitation services commission, 60843
and an additional member of the governor's cabinet appointed by 60844

the governor. The new African immigrants commission, by rule, may 60845
designate other state officers or their representatives to be 60846
members of the council. The director of the commission shall be 60847
the chairperson of the council. 60848

The interagency council shall provide and coordinate the 60849
exchange of information relative to the needs of sub-Saharan 60850
African people and promote the delivery of state services to such 60851
people. The council shall meet at the call of the chairperson. 60852

Advisory committees shall be composed of persons representing 60853
community organizations and charitable institutions, public 60854
officials, and such other persons as the commission determines. 60855

Sec. 4115.034. On January 1, 1996, and the first day of 60856
January of every even-numbered year thereafter, the director of 60857
commerce shall adjust the threshold levels for which public 60858
improvement projects are subject to sections 4115.03 to 4115.16 of 60859
the Revised Code as set forth in divisions (B)(3) and (4) of 60860
section 4115.03 of the Revised Code. The director shall adjust 60861
those amounts according to the average increase or decrease for 60862
each of the two years immediately preceding the adjustment as set 60863
forth in ~~the United States department of commerce, bureau of the~~ 60864
~~census implicit price deflator for~~ the construction cost index 60865
published by the engineering news-record or, should that index 60866
cease to be published, a similar recognized industry index chosen 60867
by the director, provided that no increase or decrease for any 60868
year shall exceed three per cent of the threshold level in 60869
existence at the time of the adjustment. 60870

Sec. 4115.32. (A) Subject to section 4115.36 of the Revised 60871
Code, there is hereby created the state committee for the purchase 60872
of products and services provided by persons with severe 60873
disabilities. The committee shall be composed ex officio of the 60874

following persons, or their designees: 60875

(1) The directors of administrative services, ~~mental health~~ 60876
mental health and addiction services, developmental disabilities, 60877
transportation, natural resources, and commerce; 60878

(2) The administrators of the rehabilitation services 60879
commission and the bureau of workers' compensation; 60880

(3) The secretary of state; 60881

(4) One representative of a purchasing department of a 60882
political subdivision who is designated by the governor. 60883

The governor shall appoint two representatives of a qualified 60884
nonprofit agency for persons with severe disabilities, and a 60885
person with a severe disability to the committee. 60886

(B) Within thirty days after September 29, 1995, the governor 60887
shall appoint the representatives of a qualified nonprofit agency 60888
for persons with severe disabilities to the committee for a term 60889
ending August 31, 1996. Thereafter, terms for such representatives 60890
are for three years, each term ending on the same day of the same 60891
month of the year as did the term that it succeeds. Each committee 60892
member shall serve from the date of the member's appointment until 60893
the end of the term for which the member was appointed. Vacancies 60894
shall be filled in the same manner provided for original 60895
appointments. Any member appointed to fill a vacancy occurring 60896
prior to the expiration date of the term for which the member's 60897
predecessor was appointed shall serve as a member for the 60898
remainder of that term. A member shall serve subsequent to the 60899
expiration of the member's term and shall continue to serve until 60900
the member's successor takes office. 60901

(C) Members of the committee shall serve without 60902
compensation. Except as otherwise provided in divisions (C)(1) and 60903
(2) of this section, members shall be reimbursed for actual and 60904
necessary expenses, including travel expenses, incurred while away 60905

from their homes or regular places of business and incurred while 60906
performing services for the committee. 60907

(1) The members listed in divisions (A)(1) to (3) of this 60908
section, or their designees, shall not be reimbursed for any 60909
expenses. 60910

(2) No member of the committee who is entitled to receive 60911
reimbursement for the performance of services for the committee 60912
from another agency or entity shall receive reimbursement from the 60913
committee. 60914

(D) The committee shall elect from among its members a 60915
chairperson. The committee may request from any agency of the 60916
state, political subdivision, or instrumentality of the state any 60917
information necessary to enable it to carry out the intent of 60918
sections 4115.31 to 4115.35 of the Revised Code. Upon request of 60919
the committee, the agency, subdivision, or instrumentality shall 60920
furnish the information to the chairperson of the committee. 60921

(E) The committee shall not later than one hundred eighty 60922
days following the close of each fiscal year transmit to the 60923
governor, the general assembly, and each qualified nonprofit 60924
agency for persons with severe disabilities a report that includes 60925
the names of the committee members serving during the preceding 60926
fiscal year, the dates of committee meetings in that year, and any 60927
recommendations for changes in sections 4115.31 to 4115.35 of the 60928
Revised Code that the committee determines are necessary. 60929

(F) The director of administrative services shall designate a 60930
subordinate to act as executive director of the committee and 60931
shall furnish other staff and clerical assistance, office space, 60932
and supplies required by the committee. 60933

Sec. 4117.06. (A) The state employment relations board shall 60934
decide in each case the unit appropriate for the purposes of 60935

collective bargaining. The determination is final and conclusive 60936
and not appealable to the court. 60937

(B) The board shall determine the appropriateness of each 60938
bargaining unit and shall consider among other relevant factors: 60939
the desires of the employees; the community of interest; wages, 60940
hours, and other working conditions of the public employees; the 60941
effect of over-fragmentation; the efficiency of operations of the 60942
public employer; the administrative structure of the public 60943
employer; and the history of collective bargaining. 60944

(C) The board may determine a unit to be the appropriate unit 60945
in a particular case, even though some other unit might also be 60946
appropriate. 60947

(D) In addition, in determining the appropriate unit, the 60948
board shall not: 60949

(1) Decide that any unit is appropriate if the unit includes 60950
both professional and nonprofessional employees, unless a majority 60951
of the professional employees and a majority of the 60952
nonprofessional employees first vote for inclusion in the unit; 60953

(2) Include guards or correction officers at correctional or 60954
mental institutions, special police officers appointed in 60955
accordance with sections ~~5119.14~~ 5119.08 and 5123.13 of the 60956
Revised Code, psychiatric attendants employed at mental health 60957
forensic facilities, youth leaders employed at juvenile correction 60958
facilities, or any public employee employed as a guard to enforce 60959
against other employees rules to protect property of the employer 60960
or to protect the safety of persons on the employer's premises in 60961
a unit with other employees; 60962

(3) Include members of a police or fire department or members 60963
of the state highway patrol in a unit with other classifications 60964
of public employees of the department; 60965

(4) Designate as appropriate a bargaining unit that contains 60966

more than one institution of higher education; nor shall it within 60967
any such institution of higher education designate as appropriate 60968
a unit where such designation would be inconsistent with the 60969
accreditation standards or interpretations of such standards, 60970
governing such institution of higher education or any department, 60971
school, or college thereof. For the purposes of this division, any 60972
branch or regional campus of a public institution of higher 60973
education is part of that institution of higher education. 60974

(5) Designate as appropriate a bargaining unit that contains 60975
employees within the jurisdiction of more than one elected county 60976
office holder, unless the county-elected office holder and the 60977
board of county commissioners agree to such other designation; 60978

(6) With respect to members of a police department, designate 60979
as appropriate a unit that includes rank and file members of the 60980
department with members who are of the rank of sergeant or above; 60981

(7) Except as otherwise provided by division (A)(3) of 60982
section 3314.10 or division (B) of section 3326.18 of the Revised 60983
Code, designate as appropriate a bargaining unit that contains 60984
employees from multiple community schools established under 60985
Chapter 3314. or multiple science, technology, engineering, and 60986
mathematics schools established under Chapter 3326. of the Revised 60987
Code. For purposes of this division, more than one unit may be 60988
designated within a single community school or science, 60989
technology, engineering, and mathematics school. 60990

This section shall not be deemed to prohibit multiunit 60991
bargaining. 60992

Sec. 4117.14. (A) The procedures contained in this section 60993
govern the settlement of disputes between an exclusive 60994
representative and a public employer concerning the termination or 60995
modification of an existing collective bargaining agreement or 60996
negotiation of a successor agreement, or the negotiation of an 60997

initial collective bargaining agreement. 60998

(B)(1) In those cases where there exists a collective 60999
bargaining agreement, any public employer or exclusive 61000
representative desiring to terminate, modify, or negotiate a 61001
successor collective bargaining agreement shall: 61002

(a) Serve written notice upon the other party of the proposed 61003
termination, modification, or successor agreement. The party must 61004
serve the notice not less than sixty days prior to the expiration 61005
date of the existing agreement or, in the event the existing 61006
collective bargaining agreement does not contain an expiration 61007
date, not less than sixty days prior to the time it is proposed to 61008
make the termination or modifications or to make effective a 61009
successor agreement. 61010

(b) Offer to bargain collectively with the other party for 61011
the purpose of modifying or terminating any existing agreement or 61012
negotiating a successor agreement; 61013

(c) Notify the state employment relations board of the offer 61014
by serving upon the board a copy of the written notice to the 61015
other party and a copy of the existing collective bargaining 61016
agreement. 61017

(2) In the case of initial negotiations between a public 61018
employer and an exclusive representative, where a collective 61019
bargaining agreement has not been in effect between the parties, 61020
any party may serve notice upon the board and the other party 61021
setting forth the names and addresses of the parties and offering 61022
to meet, for a period of ninety days, with the other party for the 61023
purpose of negotiating a collective bargaining agreement. 61024

If the settlement procedures specified in divisions (B), (C), 61025
and (D) of this section govern the parties, where those procedures 61026
refer to the expiration of a collective bargaining agreement, it 61027
means the expiration of the sixty-day period to negotiate a 61028

collective bargaining agreement referred to in this subdivision, 61029
or in the case of initial negotiations, it means the ninety-day 61030
period referred to in this subdivision. 61031

(3) The parties shall continue in full force and effect all 61032
the terms and conditions of any existing collective bargaining 61033
agreement, without resort to strike or lock-out, for a period of 61034
sixty days after the party gives notice or until the expiration 61035
date of the collective bargaining agreement, whichever occurs 61036
later, or for a period of ninety days where applicable. 61037

(4) Upon receipt of the notice, the parties shall enter into 61038
collective bargaining. 61039

(C) In the event the parties are unable to reach an 61040
agreement, they may submit, at any time prior to forty-five days 61041
before the expiration date of the collective bargaining agreement, 61042
the issues in dispute to any mutually agreed upon dispute 61043
settlement procedure which supersedes the procedures contained in 61044
this section. 61045

(1) The procedures may include: 61046

(a) Conventional arbitration of all unsettled issues; 61047

(b) Arbitration confined to a choice between the last offer 61048
of each party to the agreement as a single package; 61049

(c) Arbitration confined to a choice of the last offer of 61050
each party to the agreement on each issue submitted; 61051

(d) The procedures described in division (C)(1)(a), (b), or 61052
(c) of this section and including among the choices for the 61053
arbitrator, the recommendations of the fact finder, if there are 61054
recommendations, either as a single package or on each issue 61055
submitted; 61056

(e) Settlement by a citizens' conciliation council composed 61057
of three residents within the jurisdiction of the public employer. 61058

The public employer shall select one member and the exclusive
representative shall select one member. The two members selected
shall select the third member who shall chair the council. If the
two members cannot agree upon a third member within five days
after their appointments, the board shall appoint the third
member. Once appointed, the council shall make a final settlement
of the issues submitted to it pursuant to division (G) of this
section.

(f) Any other dispute settlement procedure mutually agreed to
by the parties.

(2) If, fifty days before the expiration date of the
collective bargaining agreement, the parties are unable to reach
an agreement, any party may request the state employment relations
board to intervene. The request shall set forth the names and
addresses of the parties, the issues involved, and, if applicable,
the expiration date of any agreement.

The board shall intervene and investigate the dispute to
determine whether the parties have engaged in collective
bargaining.

If an impasse exists or forty-five days before the expiration
date of the collective bargaining agreement if one exists, the
board shall appoint a mediator to assist the parties in the
collective bargaining process.

(3) Any time after the appointment of a mediator, either
party may request the appointment of a fact-finding panel. Within
fifteen days after receipt of a request for a fact-finding panel,
the board shall appoint a fact-finding panel of not more than
three members who have been selected by the parties in accordance
with rules established by the board, from a list of qualified
persons maintained by the board.

(a) The fact-finding panel shall, in accordance with rules

and procedures established by the board that include the 61090
regulation of costs and expenses of fact-finding, gather facts and 61091
make recommendations for the resolution of the matter. The board 61092
shall by its rules require each party to specify in writing the 61093
unresolved issues and its position on each issue to the 61094
fact-finding panel. The fact-finding panel shall make final 61095
recommendations as to all the unresolved issues. 61096

(b) The board may continue mediation, order the parties to 61097
engage in collective bargaining until the expiration date of the 61098
agreement, or both. 61099

(4) The following guidelines apply to fact-finding: 61100

(a) The fact-finding panel may establish times and place of 61101
hearings which shall be, where feasible, in the jurisdiction of 61102
the state. 61103

(b) The fact-finding panel shall conduct the hearing pursuant 61104
to rules established by the board. 61105

(c) Upon request of the fact-finding panel, the board shall 61106
issue subpoenas for hearings conducted by the panel. 61107

(d) The fact-finding panel may administer oaths. 61108

(e) The board shall prescribe guidelines for the fact-finding 61109
panel to follow in making findings. In making its recommendations, 61110
the fact-finding panel shall take into consideration the factors 61111
listed in divisions (G)(7)(a) to (f) of this section. 61112

(f) The fact-finding panel may attempt mediation at any time 61113
during the fact-finding process. From the time of appointment 61114
until the fact-finding panel makes a final recommendation, it 61115
shall not discuss the recommendations for settlement of the 61116
dispute with parties other than the direct parties to the dispute. 61117

(5) The fact-finding panel, acting by a majority of its 61118
members, shall transmit its findings of fact and recommendations 61119

on the unresolved issues to the public employer and employee 61120
organization involved and to the board no later than fourteen days 61121
after the appointment of the fact-finding panel, unless the 61122
parties mutually agree to an extension. The parties shall share 61123
the cost of the fact-finding panel in a manner agreed to by the 61124
parties. 61125

(6)(a) Not later than seven days after the findings and 61126
recommendations are sent, the legislative body, by a three-fifths 61127
vote of its total membership, and in the case of the public 61128
employee organization, the membership, by a three-fifths vote of 61129
the total membership, may reject the recommendations; if neither 61130
rejects the recommendations, the recommendations shall be deemed 61131
agreed upon as the final resolution of the issues submitted and a 61132
collective bargaining agreement shall be executed between the 61133
parties, including the fact-finding panel's recommendations, 61134
except as otherwise modified by the parties by mutual agreement. 61135
If either the legislative body or the public employee organization 61136
rejects the recommendations, the board shall publicize the 61137
findings of fact and recommendations of the fact-finding panel. 61138
The board shall adopt rules governing the procedures and methods 61139
for public employees to vote on the recommendations of the 61140
fact-finding panel. 61141

(b) As used in division (C)(6)(a) of this section, 61142
"legislative body" means the controlling board when the state or 61143
any of its agencies, authorities, commissions, boards, or other 61144
branch of public employment is party to the fact-finding process. 61145

(D) If the parties are unable to reach agreement within seven 61146
days after the publication of findings and recommendations from 61147
the fact-finding panel or the collective bargaining agreement, if 61148
one exists, has expired, then the: 61149

(1) Public employees, who are members of a police or fire 61150
department, members of the state highway patrol, deputy sheriffs, 61151

dispatchers employed by a police, fire, or sheriff's department or 61152
the state highway patrol or civilian dispatchers employed by a 61153
public employer other than a police, fire, or sheriff's department 61154
to dispatch police, fire, sheriff's department, or emergency 61155
medical or rescue personnel and units, an exclusive nurse's unit, 61156
employees of the state school for the deaf or the state school for 61157
the blind, employees of any public employee retirement system, 61158
corrections officers, guards at penal or mental institutions, 61159
special police officers appointed in accordance with sections 61160
~~5119.14~~ 5119.08 and 5123.13 of the Revised Code, psychiatric 61161
attendants employed at mental health forensic facilities, youth 61162
leaders employed at juvenile correctional facilities, or members 61163
of a law enforcement security force that is established and 61164
maintained exclusively by a board of county commissioners and 61165
whose members are employed by that board, shall submit the matter 61166
to a final offer settlement procedure pursuant to a board order 61167
issued forthwith to the parties to settle by a conciliator 61168
selected by the parties. The parties shall request from the board 61169
a list of five qualified conciliators and the parties shall select 61170
a single conciliator from the list by alternate striking of names. 61171
If the parties cannot agree upon a conciliator within five days 61172
after the board order, the board shall on the sixth day after its 61173
order appoint a conciliator from a list of qualified persons 61174
maintained by the board or shall request a list of qualified 61175
conciliators from the American arbitration association and appoint 61176
therefrom. 61177

(2) Public employees other than those listed in division 61178
(D)(1) of this section have the right to strike under Chapter 61179
4117. of the Revised Code provided that the employee organization 61180
representing the employees has given a ten-day prior written 61181
notice of an intent to strike to the public employer and to the 61182
board, and further provided that the strike is for full, 61183
consecutive work days and the beginning date of the strike is at 61184

least ten work days after the ending date of the most recent prior 61185
strike involving the same bargaining unit; however, the board, at 61186
its discretion, may attempt mediation at any time. 61187

(E) Nothing in this section shall be construed to prohibit 61188
the parties, at any time, from voluntarily agreeing to submit any 61189
or all of the issues in dispute to any other alternative dispute 61190
settlement procedure. An agreement or statutory requirement to 61191
arbitrate or to settle a dispute pursuant to a final offer 61192
settlement procedure and the award issued in accordance with the 61193
agreement or statutory requirement is enforceable in the same 61194
manner as specified in division (B) of section 4117.09 of the 61195
Revised Code. 61196

(F) Nothing in this section shall be construed to prohibit a 61197
party from seeking enforcement of a collective bargaining 61198
agreement or a conciliator's award as specified in division (B) of 61199
section 4117.09 of the Revised Code. 61200

(G) The following guidelines apply to final offer settlement 61201
proceedings under division (D)(1) of this section: 61202

(1) The parties shall submit to final offer settlement those 61203
issues that are subject to collective bargaining as provided by 61204
section 4117.08 of the Revised Code and upon which the parties 61205
have not reached agreement and other matters mutually agreed to by 61206
the public employer and the exclusive representative; except that 61207
the conciliator may attempt mediation at any time. 61208

(2) The conciliator shall hold a hearing within thirty days 61209
of the board's order to submit to a final offer settlement 61210
procedure, or as soon thereafter as is practicable. 61211

(3) The conciliator shall conduct the hearing pursuant to 61212
rules developed by the board. The conciliator shall establish the 61213
hearing time and place, but it shall be, where feasible, within 61214
the jurisdiction of the state. Not later than five calendar days 61215

before the hearing, each of the parties shall submit to the 61216
conciliator, to the opposing party, and to the board, a written 61217
report summarizing the unresolved issues, the party's final offer 61218
as to the issues, and the rationale for that position. 61219

(4) Upon the request by the conciliator, the board shall 61220
issue subpoenas for the hearing. 61221

(5) The conciliator may administer oaths. 61222

(6) The conciliator shall hear testimony from the parties and 61223
provide for a written record to be made of all statements at the 61224
hearing. The board shall submit for inclusion in the record and 61225
for consideration by the conciliator the written report and 61226
recommendation of the fact-finders. 61227

(7) After hearing, the conciliator shall resolve the dispute 61228
between the parties by selecting, on an issue-by-issue basis, from 61229
between each of the party's final settlement offers, taking into 61230
consideration the following: 61231

(a) Past collectively bargained agreements, if any, between 61232
the parties; 61233

(b) Comparison of the issues submitted to final offer 61234
settlement relative to the employees in the bargaining unit 61235
involved with those issues related to other public and private 61236
employees doing comparable work, giving consideration to factors 61237
peculiar to the area and classification involved; 61238

(c) The interests and welfare of the public, the ability of 61239
the public employer to finance and administer the issues proposed, 61240
and the effect of the adjustments on the normal standard of public 61241
service; 61242

(d) The lawful authority of the public employer; 61243

(e) The stipulations of the parties; 61244

(f) Such other factors, not confined to those listed in this 61245

section, which are normally or traditionally taken into 61246
consideration in the determination of the issues submitted to 61247
final offer settlement through voluntary collective bargaining, 61248
mediation, fact-finding, or other impasse resolution procedures in 61249
the public service or in private employment. 61250

(8) Final offer settlement awards made under Chapter 4117. of 61251
the Revised Code are subject to Chapter 2711. of the Revised Code. 61252

(9) If more than one conciliator is used, the determination 61253
must be by majority vote. 61254

(10) The conciliator shall make written findings of fact and 61255
promulgate a written opinion and order upon the issues presented 61256
to the conciliator, and upon the record made before the 61257
conciliator and shall mail or otherwise deliver a true copy 61258
thereof to the parties and the board. 61259

(11) Increases in rates of compensation and other matters 61260
with cost implications awarded by the conciliator may be effective 61261
only at the start of the fiscal year next commencing after the 61262
date of the final offer settlement award; provided that if a new 61263
fiscal year has commenced since the issuance of the board order to 61264
submit to a final offer settlement procedure, the awarded 61265
increases may be retroactive to the commencement of the new fiscal 61266
year. The parties may, at any time, amend or modify a 61267
conciliator's award or order by mutual agreement. 61268

(12) The parties shall bear equally the cost of the final 61269
offer settlement procedure. 61270

(13) Conciliators appointed pursuant to this section shall be 61271
residents of the state. 61272

(H) All final offer settlement awards and orders of the 61273
conciliator made pursuant to Chapter 4117. of the Revised Code are 61274
subject to review by the court of common pleas having jurisdiction 61275
over the public employer as provided in Chapter 2711. of the 61276

Revised Code. If the public employer is located in more than one 61277
court of common pleas district, the court of common pleas in which 61278
the principal office of the chief executive is located has 61279
jurisdiction. 61280

(I) The issuance of a final offer settlement award 61281
constitutes a binding mandate to the public employer and the 61282
exclusive representative to take whatever actions are necessary to 61283
implement the award. 61284

Sec. 4117.15. (A) Whenever a strike by members of a police or 61285
fire department, members of the state highway patrol, deputy 61286
sheriffs, dispatchers employed by a police, fire, or sheriff's 61287
department or the state highway patrol or civilian dispatchers 61288
employed by a public employer other than a police, fire, or 61289
sheriff's department to dispatch police, fire, sheriff's 61290
department, or emergency medical or rescue personnel and units, an 61291
exclusive nurse's unit, employees of the state school for the deaf 61292
or the state school for the blind, employees of any public 61293
employee retirement system, correction officers, guards at penal 61294
or mental institutions, or special police officers appointed in 61295
accordance with sections ~~5119.14~~ 5119.08 and 5123.13 of the 61296
Revised Code, psychiatric attendants employed at mental health 61297
forensic facilities, youth leaders employed at juvenile 61298
correctional facilities, or members of a law enforcement security 61299
force that is established and maintained exclusively by a board of 61300
county commissioners and whose members are employed by that board, 61301
a strike by other public employees during the pendency of the 61302
settlement procedures set forth in section 4117.14 of the Revised 61303
Code, or a strike during the term or extended term of a collective 61304
bargaining agreement occurs, the public employer may seek an 61305
injunction against the strike in the court of common pleas of the 61306
county in which the strike is located. 61307

(B) An unfair labor practice by a public employer is not a defense to the injunction proceeding noted in division (A) of this section. Allegations of unfair labor practices during the settlement procedures set forth in section 4117.14 of the Revised Code shall receive priority by the state employment relations board.

(C) No public employee is entitled to pay or compensation from the public employer for the period engaged in any strike.

Sec. 4121.50. Not later than July 1, 2012, the administrator of workers' compensation shall adopt rules in accordance with Chapter 119. of the Revised Code to implement a coordinated services program for claimants under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code who are found to have obtained prescription drugs that were reimbursed pursuant to an order of the administrator or of the industrial commission or by a self-insuring employer but were obtained at a frequency or in an amount that is not medically necessary. The program shall be implemented in a manner that is substantially similar to the coordinated services programs established for the medicaid program under ~~section 5111.085~~ sections 5164.758 and ~~5111.179~~ 5167.13 of the Revised Code.

Sec. 4123.32. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules with respect to the collection, maintenance, and disbursements of the state insurance fund including all of the following:

(A) A rule providing that the premium security deposit collected from any employer entitles the employer to the benefits of this chapter for the remainder of the six months and also for an additional adjustment period of two months, and, thereafter, if

the employer pays the premium due at the close of any six-month 61338
period, coverage shall be extended for an additional eight-month 61339
period beginning from the end of the six-month period for which 61340
the employer pays the premium due; 61341

(B) A rule providing for ascertaining the correctness of any 61342
employer's report of estimated or actual expenditure of wages and 61343
the determination and adjustment of proper premiums and the 61344
payment of those premiums by the employer for or during any period 61345
less than eight months and notwithstanding any payment or 61346
determination of premium made when exceptional conditions or 61347
circumstances in the judgment of the administrator justify the 61348
action; 61349

(C) Such special rules as the administrator considers 61350
necessary to safeguard the fund and that are just in the 61351
circumstances, covering the rates to be applied where one employer 61352
takes over the occupation or industry of another or where an 61353
employer first makes application for state insurance, and the 61354
administrator may require that if any employer transfers a 61355
business in whole or in part or otherwise reorganizes the 61356
business, the successor in interest shall assume, in proportion to 61357
the extent of the transfer, as determined by the administrator, 61358
the employer's account and shall continue the payment of all 61359
contributions due under this chapter; 61360

(D) A rule providing that an employer who employs an employee 61361
covered under the federal "Longshore and Harbor Workers'
Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and this 61362
chapter and Chapter 4121. of the Revised Code shall be assessed a 61363
premium in accordance with the expenditure of wages, payroll, or 61364
both attributable to only labor performed and services provided by 61365
such an employee when the employee performs labor and provides 61366
services for which the employee is not eligible to receive 61367
compensation and benefits under that federal act. 61368
61369

- (E) A rule providing for all of the following: 61370
- (1) If, within two months immediately after the expiration of 61371
the six-month period, an employer fails to file a report of the 61372
employer's actual payroll expenditures for the period, the premium 61373
found to be due from the employer for the period shall be 61374
increased in an amount equal to one per cent of the premium, but 61375
the increase shall not be less than three nor more than fifteen 61376
dollars; 61377
- (2) The premium determined by the administrator to be due 61378
from an employer shall be payable on or before the end of the 61379
coverage period established by the premium security deposit, or 61380
within the time specified by the administrator if the period for 61381
which the advance premium has been paid is less than eight months. 61382
If an employer fails to pay the premium when due, the 61383
administrator may add a late fee penalty of not more than thirty 61384
dollars to the premium plus an additional penalty amount as 61385
follows: 61386
- (a) For a premium from sixty-one to ninety days past due, the 61387
prime interest rate, multiplied by the premium due; 61388
- (b) For a premium from ninety-one to one hundred twenty days 61389
past due, the prime interest rate plus two per cent, multiplied by 61390
the premium due; 61391
- (c) For a premium from one hundred twenty-one to one hundred 61392
fifty days past due, the prime interest rate plus four per cent, 61393
multiplied by the premium due; 61394
- (d) For a premium from one hundred fifty-one to one hundred 61395
eighty days past due, the prime interest rate plus six per cent, 61396
multiplied by the premium due; 61397
- (e) For a premium from one hundred eighty-one to two hundred 61398
ten days past due, the prime interest rate plus eight per cent, 61399
multiplied by the premium due; 61400

(f) For each additional thirty-day period or portion thereof 61401
that a premium remains past due after it has remained past due for 61402
more than two hundred ten days, the prime interest rate plus eight 61403
per cent, multiplied by the premium due. 61404

(3) Notwithstanding the interest rates specified in division 61405
(E)(2) of this section, at no time shall the additional penalty 61406
amount assessed under division (E)(2) of this section exceed 61407
fifteen per cent of the premium due. 61408

(4) An employer may appeal a late fee penalty or additional 61409
penalty to an adjudicating committee pursuant to section 4123.291 61410
of the Revised Code. 61411

For purposes of division (E) of this section, "prime interest 61412
rate" means the average bank prime rate, and the administrator 61413
shall determine the prime interest rate in the same manner as a 61414
county auditor determines the average bank prime rate under 61415
section 929.02 of the Revised Code. 61416

(5) If the employer files an appropriate payroll report, 61417
within the time provided by law or within the time specified by 61418
the administrator if the period for which the employer paid an 61419
estimated premium is less than eight months, the employer shall 61420
not be in default and division (E)(2) of this section shall not 61421
apply if the employer pays the premiums within fifteen days after 61422
being first notified by the administrator of the amount due. 61423

(6) Any deficiencies in the amounts of the premium security 61424
deposit paid by an employer for any period shall be subject to an 61425
interest charge of six per cent per annum from the date the 61426
premium obligation is incurred. In determining the interest due on 61427
deficiencies in premium security deposit payments, a charge in 61428
each case shall be made against the employer in an amount equal to 61429
interest at the rate of six per cent per annum on the premium 61430
security deposit due but remaining unpaid sixty days after notice 61431

by the administrator. 61432

(7) Any interest charges or penalties provided for in 61433
divisions (E)(2) and (6) of this section shall be credited to the 61434
employer's account for rating purposes in the same manner as 61435
premiums. 61436

(F) A rule providing that each employer, on the occasion of 61437
instituting coverage under this chapter, shall submit a premium 61438
security deposit. The deposit shall be calculated equivalent to 61439
thirty per cent of the semiannual premium obligation of the 61440
employer based upon the employer's estimated expenditure for wages 61441
for the ensuing six-month period plus thirty per cent of an 61442
additional adjustment period of two months but only up to a 61443
maximum of one thousand dollars and not less than ten dollars. The 61444
administrator shall review the security deposit of every employer 61445
who has submitted a deposit which is less than the 61446
one-thousand-dollar maximum. The administrator may require any 61447
such employer to submit additional money up to the maximum of one 61448
thousand dollars that, in the administrator's opinion, reflects 61449
the employer's current payroll expenditure for an eight-month 61450
period. 61451

(G) A rule providing that each employer, on the occasion of 61452
instituting coverage under this chapter, shall submit an 61453
application for coverage that completely provides all of the 61454
information required for the administrator to establish coverage 61455
for that employer, and that the employer's failure to provide all 61456
of the information completely may be grounds for the administrator 61457
to deny coverage for that employer. 61458

(H) A rule providing that, in addition to any other remedies 61459
permitted in this chapter, the administrator may discontinue an 61460
employer's coverage if the employer fails to pay the premium due 61461
on or before the premium's due date. 61462

(I) A rule providing that if after a final adjudication it is determined that an employer has failed to pay an obligation, billing, account, or assessment that is greater than one thousand dollars on or before its due date, the administrator may discontinue the employer's coverage in addition to any other remedies permitted in this chapter, and that the administrator shall not discontinue an employer's coverage pursuant to this division prior to a final adjudication regarding the employer's failure to pay such obligation, billing, account, or assessment on or before its due date.

(J) As used in divisions (H) and (I) of this section:

(1) "Employer" has the same meaning as in division (B) of section 4123.01 of the Revised Code except that "employer" does not include the state, a state hospital, or a state university or college.

(2) "State university or college" has the same meaning as in section 3345.12 of the Revised Code and also includes the Ohio agricultural research and development center and ~~the Ohio state university cooperative~~ OSU extension service.

(3) "State hospital" means the Ohio state university hospital and its ancillary facilities and the medical university of Ohio at Toledo hospital.

Sec. 4131.03. (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a coal-workers pneumoconiosis fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The fund shall consist of premiums and other payments thereto by subscribers who elect to subscribe to the fund to insure the payment of benefits required by the federal act.

(B)~~(1)~~ The coal-workers pneumoconiosis fund shall be in the 61493
custody of the treasurer of state. The bureau of workers' 61494
compensation shall make disbursements from the fund to those 61495
persons entitled to payment therefrom and in the amounts required 61496
pursuant to sections 4131.01 to 4131.06 of the Revised Code. All 61497
investment earnings of the fund shall be credited to the fund. 61498

~~(2) Beginning July 1, 2011, and ending June 30, 2013, the 61499
director of natural resources annually may request the 61500
administrator of workers' compensation to transfer a portion of 61501
the investment earnings credited to the coal-workers 61502
pneumoconiosis fund as provided in this division. If the 61503
administrator receives a request from the director, the 61504
administrator, on the first day of July, or as soon as possible 61505
after that date, shall transfer from the investment earnings 61506
credited to the coal workers pneumoconiosis fund an amount not to 61507
exceed three million dollars to the mine safety fund created in 61508
section 1561.24 of the Revised Code for the purposes specified in 61509
that section and an amount not to exceed one million five hundred 61510
thousand dollars to the coal mining administration and reclamation 61511
reserve fund created in section 1513.181 of the Revised Code for 61512
the purposes specified in that section. The administrator, with 61513
the advice and consent of the bureau of workers' compensation 61514
board of directors, shall adopt rules governing the transfer in 61515
order to ensure the solvency of the coal workers pneumoconiosis 61516
fund. For that purpose, the rules may establish tests based on 61517
measures of net assets, liabilities, expenses, interest, dividend 61518
income, or other factors that the administrator determines 61519
appropriate that may be applied prior to a transfer. 61520~~

(C) The administrator shall have the same powers to invest 61521
any of the surplus or reserve belonging to the coal-workers 61522
pneumoconiosis fund as are delegated to the administrator under 61523
section 4123.44 of the Revised Code with respect to the state 61524

insurance fund. 61525

(D) If the administrator determines that reinsurance of the 61526
risks of the coal-workers pneumoconiosis fund is necessary to 61527
assure solvency of the fund, the administrator may: 61528

(1) Enter into contracts for the purchase of reinsurance 61529
coverage of the risks of the fund with any company or agency 61530
authorized by law to issue contracts of reinsurance; 61531

(2) Pay the cost of reinsurance from the fund; 61532

(3) Include the costs of reinsurance as a liability and 61533
estimated liability of the fund. 61534

Sec. 4141.162. (A) The director of job and family services 61535
shall establish an income and eligibility verification system that 61536
complies with section 1137 of the "Social Security Act." The 61537
programs included in the system are all of the following: 61538

(1) Unemployment compensation pursuant to section 3304 of the 61539
"Internal Revenue Code of 1954"; 61540

(2) The state programs funded in part under part A of Title 61541
IV of the "Social Security Act" and administered under Chapters 61542
5107. and 5108. of the Revised Code; 61543

(3) ~~Medicaid pursuant to Title XIX of the "Social Security~~ 61544
~~Act"~~ The medicaid program; 61545

(4) The supplemental nutrition assistance program pursuant to 61546
the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.; 61547

(5) Any Ohio program under a plan approved under Title I, X, 61548
XIV, or XVI of the "Social Security Act." 61549

Wage information provided by employers to the director shall 61550
be furnished to the income and eligibility verification system. 61551
Such information shall be used by the director to determine 61552
eligibility of individuals for unemployment compensation benefits 61553

and the amount of those benefits and used by the agencies that 61554
administer the programs identified in divisions (A)(2) to (5) of 61555
this section to determine or verify eligibility for or the amount 61556
of benefits under those programs. 61557

The director shall fully implement the use of wage 61558
information to determine eligibility for and the amount of 61559
unemployment compensation benefits by September 30, 1988. 61560

Information furnished under the system shall also be made 61561
available to the appropriate state or local child support 61562
enforcement agency for the purposes of an approved plan under 61563
Title IV-D of the "Social Security Act" and to the appropriate 61564
federal agency for the purposes of Titles II and XVI of the 61565
"Social Security Act." 61566

(B) The director shall adopt rules as necessary under which 61567
the department of job and family services and other state agencies 61568
that the director determines must participate in order to ensure 61569
compliance with section 1137 of the "Social Security Act" exchange 61570
information with each other or authorized federal agencies about 61571
individuals who are applicants for or recipients of benefits under 61572
any of the programs enumerated in division (A) of this section. 61573
The rules shall extend to all of the following: 61574

(1) A requirement for standardized formats and procedures for 61575
a participating agency to request and receive information about an 61576
individual, which information shall include the individual's 61577
social security number; 61578

(2) A requirement that all applicants for and recipients of 61579
benefits under any program enumerated in division (A) of this 61580
section be notified at the time of application, and periodically 61581
thereafter, that information available through the system may be 61582
shared with agencies that administer other benefit programs and 61583
utilized in establishing or verifying eligibility or benefit 61584

amounts under the other programs enumerated in division (A) of 61585
this section; 61586

(3) A requirement that information is made available only to 61587
the extent necessary to assist in the valid administrative needs 61588
of the program receiving the information and is targeted for use 61589
in ways which are most likely to be productive in identifying and 61590
preventing ineligibility and incorrect payments; 61591

(4) A requirement that information is adequately protected 61592
against unauthorized disclosures for purposes other than to 61593
establish or verify eligibility or benefit amounts under the 61594
programs enumerated in division (A) of this section; 61595

(5) A requirement that a program providing information is 61596
reimbursed by the program using the information for the actual 61597
costs of furnishing the information and that the director be 61598
reimbursed by the participating programs for any actual costs 61599
incurred in operating the system; 61600

(6) Requirements for any other matters necessary to ensure 61601
the effective, efficient, and timely exchange of necessary 61602
information or that the director determines must be addressed in 61603
order to ensure compliance with the requirements of section 1137 61604
of the "Social Security Act." 61605

(C) Each participating agency shall furnish to the income and 61606
eligibility verification system established in division (A) of 61607
this section that information, which the director, by rule, 61608
determines is necessary in order to comply with section 1137 of 61609
the "Social Security Act." 61610

(D) Notwithstanding the information disclosure requirements 61611
of this section and section 4141.21 and division (A) of section 61612
4141.284 of the Revised Code, the director shall administer those 61613
provisions of law so as to comply with section 1137 of the "Social 61614
Security Act." 61615

(E) Requirements in section 4141.21 of the Revised Code with respect to confidentiality of information obtained in the administration of Chapter 4141. of the Revised Code and any sanctions imposed for improper disclosure of such information shall apply to the redisclosure of information disclosed under this section.

(F) The director of job and family services shall consult with the medicaid director and the director of administrative services regarding the implementation of this section.

Sec. 4143.01. As used in this chapter:

(A) "Average weekly wage," "employment," "employer," "partially unemployed," and "totally unemployed" have the same meanings as in section 4141.01 of the Revised Code.

(B) "Duration of unemployment" means the full period of unemployment next ensuing after a separation from any base period, as defined in rules adopted under section 4143.03 of the Revised Code, or subsequent work and until an individual has become reemployed in employment subject to this chapter, or the unemployment compensation act of another state, or of the United States, and until such individual has worked six weeks and for those weeks has earned or been paid remuneration equal to six times an average weekly wage of not less than the amount as determined in the rules adopted by the director of job and family services under section 4143.03 of the Revised Code.

(C) "Grant year," with respect to an individual, means the fifty-two week period beginning with the first day of that week with respect to which the individual first files a valid application for a grant under this chapter, and thereafter the fifty-two week period beginning with the first day of that week with respect to which the individual next files a valid application after the termination of the individual's last

preceding grant year, except that the application shall not be 61647
considered valid unless the individual has had employment in six 61648
weeks and has, since the beginning of the individual's previous 61649
grant year, in the employment earned three times the average 61650
weekly wage determined for the previous grant year. 61651

(D) "Qualifying week" means any calendar week in an 61652
individual's base period with respect to which the individual 61653
earns or is paid remuneration in employment. 61654

(E) "Seasonal employment" has the same meaning as in section 61655
4141.33 of the Revised Code. 61656

(F) "Unemployment compensation" has the same meaning as in 61657
section 4141.284 of the Revised Code. 61658

Sec. 4143.02. There is hereby created the military spouse 61659
compensation grant program to provide compensation to an 61660
individual who leaves employment to accompany the individual's 61661
spouse on a military transfer. The director of job and family 61662
services shall administer the program in accordance with the 61663
requirements of this chapter. 61664

Sec. 4143.03. (A) With respect to the military spouse 61665
compensation grant program created in section 4143.02 of the 61666
Revised Code, the director of job and family services, in 61667
accordance with Chapter 119. of the Revised Code, shall adopt 61668
rules that establish all of the following: 61669

(1) Eligibility requirements an individual shall satisfy to 61670
receive a grant under section 4143.04 of the Revised Code, 61671
including the definition of an individual's "base period," which 61672
shall be similar to the requirements an individual must satisfy to 61673
receive unemployment compensation under Chapter 4141. of the 61674
Revised Code; 61675

(2) Procedures for an individual to follow to apply for a 61676

grant and procedures for the awarding and payment of grants in 61677
accordance with section 4143.04 of the Revised Code, that shall be 61678
similar to the manner in which claims for unemployment 61679
compensation are applied for, awarded, and paid pursuant to 61680
Chapter 4141. of the Revised Code; 61681

(3) Requirements to determine an individual's duration of 61682
unemployment; 61683

(4) Requirements for the reduction in grant amounts, that 61684
shall be similar to the requirements specified in sections 4141.31 61685
and 4141.312 of the Revised Code; 61686

(5) Procedures and requirements addressing child support 61687
obligations, that shall be similar to the procedures and 61688
requirements described in section 4141.284 of the Revised Code; 61689

(6) Requirements for eligibility for an individual who has 61690
seasonal employment, that shall be similar to the requirements 61691
described in section 4141.33 of the Revised Code; 61692

(7) Procedures to allow an individual to appeal a 61693
determination made by the director under this chapter in 61694
accordance with Chapter 119. of the Revised Code, including the 61695
time limits in which the individual has to file an appeal; 61696

(8) Penalties for overpayments, and procedures to collect 61697
those overpayments, that shall be similar to penalties and 61698
procedures described in section 4141.35 of the Revised Code. 61699

(B) The director, in accordance with Chapter 119. of the 61700
Revised Code, may adopt any other rules as the director determines 61701
necessary to administer and enforce this chapter. Any rules 61702
adopted under this division shall be consistent with any similar 61703
provision addressed in Chapter 4141. of the Revised Code. 61704

(C) The director may apply any agreement the director has 61705
entered into pursuant to section 4141.43 of the Revised Code, to 61706

the extent permitted under an agreement, in administering this 61707
chapter, or the director may enter into similar agreements as the 61708
director determines necessary. The director shall cooperate with 61709
other agencies as described in division (A) of section 4141.35 of 61710
the Revised Code in the administration of this chapter. 61711

Sec. 4143.04. (A) An individual is eligible to receive a 61712
grant under the military spouse compensation grant program created 61713
in section 4143.02 of the Revised Code for a week in which the 61714
individual satisfies all of the requirements: 61715

(1) The individual's spouse is a member of the armed services 61716
of the United States, the spouse is the subject of a military 61717
transfer, and the individual left employment to accompany the 61718
individual's spouse. 61719

(2) The individual is not otherwise eligible for unemployment 61720
compensation; 61721

(3) The individual satisfies the eligibility requirements 61722
established by the director of job and family services in the 61723
rules the director adopts under section 4143.03 of the Revised 61724
Code. 61725

(B) The director may use the information the director obtains 61726
under section 4141.162 of the Revised Code to determine an 61727
individual's eligibility for a grant under this section. 61728

(C) All grants shall be paid through public employment 61729
offices in accordance with the rules as the director adopts under 61730
section 4143.03 of the Revised Code. The director shall use 61731
eligible funds to issue grants established in this section, except 61732
from the unemployment compensation fund established in section 61733
4141.09 of the Revised Code. 61734

(D) A grant is payable to an eligible and qualified 61735
individual for each week the individual is totally unemployed at 61736

<u>the weekly grant amount determined by the following:</u>	61737
<u>(1) Computing the individual's average weekly wage;</u>	61738
<u>(2) Determining the individual's dependency class under</u> <u>division (G) of this section;</u>	61739 61740
<u>(3) Computing the individual's weekly grant amount to be</u> <u>fifty per cent of the individual's average weekly wage, that shall</u> <u>not exceed the following amounts:</u>	61741 61742 61743
<u>(a) For dependency class A, fifty per cent of the statewide</u> <u>average weekly wage as calculated under section 4141.30 of the</u> <u>Revised Code;</u>	61744 61745 61746
<u>(b) For dependency class B, sixty per cent of the statewide</u> <u>average weekly wage;</u>	61747 61748
<u>(c) For dependency class C, sixty-six and two-thirds per cent</u> <u>of the statewide average weekly wage.</u>	61749 61750
<u>(E) A grant is payable to each partially unemployed</u> <u>individual otherwise eligible on account of each week the</u> <u>individual is partially unemployed in an amount equal to the</u> <u>individual's weekly grant amount determined under division (B) of</u> <u>this section less that part of the remuneration payable to the</u> <u>individual with respect to that week that is in excess of twenty</u> <u>per cent of the individual's weekly grant amount.</u>	61751 61752 61753 61754 61755 61756 61757
<u>(F) The total amount of a grant to which an individual is</u> <u>entitled in any grant year, whether for partial or total</u> <u>unemployment, or both, shall not exceed the lesser of the</u> <u>following two amounts:</u>	61758 61759 61760 61761
<u>(1) An amount equal to twenty-six times the individual's</u> <u>weekly grant amount determined in accordance with division (B) of</u> <u>this section and this division;</u>	61762 61763 61764
<u>(2) An amount computed by taking the sum of twenty times the</u> <u>individual's weekly grant amount for the first twenty base period</u>	61765 61766

qualifying weeks plus one times the weekly grant amount for each 61767
additional qualifying week beyond the first twenty qualifying 61768
weeks in the individual's base period. 61769

(G)(1) As used in this division, "dependent" has the same 61770
meaning as in section 4141.30 of the Revised Code. 61771

(2) Each eligible and qualified individual shall be assigned 61772
a dependency class in accordance with the following schedule: 61773

<u>Class</u>	<u>Description of dependents</u>	
<u>A</u>	<u>No dependents, or has</u> <u>insufficient wages to qualify for</u> <u>more than the maximum weekly</u> <u>grant amount as provided under</u> <u>dependency class A</u>	61775
<u>B</u>	<u>One or two dependents</u>	61776
<u>C</u>	<u>Three or more dependents</u>	61777

(H) Any weekly grant amount that is not a multiple of one 61778
dollar shall be rounded to the next lower multiple of one dollar. 61779
Any grant paid under this section shall be calculated against the 61780
maximum total unemployment compensation payable to the individual 61781
in a benefit year under section 4141.30 of the Revised Code. 61782

(I) If permitted by the United States secretary of labor, a 61783
grant paid under this section shall be considered regular benefits 61784
for purposes of section 4141.301 of the Revised Code. If an 61785
individual who receives a grant under this section is eligible for 61786
extended benefits under section 4141.301 of the Revised Code, 61787
notwithstanding section 4141.09 or division (J) or (L) of section 61788
4141.301 of the Revised Code, extended benefits that may become 61789
payable to that individual that are chargeable to the account of 61790
an employer from whom the individual was separated under division 61791
(A) of this section shall not be charged to that account and shall 61792
be paid from the funds used to pay grants under this section. 61793

Sec. 4143.05. The director of job and family services shall 61794
reduce the amount of any weekly grant amount paid under section 61795
4143.04 of the Revised Code in accordance with the rules the 61796
director adopts under section 4143.03 of the Revised Code. The 61797
director shall make any deduction from such a grant for purposes 61798
of federal income tax payment in a similar manner as the director 61799
makes that deduction under section 4141.321 of the Revised Code 61800
with respect to unemployment compensation. 61801

Sec. 4143.06. An individual may appeal a determination made 61802
by the director of job and family services in accordance with the 61803
rules the director adopts under section 4143.03 of the Revised 61804
Code. The determination made upon completion of that appeals 61805
process is a final determination that may be appealed pursuant to 61806
section 119.12 of the Revised Code. 61807

Sec. 4143.07. (A) Except with respect to the rules adopted by 61808
the director of job and family services under section 4143.03 of 61809
the Revised Code concerning child support obligations: 61810

(1) No agreement by an individual to waive the individual's 61811
right to a grant under this chapter is valid, nor shall a grant be 61812
assigned, released, or commuted. 61813

(2) A grant is exempt from all claims of creditors and from 61814
levy, execution, garnishment, attachment, and all other process or 61815
remedy for recovery or collection of a debt, and that exemption 61816
may not be waived. 61817

(B) No individual claiming a grant under this chapter shall 61818
be charged fees of any kind by the director in any proceeding 61819
under this chapter. Any individual claiming a grant may represent 61820
the individual's self personally or be represented by a person 61821
admitted to the practice of law or by a person not admitted to the 61822
practice of law in any proceeding under this chapter before the 61823

director, but no such counsel or agent representing an individual 61824
claiming a grant shall either charge or receive for those services 61825
more than an amount approved by the director. No person shall 61826
charge or receive anything of value in violation of this division. 61827

(C) No employee or other person shall violate this chapter, 61828
or do any act prohibited by this chapter, or fail to perform any 61829
duty lawfully enjoined, within the time prescribed by the 61830
director, for which no penalty has been specifically provided, or 61831
fail to obey any lawful order given or made by the director or any 61832
judgment or decree made by any court in connection with this 61833
chapter. Every day during which any person fails to comply with 61834
any order of the director or to perform any duty enjoined by this 61835
chapter constitutes a separate violation of the order or of this 61836
chapter. 61837

Sec. 4143.08. The director of job and family services shall 61838
enforce this chapter in accordance with the rules the director 61839
adopts under section 4143.03 of the Revised Code. In administering 61840
and enforcing this chapter, the director shall give great weight 61841
and deference to decisions made under Chapter 4141. of the Revised 61842
Code with respect to unemployment compensation. 61843

The director may administer oaths, certify to official acts, 61844
take depositions, issue subpoenas, and compel the attendance and 61845
testimony of witnesses and the production of documents and 61846
testimony in connection with the administration of this chapter. 61847
In case of the refusal of a witness to attend or testify, or to 61848
produce documents, as to any matter regarding which the witness 61849
might be lawfully interrogated in the administration of this 61850
chapter, the court of common pleas of the county in which the 61851
person resides or is found, the court of appeals that has 61852
jurisdiction over the county in which the person resides or is 61853
found, or a judge thereof, upon application of the director, shall 61854

compel obedience by proceedings as for contempt as in case of like 61855
refusal to obey a similar order of the court. 61856

Sec. 4143.09. This chapter shall be liberally construed. 61857

Sec. 4143.99. (A) Whoever violates division (B) of section 61858
4143.07 of the Revised Code is guilty of a misdemeanor of the 61859
first degree. 61860

(B) Whoever violates division (C) of section 4143.07 of the 61861
Revised Code shall be fined not more than five hundred dollars for 61862
the first offense, and for each subsequent offense, the person 61863
shall be fined not less than twenty-five dollars nor more than one 61864
thousand dollars. 61865

Sec. 4301.10. (A) The division of liquor control shall do all 61866
of the following: 61867

(1) Control the traffic in beer and intoxicating liquor in 61868
this state, including the manufacture, importation, and sale of 61869
beer and intoxicating liquor; 61870

(2) Grant or refuse permits for the manufacture, 61871
distribution, transportation, and sale of beer and intoxicating 61872
liquor and the sale of alcohol, as authorized or required by this 61873
chapter and Chapter 4303. of the Revised Code. A certificate, 61874
signed by the superintendent of liquor control and to which is 61875
affixed the official seal of the division, stating that it appears 61876
from the records of the division that no permit has been issued to 61877
the person specified in the certificate, or that a permit, if 61878
issued, has been revoked, canceled, or suspended, shall be 61879
received as prima-facie evidence of the facts recited in the 61880
certificate in any court or before any officer of this state. 61881

(3) Put into operation, manage, and control a system of state 61882
liquor stores for the sale of spirituous liquor at retail and to 61883

holders of permits authorizing the sale of spirituous liquor; 61884
however, the division shall not establish any drive-in state 61885
liquor stores; and by means of those types of stores, and any 61886
manufacturing plants, distributing and bottling plants, 61887
warehouses, and other facilities that it considers expedient, 61888
establish and maintain a state monopoly of the distribution of 61889
spirituous liquor and its sale in packages or containers; and for 61890
that purpose, manufacture, buy, import, possess, and sell 61891
spirituous liquors as provided in this chapter and Chapter 4303. 61892
of the Revised Code, and in the rules promulgated by the 61893
superintendent of liquor control pursuant to those chapters; lease 61894
or in any manner acquire the use of any land or building required 61895
for any of those purposes; purchase any equipment that is 61896
required; and borrow money to carry on its business, and issue, 61897
sign, endorse, and accept notes, checks, and bills of exchange; 61898
but all obligations of the division created under authority of 61899
this division shall be a charge only upon the moneys received by 61900
the division from the sale of spirituous liquor and its other 61901
business transactions in connection with the sale of spirituous 61902
liquor, and shall not be general obligations of the state; 61903

(4) Enforce the administrative provisions of this chapter and 61904
Chapter 4303. of the Revised Code, and the rules and orders of the 61905
liquor control commission and the superintendent relating to the 61906
manufacture, importation, transportation, distribution, and sale 61907
of beer or intoxicating liquor. The attorney general, any 61908
prosecuting attorney, and any prosecuting officer of a municipal 61909
corporation or a municipal court shall, at the request of the 61910
division of liquor control or the department of public safety, 61911
prosecute any person charged with the violation of any provision 61912
in those chapters or of any section of the Revised Code relating 61913
to the manufacture, importation, transportation, distribution, and 61914
sale of beer or intoxicating liquor. 61915

(5) Determine the locations of all state liquor stores and manufacturing, distributing, and bottling plants required in connection with those stores, subject to this chapter and Chapter 4303. of the Revised Code;

(6) Conduct inspections of liquor permit premises to determine compliance with the administrative provisions of this chapter and Chapter 4303. of the Revised Code and the rules adopted under those provisions by the liquor control commission.

Except as otherwise provided in division (A)(6) of this section, those inspections may be conducted only during those hours in which the permit holder is open for business and only by authorized agents or employees of the division or by any peace officer, as defined in section 2935.01 of the Revised Code. Inspections may be conducted at other hours only to determine compliance with laws or commission rules that regulate the hours of sale of beer or intoxicating liquor and only if the investigator has reasonable cause to believe that those laws or rules are being violated. Any inspection conducted pursuant to division (A)(6) of this section is subject to all of the following requirements:

(a) The only property that may be confiscated is contraband, as defined in section 2901.01 of the Revised Code, or property that is otherwise necessary for evidentiary purposes.

(b) A complete inventory of all property confiscated from the premises shall be given to the permit holder or the permit holder's agent or employee by the confiscating agent or officer at the conclusion of the inspection. At that time, the inventory shall be signed by the confiscating agent or officer, and the agent or officer shall give the permit holder or the permit holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this

section shall be conducted in a reasonable manner. A finding by 61947
any court of competent jurisdiction that an inspection was not 61948
conducted in a reasonable manner in accordance with this section 61949
or any rules adopted by the commission may be considered grounds 61950
for suppression of evidence. A finding by the commission that an 61951
inspection was not conducted in a reasonable manner in accordance 61952
with this section or any rules adopted by it may be considered 61953
grounds for dismissal of the commission case. 61954

If any court of competent jurisdiction finds that property 61955
confiscated as the result of an administrative inspection is not 61956
necessary for evidentiary purposes and is not contraband, as 61957
defined in section 2901.01 of the Revised Code, the court shall 61958
order the immediate return of the confiscated property, provided 61959
that property is not otherwise subject to forfeiture, to the 61960
permit holder. However, the return of this property is not grounds 61961
for dismissal of the case. The commission likewise may order the 61962
return of confiscated property if no criminal prosecution is 61963
pending or anticipated. 61964

(7) Delegate to any of its agents or employees any power of 61965
investigation that the division possesses with respect to the 61966
enforcement of any of the administrative laws relating to beer or 61967
intoxicating liquor, provided that this division does not 61968
authorize the division to designate any agent or employee to serve 61969
as an enforcement agent. The employment and designation of 61970
enforcement agents shall be within the exclusive authority of the 61971
director of public safety pursuant to sections 5502.13 to 5502.19 61972
of the Revised Code. 61973

(8) Collect the following fees: 61974

(a) A biennial fifty-dollar registration fee for each agent, 61975
solicitor, trade marketing professional, or salesperson, 61976
registered pursuant to section 4303.25 of the Revised Code, of a 61977
beer or intoxicating liquor manufacturer, supplier, broker, trade 61978

marketing company, or wholesale distributor doing business in this 61979
state; 61980

(b) A fifty-dollar product registration fee for each new beer 61981
or intoxicating liquor product sold in this state. The product 61982
registration fee also applies to products sold in this state by 61983
B-2a and S permit holders. The product registration fee shall be 61984
accompanied by a copy of the federal label and product approval 61985
for the new product. 61986

(c) An annual three-hundred-dollar supplier registration fee 61987
from each manufacturer or supplier that produces and ships into 61988
this state, or ships into this state, intoxicating liquor or beer, 61989
in addition to an initial application fee of one hundred dollars. 61990
A manufacturer that produces and ships beer or wine into this 61991
state and that holds only an S permit is exempt from the supplier 61992
registration fee. A manufacturer that produces and ships wine into 61993
this state and that holds a B-2a permit shall pay an annual 61994
seventy-six-dollar supplier registration fee. A manufacturer that 61995
produces and ships wine into this state and that does not hold 61996
either an S or a B-2a permit, but that produces less than two 61997
hundred fifty thousand gallons of wine per year and that is 61998
entitled to a tax credit under 27 C.F.R. 24.278 shall pay an 61999
annual seventy-six-dollar supplier registration fee. A B-2a or S 62000
permit holder that does not sell its wine to wholesale 62001
distributors of wine in this state and an S permit holder that 62002
does not sell its beer to wholesale distributors of beer in this 62003
state shall not be required to submit to the division territory 62004
designation forms. 62005

Each supplier, agent, solicitor, trade marketing 62006
professional, or salesperson registration issued under this 62007
division shall authorize the person named to carry on the activity 62008
specified in the registration. Each agent, solicitor, trade 62009
marketing professional, or salesperson registration is valid for 62010

two years or for the unexpired portion of a two-year registration 62011
period. Each supplier registration is valid for one year or for 62012
the unexpired portion of a one-year registration period. 62013
Registrations shall end on their respective uniform expiration 62014
date, which shall be designated by the division, and are subject 62015
to suspension, revocation, cancellation, or fine as authorized by 62016
this chapter and Chapter 4303. of the Revised Code. 62017

As used in this division, "trade marketing company" and 62018
"trade marketing professional" have the same meanings as in 62019
section 4301.171 of the Revised Code. 62020

(9) Establish a system of electronic data interchange within 62021
the division and regulate the electronic transfer of information 62022
and funds among persons and governmental entities engaged in the 62023
manufacture, distribution, and retail sale of alcoholic beverages; 62024

(10) Notify all holders of retail permits of the forms of 62025
permissible identification for purposes of division (A) of section 62026
4301.639 of the Revised Code; 62027

(11) Exercise all other powers expressly or by necessary 62028
implication conferred upon the division by this chapter and 62029
Chapter 4303. of the Revised Code, and all powers necessary for 62030
the exercise or discharge of any power, duty, or function 62031
expressly conferred or imposed upon the division by those 62032
chapters. 62033

(B) The division may do all of the following: 62034

(1) Sue, but may be sued only in connection with the 62035
execution of leases of real estate and the purchases and contracts 62036
necessary for the operation of the state liquor stores that are 62037
made under this chapter and Chapter 4303. of the Revised Code; 62038

(2) Enter into leases and contracts of all descriptions and 62039
acquire and transfer title to personal property with regard to the 62040
sale, distribution, and storage of spirituous liquor within the 62041

state; 62042

(3) Terminate at will any lease entered into pursuant to 62043
division (B)(2) of this section upon first giving ninety days' 62044
notice in writing to the lessor of its intention to do so; 62045

(4) Fix the wholesale and retail prices at which the various 62046
classes, varieties, and brands of spirituous liquor shall be sold 62047
by the division. Those retail prices shall be the same at all 62048
state liquor stores, except to the extent that a price 62049
differential is required to collect a county sales tax levied 62050
pursuant to section 5739.021 of the Revised Code and for which tax 62051
the tax commissioner has authorized prepayment pursuant to section 62052
5739.05 of the Revised Code. In fixing selling prices, the 62053
division shall compute an anticipated gross profit at least 62054
sufficient to provide in each calendar year all costs and expenses 62055
of the division and also an adequate working capital reserve for 62056
the division. The gross profit shall not exceed forty per cent of 62057
the retail selling price based on costs of the division, and in 62058
addition the sum required by section 4301.12 of the Revised Code 62059
to be paid into the state treasury. An amount equal to one and 62060
one-half per cent of that gross profit shall be paid into the 62061
statewide treatment and prevention fund created by section 4301.30 62062
of the Revised Code and be appropriated by the general assembly 62063
from the fund to the department of ~~alcohol and drug addiction~~ 62064
~~services~~ mental health and addiction services as provided in 62065
section 4301.30 of the Revised Code. 62066

On spirituous liquor manufactured in this state from the 62067
juice of grapes or fruits grown in this state, the division shall 62068
compute an anticipated gross profit of not to exceed ten per cent. 62069

The wholesale prices fixed under this division shall be at a 62070
discount of not less than six per cent of the retail selling 62071
prices as determined by the division in accordance with this 62072
section. 62073

(C) The division may approve the expansion or diminution of a premises to which a liquor permit has been issued and may adopt standards governing such an expansion or diminution.

Sec. 4301.30. (A) All fees collected by the division of liquor control shall be deposited in the state treasury to the credit of the undivided liquor permit fund, which is hereby created, at the time prescribed under section 4301.12 of the Revised Code. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation in such township.

(B)(1) An amount equal to forty-five per cent of the fund shall be paid from the fund into the state liquor regulatory fund, which is hereby created in the state treasury. The state liquor regulatory fund shall be used to pay the operating expenses of the division of liquor control in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the liquor control commission. Investment earnings of the fund shall be credited to the fund.

(2) Whenever, in the judgment of the director of budget and management, the amount of money that is in the state liquor regulatory fund is in excess of the amount that is needed to pay the operating expenses of the division in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the commission, the director shall credit the excess amount to the general revenue fund.

(C) Twenty per cent of the undivided liquor permit fund shall be paid into the statewide treatment and prevention fund, which is hereby created in the state treasury. This amount shall be appropriated by the general assembly, together with an amount equal to one and one-half per cent of the gross profit of the

division of liquor control derived under division (B)(4) of 62105
section 4301.10 of the Revised Code, to the department of ~~alcohol~~ 62106
~~and drug addiction services~~ mental health and addiction services. 62107
In planning for the allocation of and in allocating these amounts 62108
for the purposes of Chapter ~~3793~~. 5119. of the Revised Code, the 62109
department of ~~alcohol and drug addiction services~~ shall comply 62110
with the nondiscrimination provisions of Title VI of the Civil 62111
Rights Act of 1964, and any rules adopted under that act. 62112

(D) Thirty-five per cent of the undivided liquor permit fund 62113
shall be distributed by the superintendent of liquor control at 62114
quarterly calendar periods as follows: 62115

(1) To each municipal corporation, the aggregate amount shown 62116
by the statements to have been collected from permits in the 62117
municipal corporation, for the use of the general fund of the 62118
municipal corporation; 62119

(2) To each township, the aggregate amount shown by the 62120
statements to have been collected from permits in its territory, 62121
outside the limits of any municipal corporation located in the 62122
township, for the use of the general fund of the township, or for 62123
fire protection purposes, including buildings and equipment in the 62124
township or in an established fire district within the township, 62125
to the extent that the funds are derived from liquor permits 62126
within the territory comprising such fire district. 62127

(E) For the purpose of the distribution required by this 62128
section, E, H, and D permits covering boats or vessels are deemed 62129
to have been issued in the municipal corporation or township 62130
wherein the owner or operator of the vehicle, boat, vessel, or 62131
dining car equipment to which the permit relates has the owner's 62132
or operator's principal office or place of business within the 62133
state. 62134

(F) If the liquor control commission determines that the 62135

police or other officers of any municipal corporation or township 62136
entitled to share in distributions under this section are refusing 62137
or culpably neglecting to enforce this chapter and Chapter 4303. 62138
of the Revised Code, or the penal laws of this state relating to 62139
the manufacture, importation, transportation, distribution, and 62140
sale of beer and intoxicating liquors, or if the prosecuting 62141
officer of a municipal corporation or a municipal court fails to 62142
comply with the request of the commission authorized by division 62143
(A)(4) of section 4301.10 of the Revised Code, the commission, by 62144
certified mail, may notify the chief executive officer of the 62145
municipal corporation or the board of township trustees of the 62146
township of the failure and require the immediate cooperation of 62147
the responsible officers of the municipal corporation or township 62148
with the division of liquor control in the enforcement of those 62149
chapters and penal laws. Within thirty days after the notice is 62150
served, the commission shall determine whether the requirement has 62151
been complied with. If the commission determines that the 62152
requirement has not been complied with, it may issue an order to 62153
the superintendent to withhold the distributive share of the 62154
municipal corporation or township until further order of the 62155
commission. This action of the commission is reviewable within 62156
thirty days thereafter in the court of common pleas of Franklin 62157
county. 62158

(G) All fees collected by the division of liquor control from 62159
the issuance or renewal of B-2a and S permits, and paid by B-2a 62160
and S permit holders who do not also hold A-2 permits, shall be 62161
deposited in the state treasury to the credit of the state liquor 62162
regulatory fund. Once during each fiscal year, an amount equal to 62163
fifty per cent of the fees collected shall be paid from the state 62164
liquor regulatory fund into the general revenue fund. 62165

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 62166
the Revised Code: 62167

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces. 62168
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(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale. 62170
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(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid. 62173
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(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the 62191
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ownership of the mixed beverage is transferred for valuable 62200
consideration to a wholesaler or retailer, and no payment of the 62201
tax shall be required prior to that time. 62202

(D) During the period of July 1, ~~2011~~ 2013, through June 30, 62203
~~2013~~ 2015, from the tax paid under this section on wine, vermouth, 62204
and sparkling and carbonated wine and champagne, the treasurer of 62205
state shall credit to the Ohio grape industries fund created under 62206
section 924.54 of the Revised Code a sum equal to two cents per 62207
gallon upon which the tax is paid. The amount credited under this 62208
division is in addition to the amount credited to the Ohio grape 62209
industries fund under division (B) of this section. 62210

(E) For the purpose of providing revenues for the support of 62211
the state, there is hereby levied a tax on cider at the rate of 62212
twenty-four cents per wine gallon to be paid by the holders of A-2 62213
and B-5 permits or by any other person selling or distributing 62214
cider upon which no tax has been paid. Only one sale of the same 62215
article shall be used in computing the amount of the tax due. 62216

Sec. 4305.131. (A) If any permit holder fails to pay the 62217
taxes levied by section 4301.42, 4301.43, 4301.432, or 4305.01 of 62218
the Revised Code in the manner prescribed by section 4303.33 of 62219
the Revised Code, or by section 4301.421 or 4301.424 of the 62220
Revised Code in the manner prescribed in section 4301.422 of the 62221
Revised Code, and by the rules of the tax commissioner, the 62222
commissioner may make an assessment against the permit holder 62223
based upon any information in the commissioner's possession. 62224

No assessment shall be made against any permit holder for any 62225
taxes imposed by section 4301.42, 4301.421, 4301.424, 4301.43, 62226
4301.432, or 4305.01 of the Revised Code more than three years 62227
after the last day of the calendar month in which the sale was 62228
made or more than three years after the return for that period is 62229
filed, whichever is later. This section does not bar an assessment 62230

against any permit holder or registrant as provided in section 62231
4303.331 of the Revised Code who fails to file a return as 62232
required by section 4301.422 or 4303.33 of the Revised Code, or 62233
who files a fraudulent return. 62234

A penalty of up to thirty per cent may be added to the amount 62235
of every assessment made under this section. The commissioner may 62236
adopt rules providing for the imposition and remission of 62237
penalties added to assessments made under this section. 62238

The commissioner shall give the party assessed written notice 62239
of the assessment in the manner provided in section 5703.37 of the 62240
Revised Code. With the notice, the commissioner shall provide 62241
instructions on how to petition for reassessment and request a 62242
hearing on the petition. 62243

(B) Unless the party assessed files with the tax commissioner 62244
within sixty days after service of the notice of assessment, 62245
either personally or by certified mail, a written petition for 62246
reassessment, signed by the party assessed or that party's 62247
authorized agent having knowledge of the facts, the assessment 62248
becomes final and the amount of the assessment is due and payable 62249
from the party assessed to the treasurer of state. The petition 62250
shall indicate the objections of the party assessed, but 62251
additional objections may be raised in writing if received by the 62252
commissioner prior to the date shown on the final determination. 62253
If the petition has been properly filed, the commissioner shall 62254
proceed under section 5703.60 of the Revised Code. 62255

(C) After an assessment becomes final, if any portion of the 62256
assessment remains unpaid, including accrued interest, a certified 62257
copy of the tax commissioner's entry making the assessment final 62258
may be filed in the office of the clerk of the court of common 62259
pleas in the county in which the permit holder's place of business 62260
is located or the county in which the party assessed resides. If 62261
the party assessed maintains no place of business in this state 62262

and is not a resident of this state, the certified copy of the 62263
entry may be filed in the office of the clerk of the court of 62264
common pleas of Franklin county. 62265

Immediately upon the filing of the entry, the clerk shall 62266
enter a judgment for the state against the party assessed in the 62267
amount shown on the entry. The judgment may be filed by the clerk 62268
in a loose-leaf book entitled "special judgments for state beer 62269
and liquor sales taxes," and shall have the same effect as other 62270
judgments. Execution shall issue upon the judgment upon the 62271
request of the commissioner, and all laws applicable to sales on 62272
execution shall apply to sales made under the judgment, except as 62273
otherwise provided in this chapter and Chapters 4301. and 4307. of 62274
the Revised Code. 62275

~~The portion of~~ If the assessment is not paid in its entirety 62276
within sixty days after the day the assessment was issued, the 62277
portion of the assessment consisting of tax due shall bear 62278
interest at the rate per annum prescribed by section 5703.47 of 62279
the Revised Code from the day the commissioner issues the 62280
assessment until it is paid or until it is certified to the 62281
attorney general for collection under section 131.02 of the 62282
Revised Code, whichever comes first. If the unpaid portion of the 62283
assessment is certified to the attorney general for collection, 62284
the entire unpaid portion of the assessment shall bear interest at 62285
the rate per annum prescribed by section 5703.47 of the Revised 62286
Code from the date of certification until the date it is paid in 62287
its entirety. Interest shall be paid in the same manner as the tax 62288
and may be collected by the issuance of an assessment under this 62289
section. 62290

(D) All money collected under this section shall be 62291
considered as revenue arising from the taxes imposed by sections 62292
4301.42, 4301.421, 4301.424, 4301.43, 4301.432, and 4305.01 of the 62293
Revised Code. 62294

Sec. 4501.21. (A) There is hereby created in the state 62295
treasury the license plate contribution fund. The fund shall 62296
consist of all contributions paid by motor vehicle registrants and 62297
collected by the registrar of motor vehicles pursuant to sections 62298
4503.491, 4503.493, 4503.494, 4503.496, 4503.498, 4503.499, 62299
4503.50, 4503.501, 4503.502, 4503.505, 4503.51, 4503.522, 62300
4503.523, 4503.524, 4503.531, 4503.545, 4503.55, 4503.551, 62301
4503.552, 4503.553, 4503.561, 4503.562, 4503.564, 4503.591, 62302
4503.67, 4503.68, 4503.69, 4503.701, 4503.71, 4503.711, 4503.712, 62303
4503.713, 4503.72, 4503.73, 4503.74, 4503.75, 4503.751, 4503.85, 62304
4503.89, 4503.92, and 4503.94 of the Revised Code. 62305

(B) The registrar shall pay the contributions the registrar 62306
collects in the fund as follows: 62307

The registrar shall pay the contributions received pursuant 62308
to section 4503.491 of the Revised Code to the breast cancer fund 62309
of Ohio, which shall use that money only to pay for programs that 62310
provide assistance and education to Ohio breast cancer patients 62311
and that improve access for such patients to quality health care 62312
and clinical trials and shall not use any of the money for 62313
abortion information, counseling, services, or other 62314
abortion-related activities. 62315

The registrar shall pay the contributions received pursuant 62316
to section 4503.493 of the Revised Code to the autism society of 62317
Ohio, which shall use the contributions for programs and autism 62318
awareness efforts throughout the state. 62319

The registrar shall pay the contributions the registrar 62320
receives pursuant to section 4503.494 of the Revised Code to the 62321
national multiple sclerosis society for distribution in equal 62322
amounts to the northwestern Ohio, Ohio buckeye, and Ohio valley 62323
chapters of the national multiple sclerosis society. These 62324
chapters shall use the money they receive under this section to 62325

assist in paying the expenses they incur in providing services 62326
directly to their clients. 62327

The registrar shall pay the contributions the registrar 62328
receives pursuant to section 4503.496 of the Revised Code to the 62329
Ohio sickle cell and health association, which shall use the 62330
contributions to help support educational, clinical, and social 62331
support services for adults who have sickle cell disease. 62332

The registrar shall pay the contributions the registrar 62333
receives pursuant to section 4503.498 of the Revised Code to 62334
special olympics Ohio, inc., which shall use the contributions for 62335
its programs, charitable efforts, and other activities. 62336

The registrar shall pay the contributions the registrar 62337
receives pursuant to section 4503.499 of the Revised Code to the 62338
children's glioma cancer foundation, which shall use the 62339
contributions for its research and other programs. 62340

The registrar shall pay the contributions the registrar 62341
receives pursuant to section 4503.50 of the Revised Code to the 62342
future farmers of America foundation, which shall deposit the 62343
contributions into its general account to be used for educational 62344
and scholarship purposes of the future farmers of America 62345
foundation. 62346

The registrar shall pay the contributions the registrar 62347
receives pursuant to section 4503.501 of the Revised Code to the 62348
4-H youth development program of the Ohio state university 62349
extension program, which shall use those contributions to pay the 62350
expenses it incurs in conducting its educational activities. 62351

The registrar shall pay the contributions received pursuant 62352
to section 4503.502 of the Revised Code to the Ohio cattlemen's 62353
foundation, which shall use those contributions for scholarships 62354
and other educational activities. 62355

The registrar shall pay the contributions received pursuant 62356

to section 4503.505 of the Revised Code to the organization Ohio 62357
region phi theta kappa, which shall use those contributions for 62358
scholarships for students who are members of that organization. 62359

The registrar shall pay each contribution the registrar 62360
receives pursuant to section 4503.51 of the Revised Code to the 62361
university or college whose name or marking or design appears on 62362
collegiate license plates that are issued to a person under that 62363
section. A university or college that receives contributions from 62364
the fund shall deposit the contributions into its general 62365
scholarship fund. 62366

The registrar shall pay the contributions the registrar 62367
receives pursuant to section 4503.522 of the Revised Code to the 62368
"friends of Perry's victory and international peace memorial, 62369
incorporated," a nonprofit corporation organized under the laws of 62370
this state, to assist that organization in paying the expenses it 62371
incurs in sponsoring or holding charitable, educational, and 62372
cultural events at the monument. 62373

The registrar shall pay the contributions the registrar 62374
receives pursuant to section 4503.523 of the Revised Code to the 62375
fairport lights foundation, which shall use the money to pay for 62376
the restoration, maintenance, and preservation of the lighthouses 62377
of fairport harbor. 62378

The registrar shall pay the contributions the registrar 62379
receives pursuant to section 4503.524 of the Revised Code to the 62380
Massillon tiger football booster club, which shall use the 62381
contributions only to promote and support the football team of 62382
Washington high school of the Massillon city school district. 62383

The registrar shall pay the contributions the registrar 62384
receives pursuant to section 4503.531 of the Revised Code to the 62385
thank you foundation, incorporated, a nonprofit corporation 62386
organized under the laws of this state, to assist that 62387

organization in paying for the charitable activities and programs 62388
it sponsors in support of United States military personnel, 62389
veterans, and their families. 62390

The registrar shall pay the contributions the registrar 62391
receives pursuant to section 4503.55 of the Revised Code to the 62392
pro football hall of fame, which shall deposit the contributions 62393
into a special bank account that it establishes and which shall be 62394
separate and distinct from any other account the pro football hall 62395
of fame maintains, to be used exclusively for the purpose of 62396
promoting the pro football hall of fame as a travel destination. 62397

The registrar shall pay the contributions that are paid to 62398
the registrar pursuant to section 4503.545 of the Revised Code to 62399
the national rifle association foundation, which shall use the 62400
money to pay the costs of the educational activities and programs 62401
the foundation holds or sponsors in this state. 62402

The registrar shall pay to the Ohio pet fund the 62403
contributions the registrar receives pursuant to section 4503.551 62404
of the Revised Code and any other money from any other source, 62405
including donations, gifts, and grants, that is designated by the 62406
source to be paid to the Ohio pet fund. The Ohio pet fund shall 62407
use the moneys it receives under this section to support programs 62408
for the sterilization of dogs and cats and for educational 62409
programs concerning the proper veterinary care of those animals, 62410
and for expenses of the Ohio pet fund that are reasonably 62411
necessary for it to obtain and maintain its tax-exempt status and 62412
to perform its duties. 62413

The registrar shall pay the contributions the registrar 62414
receives pursuant to section 4503.552 of the Revised Code to the 62415
rock and roll hall of fame and museum, incorporated. 62416

The registrar shall pay the contributions the registrar 62417
receives pursuant to section 4503.553 of the Revised Code to the 62418

Ohio coalition for animals, incorporated, a nonprofit corporation. 62419
Except as provided in division (B) of this section, the coalition 62420
shall distribute the money to its members, and the members shall 62421
use the money only to pay for educational, charitable, and other 62422
programs of each coalition member that provide care for unwanted, 62423
abused, and neglected horses. The Ohio coalition for animals may 62424
use a portion of the money to pay for reasonable marketing costs 62425
incurred in the design and promotion of the license plate and for 62426
administrative costs incurred in the disbursement and management 62427
of funds received under this section. 62428

The registrar shall pay the contributions the registrar 62429
receives pursuant to section 4503.561 of the Revised Code to the 62430
state of Ohio chapter of ducks unlimited, inc., which shall 62431
deposit the contributions into a special bank account that it 62432
establishes. The special bank account shall be separate and 62433
distinct from any other account the state of Ohio chapter of ducks 62434
unlimited, inc., maintains and shall be used exclusively for the 62435
purpose of protecting, enhancing, restoring, and managing wetlands 62436
and conserving wildlife habitat. The state of Ohio chapter of 62437
ducks unlimited, inc., annually shall notify the registrar in 62438
writing of the name, address, and account to which such payments 62439
are to be made. 62440

The registrar shall pay the contributions the registrar 62441
receives pursuant to section 4503.562 of the Revised Code to the 62442
Mahoning river consortium, which shall use the money to pay the 62443
expenses it incurs in restoring and maintaining the Mahoning river 62444
watershed. 62445

The registrar shall pay the contributions the registrar 62446
receives pursuant to section 4503.564 of the Revised Code to 62447
Antioch college for the use of the Glen Helen ecology institute to 62448
pay expenses related to the Glen Helen nature preserve. 62449

The registrar shall pay to a sports commission created 62450

pursuant to section 4503.591 of the Revised Code each contribution 62451
the registrar receives under that section that an applicant pays 62452
to obtain license plates that bear the logo of a professional 62453
sports team located in the county of that sports commission and 62454
that is participating in the license plate program pursuant to 62455
division (E) of that section, irrespective of the county of 62456
residence of an applicant. 62457

The registrar shall pay to a community charity each 62458
contribution the registrar receives under section 4503.591 of the 62459
Revised Code that an applicant pays to obtain license plates that 62460
bear the logo of a professional sports team that is participating 62461
in the license plate program pursuant to division (G) of that 62462
section. 62463

The registrar shall pay the contributions the registrar 62464
receives pursuant to section 4503.67 of the Revised Code to the 62465
Dan Beard council of the boy scouts of America. The council shall 62466
distribute all contributions in an equitable manner throughout the 62467
state to regional councils of the boy scouts. 62468

The registrar shall pay the contributions the registrar 62469
receives pursuant to section 4503.68 of the Revised Code to the 62470
great river council of the girl scouts of the United States of 62471
America. The council shall distribute all contributions in an 62472
equitable manner throughout the state to regional councils of the 62473
girl scouts. 62474

The registrar shall pay the contributions the registrar 62475
receives pursuant to section 4503.69 of the Revised Code to the 62476
Dan Beard council of the boy scouts of America. The council shall 62477
distribute all contributions in an equitable manner throughout the 62478
state to regional councils of the boy scouts. 62479

The registrar shall pay the contributions the registrar 62480
receives pursuant to section 4503.701 of the Revised Code to the 62481

Prince Hall grand lodge of free and accepted masons of Ohio, which 62482
shall use the contributions for scholarship purposes. 62483

The registrar shall pay the contributions the registrar 62484
receives pursuant to section 4503.71 of the Revised Code to the 62485
fraternal order of police of Ohio, incorporated, which shall 62486
deposit the fees into its general account to be used for purposes 62487
of the fraternal order of police of Ohio, incorporated. 62488

The registrar shall pay the contributions the registrar 62489
receives pursuant to section 4503.711 of the Revised Code to the 62490
fraternal order of police of Ohio, incorporated, which shall 62491
deposit the contributions into an account that it creates to be 62492
used for the purpose of advancing and protecting the law 62493
enforcement profession, promoting improved law enforcement 62494
methods, and teaching respect for law and order. 62495

The registrar shall pay the contributions received pursuant 62496
to section 4503.712 of the Revised Code to Ohio concerns of police 62497
survivors, which shall use those contributions to provide whatever 62498
assistance may be appropriate to the families of Ohio law 62499
enforcement officers who are killed in the line of duty. 62500

The registrar shall pay the contributions received pursuant 62501
to section 4503.713 of the Revised Code to the greater Cleveland 62502
peace officers memorial society, which shall use those 62503
contributions to honor law enforcement officers who have died in 62504
the line of duty and support its charitable purposes. 62505

The registrar shall pay the contributions the registrar 62506
receives pursuant to section 4503.72 of the Revised Code to the 62507
organization known on March 31, 2003, as the Ohio CASA/GAL 62508
association, a private, nonprofit corporation organized under 62509
Chapter 1702. of the Revised Code. The Ohio CASA/GAL association 62510
shall use these contributions to pay the expenses it incurs in 62511
administering a program to secure the proper representation in the 62512

courts of this state of abused, neglected, and dependent children, 62513
and for the training and supervision of persons participating in 62514
that program. 62515

The registrar shall pay the contributions the registrar 62516
receives pursuant to section 4503.73 of the Revised Code to Wright 62517
B. Flyer, incorporated, which shall deposit the contributions into 62518
its general account to be used for purposes of Wright B. Flyer, 62519
incorporated. 62520

The registrar shall pay the contributions the registrar 62521
receives pursuant to section 4503.74 of the Revised Code to the 62522
Columbus zoological park association, which shall disburse the 62523
moneys to Ohio's major metropolitan zoos, as defined in section 62524
4503.74 of the Revised Code, in accordance with a written 62525
agreement entered into by the major metropolitan zoos. 62526

The registrar shall pay the contributions the registrar 62527
receives pursuant to section 4503.75 of the Revised Code to the 62528
rotary foundation, located on March 31, 2003, in Evanston, 62529
Illinois, to be placed in a fund known as the permanent fund and 62530
used to endow educational and humanitarian programs of the rotary 62531
foundation. 62532

The registrar shall pay the contributions the registrar 62533
receives pursuant to section 4503.751 of the Revised Code to the 62534
Ohio association of realtors, which shall deposit the 62535
contributions into a property disaster relief fund maintained 62536
under the Ohio realtors charitable and education foundation. 62537

The registrar shall pay the contributions the registrar 62538
receives pursuant to section 4503.85 of the Revised Code to the 62539
Ohio sea grant college program to be used for Lake Erie area 62540
research projects. 62541

The registrar shall pay the contributions the registrar 62542
receives pursuant to section 4503.89 of the Revised Code to the 62543

American red cross of greater Columbus on behalf of the Ohio 62544
chapters of the American red cross, which shall use the 62545
contributions for disaster readiness, preparedness, and response 62546
programs on a statewide basis. 62547

The registrar shall pay the contributions received pursuant 62548
to section 4503.92 of the Revised Code to support our troops, 62549
incorporated, a national nonprofit corporation, which shall use 62550
those contributions in accordance with its articles of 62551
incorporation and for the benefit of servicemembers of the armed 62552
forces of the United States and their families when they are in 62553
financial need. 62554

The registrar shall pay the contributions the registrar 62555
receives pursuant to section 4503.94 of the Revised Code to the 62556
Michelle's leading star foundation, which shall use the money 62557
solely to fund the rental, lease, or purchase of the simulated 62558
driving curriculum of the Michelle's leading star foundation by 62559
boards of education of city, exempted village, local, and joint 62560
vocational school districts. 62561

(C) All investment earnings of the license plate contribution 62562
fund shall be credited to the fund. Not later than the first day 62563
of May of every year, the registrar shall distribute to each 62564
entity described in division (B) of this section the investment 62565
income the fund earned the previous calendar year. The amount of 62566
such a distribution paid to an entity shall be proportionate to 62567
the amount of money the entity received from the fund during the 62568
previous calendar year. 62569

Sec. 4503.524. (A) The owner or lessee of any passenger car, 62570
noncommercial motor vehicle, recreational vehicle, or other 62571
vehicle of a class approved by the registrar of motor vehicles may 62572
apply to the registrar for the registration of the vehicle and 62573
issuance of "Massillon tiger football booster club" license 62574

plates. The application for "Massillon tiger football booster club" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of "Massillon tiger football booster club" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, "Massillon tiger football booster club" license plates shall be inscribed with words and markings selected and designed by the Massillon tiger football booster club and approved by the registrar. "Massillon tiger football booster club" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "Massillon tiger football booster club" license plates and validation stickers shall be issued upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, a bureau of motor vehicles administrative fee of ten dollars, the contribution specified in division (C) of this section, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "Massillon tiger football booster club" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the contribution, fees, and taxes contained in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration

renewal submitted under this section, the registrar shall collect 62607
a contribution of twenty-five dollars. The registrar shall 62608
transmit this contribution to the treasurer of state for deposit 62609
into the license plate contribution fund created in section 62610
4501.21 of the Revised Code. 62611

The registrar shall deposit the ten-dollar bureau 62612
administrative fee, the purpose of which is to compensate the 62613
bureau for additional services required in issuing "Massillon 62614
tiger football booster club" license plates, into the state bureau 62615
of motor vehicles fund created in section 4501.25 of the Revised 62616
Code. 62617

Sec. 4503.62. (A) Application for the registration of an 62618
apportionable vehicle shall be made to the registrar of motor 62619
vehicles in accordance with division (J) of section 4503.10 of the 62620
Revised Code. 62621

(B) Any person applying to register a vehicle or combination 62622
vehicle that has a gross vehicle weight of twenty-six thousand 62623
pounds or less or two axles, or that is a bus used in charter 62624
party service, also may register the vehicle in accordance with 62625
division (J) of section 4503.10 of the Revised Code if the vehicle 62626
is used or intended for use in two or more international 62627
registration plan member jurisdictions. 62628

(C) No later than December 31, 2011, the registrar shall 62629
adopt rules under Chapter 119. of the Revised Code to establish a 62630
program to accept applications for vehicle registration 62631
transactions of apportionable vehicles electronically over the 62632
internet. The program also may provide for vehicle registration 62633
transactions of nonapportionable commercial motor vehicles over 62634
the internet. 62635

(D) The internet registration program shall provide an option 62636
for the payment of all registration taxes and fees by use of a 62637

financial transaction device. In providing for payment by the use 62638
of a financial transaction device, the registrar ~~may, but is not~~ 62639
~~required to, shall~~ comply with section 113.40 of the Revised Code. 62640
~~The registrar, with the approval of the director of public safety,~~ 62641
~~may contract with a third party to accept and process payments~~ 62642
~~made by use of a financial transaction device on behalf of the~~ 62643
~~bureau of motor vehicles.~~ All fees associated with payment by use 62644
of a financial transaction device shall be borne by the applicants 62645
seeking the registration of apportionable or other vehicles under 62646
the program established pursuant to division (C) of this section. 62647
The bureau shall not pay any costs, and shall not retain any 62648
additional fees, associated with the use of a financial 62649
transaction device. 62650

(E) As used in this section, "financial transaction device" 62651
has the same meaning as in section 113.40 of the Revised Code. 62652

Sec. 4506.07. (A) Every application for a commercial driver's 62653
license, restricted commercial driver's license, or a commercial 62654
driver's temporary instruction permit, or a duplicate of such a 62655
license, shall be made upon a form approved and furnished by the 62656
registrar of motor vehicles. Except as provided in section 4506.24 62657
of the Revised Code in regard to a restricted commercial driver's 62658
license, the application shall be signed by the applicant and 62659
shall contain the following information: 62660

(1) The applicant's name, date of birth, social security 62661
account number, sex, general description including height, weight, 62662
and color of hair and eyes, current residence, duration of 62663
residence in this state, country of citizenship, and occupation; 62664

(2) Whether the applicant previously has been licensed to 62665
operate a commercial motor vehicle or any other type of motor 62666
vehicle in another state or a foreign jurisdiction and, if so, 62667
when, by what state, and whether the license or driving privileges 62668

currently are suspended or revoked in any jurisdiction, or the applicant otherwise has been disqualified from operating a commercial motor vehicle, or is subject to an out-of-service order issued under this chapter or any similar law of another state or a foreign jurisdiction and, if so, the date of, locations involved, and reason for the suspension, revocation, disqualification, or out-of-service order;

(3) Whether the applicant is afflicted with or suffering from any physical or mental disability or disease that prevents the applicant from exercising reasonable and ordinary control over a motor vehicle while operating it upon a highway or is or has been subject to any condition resulting in episodic impairment of consciousness or loss of muscular control and, if so, the nature and extent of the disability, disease, or condition, and the names and addresses of the physicians attending the applicant;

(4) Whether the applicant has obtained a medical examiner's certificate as required by this chapter and, beginning January 30, 2012, the applicant, prior to or at the time of applying, has self-certified to the registrar the applicable status of the applicant under division (A)(2) of section 4506.10 of the Revised Code;

(5) Whether the applicant has pending a citation for violation of any motor vehicle law or ordinance except a parking violation and, if so, a description of the citation, the court having jurisdiction of the offense, and the date when the offense occurred;

(6) ~~Whether~~ If an applicant has not certified the applicant's willingness to make an anatomical gift under section 2108.05 of the Revised Code, whether the applicant wishes to certify willingness to make such an anatomical gift ~~under section 2108.05 of the Revised Code~~, which shall be given no consideration in the issuance of a license;

(7) On and after May 1, 1993, whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the license issued to indicate that the applicant has executed the instrument;

(8) On and after October 7, 2009, whether the applicant is a veteran, active duty, or reservist of the armed forces of the United States and, if the applicant is such, whether the applicant wishes the license issued to indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States by a military designation on the license.

(B) Every applicant shall certify, on a form approved and furnished by the registrar, all of the following:

(1) That the motor vehicle in which the applicant intends to take the driving skills test is representative of the type of motor vehicle that the applicant expects to operate as a driver;

(2) That the applicant is not subject to any disqualification or out-of-service order, or license suspension, revocation, or cancellation, under the laws of this state, of another state, or of a foreign jurisdiction and does not have more than one driver's license issued by this or another state or a foreign jurisdiction;

(3) Any additional information, certification, or evidence that the registrar requires by rule in order to ensure that the issuance of a commercial driver's license to the applicant is in compliance with the law of this state and with federal law.

(C) Every applicant shall execute a form, approved and furnished by the registrar, under which the applicant consents to

the release by the registrar of information from the applicant's 62732
driving record. 62733

(D) The registrar or a deputy registrar, in accordance with 62734
section 3503.11 of the Revised Code, shall register as an elector 62735
any applicant for a commercial driver's license or for a renewal 62736
or duplicate of such a license under this chapter, if the 62737
applicant is eligible and wishes to be registered as an elector. 62738
The decision of an applicant whether to register as an elector 62739
shall be given no consideration in the decision of whether to 62740
issue the applicant a license or a renewal or duplicate. 62741

(E) The registrar or a deputy registrar, in accordance with 62742
section 3503.11 of the Revised Code, shall offer the opportunity 62743
of completing a notice of change of residence or change of name to 62744
any applicant for a commercial driver's license or for a renewal 62745
or duplicate of such a license who is a resident of this state, if 62746
the applicant is a registered elector who has changed the 62747
applicant's residence or name and has not filed such a notice. 62748

(F) In considering any application submitted pursuant to this 62749
section, the bureau of motor vehicles may conduct any inquiries 62750
necessary to ensure that issuance or renewal of a commercial 62751
driver's license would not violate any provision of the Revised 62752
Code or federal law. 62753

(G) In addition to any other information it contains, on and 62754
after October 7, 2009, the form approved and furnished by the 62755
registrar of motor vehicles for an application for a commercial 62756
driver's license, restricted commercial driver's license, or a 62757
commercial driver's temporary instruction permit or an application 62758
for a duplicate of such a license shall inform applicants that the 62759
applicant must present a copy of the applicant's DD-214 or an 62760
equivalent document in order to qualify to have the license or 62761
duplicate indicate that the applicant is a veteran, active duty, 62762
or reservist of the armed forces of the United States based on a 62763

request made pursuant to division (A)(8) of this section. 62764

Sec. 4507.021. (A) No person shall drive, operate, draw, 62765
move, or propel an agricultural tractor or implement of husbandry 62766
upon a street or highway in either of the following circumstances 62767
unless the person has a current, valid driver's or commercial 62768
driver's license: 62769

(1) At a speed greater than twenty-five miles per hour; or 62770

(2) While transporting persons in or on a trailer or unit of 62771
farm machinery. 62772

(B) Whoever violates division (A) of this section is guilty 62773
of a misdemeanor of the first degree. 62774

Sec. 4507.03. (A)(1) No person shall be required to obtain a 62775
driver's or commercial driver's license for the purpose of 62776
temporarily driving, operating, drawing, moving, or propelling a 62777
road roller or road machinery upon a street or highway. 62778

(2) ~~No~~ Except as provided in section 4507.021 of the Revised 62779
Code, no person shall be required to obtain a driver's or 62780
commercial driver's license for the purpose of temporarily 62781
driving, operating, drawing, moving, or propelling any 62782
agricultural tractor or implement of husbandry upon a street or 62783
highway at a speed of twenty-five miles per hour or less. 62784

~~(3) No person shall drive, operate, draw, move, or propel any~~ 62785
~~agricultural tractor or implement of husbandry upon a street or~~ 62786
~~highway at a speed greater than twenty five miles per hour unless~~ 62787
~~the person has a current, valid driver's or commercial driver's~~ 62788
~~license.~~ 62789

~~(4)~~ No person having a valid driver's or commercial driver's 62790
license shall be required to have a motorcycle operator's 62791
endorsement to operate a motorcycle having three wheels with a 62792

motor of not more than fifty cubic centimeters piston displacement. 62793
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(B) Every person on active duty in the armed forces of the United States, when furnished with a driver's permit and when operating an official motor vehicle in connection with such duty, is exempt from the license requirements of Chapters 4506. and 4507. of the Revised Code. 62795
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Every person on active duty in the armed forces of the United States or in service with the peace corps, volunteers in service to America, or the foreign service of the United States is exempt from the license requirements of those chapters for the period of the person's active duty or service and for six months thereafter, provided the person was a licensee under those chapters at the time the person commenced the person's active duty or service. The spouse or a dependent of any such person on active duty or in service also is exempt from the license requirements of those chapters for the period of the person's active duty or service and for six months thereafter, provided the spouse or dependent was a licensee under those chapters at the time the person commenced the active duty or service, and provided further that the person's active duty or service causes the spouse or dependent to relocate outside of this state during the period of the active duty or service. 62800
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This section does not prevent such a person or the person's spouse or dependent from making an application, as provided in division (C) of section 4507.10 of the Revised Code, for the renewal of a driver's license or motorcycle operator's endorsement or as provided in section 4506.14 of the Revised Code for the renewal of a commercial driver's license during the period of the person's active duty or service. 62816
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~~(C) Whoever violates division (A)(3) of this section is guilty of a misdemeanor of the first degree.~~ 62823
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Sec. 4507.06. (A)(1) Every application for a driver's license 62825
or motorcycle operator's license or endorsement, or duplicate of 62826
any such license or endorsement, shall be made upon the approved 62827
form furnished by the registrar of motor vehicles and shall be 62828
signed by the applicant. 62829

Every application shall state the following: 62830

(a) The applicant's name, date of birth, social security 62831
number if such has been assigned, sex, general description, 62832
including height, weight, color of hair, and eyes, residence 62833
address, including county of residence, duration of residence in 62834
this state, and country of citizenship; 62835

(b) Whether the applicant previously has been licensed as an 62836
operator, chauffeur, driver, commercial driver, or motorcycle 62837
operator and, if so, when, by what state, and whether such license 62838
is suspended or canceled at the present time and, if so, the date 62839
of and reason for the suspension or cancellation; 62840

(c) Whether the applicant is now or ever has been afflicted 62841
with epilepsy, or whether the applicant now is suffering from any 62842
physical or mental disability or disease and, if so, the nature 62843
and extent of the disability or disease, giving the names and 62844
addresses of physicians then or previously in attendance upon the 62845
applicant; 62846

(d) Whether an applicant for a duplicate driver's license, or 62847
duplicate license containing a motorcycle operator endorsement has 62848
pending a citation for violation of any motor vehicle law or 62849
ordinance, a description of any such citation pending, and the 62850
date of the citation; 62851

(e) ~~Whether~~ If an applicant has not certified the applicant's 62852
willingness to make an anatomical gift under section 2108.05 of 62853
the Revised Code, whether the applicant wishes to certify 62854

willingness to make such an anatomical gift ~~under section 2108.05~~ 62855
~~of the Revised Code~~, which shall be given no consideration in the 62856
issuance of a license or endorsement; 62857

(f) Whether the applicant has executed a valid durable power 62858
of attorney for health care pursuant to sections 1337.11 to 62859
1337.17 of the Revised Code or has executed a declaration 62860
governing the use or continuation, or the withholding or 62861
withdrawal, of life-sustaining treatment pursuant to sections 62862
2133.01 to 2133.15 of the Revised Code and, if the applicant has 62863
executed either type of instrument, whether the applicant wishes 62864
the applicant's license to indicate that the applicant has 62865
executed the instrument; 62866

(g) On and after October 7, 2009, whether the applicant is a 62867
veteran, active duty, or reservist of the armed forces of the 62868
United States and, if the applicant is such, whether the applicant 62869
wishes the applicant's license to indicate that the applicant is a 62870
veteran, active duty, or reservist of the armed forces of the 62871
United States by a military designation on the license. 62872

(2) Every applicant for a driver's license shall be 62873
photographed in color at the time the application for the license 62874
is made. The application shall state any additional information 62875
that the registrar requires. 62876

(B) The registrar or a deputy registrar, in accordance with 62877
section 3503.11 of the Revised Code, shall register as an elector 62878
any person who applies for a driver's license or motorcycle 62879
operator's license or endorsement under division (A) of this 62880
section, or for a renewal or duplicate of the license or 62881
endorsement, if the applicant is eligible and wishes to be 62882
registered as an elector. The decision of an applicant whether to 62883
register as an elector shall be given no consideration in the 62884
decision of whether to issue the applicant a license or 62885
endorsement, or a renewal or duplicate. 62886

(C) The registrar or a deputy registrar, in accordance with 62887
section 3503.11 of the Revised Code, shall offer the opportunity 62888
of completing a notice of change of residence or change of name to 62889
any applicant for a driver's license or endorsement under division 62890
(A) of this section, or for a renewal or duplicate of the license 62891
or endorsement, if the applicant is a registered elector who has 62892
changed the applicant's residence or name and has not filed such a 62893
notice. 62894

(D) In addition to any other information it contains, on and 62895
after October 7, 2009, the approved form furnished by the 62896
registrar of motor vehicles for an application for a driver's 62897
license or motorcycle operator's license or endorsement or an 62898
application for a duplicate of any such license or endorsement 62899
shall inform applicants that the applicant must present a copy of 62900
the applicant's DD-214 or an equivalent document in order to 62901
qualify to have the license or duplicate indicate that the 62902
applicant is a veteran, active duty, or reservist of the armed 62903
forces of the United States based on a request made pursuant to 62904
division (A)(1)(g) of this section. 62905

Sec. 4507.51. (A)(1) Every application for an identification 62906
card or duplicate shall be made on a form furnished by the 62907
registrar of motor vehicles, shall be signed by the applicant, and 62908
by the applicant's parent or guardian if the applicant is under 62909
eighteen years of age, and shall contain the following information 62910
pertaining to the applicant: name, date of birth, sex, general 62911
description including the applicant's height, weight, hair color, 62912
and eye color, address, and social security number. The 62913
application also shall ~~state~~ include, for an applicant who has not 62914
already certified the applicant's willingness to make an 62915
anatomical gift under section 2108.05 of the Revised Code, whether 62916
~~an~~ the applicant wishes to certify willingness to make such an 62917
anatomical gift ~~under section 2108.05 of the Revised Code~~ and 62918

shall include information about the requirements of sections 62919
2108.01 to 2108.29 of the Revised Code that apply to persons who 62920
are less than eighteen years of age. The statement regarding 62921
willingness to make such a donation shall be given no 62922
consideration in the decision of whether to issue an 62923
identification card. Each applicant shall be photographed in color 62924
at the time of making application. 62925

(2)(a) The application also shall state whether the applicant 62926
has executed a valid durable power of attorney for health care 62927
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 62928
executed a declaration governing the use or continuation, or the 62929
withholding or withdrawal, of life-sustaining treatment pursuant 62930
to sections 2133.01 to 2133.15 of the Revised Code and, if the 62931
applicant has executed either type of instrument, whether the 62932
applicant wishes the identification card issued to indicate that 62933
the applicant has executed the instrument. 62934

(b) On and after October 7, 2009, the application also shall 62935
state whether the applicant is a veteran, active duty, or 62936
reservist of the armed forces of the United States and, if the 62937
applicant is such, whether the applicant wishes the identification 62938
card issued to indicate that the applicant is a veteran, active 62939
duty, or reservist of the armed forces of the United States by a 62940
military designation on the identification card. 62941

(3) The registrar or deputy registrar, in accordance with 62942
section 3503.11 of the Revised Code, shall register as an elector 62943
any person who applies for an identification card or duplicate if 62944
the applicant is eligible and wishes to be registered as an 62945
elector. The decision of an applicant whether to register as an 62946
elector shall be given no consideration in the decision of whether 62947
to issue the applicant an identification card or duplicate. 62948

(B) The application for an identification card or duplicate 62949
shall be filed in the office of the registrar or deputy registrar. 62950

Each applicant shall present documentary evidence as required by 62951
the registrar of the applicant's age and identity, and the 62952
applicant shall swear that all information given is true. An 62953
identification card issued by the department of rehabilitation and 62954
correction under section 5120.59 of the Revised Code or an 62955
identification card issued by the department of youth services 62956
under section 5139.511 of the Revised Code shall be sufficient 62957
documentary evidence under this division upon verification of the 62958
applicant's social security number by the registrar or a deputy 62959
registrar. Upon issuing an identification card under this section 62960
for a person who has been issued an identification card under 62961
section 5120.59 or section 5139.511 of the Revised Code, the 62962
registrar or deputy registrar shall destroy the identification 62963
card issued under section 5120.59 or section 5139.511 of the 62964
Revised Code. 62965

All applications for an identification card or duplicate 62966
shall be filed in duplicate, and if submitted to a deputy 62967
registrar, a copy shall be forwarded to the registrar. The 62968
registrar shall prescribe rules for the manner in which a deputy 62969
registrar is to file and maintain applications and other records. 62970
The registrar shall maintain a suitable, indexed record of all 62971
applications denied and cards issued or canceled. 62972

(C) In addition to any other information it contains, on and 62973
after the date that is fifteen months after April 7, 2009, the 62974
form furnished by the registrar of motor vehicles for an 62975
application for an identification card or duplicate shall inform 62976
applicants that the applicant must present a copy of the 62977
applicant's DD-214 or an equivalent document in order to qualify 62978
to have the card or duplicate indicate that the applicant is an 62979
honorably discharged veteran of the armed forces of the United 62980
States based on a request made pursuant to division (A)(2)(b) of 62981
this section. 62982

Sec. 4510.038. (A) Any person whose driver's or commercial 62983
driver's license or permit is suspended or who is granted limited 62984
driving privileges under section 4510.037, under division (H) of 62985
section 4511.19, or under section 4510.07 of the Revised Code for 62986
a violation of a municipal ordinance that is substantially 62987
equivalent to division (B) of section 4511.19 of the Revised Code 62988
is not eligible to retain the license, or to have the driving 62989
privileges reinstated, until each of the following has occurred: 62990

(1) The person successfully completes a course of remedial 62991
driving instruction approved by the director of public safety. A 62992
minimum of twenty-five per cent of the number of hours of 62993
instruction included in the course shall be devoted to instruction 62994
on driver attitude. 62995

The course also shall devote a number of hours to instruction 62996
in the area of alcohol and drugs and the operation of vehicles. 62997
The instruction shall include, but not be limited to, a review of 62998
the laws governing the operation of a vehicle while under the 62999
influence of alcohol, drugs, or a combination of them, the dangers 63000
of operating a vehicle while under the influence of alcohol, 63001
drugs, or a combination of them, and other information relating to 63002
the operation of vehicles and the consumption of alcoholic 63003
beverages and use of drugs. The director, in consultation with the 63004
director of ~~alcohol and drug addiction services~~ mental health and 63005
addiction services, shall prescribe the content of the 63006
instruction. The number of hours devoted to the area of alcohol 63007
and drugs and the operation of vehicles shall comprise a minimum 63008
of twenty-five per cent of the number of hours of instruction 63009
included in the course. 63010

(2) The person is examined in the manner provided for in 63011
section 4507.20 of the Revised Code, and found by the registrar of 63012
motor vehicles to be qualified to operate a motor vehicle; 63013

(3) The person gives and maintains proof of financial responsibility, in accordance with section 4509.45 of the Revised Code. 63014
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(B)(1) Except as provided in division (B)(2) of this section, any course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person and the director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet. 63017
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(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing or the internet. 63025
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Sec. 4510.45. (A)(1) A manufacturer of ignition interlock devices that desires for its devices to be certified under section 4510.43 of the Revised Code and then to be included on the list of certified devices that the department of public safety compiles and makes available to courts pursuant to that section first shall obtain a license from the department under this section. The department, in accordance with Chapter 119. of the Revised Code, shall adopt any rules that are necessary to implement this licensing requirement. 63028
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(2) A manufacturer shall apply to the department for the license and shall include all information the department may require by rule. Each application, including an application for license renewal, shall be accompanied by an application fee of one hundred dollars, which the department shall deposit into the state treasury to the credit of the indigent drivers alcohol treatment fund created by section 4511.191 of the Revised Code. 63037
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(3) Upon receipt of a completed application, if the 63044

department finds that a manufacturer has complied with all 63045
application requirements, the department shall issue a license to 63046
the manufacturer. A manufacturer that has been issued a license 63047
under this section is eligible immediately to have the models of 63048
ignition interlock devices it produces certified under section 63049
4510.43 of the Revised Code and then included on the list of 63050
certified devices that the department compiles and makes available 63051
to courts pursuant to that section. 63052

(4)(a) A license issued under this section shall expire 63053
annually on a date selected by the department. The department 63054
shall reject the license application of a manufacturer if any of 63055
the following apply: 63056

(i) The application is not accompanied by the application 63057
fee. 63058

(ii) The department finds that the manufacturer has not 63059
complied with all application requirements. 63060

(iii) The license application is a renewal application and 63061
the manufacturer failed to file the annual report or failed to pay 63062
the fee as required by division (B) of this section. 63063

(b) A manufacturer whose license application is rejected by 63064
the department may appeal the decision to the director of public 63065
safety. The director or the director's designee shall hold a 63066
hearing on the matter not more than thirty days from the date of 63067
the manufacturer's appeal. If the director or the director's 63068
designee upholds the denial of the manufacturer's application for 63069
a license, the manufacturer may appeal the decision to the 63070
Franklin county court of common pleas. If the director or the 63071
director's designee reverses the denial of the manufacturer's 63072
application for a license, the director or the director's designee 63073
shall issue a written order directing that the department issue a 63074
license to the manufacturer. 63075

(B) Every manufacturer of ignition interlock devices that is issued a license under this section shall file an annual report with the department on a form the department prescribes on or before a date the department prescribes. The annual report shall state the amount of net profit the manufacturer earned during a twelve-month period specified by the department that is attributable to the sales of that manufacturer's certified ignition interlock devices to purchasers in this state. Each manufacturer shall pay a fee equal to five per cent of the amount of the net profit described in this division.

The department may permit annual reports to be filed via electronic means.

(C) The department shall deposit all fees it receives from manufacturers under this section into the state treasury to the credit of the indigent drivers alcohol treatment fund created by section 4511.191 of the Revised Code. All money so deposited into that fund that is paid by the department of ~~alcohol and drug addiction services~~ mental health and addiction services to county indigent drivers alcohol treatment funds, county juvenile indigent drivers alcohol treatment funds, and municipal indigent drivers alcohol treatment funds shall be used only as described in division (H)(3) of section 4511.191 of the Revised Code.

(D)(1) The director may make an assessment, based on any information in the director's possession, against any manufacturer that fails to file an annual report or pay the fee required by division (B) of this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing assessments and assessment procedures and related provisions. In adopting these rules, the director shall incorporate the provisions of section 5751.09 of the Revised Code to the greatest extent possible, except that the director is not required to incorporate any provisions of that section that by their nature

are not applicable, appropriate, or necessary to assessments made 63108
by the director under this section. 63109

(2) A manufacturer may appeal the final determination of the 63110
director regarding an assessment made by the director under this 63111
section. The director, in accordance with Chapter 119. of the 63112
Revised Code, shall adopt rules governing such appeals. In 63113
adopting these rules, the director shall incorporate the 63114
provisions of section 5717.02 of the Revised Code to the greatest 63115
extent possible, except that the director is not required to 63116
incorporate any provisions of that section that by their nature 63117
are not applicable, appropriate, or necessary to appeals of 63118
assessments made by the director under this section. 63119

(E) The director, in accordance with Chapter 119. of the 63120
Revised Code, shall adopt a penalty schedule setting forth the 63121
monetary penalties to be imposed upon a manufacturer that is 63122
issued a license under this section and fails to file an annual 63123
report or pay the fee required by division (B) of this section in 63124
a timely manner. The penalty amounts shall not exceed the maximum 63125
penalty amounts established in section 5751.06 of the Revised Code 63126
for similar or equivalent facts or circumstances. 63127

(F)(1) No manufacturer of ignition interlock devices that is 63128
required by division (B) of this section to file an annual report 63129
with the department or to pay a fee shall fail to do so as 63130
required by that division. 63131

(2) No manufacturer of ignition interlock devices that is 63132
required by division (B) of this section to file an annual report 63133
with the department shall file a report that contains incorrect or 63134
erroneous information. 63135

(G) Whoever violates division (F)(2) of this section is 63136
guilty of a misdemeanor of the first degree. The department shall 63137
remove from the list of certified devices described in division 63138

(A)(1) of this section the ignition interlock devices manufactured 63139
by a manufacturer that violates division (F)(1) or (2) of this 63140
section. 63141

Sec. 4511.19. (A)(1) No person shall operate any vehicle, 63142
streetcar, or trackless trolley within this state, if, at the time 63143
of the operation, any of the following apply: 63144

(a) The person is under the influence of alcohol, a drug of 63145
abuse, or a combination of them. 63146

(b) The person has a concentration of eight-hundredths of one 63147
per cent or more but less than seventeen-hundredths of one per 63148
cent by weight per unit volume of alcohol in the person's whole 63149
blood. 63150

(c) The person has a concentration of ninety-six-thousandths 63151
of one per cent or more but less than two hundred four-thousandths 63152
of one per cent by weight per unit volume of alcohol in the 63153
person's blood serum or plasma. 63154

(d) The person has a concentration of eight-hundredths of one 63155
gram or more but less than seventeen-hundredths of one gram by 63156
weight of alcohol per two hundred ten liters of the person's 63157
breath. 63158

(e) The person has a concentration of eleven-hundredths of 63159
one gram or more but less than two hundred 63160
thirty-eight-thousandths of one gram by weight of alcohol per one 63161
hundred milliliters of the person's urine. 63162

(f) The person has a concentration of seventeen-hundredths of 63163
one per cent or more by weight per unit volume of alcohol in the 63164
person's whole blood. 63165

(g) The person has a concentration of two hundred 63166
four-thousandths of one per cent or more by weight per unit volume 63167
of alcohol in the person's blood serum or plasma. 63168

(h) The person has a concentration of seventeen-hundredths of 63169
one gram or more by weight of alcohol per two hundred ten liters 63170
of the person's breath. 63171

(i) The person has a concentration of two hundred 63172
thirty-eight-thousandths of one gram or more by weight of alcohol 63173
per one hundred milliliters of the person's urine. 63174

(j) Except as provided in division (K) of this section, the 63175
person has a concentration of any of the following controlled 63176
substances or metabolites of a controlled substance in the 63177
person's whole blood, blood serum or plasma, or urine that equals 63178
or exceeds any of the following: 63179

(i) The person has a concentration of amphetamine in the 63180
person's urine of at least five hundred nanograms of amphetamine 63181
per milliliter of the person's urine or has a concentration of 63182
amphetamine in the person's whole blood or blood serum or plasma 63183
of at least one hundred nanograms of amphetamine per milliliter of 63184
the person's whole blood or blood serum or plasma. 63185

(ii) The person has a concentration of cocaine in the 63186
person's urine of at least one hundred fifty nanograms of cocaine 63187
per milliliter of the person's urine or has a concentration of 63188
cocaine in the person's whole blood or blood serum or plasma of at 63189
least fifty nanograms of cocaine per milliliter of the person's 63190
whole blood or blood serum or plasma. 63191

(iii) The person has a concentration of cocaine metabolite in 63192
the person's urine of at least one hundred fifty nanograms of 63193
cocaine metabolite per milliliter of the person's urine or has a 63194
concentration of cocaine metabolite in the person's whole blood or 63195
blood serum or plasma of at least fifty nanograms of cocaine 63196
metabolite per milliliter of the person's whole blood or blood 63197
serum or plasma. 63198

(iv) The person has a concentration of heroin in the person's 63199

urine of at least two thousand nanograms of heroin per milliliter 63200
of the person's urine or has a concentration of heroin in the 63201
person's whole blood or blood serum or plasma of at least fifty 63202
nanograms of heroin per milliliter of the person's whole blood or 63203
blood serum or plasma. 63204

(v) The person has a concentration of heroin metabolite 63205
(6-monoacetyl morphine) in the person's urine of at least ten 63206
nanograms of heroin metabolite (6-monoacetyl morphine) per 63207
milliliter of the person's urine or has a concentration of heroin 63208
metabolite (6-monoacetyl morphine) in the person's whole blood or 63209
blood serum or plasma of at least ten nanograms of heroin 63210
metabolite (6-monoacetyl morphine) per milliliter of the person's 63211
whole blood or blood serum or plasma. 63212

(vi) The person has a concentration of L.S.D. in the person's 63213
urine of at least twenty-five nanograms of L.S.D. per milliliter 63214
of the person's urine or a concentration of L.S.D. in the person's 63215
whole blood or blood serum or plasma of at least ten nanograms of 63216
L.S.D. per milliliter of the person's whole blood or blood serum 63217
or plasma. 63218

(vii) The person has a concentration of marihuana in the 63219
person's urine of at least ten nanograms of marihuana per 63220
milliliter of the person's urine or has a concentration of 63221
marihuana in the person's whole blood or blood serum or plasma of 63222
at least two nanograms of marihuana per milliliter of the person's 63223
whole blood or blood serum or plasma. 63224

(viii) Either of the following applies: 63225

(I) The person is under the influence of alcohol, a drug of 63226
abuse, or a combination of them, and, as measured by gas 63227
chromatography mass spectrometry, the person has a concentration 63228
of marihuana metabolite in the person's urine of at least fifteen 63229
nanograms of marihuana metabolite per milliliter of the person's 63230

urine or has a concentration of marihuana metabolite in the 63231
person's whole blood or blood serum or plasma of at least five 63232
nanograms of marihuana metabolite per milliliter of the person's 63233
whole blood or blood serum or plasma. 63234

(II) As measured by gas chromatography mass spectrometry, the 63235
person has a concentration of marihuana metabolite in the person's 63236
urine of at least thirty-five nanograms of marihuana metabolite 63237
per milliliter of the person's urine or has a concentration of 63238
marihuana metabolite in the person's whole blood or blood serum or 63239
plasma of at least fifty nanograms of marihuana metabolite per 63240
milliliter of the person's whole blood or blood serum or plasma. 63241

(ix) The person has a concentration of methamphetamine in the 63242
person's urine of at least five hundred nanograms of 63243
methamphetamine per milliliter of the person's urine or has a 63244
concentration of methamphetamine in the person's whole blood or 63245
blood serum or plasma of at least one hundred nanograms of 63246
methamphetamine per milliliter of the person's whole blood or 63247
blood serum or plasma. 63248

(x) The person has a concentration of phencyclidine in the 63249
person's urine of at least twenty-five nanograms of phencyclidine 63250
per milliliter of the person's urine or has a concentration of 63251
phencyclidine in the person's whole blood or blood serum or plasma 63252
of at least ten nanograms of phencyclidine per milliliter of the 63253
person's whole blood or blood serum or plasma. 63254

(xi) The state board of pharmacy has adopted a rule pursuant 63255
to section 4729.041 of the Revised Code that specifies the amount 63256
of salvia divinorum and the amount of salvinorin A that constitute 63257
concentrations of salvia divinorum and salvinorin A in a person's 63258
urine, in a person's whole blood, or in a person's blood serum or 63259
plasma at or above which the person is impaired for purposes of 63260
operating any vehicle, streetcar, or trackless trolley within this 63261
state, the rule is in effect, and the person has a concentration 63262

of salvia divinorum or salvinorin A of at least that amount so 63263
specified by rule in the person's urine, in the person's whole 63264
blood, or in the person's blood serum or plasma. 63265

(2) No person who, within twenty years of the conduct 63266
described in division (A)(2)(a) of this section, previously has 63267
been convicted of or pleaded guilty to a violation of this 63268
division, a violation of division (A)(1) or (B) of this section, 63269
or any other equivalent offense shall do both of the following: 63270

(a) Operate any vehicle, streetcar, or trackless trolley 63271
within this state while under the influence of alcohol, a drug of 63272
abuse, or a combination of them; 63273

(b) Subsequent to being arrested for operating the vehicle, 63274
streetcar, or trackless trolley as described in division (A)(2)(a) 63275
of this section, being asked by a law enforcement officer to 63276
submit to a chemical test or tests under section 4511.191 of the 63277
Revised Code, and being advised by the officer in accordance with 63278
section 4511.192 of the Revised Code of the consequences of the 63279
person's refusal or submission to the test or tests, refuse to 63280
submit to the test or tests. 63281

(B) No person under twenty-one years of age shall operate any 63282
vehicle, streetcar, or trackless trolley within this state, if, at 63283
the time of the operation, any of the following apply: 63284

(1) The person has a concentration of at least two-hundredths 63285
of one per cent but less than eight-hundredths of one per cent by 63286
weight per unit volume of alcohol in the person's whole blood. 63287

(2) The person has a concentration of at least 63288
three-hundredths of one per cent but less than 63289
ninety-six-thousandths of one per cent by weight per unit volume 63290
of alcohol in the person's blood serum or plasma. 63291

(3) The person has a concentration of at least two-hundredths 63292
of one gram but less than eight-hundredths of one gram by weight 63293

of alcohol per two hundred ten liters of the person's breath. 63294

(4) The person has a concentration of at least twenty-eight 63295
one-thousandths of one gram but less than eleven-hundredths of one 63296
gram by weight of alcohol per one hundred milliliters of the 63297
person's urine. 63298

(C) In any proceeding arising out of one incident, a person 63299
may be charged with a violation of division (A)(1)(a) or (A)(2) 63300
and a violation of division (B)(1), (2), or (3) of this section, 63301
but the person may not be convicted of more than one violation of 63302
these divisions. 63303

(D)(1)(a) In any criminal prosecution or juvenile court 63304
proceeding for a violation of division (A)(1)(a) of this section 63305
or for an equivalent offense that is vehicle-related, the result 63306
of any test of any blood or urine withdrawn and analyzed at any 63307
health care provider, as defined in section 2317.02 of the Revised 63308
Code, may be admitted with expert testimony to be considered with 63309
any other relevant and competent evidence in determining the guilt 63310
or innocence of the defendant. 63311

(b) In any criminal prosecution or juvenile court proceeding 63312
for a violation of division (A) or (B) of this section or for an 63313
equivalent offense that is vehicle-related, the court may admit 63314
evidence on the concentration of alcohol, drugs of abuse, 63315
controlled substances, metabolites of a controlled substance, or a 63316
combination of them in the defendant's whole blood, blood serum or 63317
plasma, breath, urine, or other bodily substance at the time of 63318
the alleged violation as shown by chemical analysis of the 63319
substance withdrawn within three hours of the time of the alleged 63320
violation. The three-hour time limit specified in this division 63321
regarding the admission of evidence does not extend or affect the 63322
two-hour time limit specified in division (A) of section 4511.192 63323
of the Revised Code as the maximum period of time during which a 63324
person may consent to a chemical test or tests as described in 63325

that section. The court may admit evidence on the concentration of 63326
alcohol, drugs of abuse, or a combination of them as described in 63327
this division when a person submits to a blood, breath, urine, or 63328
other bodily substance test at the request of a law enforcement 63329
officer under section 4511.191 of the Revised Code or a blood or 63330
urine sample is obtained pursuant to a search warrant. Only a 63331
physician, a registered nurse, an emergency medical 63332
technician-intermediate, an emergency medical 63333
technician-paramedic, or a qualified technician, chemist, or 63334
phlebotomist shall withdraw a blood sample for the purpose of 63335
determining the alcohol, drug, controlled substance, metabolite of 63336
a controlled substance, or combination content of the whole blood, 63337
blood serum, or blood plasma. This limitation does not apply to 63338
the taking of breath or urine specimens. A person authorized to 63339
withdraw blood under this division may refuse to withdraw blood 63340
under this division, if in that person's opinion, the physical 63341
welfare of the person would be endangered by the withdrawing of 63342
blood. 63343

The bodily substance withdrawn under division (D)(1)(b) of 63344
this section shall be analyzed in accordance with methods approved 63345
by the director of health by an individual possessing a valid 63346
permit issued by the director pursuant to section 3701.143 of the 63347
Revised Code. 63348

(c) As used in division (D)(1)(b) of this section, "emergency 63349
medical technician-intermediate" and "emergency medical 63350
technician-paramedic" have the same meanings as in section 4765.01 63351
of the Revised Code. 63352

(2) In a criminal prosecution or juvenile court proceeding 63353
for a violation of division (A) of this section or for an 63354
equivalent offense that is vehicle-related, if there was at the 63355
time the bodily substance was withdrawn a concentration of less 63356
than the applicable concentration of alcohol specified in 63357

divisions (A)(1)(b), (c), (d), and (e) of this section or less 63358
than the applicable concentration of a listed controlled substance 63359
or a listed metabolite of a controlled substance specified for a 63360
violation of division (A)(1)(j) of this section, that fact may be 63361
considered with other competent evidence in determining the guilt 63362
or innocence of the defendant. This division does not limit or 63363
affect a criminal prosecution or juvenile court proceeding for a 63364
violation of division (B) of this section or for an equivalent 63365
offense that is substantially equivalent to that division. 63366

(3) Upon the request of the person who was tested, the 63367
results of the chemical test shall be made available to the person 63368
or the person's attorney, immediately upon the completion of the 63369
chemical test analysis. 63370

If the chemical test was obtained pursuant to division 63371
(D)(1)(b) of this section, the person tested may have a physician, 63372
a registered nurse, or a qualified technician, chemist, or 63373
phlebotomist of the person's own choosing administer a chemical 63374
test or tests, at the person's expense, in addition to any 63375
administered at the request of a law enforcement officer. If the 63376
person was under arrest as described in division (A)(5) of section 63377
4511.191 of the Revised Code, the arresting officer shall advise 63378
the person at the time of the arrest that the person may have an 63379
independent chemical test taken at the person's own expense. If 63380
the person was under arrest other than described in division 63381
(A)(5) of section 4511.191 of the Revised Code, the form to be 63382
read to the person to be tested, as required under section 63383
4511.192 of the Revised Code, shall state that the person may have 63384
an independent test performed at the person's expense. The failure 63385
or inability to obtain an additional chemical test by a person 63386
shall not preclude the admission of evidence relating to the 63387
chemical test or tests taken at the request of a law enforcement 63388
officer. 63389

(4)(a) As used in divisions (D)(4)(b) and (c) of this section, "national highway traffic safety administration" means the national highway traffic safety administration established as an administration of the United States department of transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

(b) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the national highway traffic safety administration, all of the following apply:

(i) The officer may testify concerning the results of the field sobriety test so administered.

(ii) The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

(iii) If testimony is presented or evidence is introduced under division (D)(4)(b)(i) or (ii) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to

be appropriate. 63422

(c) Division (D)(4)(b) of this section does not limit or 63423
preclude a court, in its determination of whether the arrest of a 63424
person was supported by probable cause or its determination of any 63425
other matter in a criminal prosecution or juvenile court 63426
proceeding of a type described in that division, from considering 63427
evidence or testimony that is not otherwise disallowed by division 63428
(D)(4)(b) of this section. 63429

(E)(1) Subject to division (E)(3) of this section, in any 63430
criminal prosecution or juvenile court proceeding for a violation 63431
of division (A)(1)(b), (c), (d), (e), (f), (g), (h), (i), or (j) 63432
or (B)(1), (2), (3), or (4) of this section or for an equivalent 63433
offense that is substantially equivalent to any of those 63434
divisions, a laboratory report from any laboratory personnel 63435
issued a permit by the department of health authorizing an 63436
analysis as described in this division that contains an analysis 63437
of the whole blood, blood serum or plasma, breath, urine, or other 63438
bodily substance tested and that contains all of the information 63439
specified in this division shall be admitted as prima-facie 63440
evidence of the information and statements that the report 63441
contains. The laboratory report shall contain all of the 63442
following: 63443

(a) The signature, under oath, of any person who performed 63444
the analysis; 63445

(b) Any findings as to the identity and quantity of alcohol, 63446
a drug of abuse, a controlled substance, a metabolite of a 63447
controlled substance, or a combination of them that was found; 63448

(c) A copy of a notarized statement by the laboratory 63449
director or a designee of the director that contains the name of 63450
each certified analyst or test performer involved with the report, 63451
the analyst's or test performer's employment relationship with the 63452

laboratory that issued the report, and a notation that performing 63453
an analysis of the type involved is part of the analyst's or test 63454
performer's regular duties; 63455

(d) An outline of the analyst's or test performer's 63456
education, training, and experience in performing the type of 63457
analysis involved and a certification that the laboratory 63458
satisfies appropriate quality control standards in general and, in 63459
this particular analysis, under rules of the department of health. 63460

(2) Notwithstanding any other provision of law regarding the 63461
admission of evidence, a report of the type described in division 63462
(E)(1) of this section is not admissible against the defendant to 63463
whom it pertains in any proceeding, other than a preliminary 63464
hearing or a grand jury proceeding, unless the prosecutor has 63465
served a copy of the report on the defendant's attorney or, if the 63466
defendant has no attorney, on the defendant. 63467

(3) A report of the type described in division (E)(1) of this 63468
section shall not be prima-facie evidence of the contents, 63469
identity, or amount of any substance if, within seven days after 63470
the defendant to whom the report pertains or the defendant's 63471
attorney receives a copy of the report, the defendant or the 63472
defendant's attorney demands the testimony of the person who 63473
signed the report. The judge in the case may extend the seven-day 63474
time limit in the interest of justice. 63475

(F) Except as otherwise provided in this division, any 63476
physician, registered nurse, emergency medical 63477
technician-intermediate, emergency medical technician-paramedic, 63478
or qualified technician, chemist, or phlebotomist who withdraws 63479
blood from a person pursuant to this section or section 4511.191 63480
or 4511.192 of the Revised Code, and any hospital, first-aid 63481
station, or clinic at which blood is withdrawn from a person 63482
pursuant to this section or section 4511.191 or 4511.192 of the 63483
Revised Code, is immune from criminal liability and civil 63484

liability based upon a claim of assault and battery or any other 63485
claim that is not a claim of malpractice, for any act performed in 63486
withdrawing blood from the person. The immunity provided in this 63487
division also extends to an emergency medical service organization 63488
that employs an emergency medical technician-intermediate or 63489
emergency medical technician-paramedic who withdraws blood under 63490
this section. The immunity provided in this division is not 63491
available to a person who withdraws blood if the person engages in 63492
willful or wanton misconduct. 63493

As used in this division, "emergency medical 63494
technician-intermediate" and "emergency medical 63495
technician-paramedic" have the same meanings as in section 4765.01 63496
of the Revised Code. 63497

(G)(1) Whoever violates any provision of divisions (A)(1)(a) 63498
to (i) or (A)(2) of this section is guilty of operating a vehicle 63499
under the influence of alcohol, a drug of abuse, or a combination 63500
of them. Whoever violates division (A)(1)(j) of this section is 63501
guilty of operating a vehicle while under the influence of a 63502
listed controlled substance or a listed metabolite of a controlled 63503
substance. The court shall sentence the offender for either 63504
offense under Chapter 2929. of the Revised Code, except as 63505
otherwise authorized or required by divisions (G)(1)(a) to (e) of 63506
this section: 63507

(a) Except as otherwise provided in division (G)(1)(b), (c), 63508
(d), or (e) of this section, the offender is guilty of a 63509
misdemeanor of the first degree, and the court shall sentence the 63510
offender to all of the following: 63511

(i) If the sentence is being imposed for a violation of 63512
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63513
mandatory jail term of three consecutive days. As used in this 63514
division, three consecutive days means seventy-two consecutive 63515
hours. The court may sentence an offender to both an intervention 63516

program and a jail term. The court may impose a jail term in 63517
addition to the three-day mandatory jail term or intervention 63518
program. However, in no case shall the cumulative jail term 63519
imposed for the offense exceed six months. 63520

The court may suspend the execution of the three-day jail 63521
term under this division if the court, in lieu of that suspended 63522
term, places the offender under a community control sanction 63523
pursuant to section 2929.25 of the Revised Code and requires the 63524
offender to attend, for three consecutive days, a drivers' 63525
intervention program certified under section ~~3793.10~~ 5119.38 of 63526
the Revised Code. The court also may suspend the execution of any 63527
part of the three-day jail term under this division if it places 63528
the offender under a community control sanction pursuant to 63529
section 2929.25 of the Revised Code for part of the three days, 63530
requires the offender to attend for the suspended part of the term 63531
a drivers' intervention program so certified, and sentences the 63532
offender to a jail term equal to the remainder of the three 63533
consecutive days that the offender does not spend attending the 63534
program. The court may require the offender, as a condition of 63535
community control and in addition to the required attendance at a 63536
drivers' intervention program, to attend and satisfactorily 63537
complete any treatment or education programs that comply with the 63538
minimum standards adopted pursuant to Chapter ~~3793.~~ 5119. of the 63539
Revised Code by the director of ~~alcohol and drug addiction~~ 63540
~~services~~ mental health and addiction services that the operators 63541
of the drivers' intervention program determine that the offender 63542
should attend and to report periodically to the court on the 63543
offender's progress in the programs. The court also may impose on 63544
the offender any other conditions of community control that it 63545
considers necessary. 63546

(ii) If the sentence is being imposed for a violation of 63547
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63548

section, except as otherwise provided in this division, a 63549
mandatory jail term of at least three consecutive days and a 63550
requirement that the offender attend, for three consecutive days, 63551
a drivers' intervention program that is certified pursuant to 63552
section ~~3793.10~~ 5119.38 of the Revised Code. As used in this 63553
division, three consecutive days means seventy-two consecutive 63554
hours. If the court determines that the offender is not conducive 63555
to treatment in a drivers' intervention program, if the offender 63556
refuses to attend a drivers' intervention program, or if the jail 63557
at which the offender is to serve the jail term imposed can 63558
provide a driver's intervention program, the court shall sentence 63559
the offender to a mandatory jail term of at least six consecutive 63560
days. 63561

The court may require the offender, under a community control 63562
sanction imposed under section 2929.25 of the Revised Code, to 63563
attend and satisfactorily complete any treatment or education 63564
programs that comply with the minimum standards adopted pursuant 63565
to Chapter ~~3793.~~ 5119. of the Revised Code by the director of 63566
~~alcohol and drug addiction services~~ mental health and addiction 63567
services, in addition to the required attendance at drivers' 63568
intervention program, that the operators of the drivers' 63569
intervention program determine that the offender should attend and 63570
to report periodically to the court on the offender's progress in 63571
the programs. The court also may impose any other conditions of 63572
community control on the offender that it considers necessary. 63573

(iii) In all cases, a fine of not less than three hundred 63574
seventy-five and not more than one thousand seventy-five dollars; 63575

(iv) In all cases, a class five license suspension of the 63576
offender's driver's or commercial driver's license or permit or 63577
nonresident operating privilege from the range specified in 63578
division (A)(5) of section 4510.02 of the Revised Code. The court 63579
may grant limited driving privileges relative to the suspension 63580

under sections 4510.021 and 4510.13 of the Revised Code. 63581

(b) Except as otherwise provided in division (G)(1)(e) of 63582
this section, an offender who, within six years of the offense, 63583
previously has been convicted of or pleaded guilty to one 63584
violation of division (A) or (B) of this section or one other 63585
equivalent offense is guilty of a misdemeanor of the first degree. 63586
The court shall sentence the offender to all of the following: 63587

(i) If the sentence is being imposed for a violation of 63588
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63589
mandatory jail term of ten consecutive days. The court shall 63590
impose the ten-day mandatory jail term under this division unless, 63591
subject to division (G)(3) of this section, it instead imposes a 63592
sentence under that division consisting of both a jail term and a 63593
term of house arrest with electronic monitoring, with continuous 63594
alcohol monitoring, or with both electronic monitoring and 63595
continuous alcohol monitoring. The court may impose a jail term in 63596
addition to the ten-day mandatory jail term. The cumulative jail 63597
term imposed for the offense shall not exceed six months. 63598

In addition to the jail term or the term of house arrest with 63599
electronic monitoring or continuous alcohol monitoring or both 63600
types of monitoring and jail term, the court shall require the 63601
offender to be assessed by ~~an alcohol and drug treatment program a~~ 63602
community addiction services provider that is authorized by 63603
section ~~3793.02~~ 5119.21 of the Revised Code, subject to division 63604
(I) of this section, and shall order the offender to follow the 63605
treatment recommendations of the ~~program~~ services provider. The 63606
purpose of the assessment is to determine the degree of the 63607
offender's alcohol usage and to determine whether or not treatment 63608
is warranted. Upon the request of the court, the ~~program~~ services 63609
provider shall submit the results of the assessment to the court, 63610
including all treatment recommendations and clinical diagnoses 63611
related to alcohol use. 63612

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, except as otherwise provided in this division, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by ~~an alcohol and drug treatment program a~~ community addiction service provider that is authorized by section ~~3793.02~~ 5119.21 of the Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the ~~program~~ services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the ~~program~~ services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

(iii) In all cases, notwithstanding the fines set forth in Chapter 2929. of the Revised Code, a fine of not less than five hundred twenty-five and not more than one thousand six hundred twenty-five dollars;

(iv) In all cases, a class four license suspension of the

offender's driver's license, commercial driver's license, 63645
temporary instruction permit, probationary license, or nonresident 63646
operating privilege from the range specified in division (A)(4) of 63647
section 4510.02 of the Revised Code. The court may grant limited 63648
driving privileges relative to the suspension under sections 63649
4510.021 and 4510.13 of the Revised Code. 63650

(v) In all cases, if the vehicle is registered in the 63651
offender's name, immobilization of the vehicle involved in the 63652
offense for ninety days in accordance with section 4503.233 of the 63653
Revised Code and impoundment of the license plates of that vehicle 63654
for ninety days. 63655

(c) Except as otherwise provided in division (G)(1)(e) of 63656
this section, an offender who, within six years of the offense, 63657
previously has been convicted of or pleaded guilty to two 63658
violations of division (A) or (B) of this section or other 63659
equivalent offenses is guilty of a misdemeanor. The court shall 63660
sentence the offender to all of the following: 63661

(i) If the sentence is being imposed for a violation of 63662
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63663
mandatory jail term of thirty consecutive days. The court shall 63664
impose the thirty-day mandatory jail term under this division 63665
unless, subject to division (G)(3) of this section, it instead 63666
imposes a sentence under that division consisting of both a jail 63667
term and a term of house arrest with electronic monitoring, with 63668
continuous alcohol monitoring, or with both electronic monitoring 63669
and continuous alcohol monitoring. The court may impose a jail 63670
term in addition to the thirty-day mandatory jail term. 63671
Notwithstanding the jail terms set forth in sections 2929.21 to 63672
2929.28 of the Revised Code, the additional jail term shall not 63673
exceed one year, and the cumulative jail term imposed for the 63674
offense shall not exceed one year. 63675

(ii) If the sentence is being imposed for a violation of 63676

division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63677
section, a mandatory jail term of sixty consecutive days. The 63678
court shall impose the sixty-day mandatory jail term under this 63679
division unless, subject to division (G)(3) of this section, it 63680
instead imposes a sentence under that division consisting of both 63681
a jail term and a term of house arrest with electronic monitoring, 63682
with continuous alcohol monitoring, or with both electronic 63683
monitoring and continuous alcohol monitoring. The court may impose 63684
a jail term in addition to the sixty-day mandatory jail term. 63685
Notwithstanding the jail terms set forth in sections 2929.21 to 63686
2929.28 of the Revised Code, the additional jail term shall not 63687
exceed one year, and the cumulative jail term imposed for the 63688
offense shall not exceed one year. 63689

(iii) In all cases, notwithstanding the fines set forth in 63690
Chapter 2929. of the Revised Code, a fine of not less than eight 63691
hundred fifty and not more than two thousand seven hundred fifty 63692
dollars; 63693

(iv) In all cases, a class three license suspension of the 63694
offender's driver's license, commercial driver's license, 63695
temporary instruction permit, probationary license, or nonresident 63696
operating privilege from the range specified in division (A)(3) of 63697
section 4510.02 of the Revised Code. The court may grant limited 63698
driving privileges relative to the suspension under sections 63699
4510.021 and 4510.13 of the Revised Code. 63700

(v) In all cases, if the vehicle is registered in the 63701
offender's name, criminal forfeiture of the vehicle involved in 63702
the offense in accordance with section 4503.234 of the Revised 63703
Code. Division (G)(6) of this section applies regarding any 63704
vehicle that is subject to an order of criminal forfeiture under 63705
this division. 63706

(vi) In all cases, the court shall order the offender to 63707
participate ~~in an alcohol and drug~~ with a community addiction 63708

~~program services provider~~ authorized by section ~~3793.02~~ 5119.21 of 63709
the Revised Code, subject to division (I) of this section, and 63710
shall order the offender to follow the treatment recommendations 63711
of the ~~program services provider~~. The operator of the ~~program~~ 63712
services provider shall determine and assess the degree of the 63713
offender's alcohol dependency and shall make recommendations for 63714
treatment. Upon the request of the court, the ~~program services~~ 63715
provider shall submit the results of the assessment to the court, 63716
including all treatment recommendations and clinical diagnoses 63717
related to alcohol use. 63718

(d) Except as otherwise provided in division (G)(1)(e) of 63719
this section, an offender who, within six years of the offense, 63720
previously has been convicted of or pleaded guilty to three or 63721
four violations of division (A) or (B) of this section or other 63722
equivalent offenses or an offender who, within twenty years of the 63723
offense, previously has been convicted of or pleaded guilty to 63724
five or more violations of that nature is guilty of a felony of 63725
the fourth degree. The court shall sentence the offender to all of 63726
the following: 63727

(i) If the sentence is being imposed for a violation of 63728
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63729
mandatory prison term of one, two, three, four, or five years as 63730
required by and in accordance with division (G)(2) of section 63731
2929.13 of the Revised Code if the offender also is convicted of 63732
or also pleads guilty to a specification of the type described in 63733
section 2941.1413 of the Revised Code or, in the discretion of the 63734
court, either a mandatory term of local incarceration of sixty 63735
consecutive days in accordance with division (G)(1) of section 63736
2929.13 of the Revised Code or a mandatory prison term of sixty 63737
consecutive days in accordance with division (G)(2) of that 63738
section if the offender is not convicted of and does not plead 63739
guilty to a specification of that type. If the court imposes a 63740

mandatory term of local incarceration, it may impose a jail term 63741
in addition to the sixty-day mandatory term, the cumulative total 63742
of the mandatory term and the jail term for the offense shall not 63743
exceed one year, and, except as provided in division (A)(1) of 63744
section 2929.13 of the Revised Code, no prison term is authorized 63745
for the offense. If the court imposes a mandatory prison term, 63746
notwithstanding division (A)(4) of section 2929.14 of the Revised 63747
Code, it also may sentence the offender to a definite prison term 63748
that shall be not less than six months and not more than thirty 63749
months and the prison terms shall be imposed as described in 63750
division (G)(2) of section 2929.13 of the Revised Code. If the 63751
court imposes a mandatory prison term or mandatory prison term and 63752
additional prison term, in addition to the term or terms so 63753
imposed, the court also may sentence the offender to a community 63754
control sanction for the offense, but the offender shall serve all 63755
of the prison terms so imposed prior to serving the community 63756
control sanction. 63757

(ii) If the sentence is being imposed for a violation of 63758
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63759
section, a mandatory prison term of one, two, three, four, or five 63760
years as required by and in accordance with division (G)(2) of 63761
section 2929.13 of the Revised Code if the offender also is 63762
convicted of or also pleads guilty to a specification of the type 63763
described in section 2941.1413 of the Revised Code or, in the 63764
discretion of the court, either a mandatory term of local 63765
incarceration of one hundred twenty consecutive days in accordance 63766
with division (G)(1) of section 2929.13 of the Revised Code or a 63767
mandatory prison term of one hundred twenty consecutive days in 63768
accordance with division (G)(2) of that section if the offender is 63769
not convicted of and does not plead guilty to a specification of 63770
that type. If the court imposes a mandatory term of local 63771
incarceration, it may impose a jail term in addition to the one 63772
hundred twenty-day mandatory term, the cumulative total of the 63773

mandatory term and the jail term for the offense shall not exceed 63774
one year, and, except as provided in division (A)(1) of section 63775
2929.13 of the Revised Code, no prison term is authorized for the 63776
offense. If the court imposes a mandatory prison term, 63777
notwithstanding division (A)(4) of section 2929.14 of the Revised 63778
Code, it also may sentence the offender to a definite prison term 63779
that shall be not less than six months and not more than thirty 63780
months and the prison terms shall be imposed as described in 63781
division (G)(2) of section 2929.13 of the Revised Code. If the 63782
court imposes a mandatory prison term or mandatory prison term and 63783
additional prison term, in addition to the term or terms so 63784
imposed, the court also may sentence the offender to a community 63785
control sanction for the offense, but the offender shall serve all 63786
of the prison terms so imposed prior to serving the community 63787
control sanction. 63788

(iii) In all cases, notwithstanding section 2929.18 of the 63789
Revised Code, a fine of not less than one thousand three hundred 63790
fifty nor more than ten thousand five hundred dollars; 63791

(iv) In all cases, a class two license suspension of the 63792
offender's driver's license, commercial driver's license, 63793
temporary instruction permit, probationary license, or nonresident 63794
operating privilege from the range specified in division (A)(2) of 63795
section 4510.02 of the Revised Code. The court may grant limited 63796
driving privileges relative to the suspension under sections 63797
4510.021 and 4510.13 of the Revised Code. 63798

(v) In all cases, if the vehicle is registered in the 63799
offender's name, criminal forfeiture of the vehicle involved in 63800
the offense in accordance with section 4503.234 of the Revised 63801
Code. Division (G)(6) of this section applies regarding any 63802
vehicle that is subject to an order of criminal forfeiture under 63803
this division. 63804

(vi) In all cases, the court shall order the offender to 63805

participate in an alcohol and drug with a community addiction 63806
~~program services provider~~ authorized by section ~~3793.02~~ 5119.21 of 63807
the Revised Code, subject to division (I) of this section, and 63808
shall order the offender to follow the treatment recommendations 63809
of the ~~program services provider~~. The operator of the ~~program~~ 63810
services provider shall determine and assess the degree of the 63811
offender's alcohol dependency and shall make recommendations for 63812
treatment. Upon the request of the court, the ~~program services~~ 63813
provider shall submit the results of the assessment to the court, 63814
including all treatment recommendations and clinical diagnoses 63815
related to alcohol use. 63816

(vii) In all cases, if the court sentences the offender to a 63817
mandatory term of local incarceration, in addition to the 63818
mandatory term, the court, pursuant to section 2929.17 of the 63819
Revised Code, may impose a term of house arrest with electronic 63820
monitoring. The term shall not commence until after the offender 63821
has served the mandatory term of local incarceration. 63822

(e) An offender who previously has been convicted of or 63823
pleaded guilty to a violation of division (A) of this section that 63824
was a felony, regardless of when the violation and the conviction 63825
or guilty plea occurred, is guilty of a felony of the third 63826
degree. The court shall sentence the offender to all of the 63827
following: 63828

(i) If the offender is being sentenced for a violation of 63829
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63830
mandatory prison term of one, two, three, four, or five years as 63831
required by and in accordance with division (G)(2) of section 63832
2929.13 of the Revised Code if the offender also is convicted of 63833
or also pleads guilty to a specification of the type described in 63834
section 2941.1413 of the Revised Code or a mandatory prison term 63835
of sixty consecutive days in accordance with division (G)(2) of 63836
section 2929.13 of the Revised Code if the offender is not 63837

convicted of and does not plead guilty to a specification of that 63838
type. The court may impose a prison term in addition to the 63839
mandatory prison term. The cumulative total of a sixty-day 63840
mandatory prison term and the additional prison term for the 63841
offense shall not exceed five years. In addition to the mandatory 63842
prison term or mandatory prison term and additional prison term 63843
the court imposes, the court also may sentence the offender to a 63844
community control sanction for the offense, but the offender shall 63845
serve all of the prison terms so imposed prior to serving the 63846
community control sanction. 63847

(ii) If the sentence is being imposed for a violation of 63848
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63849
section, a mandatory prison term of one, two, three, four, or five 63850
years as required by and in accordance with division (G)(2) of 63851
section 2929.13 of the Revised Code if the offender also is 63852
convicted of or also pleads guilty to a specification of the type 63853
described in section 2941.1413 of the Revised Code or a mandatory 63854
prison term of one hundred twenty consecutive days in accordance 63855
with division (G)(2) of section 2929.13 of the Revised Code if the 63856
offender is not convicted of and does not plead guilty to a 63857
specification of that type. The court may impose a prison term in 63858
addition to the mandatory prison term. The cumulative total of a 63859
one hundred twenty-day mandatory prison term and the additional 63860
prison term for the offense shall not exceed five years. In 63861
addition to the mandatory prison term or mandatory prison term and 63862
additional prison term the court imposes, the court also may 63863
sentence the offender to a community control sanction for the 63864
offense, but the offender shall serve all of the prison terms so 63865
imposed prior to serving the community control sanction. 63866

(iii) In all cases, notwithstanding section 2929.18 of the 63867
Revised Code, a fine of not less than one thousand three hundred 63868
fifty nor more than ten thousand five hundred dollars; 63869

(iv) In all cases, a class two license suspension of the 63870
offender's driver's license, commercial driver's license, 63871
temporary instruction permit, probationary license, or nonresident 63872
operating privilege from the range specified in division (A)(2) of 63873
section 4510.02 of the Revised Code. The court may grant limited 63874
driving privileges relative to the suspension under sections 63875
4510.021 and 4510.13 of the Revised Code. 63876

(v) In all cases, if the vehicle is registered in the 63877
offender's name, criminal forfeiture of the vehicle involved in 63878
the offense in accordance with section 4503.234 of the Revised 63879
Code. Division (G)(6) of this section applies regarding any 63880
vehicle that is subject to an order of criminal forfeiture under 63881
this division. 63882

(vi) In all cases, the court shall order the offender to 63883
participate ~~in an alcohol and drug~~ with a community addiction 63884
~~program services provider~~ authorized by section ~~3793.02~~ 5119.21 of 63885
the Revised Code, subject to division (I) of this section, and 63886
shall order the offender to follow the treatment recommendations 63887
of the ~~program services provider~~. The operator of the ~~program~~ 63888
services provider shall determine and assess the degree of the 63889
offender's alcohol dependency and shall make recommendations for 63890
treatment. Upon the request of the court, the ~~program services~~ 63891
provider shall submit the results of the assessment to the court, 63892
including all treatment recommendations and clinical diagnoses 63893
related to alcohol use. 63894

(2) An offender who is convicted of or pleads guilty to a 63895
violation of division (A) of this section and who subsequently 63896
seeks reinstatement of the driver's or occupational driver's 63897
license or permit or nonresident operating privilege suspended 63898
under this section as a result of the conviction or guilty plea 63899
shall pay a reinstatement fee as provided in division (F)(2) of 63900
section 4511.191 of the Revised Code. 63901

(3) If an offender is sentenced to a jail term under division 63902
(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and 63903
if, within sixty days of sentencing of the offender, the court 63904
issues a written finding on the record that, due to the 63905
unavailability of space at the jail where the offender is required 63906
to serve the term, the offender will not be able to begin serving 63907
that term within the sixty-day period following the date of 63908
sentencing, the court may impose an alternative sentence under 63909
this division that includes a term of house arrest with electronic 63910
monitoring, with continuous alcohol monitoring, or with both 63911
electronic monitoring and continuous alcohol monitoring. 63912

As an alternative to a mandatory jail term of ten consecutive 63913
days required by division (G)(1)(b)(i) of this section, the court, 63914
under this division, may sentence the offender to five consecutive 63915
days in jail and not less than eighteen consecutive days of house 63916
arrest with electronic monitoring, with continuous alcohol 63917
monitoring, or with both electronic monitoring and continuous 63918
alcohol monitoring. The cumulative total of the five consecutive 63919
days in jail and the period of house arrest with electronic 63920
monitoring, continuous alcohol monitoring, or both types of 63921
monitoring shall not exceed six months. The five consecutive days 63922
in jail do not have to be served prior to or consecutively to the 63923
period of house arrest. 63924

As an alternative to the mandatory jail term of twenty 63925
consecutive days required by division (G)(1)(b)(ii) of this 63926
section, the court, under this division, may sentence the offender 63927
to ten consecutive days in jail and not less than thirty-six 63928
consecutive days of house arrest with electronic monitoring, with 63929
continuous alcohol monitoring, or with both electronic monitoring 63930
and continuous alcohol monitoring. The cumulative total of the ten 63931
consecutive days in jail and the period of house arrest with 63932
electronic monitoring, continuous alcohol monitoring, or both 63933

types of monitoring shall not exceed six months. The ten 63934
consecutive days in jail do not have to be served prior to or 63935
consecutively to the period of house arrest. 63936

As an alternative to a mandatory jail term of thirty 63937
consecutive days required by division (G)(1)(c)(i) of this 63938
section, the court, under this division, may sentence the offender 63939
to fifteen consecutive days in jail and not less than fifty-five 63940
consecutive days of house arrest with electronic monitoring, with 63941
continuous alcohol monitoring, or with both electronic monitoring 63942
and continuous alcohol monitoring. The cumulative total of the 63943
fifteen consecutive days in jail and the period of house arrest 63944
with electronic monitoring, continuous alcohol monitoring, or both 63945
types of monitoring shall not exceed one year. The fifteen 63946
consecutive days in jail do not have to be served prior to or 63947
consecutively to the period of house arrest. 63948

As an alternative to the mandatory jail term of sixty 63949
consecutive days required by division (G)(1)(c)(ii) of this 63950
section, the court, under this division, may sentence the offender 63951
to thirty consecutive days in jail and not less than one hundred 63952
ten consecutive days of house arrest with electronic monitoring, 63953
with continuous alcohol monitoring, or with both electronic 63954
monitoring and continuous alcohol monitoring. The cumulative total 63955
of the thirty consecutive days in jail and the period of house 63956
arrest with electronic monitoring, continuous alcohol monitoring, 63957
or both types of monitoring shall not exceed one year. The thirty 63958
consecutive days in jail do not have to be served prior to or 63959
consecutively to the period of house arrest. 63960

(4) If an offender's driver's or occupational driver's 63961
license or permit or nonresident operating privilege is suspended 63962
under division (G) of this section and if section 4510.13 of the 63963
Revised Code permits the court to grant limited driving 63964
privileges, the court may grant the limited driving privileges in 63965

accordance with that section. If division (A)(7) of that section 63966
requires that the court impose as a condition of the privileges 63967
that the offender must display on the vehicle that is driven 63968
subject to the privileges restricted license plates that are 63969
issued under section 4503.231 of the Revised Code, except as 63970
provided in division (B) of that section, the court shall impose 63971
that condition as one of the conditions of the limited driving 63972
privileges granted to the offender, except as provided in division 63973
(B) of section 4503.231 of the Revised Code. 63974

(5) Fines imposed under this section for a violation of 63975
division (A) of this section shall be distributed as follows: 63976

(a) Twenty-five dollars of the fine imposed under division 63977
(G)(1)(a)(iii), thirty-five dollars of the fine imposed under 63978
division (G)(1)(b)(iii), one hundred twenty-three dollars of the 63979
fine imposed under division (G)(1)(c)(iii), and two hundred ten 63980
dollars of the fine imposed under division (G)(1)(d)(iii) or 63981
(e)(iii) of this section shall be paid to an enforcement and 63982
education fund established by the legislative authority of the law 63983
enforcement agency in this state that primarily was responsible 63984
for the arrest of the offender, as determined by the court that 63985
imposes the fine. The agency shall use this share to pay only 63986
those costs it incurs in enforcing this section or a municipal OVI 63987
ordinance and in informing the public of the laws governing the 63988
operation of a vehicle while under the influence of alcohol, the 63989
dangers of the operation of a vehicle under the influence of 63990
alcohol, and other information relating to the operation of a 63991
vehicle under the influence of alcohol and the consumption of 63992
alcoholic beverages. 63993

(b) Fifty dollars of the fine imposed under division 63994
(G)(1)(a)(iii) of this section shall be paid to the political 63995
subdivision that pays the cost of housing the offender during the 63996
offender's term of incarceration. If the offender is being 63997

sentenced for a violation of division (A)(1)(a), (b), (c), (d), 63998
(e), or (j) of this section and was confined as a result of the 63999
offense prior to being sentenced for the offense but is not 64000
sentenced to a term of incarceration, the fifty dollars shall be 64001
paid to the political subdivision that paid the cost of housing 64002
the offender during that period of confinement. The political 64003
subdivision shall use the share under this division to pay or 64004
reimburse incarceration or treatment costs it incurs in housing or 64005
providing drug and alcohol treatment to persons who violate this 64006
section or a municipal OVI ordinance, costs of any immobilizing or 64007
disabling device used on the offender's vehicle, and costs of 64008
electronic house arrest equipment needed for persons who violate 64009
this section. 64010

(c) Twenty-five dollars of the fine imposed under division 64011
(G)(1)(a)(iii) and fifty dollars of the fine imposed under 64012
division (G)(1)(b)(iii) of this section shall be deposited into 64013
the county or municipal indigent drivers' alcohol treatment fund 64014
under the control of that court, as created by the county or 64015
municipal corporation under division (F) of section 4511.191 of 64016
the Revised Code. 64017

(d) One hundred fifteen dollars of the fine imposed under 64018
division (G)(1)(b)(iii), two hundred seventy-seven dollars of the 64019
fine imposed under division (G)(1)(c)(iii), and four hundred forty 64020
dollars of the fine imposed under division (G)(1)(d)(iii) or 64021
(e)(iii) of this section shall be paid to the political 64022
subdivision that pays the cost of housing the offender during the 64023
offender's term of incarceration. The political subdivision shall 64024
use this share to pay or reimburse incarceration or treatment 64025
costs it incurs in housing or providing drug and alcohol treatment 64026
to persons who violate this section or a municipal OVI ordinance, 64027
costs for any immobilizing or disabling device used on the 64028
offender's vehicle, and costs of electronic house arrest equipment 64029

needed for persons who violate this section. 64030

(e) Fifty dollars of the fine imposed under divisions 64031
(G)(1)(a)(iii), (G)(1)(b)(iii), (G)(1)(c)(iii), (G)(1)(d)(iii), 64032
and (G)(1)(e)(iii) of this section shall be deposited into the 64033
special projects fund of the court in which the offender was 64034
convicted and that is established under division (E)(1) of section 64035
2303.201, division (B)(1) of section 1901.26, or division (B)(1) 64036
of section 1907.24 of the Revised Code, to be used exclusively to 64037
cover the cost of immobilizing or disabling devices, including 64038
certified ignition interlock devices, and remote alcohol 64039
monitoring devices for indigent offenders who are required by a 64040
judge to use either of these devices. If the court in which the 64041
offender was convicted does not have a special projects fund that 64042
is established under division (E)(1) of section 2303.201, division 64043
(B)(1) of section 1901.26, or division (B)(1) of section 1907.24 64044
of the Revised Code, the fifty dollars shall be deposited into the 64045
indigent drivers interlock and alcohol monitoring fund under 64046
division (I) of section 4511.191 of the Revised Code. 64047

(f) Seventy-five dollars of the fine imposed under division 64048
(G)(1)(a)(iii), one hundred twenty-five dollars of the fine 64049
imposed under division (G)(1)(b)(iii), two hundred fifty dollars 64050
of the fine imposed under division (G)(1)(c)(iii), and five 64051
hundred dollars of the fine imposed under division (G)(1)(d)(iii) 64052
or (e)(iii) of this section shall be transmitted to the treasurer 64053
of state for deposit into the indigent defense support fund 64054
established under section 120.08 of the Revised Code. 64055

(g) The balance of the fine imposed under division 64056
(G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this 64057
section shall be disbursed as otherwise provided by law. 64058

(6) If title to a motor vehicle that is subject to an order 64059
of criminal forfeiture under division (G)(1)(c), (d), or (e) of 64060
this section is assigned or transferred and division (B)(2) or (3) 64061

of section 4503.234 of the Revised Code applies, in addition to or 64062
independent of any other penalty established by law, the court may 64063
fine the offender the value of the vehicle as determined by 64064
publications of the national automobile dealers association. The 64065
proceeds of any fine so imposed shall be distributed in accordance 64066
with division (C)(2) of that section. 64067

(7) In all cases in which an offender is sentenced under 64068
division (G) of this section, the offender shall provide the court 64069
with proof of financial responsibility as defined in section 64070
4509.01 of the Revised Code. If the offender fails to provide that 64071
proof of financial responsibility, the court, in addition to any 64072
other penalties provided by law, may order restitution pursuant to 64073
section 2929.18 or 2929.28 of the Revised Code in an amount not 64074
exceeding five thousand dollars for any economic loss arising from 64075
an accident or collision that was the direct and proximate result 64076
of the offender's operation of the vehicle before, during, or 64077
after committing the offense for which the offender is sentenced 64078
under division (G) of this section. 64079

(8) As used in division (G) of this section, "electronic 64080
monitoring," "mandatory prison term," and "mandatory term of local 64081
incarceration" have the same meanings as in section 2929.01 of the 64082
Revised Code. 64083

(H) Whoever violates division (B) of this section is guilty 64084
of operating a vehicle after underage alcohol consumption and 64085
shall be punished as follows: 64086

(1) Except as otherwise provided in division (H)(2) of this 64087
section, the offender is guilty of a misdemeanor of the fourth 64088
degree. In addition to any other sanction imposed for the offense, 64089
the court shall impose a class six suspension of the offender's 64090
driver's license, commercial driver's license, temporary 64091
instruction permit, probationary license, or nonresident operating 64092
privilege from the range specified in division (A)(6) of section 64093

4510.02 of the Revised Code. 64094

(2) If, within one year of the offense, the offender 64095
previously has been convicted of or pleaded guilty to one or more 64096
violations of division (A) or (B) of this section or other 64097
equivalent offenses, the offender is guilty of a misdemeanor of 64098
the third degree. In addition to any other sanction imposed for 64099
the offense, the court shall impose a class four suspension of the 64100
offender's driver's license, commercial driver's license, 64101
temporary instruction permit, probationary license, or nonresident 64102
operating privilege from the range specified in division (A)(4) of 64103
section 4510.02 of the Revised Code. 64104

(3) If the offender also is convicted of or also pleads 64105
guilty to a specification of the type described in section 64106
2941.1416 of the Revised Code and if the court imposes a jail term 64107
for the violation of division (B) of this section, the court shall 64108
impose upon the offender an additional definite jail term pursuant 64109
to division (E) of section 2929.24 of the Revised Code. 64110

(4) The offender shall provide the court with proof of 64111
financial responsibility as defined in section 4509.01 of the 64112
Revised Code. If the offender fails to provide that proof of 64113
financial responsibility, then, in addition to any other penalties 64114
provided by law, the court may order restitution pursuant to 64115
section 2929.28 of the Revised Code in an amount not exceeding 64116
five thousand dollars for any economic loss arising from an 64117
accident or collision that was the direct and proximate result of 64118
the offender's operation of the vehicle before, during, or after 64119
committing the violation of division (B) of this section. 64120

(I)(1) No court shall sentence an offender to an alcohol 64121
treatment program under this section unless the treatment program 64122
complies with the minimum standards for alcohol treatment programs 64123
adopted under Chapter ~~3793~~. 5119. of the Revised Code by the 64124
director of ~~alcohol and drug addiction services~~ mental health and 64125

addiction services. 64126

(2) An offender who stays in a drivers' intervention program 64127
or in an alcohol treatment program under an order issued under 64128
this section shall pay the cost of the stay in the program. 64129
However, if the court determines that an offender who stays in an 64130
alcohol treatment program under an order issued under this section 64131
is unable to pay the cost of the stay in the program, the court 64132
may order that the cost be paid from the court's indigent drivers' 64133
alcohol treatment fund. 64134

(J) If a person whose driver's or commercial driver's license 64135
or permit or nonresident operating privilege is suspended under 64136
this section files an appeal regarding any aspect of the person's 64137
trial or sentence, the appeal itself does not stay the operation 64138
of the suspension. 64139

(K) Division (A)(1)(j) of this section does not apply to a 64140
person who operates a vehicle, streetcar, or trackless trolley 64141
while the person has a concentration of a listed controlled 64142
substance or a listed metabolite of a controlled substance in the 64143
person's whole blood, blood serum or plasma, or urine that equals 64144
or exceeds the amount specified in that division, if both of the 64145
following apply: 64146

(1) The person obtained the controlled substance pursuant to 64147
a prescription issued by a licensed health professional authorized 64148
to prescribe drugs. 64149

(2) The person injected, ingested, or inhaled the controlled 64150
substance in accordance with the health professional's directions. 64151

(L) The prohibited concentrations of a controlled substance 64152
or a metabolite of a controlled substance listed in division 64153
(A)(1)(j) of this section also apply in a prosecution of a 64154
violation of division (D) of section 2923.16 of the Revised Code 64155
in the same manner as if the offender is being prosecuted for a 64156

prohibited concentration of alcohol. 64157

(M) All terms defined in section 4510.01 of the Revised Code 64158
apply to this section. If the meaning of a term defined in section 64159
4510.01 of the Revised Code conflicts with the meaning of the same 64160
term as defined in section 4501.01 or 4511.01 of the Revised Code, 64161
the term as defined in section 4510.01 of the Revised Code applies 64162
to this section. 64163

(N)(1) The Ohio Traffic Rules in effect on January 1, 2004, 64164
as adopted by the supreme court under authority of section 2937.46 64165
of the Revised Code, do not apply to felony violations of this 64166
section. Subject to division (N)(2) of this section, the Rules of 64167
Criminal Procedure apply to felony violations of this section. 64168

(2) If, on or after January 1, 2004, the supreme court 64169
modifies the Ohio Traffic Rules to provide procedures to govern 64170
felony violations of this section, the modified rules shall apply 64171
to felony violations of this section. 64172

Sec. 4511.191. (A)(1) As used in this section: 64173

(a) "Physical control" has the same meaning as in section 64174
4511.194 of the Revised Code. 64175

(b) "Alcohol monitoring device" means any device that 64176
provides for continuous alcohol monitoring, any ignition interlock 64177
device, any immobilizing or disabling device other than an 64178
ignition interlock device that is constantly available to monitor 64179
the concentration of alcohol in a person's system, or any other 64180
device that provides for the automatic testing and periodic 64181
reporting of alcohol consumption by a person and that a court 64182
orders a person to use as a sanction imposed as a result of the 64183
person's conviction of or plea of guilty to an offense. 64184

(2) Any person who operates a vehicle, streetcar, or 64185
trackless trolley upon a highway or any public or private property 64186

used by the public for vehicular travel or parking within this 64187
state or who is in physical control of a vehicle, streetcar, or 64188
trackless trolley shall be deemed to have given consent to a 64189
chemical test or tests of the person's whole blood, blood serum or 64190
plasma, breath, or urine to determine the alcohol, drug of abuse, 64191
controlled substance, metabolite of a controlled substance, or 64192
combination content of the person's whole blood, blood serum or 64193
plasma, breath, or urine if arrested for a violation of division 64194
(A) or (B) of section 4511.19 of the Revised Code, section 64195
4511.194 of the Revised Code or a substantially equivalent 64196
municipal ordinance, or a municipal OVI ordinance. 64197

(3) The chemical test or tests under division (A)(2) of this 64198
section shall be administered at the request of a law enforcement 64199
officer having reasonable grounds to believe the person was 64200
operating or in physical control of a vehicle, streetcar, or 64201
trackless trolley in violation of a division, section, or 64202
ordinance identified in division (A)(2) of this section. The law 64203
enforcement agency by which the officer is employed shall 64204
designate which of the tests shall be administered. 64205

(4) Any person who is dead or unconscious, or who otherwise 64206
is in a condition rendering the person incapable of refusal, shall 64207
be deemed to have consented as provided in division (A)(2) of this 64208
section, and the test or tests may be administered, subject to 64209
sections 313.12 to 313.16 of the Revised Code. 64210

(5)(a) If a law enforcement officer arrests a person for a 64211
violation of division (A) or (B) of section 4511.19 of the Revised 64212
Code, section 4511.194 of the Revised Code or a substantially 64213
equivalent municipal ordinance, or a municipal OVI ordinance and 64214
if the person if convicted would be required to be sentenced under 64215
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 64216
Code, the law enforcement officer shall request the person to 64217
submit, and the person shall submit, to a chemical test or tests 64218

of the person's whole blood, blood serum or plasma, breath, or 64219
urine for the purpose of determining the alcohol, drug of abuse, 64220
controlled substance, metabolite of a controlled substance, or 64221
combination content of the person's whole blood, blood serum or 64222
plasma, breath, or urine. A law enforcement officer who makes a 64223
request pursuant to this division that a person submit to a 64224
chemical test or tests is not required to advise the person of the 64225
consequences of submitting to, or refusing to submit to, the test 64226
or tests and is not required to give the person the form described 64227
in division (B) of section 4511.192 of the Revised Code, but the 64228
officer shall advise the person at the time of the arrest that if 64229
the person refuses to take a chemical test the officer may employ 64230
whatever reasonable means are necessary to ensure that the person 64231
submits to a chemical test of the person's whole blood or blood 64232
serum or plasma. The officer shall also advise the person at the 64233
time of the arrest that the person may have an independent 64234
chemical test taken at the person's own expense. Divisions (A)(3) 64235
and (4) of this section apply to the administration of a chemical 64236
test or tests pursuant to this division. 64237

(b) If a person refuses to submit to a chemical test upon a 64238
request made pursuant to division (A)(5)(a) of this section, the 64239
law enforcement officer who made the request may employ whatever 64240
reasonable means are necessary to ensure that the person submits 64241
to a chemical test of the person's whole blood or blood serum or 64242
plasma. A law enforcement officer who acts pursuant to this 64243
division to ensure that a person submits to a chemical test of the 64244
person's whole blood or blood serum or plasma is immune from 64245
criminal and civil liability based upon a claim for assault and 64246
battery or any other claim for the acts, unless the officer so 64247
acted with malicious purpose, in bad faith, or in a wanton or 64248
reckless manner. 64249

(B)(1) Upon receipt of the sworn report of a law enforcement 64250

officer who arrested a person for a violation of division (A) or 64251
(B) of section 4511.19 of the Revised Code, section 4511.194 of 64252
the Revised Code or a substantially equivalent municipal 64253
ordinance, or a municipal OVI ordinance that was completed and 64254
sent to the registrar of motor vehicles and a court pursuant to 64255
section 4511.192 of the Revised Code in regard to a person who 64256
refused to take the designated chemical test, the registrar shall 64257
enter into the registrar's records the fact that the person's 64258
driver's or commercial driver's license or permit or nonresident 64259
operating privilege was suspended by the arresting officer under 64260
this division and that section and the period of the suspension, 64261
as determined under this section. The suspension shall be subject 64262
to appeal as provided in section 4511.197 of the Revised Code. The 64263
suspension shall be for whichever of the following periods 64264
applies: 64265

(a) Except when division (B)(1)(b), (c), or (d) of this 64266
section applies and specifies a different class or length of 64267
suspension, the suspension shall be a class C suspension for the 64268
period of time specified in division (B)(3) of section 4510.02 of 64269
the Revised Code. 64270

(b) If the arrested person, within six years of the date on 64271
which the person refused the request to consent to the chemical 64272
test, had refused one previous request to consent to a chemical 64273
test or had been convicted of or pleaded guilty to one violation 64274
of division (A) or (B) of section 4511.19 of the Revised Code or 64275
one other equivalent offense, the suspension shall be a class B 64276
suspension imposed for the period of time specified in division 64277
(B)(2) of section 4510.02 of the Revised Code. 64278

(c) If the arrested person, within six years of the date on 64279
which the person refused the request to consent to the chemical 64280
test, had refused two previous requests to consent to a chemical 64281
test, had been convicted of or pleaded guilty to two violations of 64282

division (A) or (B) of section 4511.19 of the Revised Code or 64283
other equivalent offenses, or had refused one previous request to 64284
consent to a chemical test and also had been convicted of or 64285
pleaded guilty to one violation of division (A) or (B) of section 64286
4511.19 of the Revised Code or other equivalent offenses, which 64287
violation or offense arose from an incident other than the 64288
incident that led to the refusal, the suspension shall be a class 64289
A suspension imposed for the period of time specified in division 64290
(B)(1) of section 4510.02 of the Revised Code. 64291

(d) If the arrested person, within six years of the date on 64292
which the person refused the request to consent to the chemical 64293
test, had refused three or more previous requests to consent to a 64294
chemical test, had been convicted of or pleaded guilty to three or 64295
more violations of division (A) or (B) of section 4511.19 of the 64296
Revised Code or other equivalent offenses, or had refused a number 64297
of previous requests to consent to a chemical test and also had 64298
been convicted of or pleaded guilty to a number of violations of 64299
division (A) or (B) of section 4511.19 of the Revised Code or 64300
other equivalent offenses that cumulatively total three or more 64301
such refusals, convictions, and guilty pleas, the suspension shall 64302
be for five years. 64303

(2) The registrar shall terminate a suspension of the 64304
driver's or commercial driver's license or permit of a resident or 64305
of the operating privilege of a nonresident, or a denial of a 64306
driver's or commercial driver's license or permit, imposed 64307
pursuant to division (B)(1) of this section upon receipt of notice 64308
that the person has entered a plea of guilty to, or that the 64309
person has been convicted after entering a plea of no contest to, 64310
operating a vehicle in violation of section 4511.19 of the Revised 64311
Code or in violation of a municipal OVI ordinance, if the offense 64312
for which the conviction is had or the plea is entered arose from 64313
the same incident that led to the suspension or denial. 64314

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense

for which the conviction is had or the plea is entered arose from 64379
the same incident that led to the suspension or denial. 64380

The registrar shall credit against any judicial suspension of 64381
a person's driver's or commercial driver's license or permit or 64382
nonresident operating privilege imposed pursuant to section 64383
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 64384
Revised Code for a violation of a municipal OVI ordinance, any 64385
time during which the person serves a related suspension imposed 64386
pursuant to division (C)(1) of this section. 64387

(D)(1) A suspension of a person's driver's or commercial 64388
driver's license or permit or nonresident operating privilege 64389
under this section for the time described in division (B) or (C) 64390
of this section is effective immediately from the time at which 64391
the arresting officer serves the notice of suspension upon the 64392
arrested person. Any subsequent finding that the person is not 64393
guilty of the charge that resulted in the person being requested 64394
to take the chemical test or tests under division (A) of this 64395
section does not affect the suspension. 64396

(2) If a person is arrested for operating a vehicle, 64397
streetcar, or trackless trolley in violation of division (A) or 64398
(B) of section 4511.19 of the Revised Code or a municipal OVI 64399
ordinance, or for being in physical control of a vehicle, 64400
streetcar, or trackless trolley in violation of section 4511.194 64401
of the Revised Code or a substantially equivalent municipal 64402
ordinance, regardless of whether the person's driver's or 64403
commercial driver's license or permit or nonresident operating 64404
privilege is or is not suspended under division (B) or (C) of this 64405
section or Chapter 4510. of the Revised Code, the person's initial 64406
appearance on the charge resulting from the arrest shall be held 64407
within five days of the person's arrest or the issuance of the 64408
citation to the person, subject to any continuance granted by the 64409
court pursuant to section 4511.197 of the Revised Code regarding 64410

the issues specified in that division. 64411

(E) When it finally has been determined under the procedures 64412
of this section and sections 4511.192 to 4511.197 of the Revised 64413
Code that a nonresident's privilege to operate a vehicle within 64414
this state has been suspended, the registrar shall give 64415
information in writing of the action taken to the motor vehicle 64416
administrator of the state of the person's residence and of any 64417
state in which the person has a license. 64418

(F) At the end of a suspension period under this section, 64419
under section 4511.194, section 4511.196, or division (G) of 64420
section 4511.19 of the Revised Code, or under section 4510.07 of 64421
the Revised Code for a violation of a municipal OVI ordinance and 64422
upon the request of the person whose driver's or commercial 64423
driver's license or permit was suspended and who is not otherwise 64424
subject to suspension, cancellation, or disqualification, the 64425
registrar shall return the driver's or commercial driver's license 64426
or permit to the person upon the occurrence of all of the 64427
conditions specified in divisions (F)(1) and (2) of this section: 64428

(1) A showing that the person has proof of financial 64429
responsibility, a policy of liability insurance in effect that 64430
meets the minimum standards set forth in section 4509.51 of the 64431
Revised Code, or proof, to the satisfaction of the registrar, that 64432
the person is able to respond in damages in an amount at least 64433
equal to the minimum amounts specified in section 4509.51 of the 64434
Revised Code. 64435

(2) Subject to the limitation contained in division (F)(3) of 64436
this section, payment by the person to the registrar or an 64437
eligible deputy registrar of a license reinstatement fee of four 64438
hundred seventy-five dollars, which fee shall be deposited in the 64439
state treasury and credited as follows: 64440

(a) One hundred twelve dollars and fifty cents shall be 64441

credited to the statewide treatment and prevention fund created by 64442
section 4301.30 of the Revised Code. Money credited to the fund 64443
under this section shall be used for purposes identified ~~in the~~ 64444
~~comprehensive statewide alcohol and drug addiction services plan~~ 64445
~~developed~~ under section ~~3793.04~~ 5119.22 of the Revised Code. 64446

(b) Seventy-five dollars shall be credited to the reparations 64447
fund created by section 2743.191 of the Revised Code. 64448

(c) Thirty-seven dollars and fifty cents shall be credited to 64449
the indigent drivers alcohol treatment fund, which is hereby 64450
established in the state treasury. Except as otherwise provided in 64451
division (F)(2)(c) of this section, moneys in the fund shall be 64452
distributed by the department of ~~alcohol and drug addiction~~ 64453
~~services~~ mental health and addiction services to the county 64454
indigent drivers alcohol treatment funds, the county juvenile 64455
indigent drivers alcohol treatment funds, and the municipal 64456
indigent drivers alcohol treatment funds that are required to be 64457
established by counties and municipal corporations pursuant to 64458
division (H) of this section, and shall be used only to pay the 64459
cost of an alcohol and drug addiction treatment program attended 64460
by an offender or juvenile traffic offender who is ordered to 64461
attend an alcohol and drug addiction treatment program by a 64462
county, juvenile, or municipal court judge and who is determined 64463
by the county, juvenile, or municipal court judge not to have the 64464
means to pay for the person's attendance at the program or to pay 64465
the costs specified in division (H)(4) of this section in 64466
accordance with that division. In addition, a county, juvenile, or 64467
municipal court judge may use moneys in the county indigent 64468
drivers alcohol treatment fund, county juvenile indigent drivers 64469
alcohol treatment fund, or municipal indigent drivers alcohol 64470
treatment fund to pay for the cost of the continued use of an 64471
alcohol monitoring device as described in divisions (H)(3) and (4) 64472
of this section. Moneys in the fund that are not distributed to a 64473

county indigent drivers alcohol treatment fund, a county juvenile 64474
indigent drivers alcohol treatment fund, or a municipal indigent 64475
drivers alcohol treatment fund under division (H) of this section 64476
because the director of ~~alcohol and drug addiction services~~ mental 64477
health and addiction services does not have the information 64478
necessary to identify the county or municipal corporation where 64479
the offender or juvenile offender was arrested may be transferred 64480
by the director of budget and management to the statewide 64481
treatment and prevention fund created by section 4301.30 of the 64482
Revised Code, upon certification of the amount by the director of 64483
~~alcohol and drug addiction services~~ mental health and addiction 64484
services. 64485

(d) Seventy-five dollars shall be credited to the ~~Ohio~~ 64486
rehabilitation services commission established by section 3304.12 64487
of the Revised Code, to the services for rehabilitation fund, 64488
which is hereby established. The fund shall be used to match 64489
available federal matching funds where appropriate, and for any 64490
other purpose or program of the commission to rehabilitate people 64491
with disabilities to help them become employed and independent. 64492

(e) Seventy-five dollars shall be deposited into the state 64493
treasury and credited to the drug abuse resistance education 64494
programs fund, which is hereby established, to be used by the 64495
attorney general for the purposes specified in division (F)(4) of 64496
this section. 64497

(f) Thirty dollars shall be credited to the state bureau of 64498
motor vehicles fund created by section 4501.25 of the Revised 64499
Code. 64500

(g) Twenty dollars shall be credited to the trauma and 64501
emergency medical services fund created by section 4513.263 of the 64502
Revised Code. 64503

(h) Fifty dollars shall be credited to the indigent drivers 64504

interlock and alcohol monitoring fund, which is hereby established 64505
in the state treasury. Moneys in the fund shall be distributed by 64506
the department of public safety to the county indigent drivers 64507
interlock and alcohol monitoring funds, the county juvenile 64508
indigent drivers interlock and alcohol monitoring funds, and the 64509
municipal indigent drivers interlock and alcohol monitoring funds 64510
that are required to be established by counties and municipal 64511
corporations pursuant to this section, and shall be used only to 64512
pay the cost of an immobilizing or disabling device, including a 64513
certified ignition interlock device, or an alcohol monitoring 64514
device used by an offender or juvenile offender who is ordered to 64515
use the device by a county, juvenile, or municipal court judge and 64516
who is determined by the county, juvenile, or municipal court 64517
judge not to have the means to pay for the person's use of the 64518
device. 64519

(3) If a person's driver's or commercial driver's license or 64520
permit is suspended under this section, under section 4511.196 or 64521
division (G) of section 4511.19 of the Revised Code, under section 64522
4510.07 of the Revised Code for a violation of a municipal OVI 64523
ordinance or under any combination of the suspensions described in 64524
division (F)(3) of this section, and if the suspensions arise from 64525
a single incident or a single set of facts and circumstances, the 64526
person is liable for payment of, and shall be required to pay to 64527
the registrar or an eligible deputy registrar, only one 64528
reinstatement fee of four hundred seventy-five dollars. The 64529
reinstatement fee shall be distributed by the bureau in accordance 64530
with division (F)(2) of this section. 64531

(4) The attorney general shall use amounts in the drug abuse 64532
resistance education programs fund to award grants to law 64533
enforcement agencies to establish and implement drug abuse 64534
resistance education programs in public schools. Grants awarded to 64535
a law enforcement agency under this section shall be used by the 64536

agency to pay for not more than fifty per cent of the amount of 64537
the salaries of law enforcement officers who conduct drug abuse 64538
resistance education programs in public schools. The attorney 64539
general shall not use more than six per cent of the amounts the 64540
attorney general's office receives under division (F)(2)(e) of 64541
this section to pay the costs it incurs in administering the grant 64542
program established by division (F)(2)(e) of this section and in 64543
providing training and materials relating to drug abuse resistance 64544
education programs. 64545

The attorney general shall report to the governor and the 64546
general assembly each fiscal year on the progress made in 64547
establishing and implementing drug abuse resistance education 64548
programs. These reports shall include an evaluation of the 64549
effectiveness of these programs. 64550

(5) In addition to the reinstatement fee under this section, 64551
if the person pays the reinstatement fee to a deputy registrar, 64552
the deputy registrar shall collect a service fee of ten dollars to 64553
compensate the deputy registrar for services performed under this 64554
section. The deputy registrar shall retain eight dollars of the 64555
service fee and shall transmit the reinstatement fee, plus two 64556
dollars of the service fee, to the registrar in the manner the 64557
registrar shall determine. 64558

(G) Suspension of a commercial driver's license under 64559
division (B) or (C) of this section shall be concurrent with any 64560
period of disqualification under section 3123.611 or 4506.16 of 64561
the Revised Code or any period of suspension under section 3123.58 64562
of the Revised Code. No person who is disqualified for life from 64563
holding a commercial driver's license under section 4506.16 of the 64564
Revised Code shall be issued a driver's license under Chapter 64565
4507. of the Revised Code during the period for which the 64566
commercial driver's license was suspended under division (B) or 64567
(C) of this section. No person whose commercial driver's license 64568

is suspended under division (B) or (C) of this section shall be 64569
issued a driver's license under Chapter 4507. of the Revised Code 64570
during the period of the suspension. 64571

(H)(1) Each county shall establish an indigent drivers 64572
alcohol treatment fund, each county shall establish a juvenile 64573
indigent drivers alcohol treatment fund, and each municipal 64574
corporation in which there is a municipal court shall establish an 64575
indigent drivers alcohol treatment fund. All revenue that the 64576
general assembly appropriates to the indigent drivers alcohol 64577
treatment fund for transfer to a county indigent drivers alcohol 64578
treatment fund, a county juvenile indigent drivers alcohol 64579
treatment fund, or a municipal indigent drivers alcohol treatment 64580
fund, all portions of fees that are paid under division (F) of 64581
this section and that are credited under that division to the 64582
indigent drivers alcohol treatment fund in the state treasury for 64583
a county indigent drivers alcohol treatment fund, a county 64584
juvenile indigent drivers alcohol treatment fund, or a municipal 64585
indigent drivers alcohol treatment fund, all portions of 64586
additional costs imposed under section 2949.094 of the Revised 64587
Code that are specified for deposit into a county, county 64588
juvenile, or municipal indigent drivers alcohol treatment fund by 64589
that section, and all portions of fines that are specified for 64590
deposit into a county or municipal indigent drivers alcohol 64591
treatment fund by section 4511.193 of the Revised Code shall be 64592
deposited into that county indigent drivers alcohol treatment 64593
fund, county juvenile indigent drivers alcohol treatment fund, or 64594
municipal indigent drivers alcohol treatment fund. The portions of 64595
the fees paid under division (F) of this section that are to be so 64596
deposited shall be determined in accordance with division (H)(2) 64597
of this section. Additionally, all portions of fines that are paid 64598
for a violation of section 4511.19 of the Revised Code or of any 64599
prohibition contained in Chapter 4510. of the Revised Code, and 64600
that are required under section 4511.19 or any provision of 64601

Chapter 4510. of the Revised Code to be deposited into a county 64602
indigent drivers alcohol treatment fund or municipal indigent 64603
drivers alcohol treatment fund shall be deposited into the 64604
appropriate fund in accordance with the applicable division of the 64605
section or provision. 64606

(2) That portion of the license reinstatement fee that is 64607
paid under division (F) of this section and that is credited under 64608
that division to the indigent drivers alcohol treatment fund shall 64609
be deposited into a county indigent drivers alcohol treatment 64610
fund, a county juvenile indigent drivers alcohol treatment fund, 64611
or a municipal indigent drivers alcohol treatment fund as follows: 64612

(a) Regarding a suspension imposed under this section, that 64613
portion of the fee shall be deposited as follows: 64614

(i) If the fee is paid by a person who was charged in a 64615
county court with the violation that resulted in the suspension or 64616
in the imposition of the court costs, the portion shall be 64617
deposited into the county indigent drivers alcohol treatment fund 64618
under the control of that court; 64619

(ii) If the fee is paid by a person who was charged in a 64620
juvenile court with the violation that resulted in the suspension 64621
or in the imposition of the court costs, the portion shall be 64622
deposited into the county juvenile indigent drivers alcohol 64623
treatment fund established in the county served by the court; 64624

(iii) If the fee is paid by a person who was charged in a 64625
municipal court with the violation that resulted in the suspension 64626
or in the imposition of the court costs, the portion shall be 64627
deposited into the municipal indigent drivers alcohol treatment 64628
fund under the control of that court. 64629

(b) Regarding a suspension imposed under section 4511.19 of 64630
the Revised Code or under section 4510.07 of the Revised Code for 64631
a violation of a municipal OVI ordinance, that portion of the fee 64632

shall be deposited as follows: 64633

(i) If the fee is paid by a person whose license or permit 64634
was suspended by a county court, the portion shall be deposited 64635
into the county indigent drivers alcohol treatment fund under the 64636
control of that court; 64637

(ii) If the fee is paid by a person whose license or permit 64638
was suspended by a municipal court, the portion shall be deposited 64639
into the municipal indigent drivers alcohol treatment fund under 64640
the control of that court. 64641

(3) Expenditures from a county indigent drivers alcohol 64642
treatment fund, a county juvenile indigent drivers alcohol 64643
treatment fund, or a municipal indigent drivers alcohol treatment 64644
fund shall be made only upon the order of a county, juvenile, or 64645
municipal court judge and only for payment of the cost of an 64646
assessment or the cost of the attendance at an alcohol and drug 64647
addiction treatment program of a person who is convicted of, or 64648
found to be a juvenile traffic offender by reason of, a violation 64649
of division (A) of section 4511.19 of the Revised Code or a 64650
substantially similar municipal ordinance, who is ordered by the 64651
court to attend the alcohol and drug addiction treatment program, 64652
and who is determined by the court to be unable to pay the cost of 64653
the assessment or the cost of attendance at the treatment program 64654
or for payment of the costs specified in division (H)(4) of this 64655
section in accordance with that division. The alcohol and drug 64656
addiction services board or the board of alcohol, drug addiction, 64657
and mental health services established pursuant to section 340.02 64658
or 340.021 of the Revised Code and serving the alcohol, drug 64659
addiction, and mental health service district in which the court 64660
is located shall administer the indigent drivers alcohol treatment 64661
program of the court. When a court orders an offender or juvenile 64662
traffic offender to obtain an assessment or attend an alcohol and 64663
drug addiction treatment program, the board shall determine which 64664

program is suitable to meet the needs of the offender or juvenile 64665
traffic offender, and when a suitable program is located and space 64666
is available at the program, the offender or juvenile traffic 64667
offender shall attend the program designated by the board. A 64668
reasonable amount not to exceed five per cent of the amounts 64669
credited to and deposited into the county indigent drivers alcohol 64670
treatment fund, the county juvenile indigent drivers alcohol 64671
treatment fund, or the municipal indigent drivers alcohol 64672
treatment fund serving every court whose program is administered 64673
by that board shall be paid to the board to cover the costs it 64674
incurs in administering those indigent drivers alcohol treatment 64675
programs. 64676

In addition, upon exhaustion of moneys in the indigent 64677
drivers interlock and alcohol monitoring fund for the use of an 64678
alcohol monitoring device, a county, juvenile, or municipal court 64679
judge may use moneys in the county indigent drivers alcohol 64680
treatment fund, county juvenile indigent drivers alcohol treatment 64681
fund, or municipal indigent drivers alcohol treatment fund in the 64682
following manners: 64683

(a) If the source of the moneys was an appropriation of the 64684
general assembly, a portion of a fee that was paid under division 64685
(F) of this section, a portion of a fine that was specified for 64686
deposit into the fund by section 4511.193 of the Revised Code, or 64687
a portion of a fine that was paid for a violation of section 64688
4511.19 of the Revised Code or of a provision contained in Chapter 64689
4510. of the Revised Code that was required to be deposited into 64690
the fund, to pay for the continued use of an alcohol monitoring 64691
device by an offender or juvenile traffic offender, in conjunction 64692
with a treatment program approved by the department of ~~alcohol and~~ 64693
~~drug addiction services~~ mental health and addiction services, when 64694
such use is determined clinically necessary by the treatment 64695
program and when the court determines that the offender or 64696

juvenile traffic offender is unable to pay all or part of the 64697
daily monitoring or cost of the device; 64698

(b) If the source of the moneys was a portion of an 64699
additional court cost imposed under section 2949.094 of the 64700
Revised Code, to pay for the continued use of an alcohol 64701
monitoring device by an offender or juvenile traffic offender when 64702
the court determines that the offender or juvenile traffic 64703
offender is unable to pay all or part of the daily monitoring or 64704
cost of the device. The moneys may be used for a device as 64705
described in this division if the use of the device is in 64706
conjunction with a treatment program approved by the department of 64707
~~alcohol and drug addiction services~~ mental health and addiction
services, when the use of the device is determined clinically 64708
necessary by the treatment program, but the use of a device is not 64709
required to be in conjunction with a treatment program approved by 64710
the department in order for the moneys to be used for the device 64711
as described in this division. 64712
64713

(4) If a county, juvenile, or municipal court determines, in 64714
consultation with the alcohol and drug addiction services board or 64715
the board of alcohol, drug addiction, and mental health services 64716
established pursuant to section 340.02 or 340.021 of the Revised 64717
Code and serving the alcohol, drug addiction, and mental health 64718
district in which the court is located, that the funds in the 64719
county indigent drivers alcohol treatment fund, the county 64720
juvenile indigent drivers alcohol treatment fund, or the municipal 64721
indigent drivers alcohol treatment fund under the control of the 64722
court are more than sufficient to satisfy the purpose for which 64723
the fund was established, as specified in divisions (H)(1) to (3) 64724
of this section, the court may declare a surplus in the fund. If 64725
the court declares a surplus in the fund, the court may expend the 64726
amount of the surplus in the fund for: 64727

(a) Alcohol and drug abuse assessment and treatment of 64728

persons who are charged in the court with committing a criminal 64729
offense or with being a delinquent child or juvenile traffic 64730
offender and in relation to whom both of the following apply: 64731

(i) The court determines that substance abuse was a 64732
contributing factor leading to the criminal or delinquent activity 64733
or the juvenile traffic offense with which the person is charged. 64734

(ii) The court determines that the person is unable to pay 64735
the cost of the alcohol and drug abuse assessment and treatment 64736
for which the surplus money will be used. 64737

(b) All or part of the cost of purchasing alcohol monitoring 64738
devices to be used in conjunction with division (H)(3) of this 64739
section, upon exhaustion of moneys in the indigent drivers 64740
interlock and alcohol monitoring fund for the use of an alcohol 64741
monitoring device. 64742

(5) For the purpose of determining as described in division 64743
(F)(2)(c) of this section whether an offender does not have the 64744
means to pay for the offender's attendance at an alcohol and drug 64745
addiction treatment program or whether an alleged offender or 64746
delinquent child is unable to pay the costs specified in division 64747
(H)(4) of this section, the court shall use the indigent client 64748
eligibility guidelines and the standards of indigency established 64749
by the state public defender to make the determination. 64750

(6) The court shall identify and refer any ~~alcohol and drug~~ 64751
community addiction program services provider that is not 64752
certified under section ~~3793.06~~ 5119.36 of the Revised Code and 64753
that is interested in receiving amounts from the surplus in the 64754
fund declared under division (H)(4) of this section to the 64755
department of ~~alcohol and drug addiction services~~ mental health 64756
and addiction services in order for the ~~program services provider~~ 64757
to become a certified ~~alcohol and drug~~ community addiction program 64758
services provider. The department shall keep a record of applicant 64759

referrals received pursuant to this division and shall submit a 64760
report on the referrals each year to the general assembly. If a 64761
~~program services provider~~ interested in becoming certified makes 64762
an application to become certified pursuant to section ~~3793.06~~ 64763
5119.36 of the Revised Code, the ~~program services provider~~ is 64764
eligible to receive surplus funds as long as the application is 64765
pending with the department. The department of ~~alcohol and drug~~ 64766
~~addiction services~~ mental health and addiction services must offer 64767
technical assistance to the applicant. If the interested ~~program~~ 64768
~~services provider~~ withdraws the certification application, the 64769
department must notify the court, and the court shall not provide 64770
the interested ~~program services provider~~ with any further surplus 64771
funds. 64772

(7)(a) Each alcohol and drug addiction services board and 64773
board of alcohol, drug addiction, and mental health services 64774
established pursuant to section 340.02 or 340.021 of the Revised 64775
Code shall submit to the department of ~~alcohol and drug addiction~~ 64776
~~services~~ mental health and addiction services an annual report for 64777
each indigent drivers alcohol treatment fund in that board's area. 64778

(b) The report, which shall be submitted not later than sixty 64779
days after the end of the state fiscal year, shall provide the 64780
total payment that was made from the fund, including the number of 64781
indigent consumers that received treatment services and the number 64782
of indigent consumers that received an alcohol monitoring device. 64783
The report shall identify the treatment program and expenditure 64784
for an alcohol monitoring device for which that payment was made. 64785
The report shall include the fiscal year balance of each indigent 64786
drivers alcohol treatment fund located in that board's area. In 64787
the event that a surplus is declared in the fund pursuant to 64788
division (H)(4) of this section, the report also shall provide the 64789
total payment that was made from the surplus moneys and identify 64790
the treatment program and expenditure for an alcohol monitoring 64791

~~device for which that payment was made. The department may require 64792
additional information necessary to complete the comprehensive 64793
statewide alcohol and drug addiction services plan as required by 64794
section 3793.04 of the Revised Code. 64795~~

(c) If a board is unable to obtain adequate information to 64796
develop the report to submit to the department for a particular 64797
indigent drivers alcohol treatment fund, the board shall submit a 64798
report detailing the effort made in obtaining the information. 64799

(I)(1) Each county shall establish an indigent drivers 64800
interlock and alcohol monitoring fund and a juvenile indigent 64801
drivers interlock and alcohol treatment fund, and each municipal 64802
corporation in which there is a municipal court shall establish an 64803
indigent drivers interlock and alcohol monitoring fund. All 64804
revenue that the general assembly appropriates to the indigent 64805
drivers interlock and alcohol monitoring fund for transfer to a 64806
county indigent drivers interlock and alcohol monitoring fund, a 64807
county juvenile indigent drivers interlock and alcohol monitoring 64808
fund, or a municipal indigent drivers interlock and alcohol 64809
monitoring fund, all portions of license reinstatement fees that 64810
are paid under division (F)(2) of this section and that are 64811
credited under that division to the indigent drivers interlock and 64812
alcohol monitoring fund in the state treasury, and all portions of 64813
fines that are paid under division (G) of section 4511.19 of the 64814
Revised Code and that are credited by division (G)(5)(e) of that 64815
section to the indigent drivers interlock and alcohol monitoring 64816
fund in the state treasury shall be deposited in the appropriate 64817
fund in accordance with division (I)(2) of this section. 64818

(2) That portion of the license reinstatement fee that is 64819
paid under division (F) of this section and that portion of the 64820
fine paid under division (G) of section 4511.19 of the Revised 64821
Code and that is credited under either division to the indigent 64822
drivers interlock and alcohol monitoring fund shall be deposited 64823

into a county indigent drivers interlock and alcohol monitoring 64824
fund, a county juvenile indigent drivers interlock and alcohol 64825
monitoring fund, or a municipal indigent drivers interlock and 64826
alcohol monitoring fund as follows: 64827

(a) If the fee or fine is paid by a person who was charged in 64828
a county court with the violation that resulted in the suspension 64829
or fine, the portion shall be deposited into the county indigent 64830
drivers interlock and alcohol monitoring fund under the control of 64831
that court. 64832

(b) If the fee or fine is paid by a person who was charged in 64833
a juvenile court with the violation that resulted in the 64834
suspension or fine, the portion shall be deposited into the county 64835
juvenile indigent drivers interlock and alcohol monitoring fund 64836
established in the county served by the court. 64837

(c) If the fee or fine is paid by a person who was charged in 64838
a municipal court with the violation that resulted in the 64839
suspension, the portion shall be deposited into the municipal 64840
indigent drivers interlock and alcohol monitoring fund under the 64841
control of that court. 64842

Sec. 4701.03. (A) The accountancy board annually shall elect 64843
a president, secretary, and treasurer from its members. The board 64844
may adopt and amend rules for the orderly conduct of its affairs 64845
and for the administration of this chapter. The board may adopt 64846
and amend rules defining the practice of public accounting, rules 64847
of professional conduct appropriate to establish and maintain a 64848
high standard of integrity and dignity in registrants and 64849
certificate holders under this chapter, and rules regulating the 64850
sole proprietorship, partnership, limited liability company, 64851
professional association, corporation-for-profit, or other legal 64852
entity practice of public accounting. A majority of the board 64853
shall constitute a quorum for the transaction of business. 64854

(B) The board shall keep and hold open for public inspection all records of its proceedings. 64855
64856

(C) The board may employ any clerks that are necessary to assist it in the performance of its duties and the keeping of its records. If the board employs an executive director, the board shall pay the executive director ~~shall be paid~~ in accordance with ~~pay range 18 of schedule E-1 of section 124.152 of the Revised Code, or, if the director was employed and being paid on June 28, 2003, in accordance with step 7 in pay range 18 of schedule E-1 of former section 124.152 of the Revised Code and continued to be so paid on June 29, 2003, the executive director shall be paid in accordance with pay range 18 of salary schedule E-1 for step seven only of section 124.152 of the Revised Code.~~ 64857
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Sec. 4707.02. (A) No person shall act as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer within this state without a license issued by the department of agriculture. No auction shall be conducted in this state except by an auctioneer licensed by the department. 64868
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The department shall not issue or renew a license if the applicant or licensee has been convicted of a felony or crime involving fraud or theft in this or another state at any time during the ten years immediately preceding application or renewal. 64873
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(B) Division (A) of this section does not apply to any of the following: 64877
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(1) Sales at auction that either are required by law to be at auction, other than sales pursuant to a judicial order or decree, or are conducted by or under the direction of a public authority; 64879
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(2) The owner of any real or personal property desiring to sell the property at auction, provided that the property was not acquired for the purpose of resale; 64882
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- (3) An auction mediation company; 64885
- (4) An auction that is conducted in a course of study for 64886
auctioneers that is approved by the state auctioneers commission 64887
created under section 4707.03 of the Revised Code for purposes of 64888
student training and is supervised by a licensed auctioneer; 64889
- (5)(a) An auction that is sponsored by a nonprofit or 64890
charitable organization that is registered in this state under 64891
Chapter 1702. or Chapter 1716. of the Revised Code, respectively, 64892
if the auction only involves the property of the members of the 64893
organization and the auction is part of a fair that is organized 64894
by an agricultural society under Chapter 1711. of the Revised Code 64895
or by the Ohio expositions commission under Chapter 991. of the 64896
Revised Code at which an auctioneer who is licensed under this 64897
chapter physically conducts the auction; or 64898
- (b) Sales at an auction sponsored by a charitable, religious, 64899
or civic organization that is tax exempt under subsection 64900
501(c)(3) of the Internal Revenue Code, or by a public school, 64901
chartered nonpublic school, or community school, if no person in 64902
the business of organizing, arranging, or conducting an auction 64903
for compensation and no consignor of consigned items sold at the 64904
auction, except such organization or school, receives compensation 64905
from the proceeds of the auction. As used in division (B)(5)(b) of 64906
this section, "compensation" means money, a thing of value other 64907
than participation in a charitable event, or a financial benefit. 64908
- (6) A person licensed as a livestock dealer under Chapter 64909
943. of the Revised Code who exclusively sells livestock and uses 64910
an auctioneer who is licensed under this chapter to conduct the 64911
auction; 64912
- (7) A person licensed as a motor vehicle auction owner under 64913
Chapter 4517. of the Revised Code who exclusively sells motor 64914
vehicles to a person licensed under Chapter 4517. of the Revised 64915

Code and who uses an auctioneer who is licensed under this chapter 64916
to conduct the auction; 64917

(8) A person who sells real or personal property by means of 64918
the internet; 64919

(9) A bid calling contest that is approved by the commission 64920
and that is conducted for the purposes of the advancement or 64921
promotion of the auction profession in this state, provided that 64922
no compensation is paid to the sponsor of or participants in the 64923
contest other than a prize or award for winning the contest; 64924

(10) An auction at which the champion of a national or 64925
international bid calling contest appears, provided that both of 64926
the following apply: 64927

(a) The champion is not paid a commission. 64928

(b) The auction is conducted under the direct supervision of 64929
an auctioneer licensed under this chapter in order to ensure that 64930
the champion complies with this chapter and rules adopted under 64931
it. 64932

(C)(1) No person shall advertise or hold oneself out as an 64933
auction firm, auctioneer, apprentice auctioneer, or special 64934
auctioneer without a license issued by the department of 64935
agriculture. 64936

(2) Division (C)(1) of this section does not apply to an 64937
individual who is the subject of an advertisement regarding an 64938
auction conducted under division (B)(5)(b) of this section. 64939

Sec. 4707.073. (A) No corporation, limited liability company, 64940
general or limited partnership, or unincorporated association 64941
shall act or hold itself out as an auctioneer without a valid 64942
auctioneer's license issued under this section. This section does 64943
not apply to a person who is issued a license under section 64944
4707.071 of the Revised Code. 64945

(B) The department of agriculture may grant an auctioneer's license to a corporation, limited liability company, general or limited partnership, or unincorporated association that is determined to be qualified by the department. Every applicant for a license under this section shall furnish to the department, on forms provided by the department, satisfactory proof that the applicant:

(1) Is in good standing with the secretary of state if the applicant is a corporation;

(2) Is of trustworthy character;

(3) Has provided proof of financial responsibility as required in section 4707.11 of the Revised Code;

(4) Is registered with the secretary of state or a local authority, as applicable, to do business in this state;

(5) Has complied with any other requirement that the director establishes in rules adopted under section 4707.19 of the Revised Code.

(C) An application submitted under this section shall list the names of all of the owners, directors, partners, or members of the applicant, as applicable, and shall indicate those that have an auctioneer's license issued under section 4707.07 of the Revised Code.

(D)~~(1)~~ The department shall not issue a license under this section unless one of the following applies, as applicable:

~~(a)~~(1) If the applicant is a limited liability company or a general or limited partnership, not less than fifty per cent of the members or general partners have a current license issued under section 4707.07 of the Revised Code.

~~(b)~~(2) If the applicant is a corporation, not less than fifty per cent of the directors and the president or chief executive

have a current license issued under section 4707.07 of the Revised Code. 64976
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~~(e)(3)~~ If the applicant is an unincorporated association, not less than fifty per cent of the members have a current license issued under section 4707.07 of the Revised Code. 64978
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Failure of a corporation, limited liability company, partnership, or unincorporated association to maintain the applicable requirements of this division after the issuance of a license under this section may be sufficient cause for the revocation of the license under section 4707.15 of the Revised Code. 64981
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~~(2) Not later than two years after the effective date of this section, a corporation, partnership, or unincorporated association that was issued a license under section 4707.07 of the Revised Code on or before the effective date of this section shall comply with the requirements established in division (D)(1) of this section. If such a corporation, partnership, or unincorporated association fails to comply with those requirements, the license of the corporation, partnership, or unincorporated association immediately shall terminate.~~ 64987
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(E) Upon the issuance of a license under this section, a corporation, limited liability company, partnership, or unincorporated association shall designate an individual from among its directors, partners, or members who is licensed under section 4707.07 of the Revised Code as its agent for purposes of communication with the department. If that individual ceases to be the agent, the corporation, limited liability company, partnership, or unincorporated association shall notify the department not later than ten days after the day on which the individual ceases to be the agent. Upon notification to the department, the license of the corporation, limited liability company, partnership, or unincorporated association, as 64996
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applicable, immediately shall terminate. If the corporation, 65008
limited liability company, partnership, or unincorporated 65009
association notifies the department of the designation of a new 65010
agent in accordance with the requirements of this division and 65011
pays a fee in the amount of ten dollars, the department shall 65012
issue the corporation, limited liability company, partnership, or 65013
unincorporated association a new license. 65014

(F) This section does not preclude a corporation, limited 65015
liability company, partnership, or unincorporated association from 65016
selling real property at auction, provided that the requirements 65017
of this section and section 4707.021 and Chapter 4735. of the 65018
Revised Code are satisfied. 65019

(G) A person licensed as a real estate broker under Chapter 65020
4735. of the Revised Code shall not be required to obtain a 65021
license under this section if the person complies with sections 65022
4707.021 and 4707.22 of the Revised Code. 65023

Sec. 4707.10. (A) The fee for each apprentice auctioneer's or 65024
auction firm license issued by the department of agriculture is 65025
one hundred dollars, and the annual renewal fee for any such 65026
license is one hundred dollars. All licenses expire annually on 65027
the last day of June of each year and shall be renewed according 65028
to the standard renewal procedures of Chapter 4745. of the Revised 65029
Code, or the procedures of this section. Any licensee under this 65030
chapter who wishes to renew the licensee's license, but fails to 65031
do so before the first day of July shall reapply for licensure in 65032
the same manner and pursuant to the same requirements as for 65033
initial licensure, unless before the first day of September of the 65034
year of expiration, the former licensee pays to the department, in 65035
addition to the regular renewal fee, a late renewal penalty of one 65036
hundred dollars. 65037

(B)(1) Each person to whom the department issues an 65038

auctioneer's license or special auctioneer's license shall pay a 65039
licensure fee. Those licenses are biennial and expire in 65040
accordance with the schedule established in division (B)(2) of 65041
this section. If such a license is issued during the first year of 65042
a biennium, the licensee shall pay a fee in the amount of two 65043
hundred dollars. If the license is issued during the second year 65044
of a biennium, the licensee shall pay a fee in the amount of one 65045
hundred dollars. With respect to an auctioneer's license, the fees 65046
apply regardless of whether the license is issued to an individual 65047
under section 4707.07 of the Revised Code or to a corporation, 65048
limited liability company, partnership, or association under 65049
section 4707.073 of the Revised Code. 65050

All auctioneer's licenses and special auctioneer's licenses 65051
expire on the last day of June of the biennium. The licenses shall 65052
be renewed in accordance with the standard renewal procedures of 65053
Chapter 4745. of the Revised Code or the procedures in this 65054
section and upon the licensee's payment to the department of a 65055
renewal fee of two hundred dollars. A licensee who wishes to renew 65056
the licensee's license, but who fails to do so before the first 65057
day of July following the license's expiration, shall reapply for 65058
licensure in the same manner and pursuant to the same requirements 65059
as for the initial licensure unless before the first day of 65060
September following the expiration, the former licensee pays to 65061
the department, in addition to the regular renewal fee, a late 65062
renewal penalty of one hundred dollars. 65063

(2) The biennial expiration of an auctioneer's license or 65064
special auctioneer's license shall occur in accordance with the 65065
following schedule: 65066

(a) The license shall expire in odd-numbered years if the 65067
business name or last name, as applicable, of the licensee begins 65068
with the letters "A" through "J" or with the letters "X" through 65069
"Z." 65070

(b) The license shall expire in even-numbered years if the
business name or last name, as applicable, of the licensee begins
with the letters "K" through "W."

(C) Any person who fails to renew the person's license before
the first day of July is prohibited from engaging in any activity
specified or comprehended in section 4707.01 of the Revised Code
until such time as the person's license is renewed or a new
license is issued. Renewal of a license between the first day of
July and the first day of September does not relieve any person
from complying with this division. The department may refuse to
renew the license of or issue a new license to any person who
violates this division.

(D) The department shall prepare and deliver to each licensee
a permanent license certificate and an identification card, the
appropriate portion of which shall be carried on the person of the
licensee at all times when engaged in any type of auction
activity, and part of which shall be posted with the permanent
certificate in a conspicuous location at the licensee's place of
business.

(E) Notice in writing shall be given to the department by
each auctioneer or apprentice auctioneer licensee of any change of
principal business location or any change or addition to the name
or names under which business is conducted, whereupon the
department shall issue a new license for the unexpired period. Any
change of business location or change or addition of names without
notification to the department shall automatically cancel any
license previously issued. For each new ~~auctioneer~~ auctioneer's or
apprentice ~~auctioneer~~ auctioneer's license issued upon the
occasion of a change in business location or a change in or an
addition of names under which business is conducted, the
department may collect a fee of ten dollars for each change in
location, or name or each added name unless the notification of

the change occurs concurrently with the renewal application or 65103
unless otherwise provided in section 4707.07 of the Revised Code. 65104

Sec. 4709.11. Every license issued pursuant to this chapter 65105
expires on the thirty-first day of August of each even-numbered 65106
year. Each licensee desiring to do so shall, on or before the 65107
first day of September of each even-numbered year, renew ~~his~~ the 65108
licensee's license pursuant to the standard renewal procedure of 65109
Chapter 4745. of the Revised Code. Any holder of an expired 65110
license shall restore ~~his~~ the holder's license before continuing 65111
the practice of barbering or the activity for which ~~he~~ the holder 65112
is licensed under this chapter and pay the appropriate restoration 65113
fee. If the person fails to restore ~~his~~ the person's license 65114
within ~~three~~ six years, ~~he~~ the person shall pay any required 65115
restoration fee and take any examination required for the license 65116
under this chapter. 65117

Sec. 4715.36. As used in this section and sections 4715.361 65118
to 4715.374 of the Revised Code: 65119

(A) "Accredited dental hygiene school" means a dental hygiene 65120
school accredited by the American dental association commission on 65121
dental accreditation or a dental hygiene school whose educational 65122
standards are recognized by the American dental association 65123
commission on dental accreditation and approved by the state 65124
dental board. 65125

(B) "Authorizing dentist" means a dentist who authorizes a 65126
dental hygienist to perform dental hygiene services under section 65127
4715.365 of the Revised Code. 65128

(C) "Clinical evaluation" means a diagnosis and treatment 65129
plan formulated for an individual patient by a dentist. 65130

(D) "Dentist" means an individual licensed under this chapter 65131
to practice dentistry. 65132

(E) "Dental hygienist" means an individual licensed under this chapter to practice as a dental hygienist.	65133 65134
(F) "Dental hygiene services" means the prophylactic, preventive, and other procedures that dentists are authorized by this chapter and rules of the state dental board to assign to dental hygienists, except for procedures while a patient is anesthetized, definitive root planing, definitive subgingival curettage, the administration of local anesthesia, and the procedures specified in rules adopted by the board as described in division (C)(4) of section 4715.22 of the Revised Code.	65135 65136 65137 65138 65139 65140 65141 65142
(G) "Facility" means any of the following:	65143
(1) A health care facility, as defined in section 4715.22 of the Revised Code;	65144 65145
(2) A state correctional institution, as defined in section 2967.01 of the Revised Code;	65146 65147
(3) A comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C. 9831, as amended, and is licensed as a child day-care center;	65148 65149 65150 65151
(4) A residential facility licensed under section 5123.19 of the Revised Code;	65152 65153
(5) A public school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;	65154 65155 65156 65157
(6) A nonpublic school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;	65158 65159 65160 65161
(7) A federally qualified health center or federally	65162

qualified health center look-alike, as defined in section 3701.047 65163
of the Revised Code; 65164

(8) A shelter for victims of domestic violence, as defined in 65165
section 3113.33 of the Revised Code; 65166

(9) A facility operated by the department of youth services 65167
under Chapter 5139. of the Revised Code; 65168

~~(10) A shelter for runaways, as defined in section 5119.64 of~~ 65169
~~the Revised Code;~~ 65170

~~(11)~~ A foster home, as defined in section 5103.02 of the 65171
Revised Code; 65172

~~(12)~~(11) A nonprofit clinic, as defined in section 3715.87 of 65173
the Revised Code; 65174

~~(13)~~(12) The residence of one or more individuals receiving 65175
services provided by a home health agency, as defined in section 65176
5101.61 of the Revised Code; 65177

~~(14)~~(13) A dispensary; 65178

~~(15)~~(14) A health care facility, such as a clinic or 65179
hospital, of the United States department of veterans affairs; 65180

~~(16)~~(15) The residence of one or more individuals enrolled in 65181
a home and community-based services medicaid waiver component, as 65182
defined in section ~~5111.851~~ 5166.01 of the Revised Code; 65183

~~(17)~~(16) A facility operated by the board of health of a city 65184
or general health district or the authority having the duties of a 65185
board of health under section 3709.05 of the Revised Code; 65186

~~(18)~~(17) A women, infants, and children clinic; 65187

~~(19)~~(18) A mobile dental unit located at any location listed 65188
in divisions (G)(1) to ~~(18)~~(17) of this section; 65189

~~(20)~~(19) Any other location, as specified by the state dental 65190
board in rules adopted under section 4715.372 of the Revised Code, 65191

that is in an area designated as a dental health resource shortage 65192
area pursuant to section 3702.87 of the Revised Code and provides 65193
health care services to individuals who are medicaid recipients of 65194
~~medical assistance under the medicaid program established pursuant~~ 65195
~~to Chapter 5111. of the Revised Code~~ and to indigent and uninsured 65196
persons, as defined in section 2305.234 of the Revised Code. 65197

Sec. 4715.372. (A) The state dental board shall adopt rules 65198
in accordance with Chapter 119. of the Revised Code as necessary 65199
to implement the oral health access supervision program, including 65200
rules that do all of the following: 65201

(1) For the purpose of division (G)~~(20)~~(19) of section 65202
4715.36 of the Revised Code, designate additional facilities at 65203
which a dental hygienist may be authorized to perform dental 65204
hygiene services under the oral health access supervision program; 65205

(2) For the purpose of section 4715.362 of the Revised Code, 65206
prescribe the application form and requirements for obtaining an 65207
oral health access supervision permit; 65208

(3) For the purpose of section 4715.363 of the Revised Code, 65209
prescribe the application form for a permit to practice as a 65210
dental hygienist under the oral health access supervision of a 65211
dentist; 65212

(4) For the purpose of division (B)(3) of section 4715.363 of 65213
the Revised Code and subject to division (B) of this section, 65214
establish standards for the course in the practice of dental 65215
hygiene under oral health access supervision; 65216

(5) For the purpose of section 4715.369 of the Revised Code, 65217
prescribe the form for renewal of an oral health access 65218
supervision permit; 65219

(6) For the purpose of section 4715.37 of the Revised Code, 65220
prescribe the form for renewal of a permit to practice as a dental 65221

hygienist under the oral health access supervision of a dentist. 65222

(B) The course in the practice of dental hygiene under oral 65223
health access supervision for which the board establishes 65224
standards under division (A)(4) of this section shall meet all of 65225
the following requirements: 65226

(1) Be eight hours in length; 65227

(2) Include, at a minimum, instruction in both of the 65228
following: 65229

(a) The treatment of geriatric patients, medically 65230
compromised patients, developmentally disabled patients, and 65231
pediatric patients; 65232

(b) Recordkeeping practices. 65233

(3) Be developed and offered by an institution accredited by 65234
the American dental association commission on dental accreditation 65235
or a program provided by a sponsor of continuing education 65236
approved by the board; 65237

(4) Include content that is separate and independent from the 65238
course content required for the completion of dental hygiene 65239
education from an accredited dental hygiene school. 65240

Sec. 4717.03. (A) Members of the board of embalmers and 65241
funeral directors shall annually in July, or within thirty days 65242
after the senate's confirmation of the new members appointed in 65243
that year, meet and organize by selecting from among its members a 65244
president, vice-president, and secretary-treasurer. The board may 65245
hold other meetings as it determines necessary. A quorum of the 65246
board consists of four members, of whom at least three shall be 65247
members who are embalmers and funeral directors. The concurrence 65248
of at least four members is necessary for the board to take any 65249
action. The president and secretary-treasurer shall sign all 65250
licenses issued under this chapter and affix the board's seal to 65251

each license. 65252

(B) The board may appoint an individual who is not a member 65253
of the board to serve as executive director of the board. The 65254
executive director serves at the pleasure of the board and shall 65255
do all of the following: 65256

(1) Serve as the board's chief administrative officer; 65257

(2) Act as custodian of the board's records; 65258

(3) Execute all of the board's orders; 65259

(4) Employ staff who are not members of the board and who 65260
serve at the pleasure of the executive director to provide any 65261
assistance that the board considers necessary. 65262

(C) In executing the board's orders as required by division 65263
(B)(3) of this section, the executive director may enter the 65264
premises, establishment, office, or place of business of any 65265
embalmer, funeral director, or operator of a crematory facility in 65266
this state. The executive director may serve and execute any 65267
process issued by any court under this chapter.. 65268

~~(C) The board may employ clerical or technical staff who are 65269~~
~~not members of the board and who serve at the pleasure of the 65270~~
~~board to provide any clerical or technical assistance the board 65271~~
~~considers necessary. (D) The board executive director may employ 65272~~
necessary inspectors, who shall be licensed embalmers and funeral 65273
directors. ~~Any~~ An inspector employed by the ~~board~~ executive 65274
director may enter the premises, establishment, office, or place 65275
of business of any embalmer, funeral director, or operator of a 65276
crematory facility in this state, for the purposes of inspecting 65277
the facility and premises; the license and registration of 65278
embalmers and funeral directors operating in the facility; and the 65279
license of the funeral home, embalming facility, or crematory. ~~The 65280~~
~~inspector shall serve and execute any process issued by any court 65281~~
~~under this chapter, serve and execute any papers or process issued 65282~~

by the board or any officer or member of the board, facility and 65283
perform any other duties delegated to the inspector by the board 65284
or assigned to the inspector by the executive director. The 65285
executive director may enter the facility or premises of a funeral 65286
home, embalming facility, or crematory for the purpose of an 65287
inspection if accompanied by an inspector or, if an inspector is 65288
not available, when a situation presents a danger of immediate and 65289
serious harm to the public. 65290

~~(D)~~(E) The president of the board shall designate three of 65291
~~its~~ the board's members to serve on the crematory review board, 65292
which is hereby created, for such time as the president finds 65293
appropriate to carry out the provisions of this chapter. Those 65294
members of the crematory review board designated by the president 65295
to serve and three members designated by the cemetery dispute 65296
resolution commission shall designate, by a majority vote, one 65297
person who is experienced in the operation of a crematory facility 65298
and who is not affiliated with a cemetery or a funeral home to 65299
serve on the crematory review board for such time as the crematory 65300
review board finds appropriate. Members serving on the crematory 65301
review board shall not receive any additional compensation for 65302
serving on the board, but may be reimbursed for their actual and 65303
necessary expenses incurred in the performance of official duties 65304
as members of the board. Members of the crematory review board 65305
shall designate one from among its members to serve as a 65306
chairperson for such time as the board finds appropriate. Costs 65307
associated with conducting an adjudicatory hearing in accordance 65308
with division ~~(E)~~(F) of this section shall be paid from funds 65309
available to the board of embalmers and funeral directors. 65310

~~(E)~~(F) Upon receiving written notice from the board of 65311
embalmers and funeral directors of any of the following, the 65312
crematory review board shall conduct an adjudicatory hearing on 65313
the matter in accordance with Chapter 119. of the Revised Code, 65314

except as otherwise provided in this section or division (C) of 65315
section 4717.14 of the Revised Code: 65316

(1) Notice provided under division ~~(H)~~(I) of this section of 65317
an alleged violation of any provision of this chapter or any rules 65318
adopted under this chapter governing or in connection with 65319
crematory facilities or cremation; 65320

(2) Notice provided under division (B) of section 4717.14 of 65321
the Revised Code that the board of embalmers and funeral directors 65322
proposes to refuse to grant or renew, or to suspend or revoke, a 65323
license to operate a crematory facility; 65324

(3) Notice provided under division (C) of section 4717.14 of 65325
the Revised Code that the board of embalmers and funeral directors 65326
has issued an order summarily suspending a license to operate a 65327
crematory facility; 65328

(4) Notice provided under division (B) of section 4717.15 of 65329
the Revised Code that the board of embalmers and funeral directors 65330
proposes to issue a notice of violation and order requiring 65331
payment of a forfeiture for any violation described in divisions 65332
(A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in 65333
connection with a crematory facility or cremation. 65334

Nothing in division ~~(E)~~(F) of this section precludes the 65335
crematory review board from appointing an independent examiner in 65336
accordance with section 119.09 of the Revised Code to conduct any 65337
adjudication hearing required under division ~~(E)~~(F) of this 65338
section. 65339

The crematory review board shall submit a written report of 65340
findings and advisory recommendations, and a written transcript of 65341
its proceedings, to the board of embalmers and funeral directors. 65342
The board of embalmers and funeral directors shall serve a copy of 65343
the written report of the crematory review board's findings and 65344
advisory recommendations on the party to the adjudication or the 65345

party's attorney, by certified mail, within five days after 65346
receiving the report and advisory recommendations. A party may 65347
file objections to the written report with the board of embalmers 65348
and funeral directors within ten days after receiving the report. 65349
No written report is final or appealable until it is issued as a 65350
final order by the board of embalmers and funeral directors and 65351
entered on the record of the proceedings. The board of embalmers 65352
and funeral directors shall consider objections filed by the party 65353
prior to issuing a final order. After reviewing the findings and 65354
advisory recommendations of the crematory review board, the 65355
written transcript of the crematory review board's proceedings, 65356
and any objections filed by a party, the board of embalmers and 65357
funeral directors shall issue a final order in the matter. Any 65358
party may appeal the final order issued by the board of embalmers 65359
and funeral directors in a matter described in divisions ~~(E)~~(F)(1) 65360
to (4) of this section in accordance with section 119.12 of the 65361
Revised Code, except that the appeal may be made to the court of 65362
common pleas in the county in which is located the crematory 65363
facility to which the final order pertains, or in the county in 65364
which the party resides. 65365

~~(F)~~(G) On its own initiative or on receiving a written 65366
complaint from any person whose identity is made known to the 65367
board of embalmers and funeral directors, the board shall 65368
investigate the acts or practices of any person holding or 65369
claiming to hold a license or registration under this chapter 65370
that, if proven to have occurred, would violate this chapter or 65371
any rules adopted under it. The board may compel witnesses by 65372
subpoena to appear and testify in relation to investigations 65373
conducted under this chapter and may require by subpoena duces 65374
tecum the production of any book, paper, or document pertaining to 65375
an investigation. If a person does not comply with a subpoena or 65376
subpoena duces tecum, the board may apply to the court of common 65377
pleas of any county in this state for an order compelling the 65378

person to comply with the subpoena or subpoena duces tecum, or for 65379
failure to do so, to be held in contempt of court. 65380

~~(G)~~(H) If, as a result of its investigation conducted under 65381
division ~~(F)~~(G) of this section, the board of embalmers and 65382
funeral directors has reasonable cause to believe that the person 65383
investigated is violating any provision of this chapter or any 65384
rules adopted under this chapter governing or in connection with 65385
embalming, funeral directing, funeral homes, embalming facilities, 65386
or the operation of funeral homes or embalming facilities, it may, 65387
after providing the opportunity for an adjudicatory hearing, issue 65388
an order directing the person to cease the acts or practices that 65389
constitute the violation. The board shall conduct the adjudicatory 65390
hearing in accordance with Chapter 119. of the Revised Code except 65391
that, notwithstanding the provisions of that chapter, the 65392
following shall apply: 65393

(1) The board shall send the notice informing the person of 65394
the person's right to a hearing by certified mail. 65395

(2) The person is entitled to a hearing only if the person 65396
requests a hearing and if the board receives the request within 65397
thirty days after the mailing of the notice described in division 65398
~~(G)~~(H)(1) of this section. 65399

(3) A stenographic record shall be taken, in the manner 65400
prescribed in section 119.09 of the Revised Code, at every 65401
adjudicatory hearing held under this section, regardless of 65402
whether the record may be the basis of an appeal to a court. 65403

~~(H)~~(I) If, as a result of its investigation conducted under 65404
division ~~(F)~~(G) of this section, the board of embalmers and 65405
funeral directors has reasonable cause to believe that the person 65406
investigated is violating any provision of this chapter or any 65407
rules adopted under this chapter governing or in connection with 65408
crematory facilities or cremation, the board shall send written 65409

notice of the alleged violation to the crematory review board. If, 65410
after the conclusion of the adjudicatory hearing in the matter 65411
conducted under division ~~(E)~~(F) of this section, the board of 65412
embalmers and funeral directors finds that a person is in 65413
violation of any provision of this chapter or any rules adopted 65414
under this chapter governing or in connection with crematory 65415
facilities or cremation, the board may issue a final order under 65416
that division directing the person to cease the acts or practices 65417
that constitute the violation. 65418

~~(I)~~(J) The board of embalmers and funeral directors may bring 65419
a civil action to enjoin any violation or threatened violation of 65420
sections 4717.01 to 4717.15 of the Revised Code or a rule adopted 65421
under any of those sections; division (A) or (B) of section 65422
4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or 65423
(F)(1) or (2), or divisions (H) to (K) of section 4717.26; 65424
division (D)(1) of section 4717.27; divisions (A) to (C) of 65425
section 4717.28, or division (D) or (E) of section 4717.31 of the 65426
Revised Code. The action shall be brought in the county where the 65427
violation occurred or the threatened violation is expected to 65428
occur. At the request of the board, the attorney general shall 65429
represent the board in any matter arising under this chapter. 65430

~~(J)~~(K) The board of embalmers and funeral directors and the 65431
crematory review board may issue subpoenas for funeral directors 65432
and embalmers or persons holding themselves out as such, for 65433
operators of crematory facilities or persons holding themselves 65434
out as such, or for any other person whose testimony, in the 65435
opinion of either board, is necessary. The subpoena shall require 65436
the person to appear before the appropriate board or any 65437
designated member of either board, upon any hearing conducted 65438
under this chapter. The penalty for disobedience to the command of 65439
such a subpoena is the same as for refusal to answer such a 65440
process issued under authority of the court of common pleas. 65441

~~(K)~~(L) All moneys received by the board of embalmers and 65442
funeral directors from any source shall be deposited in the state 65443
treasury to the credit of the occupational licensing and 65444
regulatory fund created in section 4743.05 of the Revised Code. 65445

~~(L)~~(M) The board of embalmers and funeral directors shall 65446
submit a written report to the governor on or before the first 65447
Monday of July of each year. This report shall contain a detailed 65448
statement of the nature and amount of the board's receipts and the 65449
amount and manner of its expenditures. 65450

Sec. 4717.06. (A)(1) Any person who desires to obtain a 65451
license to operate a funeral home, embalming facility, or 65452
crematory facility shall apply to the board of embalmers and 65453
funeral directors on a form provided by the board. The application 65454
shall include the initial license fee set forth in section 4717.07 65455
of the Revised Code and proof satisfactory to the board that the 65456
funeral home, embalming facility, or crematory facility is in 65457
compliance with rules adopted by the board under section 4717.04 65458
of the Revised Code, rules adopted by the board of building 65459
standards under Chapter 3781. of the Revised Code, and all other 65460
federal, state, and local requirements relating to the safety of 65461
the premises. 65462

(2) If the funeral home, embalming facility, or crematory 65463
facility to which the license application pertains is owned by a 65464
corporation or limited liability company, the application shall 65465
include the name and address of the corporation's or limited 65466
liability company's statutory agent appointed under section 65467
1701.07 or 1705.06 of the Revised Code or, in the case of a 65468
foreign corporation, the corporation's designated agent appointed 65469
under section 1703.041 of the Revised Code. If the funeral home, 65470
embalming facility, or crematory facility to which the application 65471
pertains is owned by a partnership, the application shall include 65472

the name and address of each of the partners. If, at any time 65473
after the submission of a license application or issuance of a 65474
license, the statutory or designated agent of a corporation or 65475
limited liability company owning a funeral home, embalming 65476
facility, or crematory facility or the address of the statutory or 65477
designated agent changes or, in the case of a partnership, any of 65478
the partners of the funeral home, embalming facility, or crematory 65479
facility or the address of any of the partners changes, the 65480
applicant for or holder of the license to operate the funeral 65481
home, embalming facility, or crematory facility shall submit 65482
written notice to the board, within thirty days after the change, 65483
informing the board of the change and of any name or address of a 65484
statutory or designated agent or partner that has changed from 65485
that contained in the application for the license or the most 65486
recent notice submitted under division (A)(2) of this section. 65487

(B)(1) The board shall issue a license to operate a funeral 65488
home only for the address at which the funeral home is operated. 65489
The funeral home license and licenses of the embalmers and funeral 65490
directors employed by the funeral home shall be displayed in a 65491
conspicuous place within the funeral home. 65492

(2) The funeral home shall have on the premises one of the 65493
following: 65494

(a) If embalming will take place at the funeral home, an 65495
embalming room that is adequately equipped and maintained. The 65496
embalming room shall be kept in a clean and sanitary manner and 65497
used only for the embalming, preparation, or holding of dead human 65498
bodies. The embalming room shall contain only the articles, 65499
facilities, and instruments necessary for those purposes. 65500

(b) If embalming will not take place at the funeral home, a 65501
holding room that is adequately equipped and maintained. The 65502
holding room shall be kept in a clean and sanitary manner and used 65503
only for the preparation, other than embalming, and holding of 65504

dead human bodies. The holding room shall contain only the 65505
articles and facilities necessary for those purposes. 65506

(3) Except as provided in division (B) of section 4717.11 of 65507
the Revised Code, a funeral home shall be established and operated 65508
only under the name of a holder of a funeral director's license 65509
issued by the board who is actually in charge of and ultimately 65510
responsible for the funeral home, and a funeral home license shall 65511
not include directional or geographical references in the name of 65512
the funeral home. The holder of the funeral home license shall be 65513
a funeral director licensed under this chapter who is actually in 65514
charge of and ultimately responsible for the funeral home. Nothing 65515
in division (B)(3) of this section prohibits the holder of a 65516
funeral home license from including directional or geographical 65517
references in promotional or advertising materials identifying the 65518
location of the funeral home. 65519

(4) Each funeral home shall be directly supervised by a 65520
funeral director licensed under this chapter, who ~~shall~~ may 65521
supervise ~~only~~ more than one funeral home. 65522

(C)(1) The board shall issue a license to operate an 65523
embalming facility only for the address at which the embalming 65524
facility is operated. The license shall be displayed in a 65525
conspicuous place within the facility. 65526

(2) The embalming facility shall be adequately equipped and 65527
maintained in a sanitary manner. The embalming room at such a 65528
facility shall contain only the articles, facilities, and 65529
instruments necessary for its stated purpose. The embalming room 65530
shall be kept in a clean and sanitary condition and used only for 65531
the care and preparation of dead human bodies. 65532

(3) An embalming facility license shall be issued only to an 65533
embalmer licensed under division (B) of section 4717.05 of the 65534
Revised Code, who is actually in charge of the facility. 65535

(D)(1) The board shall issue a license to operate a crematory facility only for the address at which the crematory facility is located and operated. The license shall be displayed in a conspicuous place within the crematory facility.

(2) The crematory facility shall be adequately equipped and maintained in a clean and sanitary manner. The crematory facility may be located in a funeral home, embalming facility, cemetery building, or other building in which the crematory facility may lawfully operate. If a crematory facility engages in the cremation of animals, the crematory facility shall cremate animals in a cremation chamber that also is not used to cremate dead human bodies or human body parts and shall not cremate animals in a cremation chamber used for the cremation of dead human bodies and human body parts. Cremation chambers that are used for the cremation of dead human bodies or human body parts and cremation chambers used for the cremation of animals may be located in the same area.

(3) A license to operate a crematory facility shall be issued to the person actually in charge of the crematory facility. This section does not require the individual who is actually in charge of the crematory facility to be an embalmer or funeral director licensed under this chapter.

(4) Nothing in this section or rules adopted under section 4717.04 of the Revised Code precludes the establishment and operation of a crematory facility on or adjacent to the property on which a cemetery, funeral home, or embalming facility is located.

Sec. 4717.07. (A) The board of embalmers and funeral directors shall charge and collect the following fees:

(1) For the initial issuance or biennial renewal of an embalmer's or funeral director's license, one hundred ~~forty~~ fifty

dollars; 65567

(2) For the issuance of an embalmer or funeral director registration, twenty-five dollars; 65568
65569

(3) For filing an embalmer or funeral director certificate of apprenticeship, ten dollars; 65570
65571

(4) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars; 65572
65573
65574

(5) For the initial issuance of a license to operate a funeral home, ~~two~~ three hundred fifty dollars and biennial renewal of a license to operate a funeral home, ~~two~~ three hundred fifty dollars; 65575
65576
65577
65578

(6) For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(1) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement, but not more than one thousand dollars; 65579
65580
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65583

(7) For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(5) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement; 65584
65585
65586
65587

(8) For the initial issuance of a license to operate an embalming facility, ~~two~~ three hundred fifty dollars and biennial renewal of a license to operate an embalming facility, ~~two~~ three hundred fifty dollars; 65588
65589
65590
65591

(9) For the reinstatement of a lapsed license to operate an embalming facility, the renewal fee prescribed in division (A)(8) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement; 65592
65593
65594
65595

(10) For the initial issuance of a license to operate a 65596

crematory facility, ~~two~~ three hundred fifty dollars and biennial 65597
renewal of a license to operate a crematory facility, ~~two~~ three 65598
hundred fifty dollars; 65599

(11) For the reinstatement of a lapsed license to operate a 65600
crematory facility, the renewal fee prescribed in division (A)(10) 65601
of this section plus fifty dollars for each month or portion of a 65602
month the license is lapsed until reinstatement; 65603

(12) For the issuance of a duplicate of a license issued 65604
under this chapter, ~~four~~ ten dollars. 65605

(B) In addition to the fees set forth in division (A) of this 65606
section, an applicant shall pay the examination fee assessed by 65607
any examining agency the board uses for any section of an 65608
examination required under this chapter. 65609

(C) Subject to the approval of the controlling board, the 65610
board of embalmers and funeral directors may establish fees in 65611
excess of the amounts set forth in this section, provided that 65612
these fees do not exceed the amounts set forth in this section by 65613
more than fifty per cent. 65614

Sec. 4717.10. (A) The board of embalmers and funeral 65615
directors may recognize licenses issued to embalmers and funeral 65616
directors by other states, and upon presentation of such licenses, 65617
may issue to the holder an embalmer's or funeral director's 65618
license under this chapter. The board shall charge the same fee as 65619
prescribed in section 4717.07 of the Revised Code to issue or 65620
renew such an embalmer's or funeral director's license. Such 65621
licenses shall be renewed ~~annually~~ biennially as provided in 65622
section 4717.08 of the Revised Code. The board shall not issue a 65623
license to any person under this section unless the applicant 65624
proves that the applicant, in the state in which the applicant is 65625
licensed, has complied with requirements substantially equal to 65626
those established in section 4717.05 of the Revised Code. 65627

(B) The board of embalmers and funeral directors may issue 65628
courtesy cards. A courtesy cardholder shall be authorized to 65629
undertake both the following acts in this state: 65630

(1) Prepare and complete those sections of a death 65631
certificate and other permits needed for disposition of deceased 65632
human remains in this state and sign and file such death 65633
certificates and permits; 65634

(2) Supervise and conduct funeral ceremonies and interments 65635
in this state. 65636

(C) The board of embalmers and funeral directors may 65637
determine under what conditions a courtesy card may be issued to 65638
funeral directors in bordering states after taking into account 65639
whether and under what conditions and fees such border states 65640
issue similar courtesy cards to funeral directors licensed in this 65641
state. Applicants for courtesy cards shall apply on forms 65642
prescribed by the board, pay ~~an annual~~ a biennial fee set by the 65643
board for initial applications and renewals, and adhere to such 65644
other requirements imposed by the board on courtesy cardholders. 65645

(D) No courtesy cardholder shall be authorized to undertake 65646
any of the following activities in this state: 65647

(1) Arranging funerals or disposition services with members 65648
of the public in this state; 65649

(2) Be employed by or under contract to a funeral home 65650
licensed in this state to perform funeral services in this state; 65651

(3) Advertise funeral or disposition services in this state; 65652

(4) Enter into or execute funeral or disposition contracts in 65653
this state; 65654

(5) Prepare or embalm deceased human remains in this state; 65655

(6) Arrange for or carry out the disinterment of human 65656
remains in this state. 65657

(E) As used in this section, "courtesy card" means a special permit that may be issued to a funeral director licensed in a state that borders this state and who does not hold a funeral director's license under this chapter.

Sec. 4717.14. (A) The board of embalmers and funeral directors may refuse to grant or renew, or may suspend or revoke, any license issued under this chapter or may require the holder of a license to take corrective action courses for any of the following reasons:

(1) The license was obtained by fraud or misrepresentation either in the application or in passing the examination.

(2) The applicant or licensee has been convicted of or has pleaded guilty to a felony or of any crime involving moral turpitude.

(3) The applicant or licensee has purposely violated any provision of sections 4717.01 to 4717.15 or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code; any rule or order of the department of health or a board of health of a health district governing the disposition of dead human bodies; or any other rule or order applicable to the applicant or licensee.

(4) The applicant or licensee has committed immoral or unprofessional conduct.

(5) The applicant or licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the applicant's or licensee's supervision.

(6) The applicant or licensee has been habitually 65688
intoxicated, or is addicted to the use of morphine, cocaine, or 65689
other habit-forming or illegal drugs. 65690

(7) The applicant or licensee has refused to promptly submit 65691
the custody of a dead human body upon the express order of the 65692
person legally entitled to the body. 65693

(8) The licensee loaned the licensee's own license, or the 65694
applicant or licensee borrowed or used the license of another 65695
person, or knowingly aided or abetted the granting of an improper 65696
license. 65697

(9) The applicant or licensee transferred a license to 65698
operate a funeral home, embalming facility, or crematory from one 65699
owner or operator to another, or from one location to another, 65700
without notifying the board. 65701

(10) The applicant or licensee misled the public by using 65702
false or deceptive advertising. 65703

(B)(1) The board of embalmers and funeral directors shall 65704
refuse to grant or renew, or shall suspend or revoke, an 65705
embalmer's, funeral director's, funeral home, or embalming 65706
facility license only in accordance with Chapter 119. of the 65707
Revised Code. 65708

(2) The board shall send to the crematory review board 65709
written notice that it proposes to refuse to issue or renew, or 65710
proposes to suspend or revoke, a license to operate a crematory 65711
facility. If, after the conclusion of the adjudicatory hearing on 65712
the matter conducted under division ~~(E)~~(F) of section 4717.03 of 65713
the Revised Code, the board of embalmers and funeral directors 65714
finds that any of the circumstances described in divisions (A)(1) 65715
to (10) of this section apply to the person named in its proposed 65716
action, the board may issue a final order under division ~~(E)~~(F) of 65717
section 4717.03 of the Revised Code refusing to issue or renew, or 65718

suspending or revoking, the person's license to operate a crematory facility. 65719
65720

(C) If the board of embalmers and funeral directors 65721
determines that there is clear and convincing evidence that any of 65722
the circumstances described in divisions (A)(1) to (10) of this 65723
section apply to the holder of a license issued under this chapter 65724
and that the licensee's continued practice presents a danger of 65725
immediate and serious harm to the public, the board may suspend 65726
the licensee's license without a prior adjudicatory hearing. The 65727
executive director of the board shall prepare written allegations 65728
for consideration by the board. 65729

The board, after reviewing the written allegations, may 65730
suspend a license without a prior hearing. 65731

The board shall issue a written order of suspension by a 65732
delivery system or in person in accordance with section 119.07 of 65733
the Revised Code. Such an order is not subject to suspension by 65734
the court during the pendency of any appeal filed under section 65735
119.12 of the Revised Code. If the holder of an embalmer's, 65736
funeral director's, funeral home, or embalming facility license 65737
requests an adjudicatory hearing by the board, the date set for 65738
the hearing shall be within fifteen days, but not earlier than 65739
seven days, after the licensee has requested a hearing, unless the 65740
board and the licensee agree to a different time for holding the 65741
hearing. 65742

Upon issuing a written order of suspension to the holder of a 65743
license to operate a crematory facility, the board of embalmers 65744
and funeral directors shall send written notice of the issuance of 65745
the order to the crematory review board. The crematory review 65746
board shall hold an adjudicatory hearing on the order under 65747
division ~~(E)~~(F) of section 4717.03 of the Revised Code within 65748
fifteen days, but not earlier than seven days, after the issuance 65749
of the order, unless the crematory review board and the licensee 65750

agree to a different time for holding the adjudicatory hearing. 65751

Any summary suspension imposed under this division shall 65752
remain in effect, unless reversed on appeal, until a final 65753
adjudicatory order issued by the board of embalmers and funeral 65754
directors pursuant to this division and Chapter 119. of the 65755
Revised Code, or division ~~(E)~~(F) of section 4717.03 of the Revised 65756
Code, as applicable, becomes effective. The board of embalmers and 65757
funeral directors shall issue its final adjudicatory order within 65758
sixty days after the completion of its hearing or, in the case of 65759
the summary suspension of a license to operate a crematory 65760
facility, within sixty days after completion of the adjudicatory 65761
hearing by the crematory review board. A failure to issue the 65762
order within that time results in the dissolution of the summary 65763
suspension order, but does not invalidate any subsequent final 65764
adjudicatory order. 65765

(D) If the board of embalmers and funeral directors suspends 65766
or revokes a license held by a funeral director or a funeral home 65767
for any reason identified in division (A) of this section, the 65768
board may file a complaint with the court of common pleas in the 65769
county where the violation occurred requesting appointment of a 65770
receiver and the sequestration of the assets of the funeral home 65771
that held the suspended or revoked license or the licensed funeral 65772
home that employs the funeral director that held the suspended or 65773
revoked license. If the court of common pleas is satisfied with 65774
the application for a receivership, the court may appoint a 65775
receiver. 65776

The board or a receiver may employ and procure whatever 65777
assistance or advice is necessary in the receivership or 65778
liquidation and distribution of the assets of the funeral home, 65779
and, for that purpose, may retain officers or employees of the 65780
funeral home as needed. All expenses of the receivership or 65781
liquidation shall be paid from the assets of the funeral home and 65782

shall be a lien on those assets, and that lien shall be a priority 65783
to any other lien. 65784

(E) Any holder of a license issued under this chapter who has 65785
pleaded guilty to, has been found by a judge or jury to be guilty 65786
of, or has had a judicial finding of eligibility for treatment in 65787
lieu of conviction entered against the individual in this state 65788
for aggravated murder, murder, voluntary manslaughter, felonious 65789
assault, kidnapping, rape, sexual battery, gross sexual 65790
imposition, aggravated arson, aggravated robbery, or aggravated 65791
burglary, or who has pleaded guilty to, has been found by a judge 65792
or jury to be guilty of, or has had a judicial finding of 65793
eligibility for treatment in lieu of conviction entered against 65794
the individual in another jurisdiction for any substantially 65795
equivalent criminal offense, is hereby suspended from practice 65796
under this chapter by operation of law, and any license issued to 65797
the individual under this chapter is hereby suspended by operation 65798
of law as of the date of the guilty plea, verdict or finding of 65799
guilt, or judicial finding of eligibility for treatment in lieu of 65800
conviction, regardless of whether the proceedings are brought in 65801
this state or another jurisdiction. The board shall notify the 65802
suspended individual of the suspension of the individual's license 65803
by the operation of this division by a delivery system or in 65804
person in accordance with section 119.07 of the Revised Code. If 65805
an individual whose license is suspended under this division fails 65806
to make a timely request for an adjudicatory hearing, the board 65807
shall enter a final order revoking the license. 65808

(F) No person whose license has been suspended or revoked 65809
under or by the operation of this section shall practice embalming 65810
or funeral directing or operate a funeral home, embalming 65811
facility, or crematory facility until the board has reinstated the 65812
person's license. 65813

Sec. 4717.15. (A) The board of embalmers and funeral directors, without the necessity for conducting a prior adjudication hearing, may issue a notice of violation to the holder of an embalmer's, funeral director's, funeral home, or embalming facility license issued under this chapter who the board finds has committed any of the violations described in divisions (A)(9)(a) to (g) of section 4717.04 of the Revised Code. The notice shall set forth the specific violation committed by the licensee and shall be sent by certified mail. The notice shall be accompanied by an order requiring the payment of the appropriate forfeiture prescribed in rules adopted under division (A)(9) of section 4717.04 of the Revised Code and by a notice informing the licensee that the licensee is entitled to an adjudicatory hearing on the notice of violation and order if the licensee requests a hearing and if the board receives the request within thirty days after the mailing of the notice of violation and order. The board shall conduct any such adjudicatory hearing in accordance with Chapter 119. of the Revised Code, except as otherwise provided in this division.

A licensee who receives a notice of violation and order under this division shall pay to the executive director of the board the full amount of the forfeiture by certified check within thirty days after the notice of violation and order were mailed to the licensee unless, within that time, the licensee submits a request for an adjudicatory hearing on the notice of violation and order. If such a request for an adjudicatory hearing is timely filed, the licensee need not pay the forfeiture to the executive director until after a final, nonappealable administrative or judicial decision is rendered on the order requiring payment of the forfeiture. If a final nonappealable administrative or judicial decision is rendered affirming the board's order, the licensee shall pay to the executive director of the board the full amount

of the forfeiture by certified check within thirty days after 65846
notice of the decision was sent to the licensee. A forfeiture is 65847
considered to be paid when the licensee's certified check is 65848
received by the executive director in Columbus. If the licensee 65849
fails to so pay the full amount of the forfeiture to the executive 65850
director within that time, the board shall issue an order 65851
suspending or revoking the individual's license, as the board 65852
considers appropriate. 65853

(B) The board shall send to the crematory review board 65854
written notice that it proposes to issue to the holder of a 65855
license to operate a crematory facility issued under this chapter 65856
a notice of violation and order requiring payment of a forfeiture 65857
specified in rules adopted under division (A)(9) of section 65858
4717.04 of the Revised Code. If, after the conclusion of the 65859
adjudicatory hearing on the matter conducted under division ~~(E)~~(F) 65860
of section 4717.03 of the Revised Code, the board of embalmers and 65861
funeral directors finds that the licensee has committed any of the 65862
violations described in divisions (A)(9)(a) to (g) of section 65863
4717.04 of the Revised Code in connection with the operation of a 65864
crematory facility or cremation, the board of embalmers and 65865
funeral directors may issue a final order under division ~~(E)~~(F) of 65866
section 4717.03 of the Revised Code requiring payment of the 65867
appropriate forfeiture specified in rules adopted under division 65868
(A)(9) of section 4717.04 of the Revised Code. A licensee who 65869
receives such an order shall pay the full amount of the forfeiture 65870
to the executive director by certified check within thirty days 65871
after the order was sent to the licensee unless, within that time, 65872
the licensee files a notice of appeal in accordance with division 65873
~~(E)~~(F) of section 4717.03 and section 119.12 of the Revised Code. 65874
If such a notice of appeal is timely filed, the licensee need not 65875
pay the forfeiture to the executive director until after a final, 65876
nonappealable judicial decision is rendered in the appeal. If a 65877
final, nonappealable judicial decision is rendered affirming the 65878

board's order, the licensee shall pay to the executive director 65879
the full amount of the forfeiture by certified check within thirty 65880
days after notice of the decision was sent to the licensee. A 65881
forfeiture is considered paid when the licensee's certified check 65882
is received by the executive director in Columbus. If the licensee 65883
fails to so pay the full amount of the forfeiture to the executive 65884
director within that time, the board shall issue an order 65885
suspending or revoking the individual's license, as the board 65886
considers appropriate. 65887

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of 65888
the Revised Code: 65889

(1) "Affiliate" means a business entity that is owned by, 65890
operated by, controlled by, or under common control with another 65891
business entity. 65892

(2) "Communication" means a written or oral notification or 65893
advertisement that meets both of the following criteria, as 65894
applicable: 65895

(a) The notification or advertisement is transmitted by or on 65896
behalf of the seller of goods or services and by or through any 65897
printed, audio, video, cinematic, telephonic, or electronic means. 65898

(b) In the case of a notification or advertisement other than 65899
by telephone, either of the following conditions is met: 65900

(i) The notification or advertisement is followed by a 65901
telephone call from a telephone solicitor or salesperson. 65902

(ii) The notification or advertisement invites a response by 65903
telephone, and, during the course of that response, a telephone 65904
solicitor or salesperson attempts to make or makes a sale of goods 65905
or services. As used in division (A)(2)(b)(ii) of this section, 65906
"invites a response by telephone" excludes the mere listing or 65907
inclusion of a telephone number in a notification or 65908

advertisement. 65909

(3) "Gift, award, or prize" means anything of value that is 65910
offered or purportedly offered, or given or purportedly given by 65911
chance, at no cost to the receiver and with no obligation to 65912
purchase goods or services. As used in this division, "chance" 65913
includes a situation in which a person is guaranteed to receive an 65914
item and, at the time of the offer or purported offer, the 65915
telephone solicitor does not identify the specific item that the 65916
person will receive. 65917

(4) "Goods or services" means any real property or any 65918
tangible or intangible personal property, or services of any kind 65919
provided or offered to a person. "Goods or services" includes, but 65920
is not limited to, advertising; labor performed for the benefit of 65921
a person; personal property intended to be attached to or 65922
installed in any real property, regardless of whether it is so 65923
attached or installed; timeshare estates or licenses; and extended 65924
service contracts. 65925

(5) "Purchaser" means a person that is solicited to become or 65926
does become financially obligated as a result of a telephone 65927
solicitation. 65928

(6) "Salesperson" means an individual who is employed, 65929
appointed, or authorized by a telephone solicitor to make 65930
telephone solicitations but does not mean any of the following: 65931

(a) An individual who comes within one of the exemptions in 65932
division (B) of this section; 65933

(b) An individual employed, appointed, or authorized by a 65934
person who comes within one of the exemptions in division (B) of 65935
this section; 65936

(c) An individual under a written contract with a person who 65937
comes within one of the exemptions in division (B) of this 65938
section, if liability for all transactions with purchasers is 65939

assumed by the person so exempted. 65940

(7) "Telephone solicitation" means a communication to a 65941
person that meets both of the following criteria: 65942

(a) The communication is initiated by or on behalf of a 65943
telephone solicitor or by a salesperson. 65944

(b) The communication either represents a price or the 65945
quality or availability of goods or services or is used to induce 65946
the person to purchase goods or services, including, but not 65947
limited to, inducement through the offering of a gift, award, or 65948
prize. 65949

(8) "Telephone solicitor" means a person that engages in 65950
telephone solicitation directly or through one or more 65951
salespersons either from a location in this state, or from a 65952
location outside this state to persons in this state. "Telephone 65953
solicitor" includes, but is not limited to, any such person that 65954
is an owner, operator, officer, or director of, partner in, or 65955
other individual engaged in the management activities of, a 65956
business. 65957

(B) A telephone solicitor is exempt from the provisions of 65958
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 65959
Code if the telephone solicitor is any one of the following: 65960

(1) A person engaging in a telephone solicitation that is a 65961
one-time or infrequent transaction not done in the course of a 65962
pattern of repeated transactions of a like nature; 65963

(2) A person engaged in telephone solicitation solely for 65964
religious or political purposes; a charitable organization, 65965
fund-raising counsel, or professional solicitor in compliance with 65966
the registration and reporting requirements of Chapter 1716. of 65967
the Revised Code; or any person or other entity exempt under 65968
section 1716.03 of the Revised Code from filing a registration 65969
statement under section 1716.02 of the Revised Code; 65970

(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B)(4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

(5)(a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;

(b) As used in division (B)(5)(a) of this section, "newspaper of general circulation" includes, but is not limited to, both of the following:

(i) A newspaper that is a daily law journal designated as an official publisher of court calendars pursuant to section 2701.09 of the Revised Code;

(ii) A newspaper or publication that has at least twenty-five per cent editorial, non-advertising content, exclusive of inserts, measured relative to total publication space, and an audited

circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

(6)(a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply:

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is registered or is exempt from registration under 15 U.S.C.A. 781(g)(2)(A), (B), (C), (E), (F), (G), or (H);

(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;

(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).

(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B)(6)(a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B)(6)(a) of this section. As used in division (B)(6)(b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary.

(7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et. seq. and the registration or temporary registration has not expired or been suspended or revoked;

(8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a

full refund within thirty days to a purchaser who returns the 66033
merchandise or if the person solicits the sale on behalf of a 66034
membership club operating in compliance with regulations adopted 66035
by the federal trade commission in 16 C.F.R. 425; 66036

(9) A supervised financial institution or its subsidiary. As 66037
used in division (B)(9) of this section, "supervised financial 66038
institution" means a bank, trust company, savings and loan 66039
association, savings bank, credit union, industrial loan company, 66040
consumer finance lender, commercial finance lender, or institution 66041
described in section 2(c)(2)(F) of the "Bank Holding Company Act 66042
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 66043
official or agency of the United States, this state, or any other 66044
state of the United States; or a licensee or registrant under 66045
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 66046
1321.83 of the Revised Code. 66047

(10)(a) An insurance company, association, or other 66048
organization that is licensed or authorized to conduct business in 66049
this state by the superintendent of insurance pursuant to Title 66050
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 66051
when soliciting within the scope of its license or authorization. 66052

(b) A licensed insurance broker, agent, or solicitor when 66053
soliciting within the scope of the person's license. As used in 66054
division (B)(10)(b) of this section, "licensed insurance broker, 66055
agent, or solicitor" means any person licensed as an insurance 66056
broker, agent, or solicitor by the superintendent of insurance 66057
pursuant to Title XXXIX of the Revised Code. 66058

(11) A person soliciting the sale of services provided by a 66059
cable television system operating under authority of a 66060
governmental franchise or permit; 66061

(12) A person soliciting a business-to-business sale under 66062
which any of the following conditions are met: 66063

(a) The telephone solicitor has been operating continuously 66064
for at least three years under the same business name under which 66065
it solicits purchasers, and at least fifty-one per cent of its 66066
gross dollar volume of sales consists of repeat sales to existing 66067
customers to whom it has made sales under the same business name. 66068

(b) The purchaser business intends to resell the goods 66069
purchased. 66070

(c) The purchaser business intends to use the goods or 66071
services purchased in a recycling, reuse, manufacturing, or 66072
remanufacturing process. 66073

(d) The telephone solicitor is a publisher of a periodical or 66074
of magazines distributed as controlled circulation publications as 66075
defined in division (CC) of section 5739.01 of the Revised Code 66076
and is soliciting sales of advertising, subscriptions, reprints, 66077
lists, information databases, conference participation or 66078
sponsorships, trade shows or media products related to the 66079
periodical or magazine, or other publishing services provided by 66080
the controlled circulation publication. 66081

(13) A person that, not less often than once each year, 66082
publishes and delivers to potential purchasers a catalog that 66083
complies with both of the following: 66084

(a) It includes all of the following: 66085

(i) The business address of the seller; 66086

(ii) A written description or illustration of each good or 66087
service offered for sale; 66088

(iii) A clear and conspicuous disclosure of the sale price of 66089
each good or service; shipping, handling, and other charges; and 66090
return policy. 66091

(b) One of the following applies: 66092

(i) The catalog includes at least twenty-four pages of 66093

written material and illustrations, is distributed in more than 66094
one state, and has an annual postage-paid mail circulation of not 66095
less than two hundred fifty thousand households; 66096

(ii) The catalog includes at least ten pages of written 66097
material or an equivalent amount of material in electronic form on 66098
the internet or an on-line computer service, the person does not 66099
solicit customers by telephone but solely receives telephone calls 66100
made in response to the catalog, and during the calls the person 66101
takes orders but does not engage in further solicitation of the 66102
purchaser. As used in division (B)(13)(b)(ii) of this section, 66103
"further solicitation" does not include providing the purchaser 66104
with information about, or attempting to sell, any other item in 66105
the catalog that prompted the purchaser's call or in a 66106
substantially similar catalog issued by the seller. 66107

(14) A political subdivision or instrumentality of the United 66108
States, this state, or any state of the United States; 66109

(15) A college or university or any other public or private 66110
institution of higher education in this state; 66111

(16) A public utility as defined in section 4905.02 of the 66112
Revised Code or a retail natural gas supplier as defined in 66113
section 4929.01 of the Revised Code, if the utility or supplier is 66114
subject to regulation by the public utilities commission, or the 66115
affiliate of the utility or supplier; 66116

(17) A person that solicits sales through a television 66117
program or advertisement that is presented in the same market area 66118
no fewer than twenty days per month or offers for sale no fewer 66119
than ten distinct items of goods or services; and offers to the 66120
purchaser an unconditional right to return any good or service 66121
purchased within a period of at least seven days and to receive a 66122
full refund within thirty days after the purchaser returns the 66123
good or cancels the service; 66124

(18)(a) A person that, for at least one year, has been operating a retail business under the same name as that used in connection with telephone solicitation and both of the following occur on a continuing basis:

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises.

(ii) At least fifty-one per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises.

(b) An affiliate of a person that meets the requirements in division (B)(18)(a) of this section if the affiliate meets all of the following requirements:

(i) The affiliate has operated a retail business for a period of less than one year;

(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises;

(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises.

(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met:

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises;

(ii) The goods or services that are the subject of telephone

solicitation are sold at the person's business premises, and at 66155
least sixty-five per cent of the person's gross dollar volume of 66156
retail sales involves purchases of goods or services at the 66157
person's business premises; 66158

(iii) The person conducts all telephone solicitation 66159
activities according to sections 310.3, 310.4, and 310.5 of the 66160
telemarketing sales rule adopted by the federal trade commission 66161
in 16 C.F.R. part 310. 66162

(19) A person who performs telephone solicitation sales 66163
services on behalf of other persons and to whom one of the 66164
following applies: 66165

(a) The person has operated under the same ownership, 66166
control, and business name for at least five years, and the person 66167
receives at least seventy-five per cent of its gross revenues from 66168
written telephone solicitation contracts with persons who come 66169
within one of the exemptions in division (B) of this section. 66170

(b) The person is an affiliate of one or more exempt persons 66171
and makes telephone solicitations on behalf of only the exempt 66172
persons of which it is an affiliate. 66173

(c) The person makes telephone solicitations on behalf of 66174
only exempt persons, the person and each exempt person on whose 66175
behalf telephone solicitations are made have entered into a 66176
written contract that specifies the manner in which the telephone 66177
solicitations are to be conducted and that at a minimum requires 66178
compliance with the telemarketing sales rule adopted by the 66179
federal trade commission in 16 C.F.R. part 310, and the person 66180
conducts the telephone solicitations in the manner specified in 66181
the written contract. 66182

(d) The person performs telephone solicitation for religious 66183
or political purposes, a charitable organization, a fund-raising 66184
council, or a professional solicitor in compliance with the 66185

registration and reporting requirements of Chapter 1716. of the Revised Code; and meets all of the following requirements:

(i) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least fifty-one per cent of its gross revenues from written telephone solicitation contracts with persons who come within the exemption in division (B)(2) of this section;

(ii) The person does not conduct a prize promotion or offer the sale of an investment opportunity;

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.

(20) A person that is a licensed real estate salesperson or broker under Chapter 4735. of the Revised Code when soliciting within the scope of the person's license;

(21)(a) Either of the following:

(i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.

(ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. part 310, as adopted by the federal trade commission.

(b) As used in division (B)(21) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.

(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.

(23) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;

(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.

(24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.18 of the Revised Code.

(25) A person that solicits sales from its previous purchasers and meets all of the following requirements:

(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;

(b) The person has, for a period of not less than three 66246
years, operated a business under the same business name as that 66247
used in connection with telephone solicitation; 66248

(c) The person does not conduct a prize promotion or offer 66249
the sale of an investment opportunity; 66250

(d) The person conducts all telephone solicitation activities 66251
according to sections 310.3, 310.4, and 310.5 of the telemarketing 66252
sales rules adopted by the federal trade commission in 16 C.F.R. 66253
part 310; 66254

(e) Neither the person nor any of its principals has been 66255
convicted of, pleaded guilty to, or has entered a plea of no 66256
contest for a felony or a theft offense as defined in sections 66257
2901.02 and 2913.01 of the Revised Code or similar law of another 66258
state or of the United States; 66259

(f) Neither the person nor any of its principals has had 66260
entered against them an injunction or a final judgment or order, 66261
including an agreed judgment or order, an assurance of voluntary 66262
compliance, or any similar instrument, in any civil or 66263
administrative action involving engaging in a pattern of corrupt 66264
practices, fraud, theft, embezzlement, fraudulent conversion, or 66265
misappropriation of property; the use of any untrue, deceptive, or 66266
misleading representation; or the use of any unfair, unlawful, 66267
deceptive, or unconscionable trade act or practice. 66268

(26) An institution defined as a home health agency in 66269
section 3701.881 of the Revised Code, that conducts all telephone 66270
solicitation activities according to sections 310.3, 310.4, and 66271
310.5 of the telemarketing sales rules adopted by the federal 66272
trade commission in 16 C.F.R. part 310, and engages in telephone 66273
solicitation only within the scope of the institution's 66274
certification, accreditation, contract with the department of 66275
aging, or status as a home health agency; and that meets one of 66276

the following requirements: 66277

(a) The institution is certified as a provider of home health services under Title XVIII of the Social Security Act, 49 Stat. 620, 42 U.S.C. 301, as amended; 66278
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(b) The institution is accredited by either the joint commission on accreditation of health care organizations or the community health accreditation program; 66281
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(c) The institution is providing ~~passport~~ PASSPORT services under the direction of the ~~Ohio~~ department of aging under ~~section 173.40~~ sections 173.52 to 173.523 of the Revised Code; 66284
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(d) An affiliate of an institution that meets the requirements of division (B)(26)(a), (b), or (c) of this section when offering for sale substantially the same goods and services as those that are offered by the institution that meets the requirements of division (B)(26)(a), (b), or (c) of this section. 66287
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(27) A person licensed by the department of health pursuant to section 3712.04 or 3712.041 of the Revised Code to provide a hospice care program or pediatric respite care program when conducting telephone solicitations within the scope of the person's license and according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310. 66292
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Sec. 4723.18. (A) The board of nursing shall authorize a licensed practical nurse to administer to an adult intravenous therapy if the nurse supplies evidence satisfactory to the board that all of the following are the case: 66299
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(1) The nurse holds a current, valid license issued under this chapter to practice nursing as a licensed practical nurse. 66303
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(2) The nurse has been authorized under section 4723.18 of the Revised Code to administer medications. 66305
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(3) The nurse successfully completed a course of study in the safe performance of intravenous therapy approved by the board pursuant to section 4723.19 of the Revised Code or by an agency in another jurisdiction that regulates the practice of nursing and has requirements for intravenous therapy course approval that are substantially similar to the requirements in division (B) of section 4723.19 of the Revised Code, as determined by the board.

(4) The nurse has successfully completed a minimum of forty hours of training that includes all of the following:

(a) The curriculum established by rules adopted by the board;

(b) Training in the anatomy and physiology of the cardiovascular system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for management of these complications;

(c) Any other training or instruction the board considers appropriate;

(d) A testing component that requires the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely.

(B) Except as provided in section 4723.181 of the Revised Code and subject to the restrictions in division (D) of this section, a licensed practical nurse may perform intravenous therapy on an adult patient only if authorized by the board pursuant to division (A) of this section and only at the direction of one of the following:

(1) A licensed physician, dentist, optometrist, or podiatrist who, except as provided in division (C)(2) of this section, is present and readily available at the facility where the intravenous therapy procedure is performed;

(2) A registered nurse in accordance with division (C) of

this section. 66337

(C)(1) Except as provided in division (C)(2) of this section 66338
and section 4723.181 of the Revised Code, when a licensed 66339
practical nurse authorized by the board to perform intravenous 66340
therapy performs an intravenous therapy procedure at the direction 66341
of a registered nurse, the registered nurse or another registered 66342
nurse shall be readily available at the site where the intravenous 66343
therapy is performed, and before the licensed practical nurse 66344
initiates the intravenous therapy, the registered nurse shall 66345
personally perform an on-site assessment of the adult patient who 66346
is to receive the intravenous therapy. 66347

(2) When a licensed practical nurse authorized by the board 66348
to perform intravenous therapy performs an intravenous therapy 66349
procedure in a home as defined in section 3721.10 of the Revised 66350
Code, or in an intermediate care facility for the mentally 66351
retarded as defined in section ~~5111.20~~ 5124.01 of the Revised 66352
Code, at the direction of a registered nurse or licensed 66353
physician, dentist, optometrist, or podiatrist, a registered nurse 66354
shall be on the premises of the home or facility or accessible by 66355
some form of telecommunication. 66356

(D) No licensed practical nurse shall perform any of the 66357
following intravenous therapy procedures: 66358

(1) Initiating or maintaining any of the following: 66359

(a) Blood or blood components; 66360

(b) Solutions for total parenteral nutrition; 66361

(c) Any cancer therapeutic medication including, but not 66362
limited to, cancer chemotherapy or an anti-neoplastic agent; 66363

(d) Solutions administered through any central venous line or 66364
arterial line or any other line that does not terminate in a 66365
peripheral vein, except that a licensed practical nurse authorized 66366

by the board to perform intravenous therapy may maintain the 66367
solutions specified in division (D)(6)(a) of this section that are 66368
being administered through a central venous line or peripherally 66369
inserted central catheter; 66370

(e) Any investigational or experimental medication. 66371

(2) Initiating intravenous therapy in any vein, except that a 66372
licensed practical nurse authorized by the board to perform 66373
intravenous therapy may initiate intravenous therapy in accordance 66374
with this section in a vein of the hand, forearm, or antecubital 66375
fossa; 66376

(3) Discontinuing a central venous, arterial, or any other 66377
line that does not terminate in a peripheral vein; 66378

(4) Initiating or discontinuing a peripherally inserted 66379
central catheter; 66380

(5) Mixing, preparing, or reconstituting any medication for 66381
intravenous therapy, except that a licensed practical nurse 66382
authorized by the board to perform intravenous therapy may prepare 66383
or reconstitute an antibiotic additive; 66384

(6) Administering medication via the intravenous route, 66385
including all of the following activities: 66386

(a) Adding medication to an intravenous solution or to an 66387
existing infusion, except that a licensed practical nurse 66388
authorized by the board to perform intravenous therapy may do any 66389
of the following: 66390

(i) Initiate an intravenous infusion containing one or more 66391
of the following elements: dextrose 5%, normal saline, lactated 66392
ringers, sodium chloride .45%, sodium chloride 0.2%, sterile 66393
water; 66394

(ii) Hang subsequent containers of the intravenous solutions 66395
specified in division (D)(6)(a)(i) of this section that contain 66396

vitamins or electrolytes, if a registered nurse initiated the 66397
infusion of that same intravenous solution; 66398

(iii) Initiate or maintain an intravenous infusion containing 66399
an antibiotic additive. 66400

(b) Injecting medication via a direct intravenous route, 66401
except that a licensed practical nurse authorized by the board to 66402
perform intravenous therapy may inject heparin or normal saline to 66403
flush an intermittent infusion device or heparin lock including, 66404
but not limited to, bolus or push. 66405

(7) Changing tubing on any line including, but not limited 66406
to, an arterial line or a central venous line, except that a 66407
licensed practical nurse authorized by the board to perform 66408
intravenous therapy may change tubing on an intravenous line that 66409
terminates in a peripheral vein; 66410

(8) Programming or setting any function of a patient 66411
controlled infusion pump. 66412

(E) Notwithstanding divisions (A) and (D) of this section, at 66413
the direction of a physician or a registered nurse, a licensed 66414
practical nurse authorized by the board to perform intravenous 66415
therapy may perform the following activities for the purpose of 66416
performing dialysis: 66417

(1) The routine administration and regulation of saline 66418
solution for the purpose of maintaining an established fluid plan; 66419

(2) The administration of a heparin dose intravenously; 66420

(3) The administration of a heparin dose peripherally via a 66421
fistula needle; 66422

(4) The loading and activation of a constant infusion pump; 66423

(5) The intermittent injection of a dose of medication that 66424
is administered via the hemodialysis blood circuit and through the 66425
patient's venous access. 66426

(F) No person shall employ or direct a licensed practical nurse to perform an intravenous therapy procedure without first verifying that the licensed practical nurse is authorized by the board to perform intravenous therapy.

Sec. 4723.35. (A) As used in this section, "chemical dependency" means either of the following:

(1) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(2) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(B) The board of nursing may abstain from taking disciplinary action under section 4723.28 or 4723.86 of the Revised Code against an individual with a chemical dependency if it finds that the individual can be treated effectively and there is no impairment of the individual's ability to practice according to acceptable and prevailing standards of safe care. The board shall establish a chemical dependency monitoring program to monitor the registered nurses, licensed practical nurses, dialysis technicians, and certified community health workers against whom the board has abstained from taking action. The board shall develop the program, select the program's name, and designate a coordinator to administer the program.

(C) Determinations regarding an individual's eligibility for admission to, continued participation in, and successful

completion of the monitoring program shall be made by the board's 66458
supervising member for disciplinary matters in accordance with 66459
rules adopted under division (D) of this section. 66460

(D) The board shall adopt rules in accordance with Chapter 66461
119. of the Revised Code that establish the following: 66462

(1) Eligibility requirements for admission to and continued 66463
participation in the monitoring program; 66464

(2) Terms and conditions that must be met to participate in 66465
and successfully complete the program; 66466

(3) Procedures for keeping confidential records regarding 66467
participants; 66468

(4) Any other requirements or procedures necessary to 66469
establish and administer the program. 66470

(E)(1) As a condition of being admitted to the monitoring 66471
program, an individual shall surrender to the program coordinator 66472
the license or certificate that the individual holds. While the 66473
surrender is in effect, the individual is prohibited from engaging 66474
in the practice of nursing, engaging in the provision of dialysis 66475
care, or engaging in the provision of services that were being 66476
provided as a certified community health worker. 66477

If the board's supervising member for disciplinary matters 66478
determines that a participant is capable of resuming practice 66479
according to acceptable and prevailing standards of safe care, the 66480
program coordinator shall return the participant's license or 66481
certificate. If the participant violates the terms and conditions 66482
of resumed practice, the coordinator shall require the participant 66483
to surrender the license or certificate as a condition of 66484
continued participation in the program. The coordinator may 66485
require the surrender only on the approval of the board's 66486
supervising member for disciplinary matters. 66487

The surrender of a license or certificate on admission to the monitoring program or while participating in the program does not constitute an action by the board under section 4723.28 or 4723.86 of the Revised Code. The participant may rescind the surrender at any time and the board may proceed by taking action under section 4723.28 or 4723.86 of the Revised Code.

(2) If the program coordinator determines that a participant is significantly out of compliance with the terms and conditions for participation, the coordinator shall notify the board's supervising member for disciplinary matters and the supervising member shall determine whether to temporarily suspend the participant's license or certificate. The board shall notify the participant of the suspension by certified mail sent to the participant's last known address and shall refer the matter to the board for formal action under section 4723.28 or 4723.86 of the Revised Code.

(F) All of the following apply with respect to the receipt, release, and maintenance of records and information by the monitoring program:

(1) The program coordinator shall maintain all program records in the board's office, and for each participant, shall retain the records for a period of two years following the participant's date of successful completion of the program.

(2) When applying to participate in the monitoring program, the applicant shall sign a waiver permitting the board to receive and release information necessary to determine whether the individual is eligible for admission. After being admitted, the participant shall sign a waiver permitting the board to receive and release information necessary to determine whether the individual is eligible for continued participation in the program. Information that may be necessary for the board's supervising member for disciplinary matters to determine eligibility for

admission or continued participation in the monitoring program 66520
includes, but is not limited to, information provided to and by 66521
employers, probation officers, law enforcement agencies, peer 66522
assistance programs, health professionals, and treatment 66523
providers. No entity with knowledge that the information has been 66524
provided to the monitoring program shall divulge that knowledge to 66525
any other person. 66526

(3) Except as provided in division (F)(4) of this section, 66527
all records pertaining to an individual's application for or 66528
participation in the monitoring program, including medical 66529
records, treatment records, and mental health records, shall be 66530
confidential. The records are not public records for the purposes 66531
of section 149.43 of the Revised Code and are not subject to 66532
discovery by subpoena or admissible as evidence in any judicial 66533
proceeding. 66534

(4) The board may disclose information regarding a 66535
participant's progress in the program to any person or government 66536
entity that the participant authorizes in writing to be given the 66537
information. In disclosing information under this division, the 66538
board shall not include any information that is protected under 66539
section ~~3793.13~~ 5119.27 of the Revised Code or any federal statute 66540
or regulation that provides for the confidentiality of medical, 66541
mental health, or substance abuse records. 66542

(G) In the absence of fraud or bad faith, the board as a 66543
whole, its individual members, and its employees and 66544
representatives are not liable for damages in any civil action as 66545
a result of disclosing information in accordance with division 66546
(F)(4) of this section. In the absence of fraud or bad faith, any 66547
person reporting to the program with regard to an individual's 66548
chemical dependence, or the progress or lack of progress of that 66549
individual with regard to treatment, is not liable for damages in 66550
any civil action as a result of the report. 66551

Sec. 4723.481. This section establishes standards and 66552
conditions regarding the authority of a clinical nurse specialist, 66553
certified nurse-midwife, or certified nurse practitioner to 66554
prescribe drugs and therapeutic devices under a certificate to 66555
prescribe issued under section ~~4723.481~~ 4723.48 of the Revised 66556
Code. 66557

(A) A clinical nurse specialist, certified nurse-midwife, or 66558
certified nurse practitioner shall not prescribe any drug or 66559
therapeutic device that is not included in the types of drugs and 66560
devices listed on the formulary established in rules adopted under 66561
section 4723.50 of the Revised Code. 66562

(B) The prescriptive authority of a clinical nurse 66563
specialist, certified nurse-midwife, or certified nurse 66564
practitioner shall not exceed the prescriptive authority of the 66565
collaborating physician or podiatrist, including the collaborating 66566
physician's authority to treat chronic pain with controlled 66567
substances and products containing tramadol as described in 66568
section 4731.052 of the Revised Code. 66569

(C)(1) Except as provided in division (C)(2) or (3) of this 66570
section, a clinical nurse specialist, certified nurse-midwife, or 66571
certified nurse practitioner may prescribe to a patient a schedule 66572
II controlled substance only if all of the following are the case: 66573

(a) The patient has a terminal condition, as defined in 66574
section 2133.01 of the Revised Code. 66575

(b) The collaborating physician of the clinical nurse 66576
specialist, certified nurse-midwife, or certified nurse 66577
practitioner initially prescribed the substance for the patient. 66578

(c) The prescription is for an amount that does not exceed 66579
the amount necessary for the patient's use in a single, 66580
twenty-four-hour period. 66581

(2) The restrictions on prescriptive authority in division 66582
(C)(1) of this section do not apply if a clinical nurse 66583
specialist, certified nurse-midwife, or certified nurse 66584
practitioner issues the prescription to the patient from any of 66585
the following locations: 66586

(a) A hospital registered under section 3701.07 of the 66587
Revised Code; 66588

(b) An entity owned or controlled, in whole or in part, by a 66589
hospital or by an entity that owns or controls, in whole or in 66590
part, one or more hospitals; 66591

(c) A health care facility operated by the department of 66592
~~mental health~~ mental health and addiction services or the 66593
department of developmental disabilities; 66594

(d) A nursing home or residential care facility licensed 66595
under section 3721.02 of the Revised Code or by a political 66596
subdivision certified under section 3721.09 of the Revised Code; 66597

(e) A county home or district home operated under Chapter 66598
5155. of the Revised Code that is certified under the medicare or 66599
medicaid program; 66600

(f) A hospice care program, as defined in section 3712.01 of 66601
the Revised Code; 66602

(g) A community mental health ~~agency~~ services provider, as 66603
defined in section 5122.01 of the Revised Code; 66604

(h) An ambulatory surgical facility, as defined in section 66605
3702.30 of the Revised Code; 66606

(i) A freestanding birthing center, as defined in section 66607
~~3702.51~~ 3702.141 of the Revised Code; 66608

(j) A federally qualified health center, as defined in 66609
section 3701.047 of the Revised Code; 66610

(k) A federally qualified health center look-alike, as 66611

defined in section 3701.047 of the Revised Code; 66612

(1) A health care office or facility operated by the board of 66613
health of a city or general health district or the authority 66614
having the duties of a board of health under section 3709.05 of 66615
the Revised Code; 66616

(m) A site where a medical practice is operated, but only if 66617
the practice is comprised of one or more physicians who also are 66618
owners of the practice; the practice is organized to provide 66619
direct patient care; and the clinical nurse specialist, certified 66620
nurse-midwife, or certified nurse practitioner providing services 66621
at the site has a standard care arrangement and collaborates with 66622
at least one of the physician owners who practices primarily at 66623
that site. 66624

(3) A clinical nurse specialist, certified nurse-midwife, or 66625
certified nurse practitioner shall not issue to a patient a 66626
prescription for a schedule II controlled substance from a 66627
convenience care clinic even if the clinic is owned or operated by 66628
an entity specified in division (C)(2) of this section. 66629

(D) A pharmacist who acts in good faith reliance on a 66630
prescription issued by a clinical nurse specialist, certified 66631
nurse-midwife, or certified nurse practitioner under division 66632
(C)(2) of this section is not liable for or subject to any of the 66633
following for relying on the prescription: damages in any civil 66634
action, prosecution in any criminal proceeding, or professional 66635
disciplinary action by the state board of pharmacy under Chapter 66636
4729. of the Revised Code. 66637

(E) A clinical nurse specialist, certified nurse-midwife, or 66638
certified nurse practitioner may personally furnish to a patient a 66639
sample of any drug or therapeutic device included in the types of 66640
drugs and devices listed on the formulary, except that all of the 66641
following conditions apply: 66642

(1) The amount of the sample furnished shall not exceed a 66643
seventy-two-hour supply, except when the minimum available 66644
quantity of the sample is packaged in an amount that is greater 66645
than a seventy-two-hour supply, in which case the packaged amount 66646
may be furnished. 66647

(2) No charge may be imposed for the sample or for furnishing 66648
it. 66649

(3) Samples of controlled substances may not be personally 66650
furnished. 66651

(F) A clinical nurse specialist, certified nurse-midwife, or 66652
certified nurse practitioner may personally furnish to a patient a 66653
complete or partial supply of a drug or therapeutic device 66654
included in the types of drugs and devices listed on the 66655
formulary, except that all of the following conditions apply: 66656

(1) The clinical nurse specialist, certified nurse-midwife, 66657
or certified nurse practitioner shall personally furnish only 66658
antibiotics, antifungals, scabicides, contraceptives, prenatal 66659
vitamins, antihypertensives, drugs and devices used in the 66660
treatment of diabetes, drugs and devices used in the treatment of 66661
asthma, and drugs used in the treatment of dyslipidemia. 66662

(2) The clinical nurse specialist, certified nurse-midwife, 66663
or certified nurse practitioner shall not furnish the drugs and 66664
devices in locations other than a health department operated by 66665
the board of health of a city or general health district or the 66666
authority having the duties of a board of health under section 66667
3709.05 of the Revised Code, a federally funded comprehensive 66668
primary care clinic, or a nonprofit health care clinic or program. 66669

(3) The clinical nurse specialist, certified nurse-midwife, 66670
or certified nurse practitioner shall comply with all safety 66671
standards for personally furnishing supplies of drugs and devices, 66672
as established in rules adopted under section 4723.50 of the 66673

Revised Code. 66674

Sec. 4725.03. The governor, with the advice and consent of 66675
the senate, shall appoint a state board of optometry consisting of 66676
six nonmedical residents of this state, five of whom shall be 66677
persons actually engaged in the practice of optometry for five 66678
years preceding appointment and one of whom shall be a member of 66679
the public at least ~~sixty~~ fifty years of age. Terms of office 66680
shall be five years, commencing on the twenty-sixth day of 66681
September and ending on the twenty-fifth day of September. Each 66682
member shall hold office from the date of appointment until the 66683
end of the term for which appointed. Any member appointed to fill 66684
a vacancy occurring prior to the expiration of the term for which 66685
the member's predecessor was appointed shall hold office for the 66686
remainder of the term. A member shall continue in office 66687
subsequent to the expiration date of the member's term until the 66688
member's successor takes office, or until a period of sixty days 66689
has elapsed, whichever occurs first. No person shall serve as a 66690
member for more than two terms. 66691

Sec. 4725.16. (A) Each certificate of licensure, topical 66692
ocular pharmaceutical agents certificate, and therapeutic 66693
pharmaceutical agents certificate issued by the state board of 66694
optometry shall expire annually on the last day of December, and 66695
may be renewed in accordance with this section and the standard 66696
renewal procedure established under Chapter 4745. of the Revised 66697
Code. 66698

An optometrist seeking to continue to practice optometry 66699
shall file with the board an application for license renewal. The 66700
application shall be in such form and require such pertinent 66701
professional biographical data as the board may require. 66702

(B) All licensed optometrists shall annually complete 66703

continuing education in subjects relating to the practice of 66704
optometry, to the end that the utilization and application of new 66705
techniques, scientific and clinical advances, and the achievements 66706
of research will assure comprehensive care to the public. The 66707
board shall prescribe by rule the continuing optometric education 66708
that licensed optometrists must complete. The length of study 66709
shall be twenty-five clock hours each year, including ten clock 66710
hours of instruction in pharmacology to be completed by all 66711
licensed optometrists. 66712

Unless the continuing education required under this division 66713
is waived or deferred under division (D) of this section, the 66714
continuing education must be completed during the twelve-month 66715
period beginning on the first day of October and ending on the 66716
last day of September. If the board receives notice from a 66717
continuing education program indicating that an optometrist 66718
completed the program after the last day of September, and the 66719
optometrist wants to use the continuing education completed after 66720
that day to renew the license that expires on the last day of 66721
December of that year, the optometrist shall pay the penalty 66722
specified under section 4725.34 of the Revised Code for late 66723
completion of continuing education. 66724

At least once annually, the board shall post on its web site 66725
and shall mail, or send by electronic mail, to each licensed 66726
optometrist a list of courses approved in accordance with 66727
standards prescribed by board rule. Upon the request of a licensed 66728
optometrist, the executive director of the board shall supply a 66729
list of additional courses that the board has approved subsequent 66730
to the most recent web site posting, electronic mail transmission, 66731
or mailing of the list of approved courses. 66732

(C)(1) Annually, not later than the first day of November, 66733
the board shall mail or send by electronic mail a notice regarding 66734
license renewal to each licensed optometrist who may be eligible 66735

for renewal. The notice shall be sent to the optometrist's ~~last~~ 66736
most recent electronic mail or mailing address shown in the 66737
board's records. If the board knows that the optometrist has 66738
completed the required continuing optometric education for the 66739
year, the board may include with the notice an application for 66740
license renewal. 66741

(2) Filing a license renewal application with the board shall 66742
serve as notice by the optometrist that the continuing optometric 66743
education requirement has been successfully completed. If the 66744
board finds that an optometrist has not completed the required 66745
continuing optometric education, the board shall disapprove the 66746
optometrist's application. The board's disapproval of renewal is 66747
effective without a hearing, unless a hearing is requested 66748
pursuant to Chapter 119. of the Revised Code. 66749

(3) The board shall refuse to accept an application for 66750
renewal from any applicant whose license is not in good standing 66751
or who is under disciplinary review pursuant to section 4725.19 of 66752
the Revised Code. 66753

(4) Notice of an applicant's failure to qualify for renewal 66754
shall be served upon the applicant by mail. The notice shall be 66755
sent not later than the fifteenth day of November to the 66756
applicant's last address shown in the board's records. 66757

(D) In cases of certified illness or undue hardship, the 66758
board may waive or defer for up to twelve months the requirement 66759
of continuing optometric education, except that in such cases the 66760
board may not waive or defer the continuing education in 66761
pharmacology required to be completed by optometrists who hold 66762
topical ocular pharmaceutical agents certificates or therapeutic 66763
pharmaceutical agents certificates. The board shall waive the 66764
requirement of continuing optometric education for any optometrist 66765
who is serving in the armed forces of the United States or who has 66766
received an initial certificate of licensure during the nine-month 66767

period which ended on the last day of September. 66768

(E) An optometrist whose renewal application has been 66769
approved may renew each certificate held by paying to the 66770
treasurer of state the fees for renewal specified under section 66771
4725.34 of the Revised Code. On payment of all applicable fees, 66772
the board shall issue a renewal of the optometrist's certificate 66773
of licensure, topical ocular pharmaceutical agents certificate, 66774
and therapeutic pharmaceutical agents certificate, as appropriate. 66775

(F) Not later than the fifteenth day of December, the board 66776
shall email or mail a second notice regarding license renewal to 66777
each licensed optometrist who may be eligible for renewal but did 66778
not respond to the notice sent under division (C)(1) of this 66779
section. The notice shall be sent to the optometrist's ~~last~~ most 66780
recent email or mailing address shown in the board's records. If 66781
an optometrist fails to file a renewal application after the 66782
second notice is sent, the board shall send a third notice 66783
regarding license renewal prior to any action under division (I) 66784
of this section to classify the optometrist's certificates as 66785
delinquent. 66786

(G) The failure of an optometrist to apply for license 66787
renewal or the failure to pay the applicable annual renewal fees 66788
on or before the date of expiration, shall automatically work a 66789
forfeiture of the optometrist's authority to practice optometry in 66790
this state. 66791

(H) The board shall accept renewal applications and renewal 66792
fees that are submitted from the first day of January to the last 66793
day of April of the year next succeeding the date of expiration. 66794
An individual who submits such a late renewal application or fee 66795
shall pay the late renewal fee specified in section 4725.34 of the 66796
Revised Code. 66797

(I)(1) If the certificates issued by the board to an 66798

individual have expired and the individual has not filed a 66799
complete application during the late renewal period, the 66800
individual's certificates shall be classified in the board's 66801
records as delinquent. 66802

(2) Any optometrist subject to delinquent classification may 66803
submit a written application to the board for reinstatement. For 66804
reinstatement to occur, the applicant must meet all of the 66805
following conditions: 66806

(a) Submit to the board evidence of compliance with board 66807
rules requiring continuing optometric education in a sufficient 66808
number of hours to make up for any delinquent compliance; 66809

(b) Pay the renewal fees for the year in which application 66810
for reinstatement is made and the reinstatement fee specified 66811
under division (A)(8) of section 4725.34 of the Revised Code; 66812

(c) Pass all or part of the licensing examination accepted by 66813
the board under section 4725.11 of the Revised Code as the board 66814
considers appropriate to determine whether the application for 66815
reinstatement should be approved; 66816

(d) If the applicant has been practicing optometry in another 66817
state or country, submit evidence that the applicant's license to 66818
practice optometry in the other state or country is in good 66819
standing. 66820

(3) The board shall approve an application for reinstatement 66821
if the conditions specified in division (I)(2) of this section are 66822
met. An optometrist who receives reinstatement is subject to the 66823
continuing education requirements specified under division (B) of 66824
this section for the year in which reinstatement occurs. 66825

Sec. 4729.51. (A) No person other than a registered wholesale 66826
distributor of dangerous drugs shall possess for sale, sell, 66827
distribute, or deliver, at wholesale, dangerous drugs, except as 66828

follows: 66829

(1) A pharmacist who is a licensed terminal distributor of 66830
dangerous drugs or who is employed by a licensed terminal 66831
distributor of dangerous drugs may make occasional sales of 66832
dangerous drugs at wholesale; 66833

(2) A licensed terminal distributor of dangerous drugs having 66834
more than one establishment or place may transfer or deliver 66835
dangerous drugs from one establishment or place for which a 66836
license has been issued to the terminal distributor to another 66837
establishment or place for which a license has been issued to the 66838
terminal distributor if the license issued for each establishment 66839
or place is in effect at the time of the transfer or delivery. 66840

(B)(1) No registered wholesale distributor of dangerous drugs 66841
shall possess for sale, or sell, at wholesale, dangerous drugs to 66842
any person other than the following: 66843

(a) Except as provided in division (B)(2)(a) of this section, 66844
a licensed health professional authorized to prescribe drugs; 66845

(b) An optometrist licensed under Chapter 4725. of the 66846
Revised Code who holds a topical ocular pharmaceutical agents 66847
certificate; 66848

(c) A registered wholesale distributor of dangerous drugs; 66849

(d) A manufacturer of dangerous drugs; 66850

(e) Subject to division (B)(3) of this section, a licensed 66851
terminal distributor of dangerous drugs; 66852

(f) Carriers or warehouses for the purpose of carriage or 66853
storage; 66854

(g) Terminal or wholesale distributors of dangerous drugs who 66855
are not engaged in the sale of dangerous drugs within this state; 66856

(h) An individual who holds a current license, certificate, 66857
or registration issued under Title 47 XLVII of the Revised Code 66858

and has been certified to conduct diabetes education by a national 66859
certifying body specified in rules adopted by the state board of 66860
pharmacy under section 4729.68 of the Revised Code, but only with 66861
respect to insulin that will be used for the purpose of diabetes 66862
education and only if diabetes education is within the 66863
individual's scope of practice under statutes and rules regulating 66864
the individual's profession; 66865

(i) An individual who holds a valid certificate issued by a 66866
nationally recognized S.C.U.B.A. diving certifying organization 66867
approved by the state board of pharmacy in rule, but only with 66868
respect to medical oxygen that will be used for the purpose of 66869
emergency care or treatment at the scene of a diving emergency; 66870

(j) Except as provided in division (B)(2)(b) of this section, 66871
a business entity that is a corporation formed under division (B) 66872
of section 1701.03 of the Revised Code, a limited liability 66873
company formed under Chapter 1705. of the Revised Code, or a 66874
professional association formed under Chapter 1785. of the Revised 66875
Code if the entity has a sole shareholder who is a licensed health 66876
professional authorized to prescribe drugs and is authorized to 66877
provide the professional services being offered by the entity; 66878

(k) Except as provided in division (B)(2)(c) of this section, 66879
a business entity that is a corporation formed under division (B) 66880
of section 1701.03 of the Revised Code, a limited liability 66881
company formed under Chapter 1705. of the Revised Code, a 66882
partnership or a limited liability partnership formed under 66883
Chapter 1775. of the Revised Code, or a professional association 66884
formed under Chapter 1785. of the Revised Code, if, to be a 66885
shareholder, member, or partner, an individual is required to be 66886
licensed, certified, or otherwise legally authorized under Title 66887
XLVII of the Revised Code to perform the professional service 66888
provided by the entity and each such individual is a licensed 66889
health professional authorized to prescribe drugs. 66890

(2) No registered wholesale distributor of dangerous drugs 66891
shall possess for sale, or sell, at wholesale, dangerous drugs to 66892
any of the following: 66893

(a) A prescriber who is employed by a pain management clinic 66894
that is not licensed as a terminal distributor of dangerous drugs 66895
with a pain management clinic classification issued under section 66896
4729.552 of the Revised Code; 66897

(b) A business entity described in division (B)(1)(j) of this 66898
section that is, or is operating, a pain management clinic without 66899
a license as a terminal distributor of dangerous drugs with a pain 66900
management clinic classification issued under section 4729.552 of 66901
the Revised Code; 66902

(c) A business entity described in division (B)(1)(k) of this 66903
section that is, or is operating, a pain management clinic without 66904
a license as a terminal distributor of dangerous drugs with a pain 66905
management clinic classification issued under section 4729.552 of 66906
the Revised Code. 66907

(3) No registered wholesale distributor of dangerous drugs 66908
shall possess dangerous drugs for sale at wholesale, or sell such 66909
drugs at wholesale, to a licensed terminal distributor of 66910
dangerous drugs, except as follows: 66911

(a) In the case of a terminal distributor with a category I 66912
license, only dangerous drugs described in category I, as defined 66913
in division (A)(1) of section 4729.54 of the Revised Code; 66914

(b) In the case of a terminal distributor with a category II 66915
license, only dangerous drugs described in category I and category 66916
II, as defined in divisions (A)(1) and (2) of section 4729.54 of 66917
the Revised Code; 66918

(c) In the case of a terminal distributor with a category III 66919
license, dangerous drugs described in category I, category II, and 66920
category III, as defined in divisions (A)(1), (2), and (3) of 66921

section 4729.54 of the Revised Code; 66922

(d) In the case of a terminal distributor with a limited 66923
category I, II, or III license, only the dangerous drugs specified 66924
in the certificate furnished by the terminal distributor in 66925
accordance with section 4729.60 of the Revised Code. 66926

(C)(1) Except as provided in division (C)(4) of this section, 66927
no person shall sell, at retail, dangerous drugs. 66928

(2) Except as provided in division (C)(4) of this section, no 66929
person shall possess for sale, at retail, dangerous drugs. 66930

(3) Except as provided in division (C)(4) of this section, no 66931
person shall possess dangerous drugs. 66932

(4) Divisions (C)(1), (2), and (3) of this section do not 66933
apply to a registered wholesale distributor of dangerous drugs, a 66934
licensed terminal distributor of dangerous drugs, or a person who 66935
possesses, or possesses for sale or sells, at retail, a dangerous 66936
drug in accordance with Chapters 3719., 4715., 4723., 4725., 66937
4729., 4730., 4731., and 4741. of the Revised Code. 66938

Divisions (C)(1), (2), and (3) of this section do not apply 66939
to an individual who holds a current license, certificate, or 66940
registration issued under Title XLVII of the Revised Code and has 66941
been certified to conduct diabetes education by a national 66942
certifying body specified in rules adopted by the state board of 66943
pharmacy under section 4729.68 of the Revised Code, but only to 66944
the extent that the individual possesses insulin or personally 66945
supplies insulin solely for the purpose of diabetes education and 66946
only if diabetes education is within the individual's scope of 66947
practice under statutes and rules regulating the individual's 66948
profession. 66949

Divisions (C)(1), (2), and (3) of this section do not apply 66950
to an individual who holds a valid certificate issued by a 66951
nationally recognized S.C.U.B.A. diving certifying organization 66952

approved by the state board of pharmacy in rule, but only to the 66953
extent that the individual possesses medical oxygen or personally 66954
supplies medical oxygen for the purpose of emergency care or 66955
treatment at the scene of a diving emergency. 66956

(D) No licensed terminal distributor of dangerous drugs shall 66957
purchase for the purpose of resale dangerous drugs from any person 66958
other than a registered wholesale distributor of dangerous drugs, 66959
except as follows: 66960

(1) A licensed terminal distributor of dangerous drugs may 66961
make occasional purchases of dangerous drugs for resale from a 66962
pharmacist who is a licensed terminal distributor of dangerous 66963
drugs or who is employed by a licensed terminal distributor of 66964
dangerous drugs; 66965

(2) A licensed terminal distributor of dangerous drugs having 66966
more than one establishment or place may transfer or receive 66967
dangerous drugs from one establishment or place for which a 66968
license has been issued to the terminal distributor to another 66969
establishment or place for which a license has been issued to the 66970
terminal distributor if the license issued for each establishment 66971
or place is in effect at the time of the transfer or receipt. 66972

(E) A pharmacy that is a licensed terminal distributor of 66973
dangerous drugs may operate a remote dispensing system in 66974
accordance with section 4729.542 of the Revised Code. 66975

(F) No licensed terminal distributor of dangerous drugs shall 66976
engage in the sale or other distribution of dangerous drugs at 66977
retail or maintain possession, custody, or control of dangerous 66978
drugs for any purpose other than the distributor's personal use or 66979
consumption, at any establishment or place other than that or 66980
those described in the license issued by the state board of 66981
pharmacy to such terminal distributor. 66982

~~(F)~~(G) Nothing in this section shall be construed to 66983

interfere with the performance of official duties by any law 66984
enforcement official authorized by municipal, county, state, or 66985
federal law to collect samples of any drug, regardless of its 66986
nature or in whose possession it may be. 66987

Sec. 4729.54. (A) As used in this section and section 66988
4729.541 of the Revised Code: 66989

(1) "Category I" means single-dose injections of intravenous 66990
fluids, including saline, Ringer's lactate, five per cent dextrose 66991
and distilled water, and other intravenous fluids or parenteral 66992
solutions included in this category by rule of the state board of 66993
pharmacy, that have a volume of one hundred milliliters or more 66994
and that contain no added substances, or single-dose injections of 66995
epinephrine to be administered pursuant to sections 4765.38 and 66996
4765.39 of the Revised Code. 66997

(2) "Category II" means any dangerous drug that is not 66998
included in category I or III. 66999

(3) "Category III" means any controlled substance that is 67000
contained in schedule I, II, III, IV, or V. 67001

(4) "Emergency medical service organization" has the same 67002
meaning as in section 4765.01 of the Revised Code. 67003

(5) "Person" includes an emergency medical service 67004
organization. 67005

(6) "Schedule I, schedule II, schedule III, schedule IV, and 67006
schedule V" mean controlled substance schedules I, II, III, IV, 67007
and V, respectively, as established pursuant to section 3719.41 of 67008
the Revised Code and as amended. 67009

(B)(1) A person who desires to be licensed as a terminal 67010
distributor of dangerous drugs shall file with the executive 67011
director of the state board of pharmacy a verified application. 67012
After it is filed, the application may not be withdrawn without 67013

approval of the board. 67014

(2) An application shall contain all the following that apply 67015
in the applicant's case: 67016

(a) Information that the board requires relative to the 67017
qualifications of a terminal distributor of dangerous drugs set 67018
forth in section 4729.55 of the Revised Code; 67019

(b) A statement that the person wishes to be licensed as a 67020
category I, category II, category III, limited category I, limited 67021
category II, or limited category III terminal distributor of 67022
dangerous drugs; 67023

(c) If the person wishes to be licensed as a limited category 67024
I, limited category II, or limited category III terminal 67025
distributor of dangerous drugs, a notarized list of the dangerous 67026
drugs that the person wishes to possess, have custody or control 67027
of, and distribute, which list shall also specify the purpose for 67028
which those drugs will be used and their source; 67029

(d) If the person is an emergency medical service 67030
organization, the information that is specified in division (C)(1) 67031
of this section; 67032

(e) Except for an emergency medical service organization, the 67033
identity of the one establishment or place at which the person 67034
intends to engage in the sale or other distribution of dangerous 67035
drugs at retail, and maintain possession, custody, or control of 67036
dangerous drugs for purposes other than the person's own use or 67037
consumption and any place at which the person intends to operate a 67038
remote dispensing system in accordance with section 4729.542 of 67039
the Revised Code; 67040

(f) If the application pertains to a pain management clinic, 67041
information that demonstrates, to the satisfaction of the board, 67042
compliance with division (A) of section 4729.552 of the Revised 67043
Code. 67044

(C)(1) An emergency medical service organization that wishes to be licensed as a terminal distributor of dangerous drugs shall list in its application for licensure the following additional information:

(a) The units under its control that the organization determines will possess dangerous drugs for the purpose of administering emergency medical services in accordance with Chapter 4765. of the Revised Code;

(b) With respect to each such unit, whether the dangerous drugs that the organization determines the unit will possess are in category I, II, or III.

(2) An emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall file a new application for such licensure if there is any change in the number, or location of, any of its units or any change in the category of the dangerous drugs that any unit will possess.

(3) A unit listed in an application for licensure pursuant to division (C)(1) of this section may obtain the dangerous drugs it is authorized to possess from its emergency medical service organization or, on a replacement basis, from a hospital pharmacy. If units will obtain dangerous drugs from a hospital pharmacy, the organization shall file, and maintain in current form, the following items with the pharmacist who is responsible for the hospital's terminal distributor of dangerous drugs license:

(a) A copy of its standing orders or protocol;

(b) A list of the personnel employed or used by the organization to provide emergency medical services in accordance with Chapter 4765. of the Revised Code, who are authorized to possess the drugs, which list also shall indicate the personnel who are authorized to administer the drugs.

(D) Each emergency medical service organization that applies

for a terminal distributor of dangerous drugs license shall submit 67076
with its application the following: 67077

(1) A notarized copy of its standing orders or protocol, 67078
which orders or protocol shall be signed by a physician and 67079
specify the dangerous drugs that its units may carry, expressed in 67080
standard dose units; 67081

(2) A list of the personnel employed or used by the 67082
organization to provide emergency medical services in accordance 67083
with Chapter 4765. of the Revised Code. 67084

An emergency medical service organization that is licensed as 67085
a terminal distributor shall notify the board immediately of any 67086
changes in its standing orders or protocol. 67087

(E) There shall be six categories of terminal distributor of 67088
dangerous drugs licenses, which categories shall be as follows: 67089

(1) Category I license. A person who obtains this license may 67090
possess, have custody or control of, and distribute only the 67091
dangerous drugs described in category I. 67092

(2) Limited category I license. A person who obtains this 67093
license may possess, have custody or control of, and distribute 67094
only the dangerous drugs described in category I that were listed 67095
in the application for licensure. 67096

(3) Category II license. A person who obtains this license 67097
may possess, have custody or control of, and distribute only the 67098
dangerous drugs described in category I and category II. 67099

(4) Limited category II license. A person who obtains this 67100
license may possess, have custody or control of, and distribute 67101
only the dangerous drugs described in category I or category II 67102
that were listed in the application for licensure. 67103

(5) Category III license, which may include a pain management 67104
clinic classification issued under section 4729.552 of the Revised 67105

Code. A person who obtains this license may possess, have custody 67106
or control of, and distribute the dangerous drugs described in 67107
category I, category II, and category III. If the license includes 67108
a pain management clinic classification, the person may operate a 67109
pain management clinic. 67110

(6) Limited category III license. A person who obtains this 67111
license may possess, have custody or control of, and distribute 67112
only the dangerous drugs described in category I, category II, or 67113
category III that were listed in the application for licensure. 67114

(F) Except for an application made on behalf of an animal 67115
shelter, if an applicant for licensure as a limited category I, 67116
II, or III terminal distributor of dangerous drugs intends to 67117
administer dangerous drugs to a person or animal, the applicant 67118
shall submit, with the application, a notarized copy of its 67119
protocol or standing orders, which protocol or orders shall be 67120
signed by a licensed health professional authorized to prescribe 67121
drugs, specify the dangerous drugs to be administered, and list 67122
personnel who are authorized to administer the dangerous drugs in 67123
accordance with federal law or the law of this state. An 67124
application made on behalf of an animal shelter shall include a 67125
notarized list of the dangerous drugs to be administered to 67126
animals and the personnel who are authorized to administer the 67127
drugs to animals in accordance with section 4729.532 of the 67128
Revised Code. After obtaining a terminal distributor license, a 67129
licensee shall notify the board immediately of any changes in its 67130
protocol or standing orders, or in such personnel. 67131

(G)(1) Except as provided in division (G)(2) of this section, 67132
each applicant for licensure as a terminal distributor of 67133
dangerous drugs shall submit, with the application, a license fee 67134
determined as follows: 67135

(a) For a category I or limited category I license, 67136
forty-five dollars; 67137

(b) For a category II or limited category II license, one 67138
hundred twelve dollars and fifty cents; 67139

(c) For a category III license, including a license with a 67140
pain management clinic classification issued under section 67141
4729.552 of the Revised Code, or a limited category III license, 67142
one hundred fifty dollars. 67143

(2) For a professional association, corporation, partnership, 67144
or limited liability company organized for the purpose of 67145
practicing veterinary medicine, the fee shall be forty dollars. 67146

(3) Fees assessed under divisions (G)(1) and (2) of this 67147
section shall not be returned if the applicant fails to qualify 67148
for registration. 67149

(H)(1) The board shall issue a terminal distributor of 67150
dangerous drugs license to each person who submits an application 67151
for such licensure in accordance with this section, pays the 67152
required license fee, is determined by the board to meet the 67153
requirements set forth in section 4729.55 of the Revised Code, and 67154
satisfies any other applicable requirements of this section. 67155

(2) The license of a person other than an emergency medical 67156
service organization shall describe the one establishment or place 67157
at which the licensee may engage in the sale or other distribution 67158
of dangerous drugs at retail and maintain possession, custody, or 67159
control of dangerous drugs for purposes other than the licensee's 67160
own use or consumption and any place at which the person intends 67161
to operate a remote dispensing system in accordance with section 67162
4729.542 of the Revised Code. The one establishment or place and 67163
any place at which the person intends to operate a remote 67164
dispensing system shall be ~~that which is~~ those described in the 67165
application for licensure. 67166

No such license shall authorize or permit the terminal 67167
distributor of dangerous drugs named in it to engage in the sale 67168

or other distribution of dangerous drugs at retail or to maintain 67169
possession, custody, or control of dangerous drugs for any purpose 67170
other than the distributor's own use or consumption, at any 67171
establishment or place other than ~~that~~ those described in the 67172
license, except that an agent or employee of an animal shelter may 67173
possess and use dangerous drugs in the course of business as 67174
provided in division (D) of section 4729.532 of the Revised Code. 67175

(3) The license of an emergency medical service organization 67176
shall cover and describe all the units of the organization listed 67177
in its application for licensure. 67178

(4) The license of every terminal distributor of dangerous 67179
drugs shall indicate, on its face, the category of licensure. If 67180
the license is a limited category I, II, or III license, it shall 67181
specify, and shall authorize the licensee to possess, have custody 67182
or control of, and distribute only, the dangerous drugs that were 67183
listed in the application for licensure. 67184

(I) All licenses issued pursuant to this section shall be 67185
effective for a period of twelve months from the first day of 67186
January of each year. A license shall be renewed by the board for 67187
a like period, annually, according to the provisions of this 67188
section, and the standard renewal procedure of Chapter 4745. of 67189
the Revised Code. A person who desires to renew a license shall 67190
submit an application for renewal and pay the required fee on or 67191
before the thirty-first day of December each year. The fee 67192
required for the renewal of a license shall be the same as the fee 67193
paid for the license being renewed, and shall accompany the 67194
application for renewal. 67195

A license that has not been renewed during December in any 67196
year and by the first day of February of the following year may be 67197
reinstated only upon payment of the required renewal fee and a 67198
penalty fee of fifty-five dollars. 67199

(J)(1) No emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall fail to comply with division (C)(2) or (3) of this section.

(2) No emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall fail to comply with division (D) of this section.

(3) No licensed terminal distributor of dangerous drugs shall possess, have custody or control of, or distribute dangerous drugs that the terminal distributor is not entitled to possess, have custody or control of, or distribute by virtue of its category of licensure.

(4) No licensee that is required by division (F) of this section to notify the board of changes in its protocol or standing orders, or in personnel, shall fail to comply with that division.

Sec. 4729.542. (A) As used in this section, "remote dispensing system" means a mechanical system for dispensing drugs that is installed in a facility and communicates electronically with a pharmacy.

(B) A pharmacy licensed under this chapter as a terminal distributor of dangerous drugs may use a remote dispensing system to assist in the distribution of dangerous drugs at a nursing home or residential care facility licensed under Chapter 3721. of the Revised Code if all of the following requirements are met:

(1) The system has a documented and ongoing quality assurance program that monitors total system performance and requires one hundred per cent accuracy in drugs dispensed and their strength.

(2) The system has security adequate to prevent unauthorized access to dangerous drugs.

(3) Records kept by the system comply with requirements of the state board of pharmacy.

(C) A pharmacist licensed under this chapter is not required to maintain supervision and control of a remote dispensing system or be physically present at the facility where the system is used to dispense drugs. 67230
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(D) As part of the quality assurance program required by division (B)(1) of this section, the facility where the remote dispensing system is located shall complete periodic audits of controlled substances dispensed through the system. 67234
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Sec. 4729.69. (A) The state board of pharmacy, in 67238
collaboration with the director of ~~alcohol and drug addiction~~ 67239
~~services~~ mental health and addiction services and attorney 67240
general, shall establish and administer a drug take-back program 67241
under which drugs are collected from the community for the purpose 67242
of destruction or disposal of the drugs. 67243

(B) The program shall be established and administered in such 67244
a manner that it does both of the following: 67245

(1) Complies with any state or federal laws regarding the 67246
collection, destruction, or disposal of drugs; 67247

(2) Maintains the confidentiality of individuals who submit 67248
or otherwise provide drugs under the program. 67249

(C) In consultation with the director of ~~alcohol and drug~~ 67250
~~addiction services~~ mental health and addiction services and 67251
attorney general, the board shall adopt rules governing the 67252
program. The rules shall be adopted in accordance with Chapter 67253
119. of the Revised Code. In adopting the rules, the board shall 67254
specify all of the following: 67255

(1) The entities that may participate; 67256

(2) Guidelines and responsibilities for accepting drugs by 67257
participating entities; 67258

(3) Drugs that may be collected; 67259

(4) Record-keeping requirements;	67260
(5) Proper methods to destroy unused drugs;	67261
(6) Privacy protocols and security standards;	67262
(7) Drug transportation procedures;	67263
(8) The schedule, duration, and frequency of the collections of drugs, except that the first collection shall occur not later than one year after the effective date of this section <u>May 20,</u> <u>2011</u> ;	67264 67265 67266 67267
(9) Any other standards and procedures the board considers necessary for purposes of governing the program.	67268 67269
(D) In accordance with state and federal law, the board may adopt rules to allow an entity participating in the program to return any unused drugs to the pharmacy that originally dispensed the drug. The rules shall include procedures to be followed to maintain the confidentiality of the person for whom the drug was dispensed.	67270 67271 67272 67273 67274 67275
(E) Rules adopted under this section may not do any of the following:	67276 67277
(1) Require any entity to establish, fund, or operate a drug take-back program;	67278 67279
(2) Establish any new licensing requirement or fee to participate in the program;	67280 67281
(3) Require any entity to compile data on drugs collected.	67282
(F) The board may compile data on the amount and type of drugs collected under the program. For purposes of this division, the board may cooperate with a public or private entity in obtaining assistance in the compilation of data. An entity providing the assistance shall not be reimbursed under the program for any costs incurred in providing the assistance.	67283 67284 67285 67286 67287 67288

(G) If the board compiles data under division (F) of this section, the board shall submit a report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly. The report, to the extent possible, shall include the following information:

(1) Total weight of drugs collected, both with and without packaging;

(2) The weight of controlled substances;

(3) The amount of all of the following as a per cent of total drugs collected:

(a) Controlled substances;

(b) Brand name drugs;

(c) Generic drugs;

(d) Prescription drugs;

(e) Non-prescription drugs.

(4) The amount of vitamins, herbal supplements, and personal care products collected;

(5) If provided by the person who submitted or otherwise donated drugs to the program, the reasons why the drugs were returned or unused.

(H) No entity is required to participate in a drug take-back program established under this section, and no entity shall be subject to civil liability or professional disciplinary action for declining to participate.

(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.

Sec. 4729.80. (A) If the state board of pharmacy establishes 67317
and maintains a drug database pursuant to section 4729.75 of the 67318
Revised Code, the board is authorized or required to provide 67319
information from the database in accordance with the following: 67320

(1) On receipt of a request from a designated representative 67321
of a government entity responsible for the licensure, regulation, 67322
or discipline of health care professionals with authority to 67323
prescribe, administer, or dispense drugs, the board may provide to 67324
the representative information from the database relating to the 67325
professional who is the subject of an active investigation being 67326
conducted by the government entity. 67327

(2) On receipt of a request from a federal officer, or a 67328
state or local officer of this or any other state, whose duties 67329
include enforcing laws relating to drugs, the board shall provide 67330
to the officer information from the database relating to the 67331
person who is the subject of an active investigation of a drug 67332
abuse offense, as defined in section 2925.01 of the Revised Code, 67333
being conducted by the officer's employing government entity. 67334

(3) Pursuant to a subpoena issued by a grand jury, the board 67335
shall provide to the grand jury information from the database 67336
relating to the person who is the subject of an investigation 67337
being conducted by the grand jury. 67338

(4) Pursuant to a subpoena, search warrant, or court order in 67339
connection with the investigation or prosecution of a possible or 67340
alleged criminal offense, the board shall provide information from 67341
the database as necessary to comply with the subpoena, search 67342
warrant, or court order. 67343

(5) On receipt of a request from a prescriber or the 67344
prescriber's delegate approved by the board, the board may provide 67345
to the prescriber information from the database relating to a 67346
patient who is either of the following, if the prescriber 67347

certifies in a form specified by the board that it is for the 67348
purpose of providing medical treatment to the patient who is the 67349
subject of the request; 67350

(a) A current patient of the prescriber; 67351

(b) A potential patient of the prescriber based on a referral 67352
of the patient to the prescriber. 67353

(6) On receipt of a request from a pharmacist or the 67354
pharmacist's delegate approved by the board, the board may provide 67355
to the pharmacist information from the database relating to a 67356
current patient of the pharmacist, if the pharmacist certifies in 67357
a form specified by the board that it is for the purpose of the 67358
pharmacist's practice of pharmacy involving the patient who is the 67359
subject of the request. 67360

(7) On receipt of a request from an individual seeking the 67361
individual's own database information in accordance with the 67362
procedure established in rules adopted under section 4729.84 of 67363
the Revised Code, the board may provide to the individual the 67364
individual's own database information. 67365

(8) On receipt of a request from the medical director of a 67366
managed care organization that has entered into a data security 67367
agreement with the board required by section ~~5111.1710~~ 5167.14 of 67368
the Revised Code, the board ~~may~~ shall provide to the medical 67369
director information from the database relating to a medicaid 67370
recipient enrolled in the managed care organization, including 67371
information in the database related to prescriptions for the 67372
recipient that were not covered or reimbursed under a program 67373
administered by the department of medicaid. 67374

(9) On receipt of a request from the medicaid director ~~of job~~ 67375
~~and family services~~, the board ~~may~~ shall provide to the director 67376
information from the database relating to a recipient of a program 67377
administered by the department of ~~job and family services~~ 67378

medicaid, including information in the database related to 67379
prescriptions for the recipient that were not covered or paid by a 67380
program administered by the department. 67381

(10) On receipt of a request from the administrator of 67382
workers' compensation, the board may provide to the administrator 67383
information from the database relating to a claimant under Chapter 67384
4121., 4123., 4127., or 4131. of the Revised Code. 67385

(11) On receipt of a request from a requestor described in 67386
division (A)(1), (2), (5), or (6) of this section who is from or 67387
participating with another state's prescription monitoring 67388
program, the board may provide to the requestor information from 67389
the database, but only if there is a written agreement under which 67390
the information is to be used and disseminated according to the 67391
laws of this state. 67392

(B) The state board of pharmacy shall maintain a record of 67393
each individual or entity that requests information from the 67394
database pursuant to this section. In accordance with rules 67395
adopted under section 4729.84 of the Revised Code, the board may 67396
use the records to document and report statistics and law 67397
enforcement outcomes. 67398

The board may provide records of an individual's requests for 67399
database information to the following: 67400

(1) A designated representative of a government entity that 67401
is responsible for the licensure, regulation, or discipline of 67402
health care professionals with authority to prescribe, administer, 67403
or dispense drugs who is involved in an active investigation being 67404
conducted by the government entity of the individual who submitted 67405
the requests for database information; 67406

(2) A federal officer, or a state or local officer of this or 67407
any other state, whose duties include enforcing laws relating to 67408
drugs and who is involved in an active investigation being 67409

conducted by the officer's employing government entity of the 67410
individual who submitted the requests for database information. 67411

(C) Information contained in the database and any information 67412
obtained from it is not a public record. Information contained in 67413
the records of requests for information from the database is not a 67414
public record. Information that does not identify a person may be 67415
released in summary, statistical, or aggregate form. 67416

(D) A pharmacist or prescriber shall not be held liable in 67417
damages to any person in any civil action for injury, death, or 67418
loss to person or property on the basis that the pharmacist or 67419
prescriber did or did not seek or obtain information from the 67420
database. 67421

Sec. 4729.81. If the state board of pharmacy establishes and 67422
maintains a drug database pursuant to section 4729.75 of the 67423
Revised Code, the board shall review the information in the drug 67424
database. If the board determines from the review that a violation 67425
of law may have occurred, it shall notify the appropriate law 67426
enforcement agency or a government entity responsible for the 67427
licensure, regulation, or discipline of licensed health 67428
professionals authorized to prescribe drugs and supply information 67429
required by the agency or entity for an investigation of the 67430
violation of law that may have occurred. The board also shall 67431
notify the medicaid director if the board determines that the 67432
violation may have been committed by a provider of services under 67433
a program administered by the department of medicaid. 67434

Sec. 4729.99. (A) Whoever violates section 4729.16, division 67435
(A) or (B) of section 4729.38, or section 4729.57 of the Revised 67436
Code is guilty of a minor misdemeanor. Each day's violation 67437
constitutes a separate offense. 67438

(B) Whoever violates section 4729.27, 4729.28, or 4729.36 of 67439

the Revised Code is guilty of a misdemeanor of the third degree. 67440
Each day's violation constitutes a separate offense. If the 67441
offender previously has been convicted of or pleaded guilty to a 67442
violation of this chapter, that person is guilty of a misdemeanor 67443
of the second degree. 67444

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of 67445
the Revised Code is guilty of a misdemeanor. 67446

(D) Whoever violates division (A), (B), (D), or ~~(E)~~(F) of 67447
section 4729.51 of the Revised Code is guilty of a misdemeanor of 67448
the first degree. 67449

(E)(1) Whoever violates section 4729.37, division (C)(2) of 67450
section 4729.51, division (J) of section 4729.54, or section 67451
4729.61 of the Revised Code is guilty of a felony of the fifth 67452
degree. If the offender previously has been convicted of or 67453
pleaded guilty to a violation of this chapter or a violation of 67454
Chapter 2925. or 3719. of the Revised Code, that person is guilty 67455
of a felony of the fourth degree. 67456

(2) If an offender is convicted of or pleads guilty to a 67457
violation of section 4729.37, division (C) of section 4729.51, 67458
division (J) of section 4729.54, or section 4729.61 of the Revised 67459
Code, if the violation involves the sale, offer to sell, or 67460
possession of a schedule I or II controlled substance, with the 67461
exception of marihuana, and if the court imposing sentence upon 67462
the offender finds that the offender as a result of the violation 67463
is a major drug offender, as defined in section 2929.01 of the 67464
Revised Code, and is guilty of a specification of the type 67465
described in section 2941.1410 of the Revised Code, the court, in 67466
lieu of the prison term authorized or required by division (E)(1) 67467
of this section and sections 2929.13 and 2929.14 of the Revised 67468
Code and in addition to any other sanction imposed for the offense 67469
under sections 2929.11 to 2929.18 of the Revised Code, shall 67470
impose upon the offender, in accordance with division (B)(3) of 67471

section 2929.14 of the Revised Code, the mandatory prison term 67472
specified in that division. 67473

(3) Notwithstanding any contrary provision of section 3719.21 67474
of the Revised Code, the clerk of court shall pay any fine imposed 67475
for a violation of section 4729.37, division (C) of section 67476
4729.51, division (J) of section 4729.54, or section 4729.61 of 67477
the Revised Code pursuant to division (A) of section 2929.18 of 67478
the Revised Code in accordance with and subject to the 67479
requirements of division (F) of section 2925.03 of the Revised 67480
Code. The agency that receives the fine shall use the fine as 67481
specified in division (F) of section 2925.03 of the Revised Code. 67482

(F) Whoever violates section 4729.531 of the Revised Code or 67483
any rule adopted thereunder or section 4729.532 of the Revised 67484
Code is guilty of a misdemeanor of the first degree. 67485

(G) Whoever violates division (C)(1) of section 4729.51 of 67486
the Revised Code is guilty of a felony of the fourth degree. If 67487
the offender has previously been convicted of or pleaded guilty to 67488
a violation of this chapter, or of a violation of Chapter 2925. or 67489
3719. of the Revised Code, that person is guilty of a felony of 67490
the third degree. 67491

(H) Whoever violates division (C)(3) of section 4729.51 of 67492
the Revised Code is guilty of a misdemeanor of the first degree. 67493
If the offender has previously been convicted of or pleaded guilty 67494
to a violation of this chapter, or of a violation of Chapter 2925. 67495
or 3719. of the Revised Code, that person is guilty of a felony of 67496
the fifth degree. 67497

(I)(1) Whoever violates division (B) of section 4729.42 of 67498
the Revised Code is guilty of unauthorized pharmacy-related drug 67499
conduct. Except as otherwise provided in this section, 67500
unauthorized pharmacy-related drug conduct is a misdemeanor of the 67501
second degree. If the offender previously has been convicted of or 67502

pleaded guilty to a violation of division (B), (C), (D), or (E) of 67503
that section, unauthorized pharmacy-related drug conduct is a 67504
misdemeanor of the first degree on a second offense and a felony 67505
of the fifth degree on a third or subsequent offense. 67506

(2) Whoever violates division (C) or (D) of section 4729.42 67507
of the Revised Code is guilty of permitting unauthorized 67508
pharmacy-related drug conduct. Except as otherwise provided in 67509
this section, permitting unauthorized pharmacy-related drug 67510
conduct is a misdemeanor of the second degree. If the offender 67511
previously has been convicted of or pleaded guilty to a violation 67512
of division (B), (C), (D), or (E) of that section, permitting 67513
unauthorized pharmacy-related drug conduct is a misdemeanor of the 67514
first degree on a second offense and a felony of the fifth degree 67515
on a third or subsequent offense. 67516

(3) Whoever violates division (E) of section 4729.42 of the 67517
Revised Code is guilty of the offense of falsification under 67518
section 2921.13 of the Revised Code. In addition to any other 67519
sanction imposed for the violation, the offender is forever 67520
disqualified from engaging in any activity specified in division 67521
(B)(1), (2), or (3) of section 4729.42 of the Revised Code and 67522
from performing any function as a health care professional or 67523
health care worker. As used in this division, "health care 67524
professional" and "health care worker" have the same meanings as 67525
in section 2305.234 of the Revised Code. 67526

(4) Notwithstanding any contrary provision of section 3719.21 67527
of the Revised Code or any other provision of law that governs the 67528
distribution of fines, the clerk of the court shall pay any fine 67529
imposed pursuant to division (I)(1), (2), or (3) of this section 67530
to the state board of pharmacy if the board has adopted a written 67531
internal control policy under division (F)(2) of section 2925.03 67532
of the Revised Code that addresses fine moneys that it receives 67533
under Chapter 2925. of the Revised Code and if the policy also 67534

addresses fine moneys paid under this division. The state board of 67535
pharmacy shall use the fines so paid in accordance with the 67536
written internal control policy to subsidize the board's law 67537
enforcement efforts that pertain to drug offenses. 67538

(J)(1) Whoever violates division (A)(1) of section 4729.86 of 67539
the Revised Code is guilty of a misdemeanor of the third degree. 67540
If the offender has previously been convicted of or pleaded guilty 67541
to a violation of division (A)(1), (2), or (3) of section 4729.86 67542
of the Revised Code, that person is guilty of a misdemeanor of the 67543
first degree. 67544

(2) Whoever violates division (A)(2) of section 4729.86 of 67545
the Revised Code is guilty of a misdemeanor of the first degree. 67546
If the offender has previously been convicted of or pleaded guilty 67547
to a violation of division (A)(1), (2), or (3) of section 4729.86 67548
of the Revised Code, that person is guilty of a felony of the 67549
fifth degree. 67550

(3) Whoever violates division (A)(3) of section 4729.86 of 67551
the Revised Code is guilty of a felony of the fifth degree. If the 67552
offender has previously been convicted of or pleaded guilty to a 67553
violation of division (A)(1), (2), or (3) of section 4729.86 of 67554
the Revised Code, that person is guilty of a felony of the fourth 67555
degree. 67556

(K) A person who violates division (C) of section 4729.552 of 67557
the Revised Code is guilty of a misdemeanor of the first degree. 67558
If the person previously has been convicted of or pleaded guilty 67559
to a violation of division (C) of section 4729.552 of the Revised 67560
Code, that person is guilty of a felony of the fifth degree. 67561

Sec. 4730.411. (A) Except as provided in division (B) or (C) 67562
of this section, a physician assistant may prescribe to a patient 67563
a schedule II controlled substance only if all of the following 67564
are the case: 67565

(1) The patient is in a terminal condition, as defined in section 2133.01 of the Revised Code. 67566
67567

(2) The physician assistant's supervising physician initially prescribed the substance for the patient. 67568
67569

(3) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four-hour period. 67570
67571
67572

(B) The restrictions on prescriptive authority in division (A) of this section do not apply if a physician assistant issues the prescription to the patient from any of the following locations: 67573
67574
67575
67576

(1) A hospital registered under section 3701.07 of the Revised Code; 67577
67578

(2) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals; 67579
67580
67581

(3) A health care facility operated by the department of mental health or the department of developmental disabilities; 67582
67583

(4) A nursing home or residential care facility licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code; 67584
67585
67586

(5) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program; 67587
67588
67589

(6) A hospice care program, as defined in section 3712.01 of the Revised Code; 67590
67591

(7) A community mental health agency services provider, as defined in section 5122.01 of the Revised Code; 67592
67593

(8) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code; 67594
67595

(9) A freestanding birthing center, as defined in section 3702.51 of the Revised Code;	67596 67597
(10) A federally qualified health center, as defined in section 3701.047 of the Revised Code;	67598 67599
(11) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	67600 67601
(12) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	67602 67603 67604 67605
(13) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the physician assistant has entered into a supervisory agreement with at least one of the physician owners who practices primarily at that site.	67606 67607 67608 67609 67610 67611
(C) A physician assistant shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the convenience care clinic is owned or operated by an entity specified in division (B) of this section.	67612 67613 67614 67615 67616
(D) A pharmacist who acts in good faith reliance on a prescription issued by a physician assistant under division (B) of this section is not liable for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action by the state board of pharmacy under Chapter 4729. of the Revised Code.	67617 67618 67619 67620 67621 67622 67623
Sec. 4731.151. (A) Naprapaths who received a certificate to practice from the board prior to March 2, 1992, may continue to	67624 67625

practice naprapathy, as defined in rules adopted by the board. 67626
Such naprapaths shall practice in accordance with rules adopted by 67627
the board. 67628

(B)(1) As used in this division: 67629

(a) "Mechanotherapy" means all of the following: 67630

(i) Examining patients by verbal inquiry; 67631

(ii) Examination of the musculoskeletal system by hand; 67632

(iii) Visual inspection and observation; 67633

(iv) Diagnosing a patient's condition only as to whether the 67634
patient has a disorder of the musculoskeletal system; 67635

(v) In the treatment of patients, employing the techniques of 67636
advised or supervised exercise; electrical neuromuscular 67637
stimulation; massage or manipulation; or air, water, heat, cold, 67638
sound, or infrared ray therapy only to those disorders of the 67639
musculoskeletal system that are amenable to treatment by such 67640
techniques and that are identifiable by examination performed in 67641
accordance with division (B)(1)(a)(i) of this section and 67642
diagnosable in accordance with division (B)(1)(a)(ii) of this 67643
section. 67644

(b) "Educational requirements" means the completion of a 67645
course of study appropriate for certification to practice 67646
mechanotherapy on or before November 3, 1985, as determined by 67647
rules adopted under this chapter. 67648

(2) Mechanotherapists who received a certificate to practice 67649
from the board prior to March 2, 1992, may continue to practice 67650
mechanotherapy, as defined in rules adopted by the board. Such 67651
mechanotherapists shall practice in accordance with rules adopted 67652
by the board. 67653

A person authorized by this division to practice as a 67654
mechanotherapist may examine, diagnose, and assume responsibility 67655

for the care of patients with due regard for first aid and the 67656
hygienic and nutritional care of the patients. Roentgen rays shall 67657
be used by a mechanotherapist only for diagnostic purposes. 67658

(3) A person who holds a certificate to practice 67659
mechanotherapy and completed educational requirements in 67660
mechanotherapy on or before November 3, 1985, is entitled to use 67661
the title "doctor of mechanotherapy" and is a "physician" who 67662
performs "medical services" for the purposes of Chapters 4121. and 67663
4123. of the Revised Code and the medicaid program established 67664
~~under section 5111.01 of the Revised Code~~, and shall receive 67665
payment or reimbursement as provided under those chapters and that 67666
~~section~~ program. 67667

Sec. 4731.23. (A)(1)(a) The state medical board shall 67668
designate one or more attorneys at law who have been admitted to 67669
the practice of law, and who are classified as either 67670
administrative law attorney examiners or as administrative law 67671
attorney examiner administrators under the state job 67672
classification plan adopted under section 124.14 of the Revised 67673
Code, as hearing examiners, subject to Chapter 119. of the Revised 67674
Code, to conduct any hearing which the medical board is empowered 67675
to hold or undertake pursuant to Chapter 119. of the Revised Code. 67676

(b) Notwithstanding the requirement of division (A)(1)(a) of 67677
this section that the board designate as a hearing examiner an 67678
attorney who is classified as either an administrative law 67679
attorney examiner or an administrative law attorney examiner 67680
administrator, the board may, subject to ~~controlling board~~ 67681
~~approval~~ section 127.16 of the Revised Code, enter into a personal 67682
service contract with an attorney admitted to the practice of law 67683
in this state to serve on a temporary basis as a hearing examiner. 67684

(2) The hearing examiner shall hear and consider the oral and 67685
documented evidence introduced by the parties and issue in writing 67686

proposed findings of fact and conclusions of law to the board for 67687
their consideration within thirty days following the close of the 67688
hearing. 67689

(B) The board shall be given copies of the transcript of the 67690
record hearing and all exhibits and documents presented by the 67691
parties at the hearing. 67692

(C) The board shall, upon the favorable vote of three 67693
members, allow the parties or their counsel the opportunity to 67694
present oral arguments on the proposed findings of fact and 67695
conclusions of law of the hearing examiner prior to the board's 67696
final action. 67697

(D) The board shall render a decision and take action within 67698
sixty days following the receipt of the hearing examiner's 67699
proposed findings of fact and conclusions of law or within any 67700
longer period mutually agreed upon by the board and the 67701
certificate holder. 67702

(E) The final decision of the board in any hearing which the 67703
board is empowered to undertake shall be in writing and contain 67704
findings of fact and conclusions of law. Copies of the decision 67705
shall be delivered to the parties personally or by certified mail. 67706
The decision shall be final upon delivery or mailing, except that 67707
the certificate holder may appeal in the manner provided by 67708
Chapter 119. of the Revised Code. 67709

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the 67710
Revised Code: 67711

(A)(1) "Clinical laboratory services" means either of the 67712
following: 67713

(a) Any examination of materials derived from the human body 67714
for the purpose of providing information for the diagnosis, 67715
prevention, or treatment of any disease or impairment or for the 67716

assessment of health; 67717

(b) Procedures to determine, measure, or otherwise describe 67718
the presence or absence of various substances or organisms in the 67719
body. 67720

(2) "Clinical laboratory services" does not include the mere 67721
collection or preparation of specimens. 67722

(B) "Designated health services" means any of the following: 67723

(1) Clinical laboratory services; 67724

(2) Home health care services; 67725

(3) Outpatient prescription drugs. 67726

(C) "Fair market value" means the value in arms-length 67727
transactions, consistent with general market value and: 67728

(1) With respect to rentals or leases, the value of rental 67729
property for general commercial purposes, not taking into account 67730
its intended use; 67731

(2) With respect to a lease of space, not adjusted to reflect 67732
the additional value the prospective lessee or lessor would 67733
attribute to the proximity or convenience to the lessor if the 67734
lessor is a potential source of referrals to the lessee. 67735

(D) "Governmental healthcare program" means any program 67736
providing health care benefits that is administered by the federal 67737
government, this state, or a political subdivision of this state, 67738
including the medicare program ~~established under Title XVIII of~~ 67739
~~the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301,~~ 67740
~~as amended,~~ health care coverage for public employees, health care 67741
benefits administered by the bureau of workers' compensation, and 67742
the medicaid program ~~established under Chapter 5111. of the~~ 67743
~~Revised Code.~~ 67744

(E)(1) "Group practice" means a group of two or more holders 67745
of certificates under this chapter legally organized as a 67746

partnership, professional corporation or association, limited 67747
liability company, foundation, nonprofit corporation, faculty 67748
practice plan, or similar group practice entity, including an 67749
organization comprised of a nonprofit medical clinic that 67750
contracts with a professional corporation or association of 67751
physicians to provide medical services exclusively to patients of 67752
the clinic in order to comply with section 1701.03 of the Revised 67753
Code and including a corporation, limited liability company, 67754
partnership, or professional association described in division (B) 67755
of section 4731.226 of the Revised Code formed for the purpose of 67756
providing a combination of the professional services of 67757
optometrists who are licensed, certificated, or otherwise legally 67758
authorized to practice optometry under Chapter 4725. of the 67759
Revised Code, chiropractors who are licensed, certificated, or 67760
otherwise legally authorized to practice chiropractic or 67761
acupuncture under Chapter 4734. of the Revised Code, psychologists 67762
who are licensed, certificated, or otherwise legally authorized to 67763
practice psychology under Chapter 4732. of the Revised Code, 67764
registered or licensed practical nurses who are licensed, 67765
certificated, or otherwise legally authorized to practice nursing 67766
under Chapter 4723. of the Revised Code, pharmacists who are 67767
licensed, certificated, or otherwise legally authorized to 67768
practice pharmacy under Chapter 4729. of the Revised Code, 67769
physical therapists who are licensed, certificated, or otherwise 67770
legally authorized to practice physical therapy under sections 67771
4755.40 to 4755.56 of the Revised Code, occupational therapists 67772
who are licensed, certificated, or otherwise legally authorized to 67773
practice occupational therapy under sections 4755.04 to 4755.13 of 67774
the Revised Code, mechanotherapists who are licensed, 67775
certificated, or otherwise legally authorized to practice 67776
mechanotherapy under section 4731.151 of the Revised Code, and 67777
doctors of medicine and surgery, osteopathic medicine and surgery, 67778
or podiatric medicine and surgery who are licensed, certificated, 67779

or otherwise legally authorized for their respective practices 67780
under this chapter, to which all of the following apply: 67781

(a) Each physician who is a member of the group practice 67782
provides substantially the full range of services that the 67783
physician routinely provides, including medical care, 67784
consultation, diagnosis, or treatment, through the joint use of 67785
shared office space, facilities, equipment, and personnel. 67786

(b) Substantially all of the services of the members of the 67787
group are provided through the group and are billed in the name of 67788
the group and amounts so received are treated as receipts of the 67789
group. 67790

(c) The overhead expenses of and the income from the practice 67791
are distributed in accordance with methods previously determined 67792
by members of the group. 67793

(d) The group practice meets any other requirements that the 67794
state medical board applies in rules adopted under section 4731.70 67795
of the Revised Code. 67796

(2) In the case of a faculty practice plan associated with a 67797
hospital with a medical residency training program in which 67798
physician members may provide a variety of specialty services and 67799
provide professional services both within and outside the group, 67800
as well as perform other tasks such as research, the criteria in 67801
division (E)(1) of this section apply only with respect to 67802
services rendered within the faculty practice plan. 67803

(F) "Home health care services" and "immediate family" have 67804
the same meanings as in the rules adopted under section 4731.70 of 67805
the Revised Code. 67806

(G) "Hospital" has the same meaning as in section 3727.01 of 67807
the Revised Code. 67808

(H) A "referral" includes both of the following: 67809

(1) A request by a holder of a certificate under this chapter 67810
for an item or service, including a request for a consultation 67811
with another physician and any test or procedure ordered by or to 67812
be performed by or under the supervision of the other physician; 67813

(2) A request for or establishment of a plan of care by a 67814
certificate holder that includes the provision of designated 67815
health services. 67816

(I) "Third-party payer" has the same meaning as in section 67817
3901.38 of the Revised Code. 67818

Sec. 4731.71. The auditor of state may implement procedures 67819
to detect violations of section 4731.66 or 4731.69 of the Revised 67820
Code within governmental health care programs administered by the 67821
state. The auditor of state shall report any violation of either 67822
section to the state medical board and shall certify to the 67823
attorney general in accordance with section 131.02 of the Revised 67824
Code the amount of any refund owed to a state-administered 67825
governmental health care program under section 4731.69 of the 67826
Revised Code as a result of a violation. If a refund is owed to 67827
the medicaid program ~~established under Chapter 5111. of the~~ 67828
~~Revised Code,~~ the auditor of state also shall report the amount to 67829
the department of ~~job and family services~~ medicaid. 67830

The state medical board also may implement procedures to 67831
detect violations of section 4731.66 or 4731.69 of the Revised 67832
Code. 67833

Sec. 4734.41. (A) As used in this section: 67834

(1) "Chemical dependency" means either of the following: 67835

(a) The chronic and habitual use of alcoholic beverages to 67836
the extent that the user no longer can control the use of alcohol 67837
or endangers the user's health, safety, or welfare or that of 67838
others; 67839

(b) The use of a controlled substance as defined in section 67840
3719.01 of the Revised Code, a harmful intoxicant as defined in 67841
section 2925.01 of the Revised Code, or a dangerous drug as 67842
defined in section 4729.01 of the Revised Code, to the extent that 67843
the user becomes physically or psychologically dependent on the 67844
substance, intoxicant, or drug or endangers the user's health, 67845
safety, or welfare or that of others. 67846

(2) "Mental illness" means a recognized psychiatric or 67847
psychological condition, disorder, or syndrome that has been 67848
diagnosed by a psychiatrist, psychologist, professional clinical 67849
counselor, or independent social worker as a condition, disorder, 67850
or syndrome that may pose a danger to the person diagnosed or 67851
others or may prevent the person from practicing the person's 67852
profession according to acceptable and prevailing standards of 67853
care. 67854

(B) The state chiropractic board shall establish a chemical 67855
dependency and mental illness monitoring program. The program 67856
shall be made available to any individual under the board's 67857
jurisdiction who has a chemical dependency or mental illness and 67858
meets the board's eligibility requirements for admission to and 67859
continued participation in the program. The board shall develop 67860
the program and may designate a coordinator to administer it or 67861
enter into a contract for the program to be administered by 67862
another entity through a coordinator. The board shall adopt rules 67863
in accordance with Chapter 119. of the Revised Code that establish 67864
standards and procedure for operating the program. 67865

(C) Except as provided in division (D) of this section, all 67866
records of an individual's participation in the monitoring 67867
program, including medical records, chemical dependency records, 67868
and mental health records, shall be confidential, are not public 67869
records for the purposes of section 149.43 of the Revised Code, 67870
and are not subject to discovery by subpoena or ~~admissible~~ 67871

admissible as evidence in any judicial proceeding. The program 67872
coordinator shall maintain all records as directed by the board. 67873

(D) The monitoring program's coordinator may disclose records 67874
or information regarding an individual's progress and status of 67875
participation in the program to the disciplinary section of the 67876
board and to any person or government entity that the program 67877
participant authorizes in writing to be given the records or 67878
information. 67879

In disclosing records or information under this division, the 67880
coordinator shall not include any record or information that is 67881
protected under section ~~3793.13~~ 5119.27 of the Revised Code or any 67882
federal statute or regulation that provides for the 67883
confidentiality of mental health or substance abuse records. 67884

(E) In the absence of fraud or bad faith, the monitoring 67885
program's coordinator, the board and the board's employees and 67886
representatives are not liable for damages in any civil action as 67887
a result of disclosing records or information in accordance with 67888
division (D) of this section. In the absence of fraud or bad 67889
faith, any person reporting to the program an individual's 67890
chemical dependency or mental illness, or the progress or lack of 67891
progress of that individual with regard to treatment, is not 67892
liable for damages in any civil action as a result of the report. 67893

(F) The board may abstain from taking formal disciplinary 67894
action under section 4734.31 of the Revised Code against an 67895
individual because of the individual's chemical dependency or 67896
mental illness, if the individual meets the eligibility 67897
requirements for admission into the monitoring program and all of 67898
the following occur: 67899

(1) The individual enters into a monitoring agreement with 67900
the coordinator of the program; 67901

(2) The individual complies with the terms and conditions for 67902

continued participation in the program, as specified in the 67903
monitoring agreement; 67904

(3) The individual successfully completes the terms and 67905
conditions of the monitoring agreement, including the condition 67906
that the individual attain the ability to practice in accordance 67907
with acceptable and prevailing standards of care applicable to the 67908
practice of chiropractic. 67909

Sec. 4745.01. (A) "Standard renewal procedure," as used in 67910
Chapters 905., 907., 909., 911., 913., 915., 918., 921., 923., 67911
927., 942., 943., 953., 1321., 3710., 3713., 3719., 3742., 3748., 67912
3769., 3783., 3921., 3951., 4104., 4105., ~~4143.~~ 4169., 4561., 67913
4703., 4707., 4709., 4713., 4715., 4717., 4723., 4725., 4727., 67914
4728., 4729., 4731., 4733., 4734., 4735., 4739., 4741., 4747., 67915
4749., 4752., 4753., 4755., 4757., 4758., 4759., 4761., 4766., 67916
4773., and 4775. of the Revised Code, means the license renewal 67917
procedures specified in this chapter. 67918

(B) "Licensing agency," as used in this chapter, means any 67919
department, division, board, section of a board, or other state 67920
governmental unit subject to the standard renewal procedure, as 67921
defined in this section, and authorized by the Revised Code to 67922
issue a license to engage in a specific profession, occupation, or 67923
occupational activity, or to have charge of and operate certain 67924
specified equipment, machinery, or premises. 67925

(C) "License," as used in this chapter, means a license, 67926
certificate, permit, card, or other authority issued or conferred 67927
by a licensing agency by authority of which the licensee has or 67928
claims the privilege to engage in the profession, occupation, or 67929
occupational activity, or to have control of and operate certain 67930
specific equipment, machinery, or premises, over which the 67931
licensing agency has jurisdiction. 67932

(D) "Licensee," as used in this chapter, means either the 67933

person to whom the license is issued or renewed by a licensing agency, or the person, partnership, or corporation at whose request the license is issued or renewed.

(E) "Renewal" and "renewed," as used in this chapter and in the chapters of the Revised Code specified in division (A) of this section, includes the continuing licensing procedure provided in Chapter 3748. of the Revised Code and rules adopted under it and in sections 1321.05 and 3921.33 of the Revised Code, and as applied to those continuing licenses any reference in this chapter to the date of expiration of any license shall be construed to mean the due date of the annual or other fee for the continuing license.

Sec. 4751.01. As used in sections 4751.01 to ~~4751.11~~ 4751.13 of the Revised Code:

(A) "Long-term services and supports settings" means any institutional or community-based setting in which medical, health, psycho-social, habilitative, rehabilitative, or personal care services are provided to individuals on a post-acute care basis.

(B) "Nursing home administrator" means any individual responsible for planning, organizing, directing, and managing the operation of a nursing home, or who in fact performs such function, whether or not such functions and duties are shared by one or more other persons.

~~(B)~~(C) "Nursing home" means a nursing home as defined by or under the authority of section 3721.01 of the Revised Code, or a nursing home operated by a governmental agency.

~~(C)~~(D) "Temporary license" means a license for a period not to exceed one hundred eighty days issued pursuant to division (B) of section 4751.06 of the Revised Code.

~~(D)~~(E) "Valid license" means a license which is current and

in good standing. 67964

Sec. 4751.02. (A) No person shall operate a nursing home 67965
unless it is under the supervision of an administrator whose 67966
principal occupation is nursing home administration or hospital 67967
administration and who holds a valid nursing home administrator's 67968
license and registration, or a temporary license, issued pursuant 67969
to Chapter 4751. of the Revised Code. 67970

(B) No person other than a licensed and registered nursing 67971
home administrator or person holding a temporary license as 67972
required by Chapter 4751. of the Revised Code shall practice or 67973
offer to practice nursing home administration in this state. All 67974
nursing home administrators and temporary licensees shall comply 67975
with Chapter 4751. of the Revised Code and the regulations adopted 67976
thereunder. 67977

(C) Every operator of a nursing home shall report to the 67978
board of ~~examiners~~ executives of ~~nursing home administrators~~ 67979
long-term services and supports the name and license number of 67980
each nursing home administrator for said home within ten days 67981
after the operator engages a nursing home administrator, and 67982
within ten days after a nursing home administrator is no longer 67983
engaged as such by such operator for said home. 67984

(D) Each individual who holds a nursing home administrator 67985
license or temporary license shall report ~~his~~ the individual's 67986
residence mailing address and the name and address of each place 67987
of employment to the board within ten days after any change. 67988

Sec. 4751.03. (A) There is hereby established in the 67989
department of health aging a board of ~~examiners~~ executives of 67990
~~nursing home administrators~~ long-term services and supports, which 67991
board shall be composed of ~~nine~~ the following eleven members, 67992
~~eight of whom shall be representative of the professions and~~ 67993

~~institutions concerned with care and treatment of chronically ill 67994
or infirm aged patients, and one of whom shall be a public member 67995
at least sixty years of age, provided that less than a majority of 67996
the board members shall be representative of a single profession 67997
or institutional category, and provided further that a person 67998
appointed as a noninstitutional member shall neither have nor 67999
acquire any direct financial interest in a nursing home. For 68000
purposes of this section, nursing home administrators are 68001
considered representatives of institutions. 68002~~

~~Four members shall be nursing home administrators, owners of 68003
nursing homes or an officer of a corporation owning a nursing 68004
home. The director of health or his designated representative 68005
shall be a member. All: 68006~~

~~(1) Four members who are nursing home administrators, owners 68007
of nursing homes, or officers of corporations owning nursing 68008
homes, and who shall have an understanding of person-centered 68009
care, and experience with a range of long-term services and 68010
supports settings; 68011~~

~~(2) Three members who work in long-term services and supports 68012
settings that are not nursing homes, and who shall have an 68013
understanding of person-centered care, and experience with a range 68014
of long-term services and supports settings; 68015~~

~~(3) One member who is a member of the academic community; 68016~~

~~(4) One member who is a consumer of services offered in a 68017
long-term services and supports setting; 68018~~

~~(5) One member who is a representative of the department of 68019
health, designated by the director of health, who is involved in 68020
the nursing home survey and certification process; 68021~~

~~(6) One member who is a representative of the office of the 68022
state long-term care, designated by the state long-term care 68023
ombudsman. 68024~~

All members of the board shall be citizens of the United States and residents of this state. No member of the board who is appointed under divisions (A)(3) to (6) of this section may have or acquire any direct financial interest in a nursing home or long-term services and supports settings.

(B) The term of office for each appointed member of the board shall be for three years, commencing on the twenty-eighth day of May and ending on the twenty-seventh day of May. Each member shall serve from the date of ~~his~~ appointment until the end of the term for which ~~he was~~ appointed. No member shall serve more than two consecutive full terms.

(C) Appointments to the board shall be made by the governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) The governor may remove any member of the board for misconduct, incapacity, incompetence, or neglect of duty after the member so charged has been served with a written statement of charges and has been given an opportunity to be heard.

(E) Each member of the board, except the member designated by the director of health ~~or his~~ and the member designated ~~representative by the ombudsman~~, shall be paid in accordance with section 124.15 of the Revised Code and each member shall be reimbursed for ~~his~~ the member's actual and necessary expenses incurred in the discharge of such duties.

(F) The board shall elect annually from its membership a ~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson.

(G) The board shall hold and conduct meetings quarterly and at such other times as its business requires. A majority of the board shall constitute a quorum. The affirmative vote of a majority of the members of the board is necessary for the board to act.

(H) The board shall appoint a secretary who has no financial interest in a ~~nursing home~~ long-term services and supports setting, and may employ and prescribe the powers and duties of such employees and consultants as are necessary to carry out this chapter and the rules adopted under it. ~~Administrative, technical, or other services shall be performed, insofar as practicable, by personnel of the department of health.~~

Sec. 4751.04. (A) The board of ~~examiners~~ executives of ~~nursing home administrators~~ long-term services and supports shall:

(1) Develop, adopt, impose, and enforce regulations prescribing standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to ensure that nursing home administrators are of good character and are otherwise suitable, and who, by training and experience, are qualified to serve as nursing home administrators;

(2) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) Issue licenses and registrations to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses or registrations previously issued by the board in any case where the individual holding such license or registration is determined to have failed substantially to conform to the requirements of such standards;

(4) Develop, adopt, impose, and enforce regulations and procedures designed to ensure that individuals holding a temporary license, or licensed as nursing home administrators will, during any period that they serve as such, comply with Chapter 4751. of the Revised Code and the regulations adopted thereunder;

(5) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with Chapter 4751. of the Revised Code and the regulations adopted thereunder;

(6) Take such other actions as may be necessary to enable the state to meet the requirements set forth in the "Social Security Amendments of 1967," 81 Stat. 908 (1968), 42 U.S.C. 1396 g;

(7) Pay all license and registration fees collected under Chapter 4751. of the Revised Code into the ~~general operations board of executives of long-term services and support~~ fund created by section ~~3701.83~~ 4751.14 of the Revised Code to be used in administering and enforcing this chapter and the rules adopted under it;

(8) Administer, or contract with a government or private entity to administer, examinations for licensure as a nursing home administrator. If the board contracts with a government or private entity to administer the examinations, the contract may authorize the entity to collect and keep, as all or part of the entity's compensation under the contract, any fee an applicant for licensure pays to take an examination. The entity is not required to deposit the fee into the state treasury;

(9) Enter into a contract with the department of aging as required under section 4751.042 of the Revised Code;

(10) Create opportunities for the education, training, and credentialing of nursing home administrators and others in

leadership positions who practice in long-term services and 68117
supports settings or who direct the practices of others in those 68118
settings. In carrying out this function, the board shall do the 68119
following: 68120

(a) Identify core competencies and areas of knowledge that 68121
are appropriate for nursing home administrators and others working 68122
within the long-term services and supports settings system, with 68123
an emphasis on all of the following: 68124

(i) Leadership; 68125

(ii) Person-centered care; 68126

(iii) Principles of management within both the business and 68127
regulatory environments; 68128

(iv) An understanding of all post-acute settings, including 68129
transitions from acute settings and between post-acute settings. 68130

(b) Assist in the development of a strong, competitive market 68131
in Ohio for training, continuing education, and degree programs in 68132
long-term services and supports settings administration. 68133

(B) In the administration and enforcement of Chapter 4751. of 68134
the Revised Code, and the regulations adopted thereunder, the 68135
board is subject to Chapter 119. of the Revised Code and sections 68136
4743.01 and 4743.02 of the Revised Code except that a notice of 68137
appeal of an order of the board adopting, amending, or rescinding 68138
a rule or regulation does not operate as a stay of the effective 68139
date of such order as provided in section 119.11 of the Revised 68140
Code. The court, at its discretion, may grant a stay of any 68141
regulation in its application against the person filing the notice 68142
of appeal. 68143

Sec. 4751.041. Except when the board of ~~examiners~~ executives 68144
of ~~nursing home administrators~~ long-term services and supports 68145
considers it necessary, the board shall not disclose test 68146

materials, examinations, or evaluation tools used in an 68147
examination for licensure as a nursing home administrator that the 68148
board administers under section 4751.04 of the Revised Code or 68149
contracts under that section with a private or government entity 68150
to administer. 68151

Sec. 4751.042. (A) The board of executives of long-term 68152
services and supports shall enter into a written agreement with 68153
the department of aging for the department to serve as the board's 68154
fiscal agent. The fiscal agent shall be responsible for all the 68155
board's fiscal matters and financial transactions, as specified in 68156
the agreement. The written agreement shall specify the fees that 68157
the board shall pay to the fiscal agent for services performed 68158
under the agreement, and such fees shall be in proportion to the 68159
services performed for the board. 68160

(1) The agreement shall require the fiscal agent to provide 68161
the following services: 68162

(a) Preparation and processing of payroll and other personnel 68163
documents that the board approves; 68164

(b) Maintenance of ledgers of accounts and reports of account 68165
balances, and monitoring of budgets and allotment plans in 68166
consultation with the board; 68167

(c) Performance of other routine support services, specified 68168
in the agreement, that the fiscal agent considers appropriate to 68169
achieve efficiency. 68170

(2) The agreement may require the fiscal agent to provide the 68171
following services: 68172

(a) Any shared services between the board and the fiscal 68173
agent; 68174

(b) Any other services agreed to by the board and the 68175
department, including administrative or technical services. 68176

(B) The board, in conjunction and consultation with the 68177
fiscal agent, has the following authority and responsibility 68178
relative to fiscal matters: 68179

(1) Sole authority to expend funds from the board's accounts 68180
for programs and any other necessary expenses the board may incur; 68181

(2) Responsibility to cooperate with and inform the fiscal 68182
agent fully of all financial transactions. 68183

(C) The board shall follow all state procurement, fiscal, 68184
human resources, information technology, statutory, and 68185
administrative rule requirements. 68186

(D) In its role as fiscal agent for the board, the department 68187
shall serve as a contractor of the board, and does not assume 68188
responsibility for the debts or fiscal obligations of the board. 68189

Sec. 4751.05. (A) The board of ~~examiners~~ executives of 68190
~~nursing home administrators~~ long-term services and supports, or a 68191
government or private entity under contract with the board to 68192
administer examinations for licensure as a nursing home 68193
administrator, shall admit to an examination any candidate who: 68194

(1) Pays the application fee of fifty dollars; 68195

(2) Submits evidence of good moral character and suitability; 68196

(3) Is at least eighteen years of age; 68197

(4) Has completed educational requirements and work 68198
experience satisfactory to the board; 68199

(5) Submits an application on forms prescribed by the board; 68200

(6) Pays the examination fee charged by the board or 68201
government or private entity. 68202

(B) Nothing in Chapter 4751. of the Revised Code or the rules 68203
adopted thereunder shall be construed to require an applicant for 68204
licensure or a temporary license, who is employed by an 68205

institution for the care and treatment of the sick to demonstrate 68206
proficiency in any medical techniques or to meet any medical 68207
educational qualifications or medical standards not in accord with 68208
the remedial care and treatment provided by the institution if the 68209
institution is all of the following: 68210

(1) Operated exclusively for patients who use spiritual means 68211
for healing and for whom the acceptance of medical care is 68212
inconsistent with their religious beliefs; 68213

(2) Accredited by a national accrediting organization; 68214

(3) Exempt from federal income taxation under section 501 of 68215
the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, 68216
as amended; 68217

(4) Providing twenty-four hour nursing care pursuant to the 68218
exemption in division (E) of section 4723.32 of the Revised Code 68219
from the licensing requirements of Chapter 4723. of the Revised 68220
Code. 68221

(C) If a person fails three times to attain a passing grade 68222
on the examination, said person, before the person may again be 68223
admitted to examination, shall meet such additional education or 68224
experience requirements, or both, as may be prescribed by the 68225
board. 68226

Sec. 4751.06. (A) An applicant for licensure as a nursing 68227
home administrator who has successfully completed the requirements 68228
of section 4751.05 of the Revised Code, passed the examination 68229
administered by the board of ~~examiners~~ executives of ~~nursing home~~ 68230
~~administrators~~ long-term services and supports or a government or 68231
private entity under contract with the board, and paid to the 68232
board an original license fee of two hundred fifty dollars shall 68233
be issued a license on a form provided by the board. Such license 68234
shall certify that the applicant has met the licensure 68235

requirements of Chapter 4751. of the Revised Code and is entitled 68236
to practice as a licensed nursing home administrator. 68237

(B) A temporary license for a period not to exceed one 68238
hundred eighty days may be issued to an individual temporarily 68239
filling the position of a nursing home administrator vacated by 68240
reason of death, illness, or other unexpected cause, pursuant to 68241
regulations adopted by the board. 68242

(C) The fee for a temporary license is one hundred dollars. 68243
Said fee must accompany the application for the temporary license. 68244

(D) Any license or temporary license issued by the board 68245
pursuant to this section shall be under the hand of the 68246
chairperson and the secretary of the board. 68247

(E) A duplicate of the original certificate of registration 68248
or license may be secured to replace one that has been lost or 68249
destroyed by submitting to the board a notarized statement 68250
explaining the conditions of the loss, mutilation, or destruction 68251
of the certificate or license and by paying a fee of twenty-five 68252
dollars. 68253

(F) A duplicate certificate of registration and license may 68254
be issued in the event of a legal change of name by submitting to 68255
the board a certified copy of the court order or marriage license 68256
establishing the change of name, by returning at the same time the 68257
original license and certificate of registration, and by paying a 68258
fee of twenty-five dollars. 68259

Sec. 4751.07. (A) Every individual who holds a valid license 68260
as a nursing home administrator issued under division (A) of 68261
section 4751.06 of the Revised Code, shall immediately upon 68262
issuance thereof be registered with the board of ~~examiners~~ 68263
executives of nursing home administrators long-term services and 68264
supports and be issued a certificate of registration. Such 68265

individual shall annually apply to the board for a new certificate 68266
of registration on forms provided for such purpose prior to the 68267
expiration of the certificate of registration and shall at the 68268
same time submit satisfactory evidence to the board of having 68269
attended such continuing education programs or courses of study as 68270
may be prescribed in rules adopted by the board. 68271

(B) Upon making an application for a new certificate of 68272
registration such individual shall pay the annual registration fee 68273
of three hundred dollars. 68274

(C) Upon receipt of such application for registration and the 68275
registration fee required by divisions (A) and (B) of this 68276
section, the board shall issue a certificate of registration to 68277
such nursing home administrator. 68278

(D) The license of a nursing home administrator who fails to 68279
comply with this section shall automatically lapse. 68280

(E) A nursing home administrator who has been licensed and 68281
registered in this state who determines to temporarily abandon the 68282
practice of nursing home administration shall notify the board in 68283
writing immediately; provided, that such individual may thereafter 68284
register to resume the practice of nursing home administration 68285
within the state upon complying with the requirements of this 68286
section regarding annual registration. 68287

(F) Only an individual who has qualified as a licensed and 68288
registered nursing home administrator under Chapter 4751. of the 68289
Revised Code and the rules adopted thereunder, and who holds a 68290
valid current registration certificate pursuant to this section, 68291
may use the title "nursing home administrator," or the 68292
abbreviation "N.H.A." after the individual's name. No other person 68293
shall use such title or such abbreviation or any other words, 68294
letters, sign, card, or device tending to indicate or to imply 68295
that the person is a licensed and registered nursing home 68296

administrator. 68297

(G) Every person holding a valid license entitling the person 68298
to practice nursing home administration in this state shall 68299
display said license in the nursing home which is the person's 68300
principal place of employment, and while engaged in the practice 68301
of nursing home administration shall have at hand the current 68302
registration certificate. 68303

(H) Every person holding a valid temporary license shall have 68304
such license at hand while engaged in the practice of nursing home 68305
administration. 68306

Sec. 4751.08. The board of ~~examiners~~ executives of ~~nursing~~ 68307
~~home administrators~~ long-term services and supports, in its 68308
discretion, and otherwise subject to Chapter 4751. of the Revised 68309
Code and the rules adopted by the board thereunder prescribing the 68310
qualifications for a nursing home administrator license, may 68311
license a nursing home administrator without examination if ~~he~~ the 68312
nursing home administrator has a valid license issued by the 68313
proper authorities of any other state, upon payment of a fee of 68314
one hundred fifty dollars, and upon submission of evidence 68315
satisfactory to the board both: 68316

(A) That such other state maintained a system and standard of 68317
qualifications and examinations for a nursing home administrator 68318
license which were substantially equivalent to those required in 68319
this state at the time such other license was issued by such other 68320
state; 68321

(B) That such other state gives similar recognition to 68322
nursing home administrators licensed in this state. 68323

Sec. 4751.10. The license or registration, or both, or the 68324
temporary license of any person practicing or offering to practice 68325
nursing home administration, shall be revoked or suspended by the 68326

board of ~~examiners~~ executives of ~~nursing home administrators~~ 68327
long-term services and supports if such licensee or temporary 68328
licensee: 68329

(A) Is unfit or incompetent by reason of negligence, habits, 68330
or other causes; 68331

(B) Has willfully or repeatedly violated any of the 68332
provisions of Chapter 4751. of the Revised Code or the regulations 68333
adopted thereunder; or willfully or repeatedly acted in a manner 68334
inconsistent with the health and safety of the patients of the 68335
nursing home in which ~~he~~ the licensee or temporary licensee is the 68336
administrator; 68337

(C) Is guilty of fraud or deceit in the practice of nursing 68338
home administration or in ~~his~~ the licensee's or temporary 68339
licensee's admission to such practice; 68340

(D) Has been convicted in a court of competent jurisdiction, 68341
either within or without this state, of a felony. 68342

Proceedings under this section shall be instituted by the 68343
board or shall be begun by filing with the board charges in 68344
writing and under oath. 68345

Sec. 4751.11. (A) The board of ~~examiners~~ executives of 68346
~~nursing home administrators~~ long-term services and supports may, 68347
in its discretion, reissue a license or registration, or both, to 68348
any person whose license or registration, or both, has been 68349
revoked. 68350

(B) Application for the reissuance of a license or 68351
registration, or both, shall not be made prior to one year after 68352
revocation and shall be made in such manner as the board may 68353
direct. 68354

(C) If a person convicted of a felony is subsequently 68355
pardoned by the governor of the state where such conviction was 68356

had or by the president of the United States, or receives a final 68357
release granted by the adult parole authority of this state or its 68358
equivalent agency of another state, the board may, in its 68359
discretion, on application of such person and on the submission of 68360
evidence satisfactory to the board restore to such person the 68361
nursing home administrator's license or registration, or both. 68362

Sec. 4751.12. On receipt of a notice pursuant to section 68363
3123.43 of the Revised Code, the board of ~~examiners~~ executives of 68364
~~nursing home administrators~~ long-term services and supports shall 68365
comply with sections 3123.41 to 3123.50 of the Revised Code and 68366
any applicable rules adopted under section 3123.63 of the Revised 68367
Code with respect to a license issued pursuant to this chapter. 68368

Sec. 4751.13. The board of ~~examiners~~ executives of ~~nursing~~ 68369
~~home administrators~~ long-term services and supports shall comply 68370
with section 4776.20 of the Revised Code. 68371

Sec. 4751.14. There is hereby created in the state treasury 68372
the board of executives of long-term services and supports fund. 68373
The fund shall consist of license and registration fees collected 68374
under this chapter. Money in the fund shall be used by the board 68375
of executives of long-term services and supports to administer and 68376
enforce this chapter and the rules adopted under it. Investment 68377
earnings of the fund shall be credited to the fund. 68378

Sec. 4753.071. A person who is required to meet the 68379
supervised professional experience requirement of division (F) of 68380
section 4753.06 of the Revised Code shall submit to the board of 68381
speech-language pathology and audiology an application for a 68382
conditional license. The application shall include a plan for the 68383
content of the supervised professional experience on a form the 68384
board shall prescribe. The board shall issue the conditional 68385

license to the applicant if the applicant meets the requirements 68386
of section 4753.06 of the Revised Code, other than the requirement 68387
to have obtained the supervised professional experience, and pays 68388
to the board the appropriate fee for a conditional license. An 68389
applicant may not begin employment until the conditional license 68390
has been issued. 68391

A conditional license authorizes an individual to practice 68392
speech-language pathology or audiology while completing the 68393
supervised professional experience as required by division (F) of 68394
section 4753.06 of the Revised Code. A person holding a 68395
conditional license may practice speech-language pathology or 68396
audiology while working under the supervision of a person fully 68397
licensed in accordance with this chapter. A conditional license is 68398
valid for eighteen months unless suspended or revoked pursuant to 68399
section 3123.47 or 4753.10 of the Revised Code. 68400

A person holding a conditional license may perform services 68401
for which ~~reimbursement~~ payment will be sought under the medicare 68402
program ~~established under Title XVIII of the "Social Security~~ 68403
~~Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended,~~ or the 68404
medicaid program ~~established under Chapter 5111. of the Revised~~ 68405
~~Code~~ but all requests for ~~reimbursement~~ payment for such services 68406
shall be made by the person who supervises the person performing 68407
the services. 68408

Sec. 4755.481. (A) If a physical therapist evaluates and 68409
treats a patient without the prescription of, or the referral of 68410
the patient by, a person described in division (G)(1) of section 68411
4755.48 of the Revised Code, all of the following apply: 68412

(1) The physical therapist shall, upon consent of the 68413
patient, inform the relevant person described in division (G)(1) 68414
of section 4755.48 of the Revised Code of the evaluation not later 68415

than five business days after the evaluation is made. 68416

(2) If the physical therapist determines, based on reasonable 68417
evidence, that no substantial progress has been made with respect 68418
to that patient during the thirty-day period immediately following 68419
the date of the patient's initial visit with the physical 68420
therapist, the physical therapist shall consult with or refer the 68421
patient to a person described in division (G)(1) of section 68422
4755.48 of the Revised Code, unless either of the following 68423
applies: 68424

(a) The evaluation, treatment, or services are being provided 68425
for fitness, wellness, or prevention purposes. 68426

(b) The patient previously was diagnosed with chronic, 68427
neuromuscular, or developmental conditions and the evaluation, 68428
treatment, or services are being provided for problems or symptoms 68429
associated with one or more of those previously diagnosed 68430
conditions. 68431

(3) If the physical therapist determines that orthotic 68432
devices are necessary to treat the patient, the physical therapist 68433
shall be limited to the application of the following orthotic 68434
devices: 68435

(a) Upper extremity adaptive equipment used to facilitate the 68436
activities of daily living; 68437

(b) Finger splints; 68438

(c) Wrist splints; 68439

(d) Prefabricated elastic or fabric abdominal supports with 68440
or without metal or plastic reinforcing stays and other 68441
prefabricated soft goods requiring minimal fitting; 68442

(e) Nontherapeutic accommodative inlays; 68443

(f) Shoes that are not manufactured or modified for a 68444
particular individual; 68445

(g) Prefabricated foot care products; 68446

(h) Custom foot orthotics; 68447

(i) Durable medical equipment. 68448

(4) If, at any time, the physical therapist has reason to 68449
believe that the patient has symptoms or conditions that require 68450
treatment or services beyond the scope of practice of a physical 68451
therapist, the physical therapist shall refer the patient to a 68452
licensed health care practitioner acting within the practitioner's 68453
scope of practice. 68454

(B) Nothing in sections 4755.40 to 4755.56 of the Revised 68455
Code shall be construed to require reimbursement under any health 68456
insuring corporation policy, contract, or agreement, any sickness 68457
and accident insurance policy, the ~~medical assistance~~ medicaid 68458
~~program as defined in section 5111.01 of the Revised Code,~~ or the 68459
health partnership program or qualified health plans established 68460
pursuant to sections 4121.44 to 4121.442 of the Revised Code, for 68461
any physical therapy service rendered without the prescription of, 68462
or the referral of the patient by, a person described in division 68463
(G)(1) of section 4755.48 of the Revised Code. 68464

(C) For purposes of this section, "business day" means any 68465
calendar day that is not a Saturday, Sunday, or legal holiday. 68466
"Legal holiday" has the same meaning as in section 1.14 of the 68467
Revised Code. 68468

Sec. 4758.10. (A) There is hereby created the chemical 68469
dependency professionals board. 68470

(B) The governor shall appoint all of the following voting 68471
members of the board with the advice and consent of the senate: 68472

(1) Four individuals who hold a valid independent chemical 68473
dependency counselor-clinical supervisor license or independent 68474
chemical dependency counselor license issued under this chapter, 68475

including at least two of whom have received at least a master's degree in a field related to chemical dependency counseling from an accredited educational institution; 68476
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(2) Two individuals who hold a valid chemical dependency counselor III license issued under this chapter; 68479
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(3) One individual who holds a valid chemical dependency counselor II license issued under this chapter; 68481
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(4) Two individuals who hold a valid prevention specialist II certificate or prevention specialist I certificate issued under this chapter; 68483
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(5) One individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and has experience practicing in a field related to chemical dependency counseling; 68486
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(6) Two individuals who represent the public and have not practiced chemical dependency counseling or alcohol and other drug prevention services and have not been involved in the delivery of chemical dependency counseling services or alcohol and other drug prevention services. At least one of these individuals shall be at least ~~sixty~~ fifty years of age. During their terms, the public members shall not practice chemical dependency counseling or alcohol and other drug prevention services or be involved in the delivery of chemical dependency counseling services or alcohol and other drug prevention services. 68490
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(C) Not later than ninety days after December 23, 2002, the director of ~~alcohol and drug addiction services~~ mental health and addiction services shall appoint an individual who represents the department of ~~alcohol and drug addiction services~~ mental health and addiction services to serve as an ex officio member of the chemical dependency professionals board. 68500
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(D) Not more than one-half of the voting members of the board 68506

may be of the same gender or members of the same political party. 68507
At least two voting members of the board shall be of African, 68508
Native American, Hispanic, or Asian descent. 68509

Sec. 4758.11. Of the initial appointees to the chemical 68510
dependency professionals board appointed by the governor under 68511
division (B) of section 4758.10 of the Revised Code, four shall be 68512
appointed for terms ending one year after ~~the effective date of~~ 68513
~~this section~~ December 23, 2002, four shall be appointed for terms 68514
ending two years after ~~the effective date of this section~~ December 68515
23, 2002, and four shall be appointed for terms ending three years 68516
after ~~the effective date of this section~~ December 23, 2002. After 68517
the initial appointments, terms of office shall be three years, 68518
each term ending on the same day of the same month of the year as 68519
the term it succeeds. 68520

A voting member of the board shall hold office from the date 68521
of appointment until the end of the term for which the member was 68522
appointed. A voting member appointed to fill a vacancy occurring 68523
prior to the expiration of the term for which the member's 68524
predecessor was appointed shall hold office for the remainder of 68525
that term. A voting member shall continue in office after the 68526
expiration date of the member's term until the member's successor 68527
takes office or until a period of sixty days has elapsed, 68528
whichever occurs first. Voting members may be reappointed, except 68529
that an individual who has held office for two consecutive full 68530
terms shall not be reappointed sooner than one year after the 68531
expiration of the second full term. 68532

The ex officio member of the board appointed by the director 68533
of ~~alcohol and drug addiction services~~ mental health and addiction 68534
services under division (C) of section 4758.10 of the Revised Code 68535
shall serve at the pleasure of the director. 68536

Sec. 4761.01. As used in this chapter: 68537

(A) "Respiratory care" means rendering or offering to render 68538
to individuals, groups, organizations, or the public any service 68539
involving the evaluation of cardiopulmonary function, the 68540
treatment of cardiopulmonary impairment, the assessment of 68541
treatment effectiveness, and the care of patients with 68542
deficiencies and abnormalities associated with the cardiopulmonary 68543
system. The practice of respiratory care includes: 68544

(1) Obtaining, analyzing, testing, measuring, and monitoring 68545
blood and gas samples in the determination of cardiopulmonary 68546
parameters and related physiologic data, including flows, 68547
pressures, and volumes, and the use of equipment employed for this 68548
purpose; 68549

(2) Administering, monitoring, recording the results of, and 68550
instructing in the use of medical gases, aerosols, and 68551
bronchopulmonary hygiene techniques, including drainage, 68552
aspiration, and sampling, and applying, maintaining, and 68553
instructing in the use of artificial airways, ventilators, and 68554
other life support equipment employed in the treatment of 68555
cardiopulmonary impairment and provided in collaboration with 68556
other licensed health care professionals responsible for providing 68557
care; 68558

(3) Performing cardiopulmonary resuscitation and respiratory 68559
rehabilitation techniques; 68560

(4) Administering medications for the testing or treatment of 68561
cardiopulmonary impairment. 68562

(B) "Respiratory care professional" means a person who is 68563
licensed under this chapter to practice the full range of 68564
respiratory care services as defined in division (A) of this 68565
section. 68566

(C) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 68567
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(D) "Registered nurse" means an individual licensed under Chapter 4723. of the Revised Code to engage in the practice of nursing as a registered nurse. 68570
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(E) "Hospital" means a facility that meets the operating standards of section 3727.02 of the Revised Code. 68573
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(F) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code. 68575
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Sec. 4906.20. (A) No person shall commence to construct an economically significant wind farm in this state without first having obtained a certificate from the power siting board. An economically significant wind farm with respect to which such a certificate is required shall be constructed, operated, and maintained in conformity with that certificate and any terms, conditions, and modifications it contains. A certificate shall be issued only pursuant to this section. The certificate may be transferred, subject to the approval of the board, to a person that agrees to comply with those terms, conditions, and modifications. 68577
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(B) The board shall adopt rules governing the certificating of economically significant wind farms under this section. Initial rules shall be adopted within one hundred twenty days after June 24, 2008. 68588
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(1) The rules shall provide for an application process for certificating economically significant wind farms that is identical to the extent practicable to the process applicable to certificating major utility facilities under sections 4906.06, 4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the 68592
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Revised Code and shall prescribe a reasonable schedule of 68597
application filing fees structured in the manner of the schedule 68598
of filing fees required for major utility facilities. 68599

(2) Additionally, the rules shall prescribe reasonable 68600
regulations regarding any wind turbines and associated facilities 68601
of an economically significant wind farm, including, but not 68602
limited to, their location, erection, construction, 68603
reconstruction, change, alteration, maintenance, removal, use, or 68604
enlargement and including erosion control, aesthetics, 68605
recreational land use, wildlife protection, interconnection with 68606
power lines and with regional transmission organizations, 68607
independent transmission system operators, or similar 68608
organizations, ice throw, sound and noise levels, blade shear, 68609
shadow flicker, decommissioning, and necessary cooperation for 68610
site visits and enforcement investigations. The rules also shall 68611
prescribe a minimum setback for a wind turbine of an economically 68612
significant wind farm. That minimum shall be equal to a horizontal 68613
distance, from the turbine's base to the property line of the wind 68614
farm property, equal to one and one-tenth times the total height 68615
of the turbine structure as measured from its base to the tip of 68616
its highest blade and be at least ~~seven~~ one thousand two hundred 68617
fifty feet in horizontal distance from the tip of the turbine's 68618
nearest blade at ninety degrees to the exterior of the nearest, 68619
habitable, residential structure, if any, located on adjacent 68620
property at the time of the certification application. The setback 68621
shall apply in all cases except those in which all owners of 68622
property adjacent to the wind farm property waive application of 68623
the setback to that property pursuant to a procedure the board 68624
shall establish by rule and except in which, in a particular case, 68625
the board determines that a setback greater than the minimum is 68626
necessary. 68627

Sec. 5101.01. (A) As used in the Revised Code, the 68628

"department of public welfare" and the "department of human services" mean the department of job and family services and the "director of public welfare" and the "director of human services" mean the director of job and family services. ~~Whenever~~ Except as provided in section 5160.011 of the Revised Code, whenever the department or director of public welfare or the department or director of human services is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation shall be deemed to refer to the department or director of job and family services, as the case may be.

(B) As used in this chapter:

(1) References to a county department of job and family services include a joint county department of job and family services established under section 329.40 of the Revised Code.

(2) References to a board of county commissioners include the board of directors of a joint county department of job and family services established under section 329.40 of the Revised Code.

Sec. 5101.101. (A) This section establishes the order of priority to be followed by the department of job and family services when distributing funds for the purpose of providing family planning services, including funds the department receives through Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended, and funds the department receives through Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended, to be used for purposes of providing Title XX social services. This section does not apply to payments made under the medicaid program.

(B) With respect to each period during which funds from a particular source are distributed for the purpose of providing family planning services, the department is subject to both of the following when distributing the funds to applicants seeking those

funds: 68660

(1) Foremost priority shall be given to public entities that are operated by state or local government entities and that provide or are able to provide family planning services. 68661
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(2) If any funds remain after the department distributes funds to public entities under division (B)(1) of this section, the department may distribute funds to nonpublic entities. If funds are distributed to nonpublic entities, the department shall distribute the funds in the following order of descending priority: 68664
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(a) Nonpublic entities that are federally qualified health centers or federally qualified health center look-alikes, both as defined in section 3701.047 of the Revised Code, or community action agencies, as defined in section 122.66 of the Revised Code; 68670
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(b) Nonpublic entities that provide comprehensive primary and preventive care services in addition to family planning services; 68674
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(c) Nonpublic entities that provide family planning services, but do not provide comprehensive primary and preventive care services. 68676
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~~Sec. 5101.11. This section does not apply to contracts entered into under section 5111.90 or 5111.91 of the Revised Code.~~ 68679
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(A) As used in this section: 68681

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education. 68682
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(2) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a program administered by the department of job and family services. 68686
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(B) At the request of any public entity having authority to 68690
implement a program administered by the department of job and 68691
family services or any private entity under contract with a public 68692
entity to implement a program administered by the department, the 68693
department may seek to obtain federal financial participation for 68694
costs incurred by the entity. Federal financial participation may 68695
be sought from programs operated pursuant to Title IV-A, of the 68696
"Social Security Act," 42 U.S.C. 601 et seq.; Title IV-E, ~~and~~ 68697
~~Title XIX~~ of the "Social Security Act," ~~49 Stat. 620 (1935),~~ 42 68698
U.S.C. ~~301, as amended~~ 670 et seq.; the Food and Nutrition Act of 68699
2008 ~~(, 7 U.S.C. 2011 et seq.)~~; and any other statute or regulation 68700
under which federal financial participation may be available, 68701
except that federal financial participation may be sought only for 68702
expenditures made with funds for which federal financial 68703
participation is available under federal law. 68704

(C) All funds collected by the department ~~of job and family~~ 68705
~~services~~ pursuant to division (B) of this section shall be 68706
distributed to the entities that incurred the costs, except for 68707
any amounts retained by the department pursuant to division (D)(3) 68708
of this section. 68709

(D) In distributing federal financial participation pursuant 68710
to this section, the department may either enter into an agreement 68711
with the entity that is to receive the funds or distribute the 68712
funds in accordance with rules adopted under division (F) of this 68713
section. If the department decides to enter into an agreement to 68714
distribute the funds, the agreement may include terms that do any 68715
of the following: 68716

(1) Provide for the whole or partial reimbursement of any 68717
cost incurred by the entity in implementing the program; 68718

(2) In the event that federal financial participation is 68719
disallowed or otherwise unavailable for any expenditure, require 68720
the department ~~of job and family services~~ or the entity, whichever 68721

party caused the disallowance or unavailability of federal 68722
financial participation, to assume responsibility for the 68723
expenditures; 68724

(3) Permit the department to retain not more than five per 68725
cent of the amount of the federal financial participation to be 68726
distributed to the entity; 68727

(4) Require the public entity to certify the availability of 68728
sufficient unencumbered funds to match the federal financial 68729
participation it receives under this section; 68730

(5) Establish the length of the agreement, which may be for a 68731
fixed or a continuing period of time; 68732

(6) Establish any other requirements determined by the 68733
department to be necessary for the efficient administration of the 68734
agreement. 68735

(E) An entity that receives federal financial participation 68736
pursuant to this section for a program aiding children and their 68737
families shall establish a process for collaborative planning with 68738
the department ~~of job and family services~~ for the use of the funds 68739
to improve and expand the program. 68740

(F) The director of job and family services shall adopt rules 68741
as necessary to implement this section, including rules for the 68742
distribution of federal financial participation pursuant to this 68743
section. The rules shall be adopted in accordance with Chapter 68744
119. of the Revised Code. The director may adopt or amend any 68745
statewide plan required by the federal government for a program 68746
administered by the department, as necessary to implement this 68747
section. 68748

(G) Federal financial participation received pursuant to this 68749
section shall not be included in any calculation made under 68750
section 5101.16 or 5101.161 of the Revised Code. 68751

Sec. 5101.141. (A) As used in sections 5101.141 to 5101.1410 68752
of the Revised Code, "Title IV-E" means Title IV-E of the "Social 68753
Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended. 68754

(B) The department of job and family services shall act as 68755
the single state agency to administer federal payments for foster 68756
care and adoption assistance made pursuant to Title IV-E. The 68757
director of job and family services shall adopt rules to implement 68758
this authority. Rules governing financial and administrative 68759
requirements applicable to public children services agencies and 68760
government entities that provide Title IV-E reimbursable placement 68761
services to children shall be adopted in accordance with section 68762
111.15 of the Revised Code, as if they were internal management 68763
rules. Rules governing requirements applicable to private child 68764
placing agencies and private noncustodial agencies and rules 68765
establishing eligibility, program participation, and other 68766
requirements concerning Title IV-E shall be adopted in accordance 68767
with Chapter 119. of the Revised Code. A public children services 68768
agency to which the department distributes Title IV-E funds shall 68769
administer the funds in accordance with those rules. 68770

(C)(1) The county, on behalf of each child eligible for 68771
foster care maintenance payments under Title IV-E, shall make 68772
payments to cover the cost of providing all of the following: 68773

(a) The child's food, clothing, shelter, daily supervision, 68774
and school supplies; 68775

(b) The child's personal incidentals; 68776

(c) Reasonable travel to the child's home for visitation. 68777

(2) In addition to payments made under division (C)(1) of 68778
this section, the county may, on behalf of each child eligible for 68779
foster care maintenance payments under Title IV-E, make payments 68780
to cover the cost of providing the following: 68781

(a) Liability insurance with respect to the child; 68782

(b) If the county is participating in the demonstration 68783
project established under division (A) of section 5101.142 of the 68784
Revised Code, services provided under the project. 68785

(3) With respect to a child who is in a child-care 68786
institution, including any type of group home designed for the 68787
care of children or any privately operated program consisting of 68788
two or more certified foster homes operated by a common 68789
administrative unit, the foster care maintenance payments made by 68790
the county on behalf of the child shall include the reasonable 68791
cost of the administration and operation of the institution, group 68792
home, or program, as necessary to provide the items described in 68793
divisions (C)(1) and (2) of this section. 68794

(D) To the extent that either foster care maintenance 68795
payments under division (C) of this section or Title IV-E adoption 68796
assistance payments for maintenance costs require the expenditure 68797
of county funds, the board of county commissioners shall report 68798
the nature and amount of each expenditure of county funds to the 68799
department. 68800

(E) The department shall distribute to public children 68801
services agencies that incur and report expenditures of the type 68802
described in division (D) of this section federal financial 68803
participation received for administrative and training costs 68804
incurred in the operation of foster care maintenance and adoption 68805
assistance programs. The department may withhold not more than 68806
three per cent of the federal financial participation received. 68807
The funds withheld may be used only to fund the following: 68808

(1) The Ohio child welfare training program established under 68809
section 5103.30 of the Revised Code; 68810

(2) The university partnership program for college and 68811
university students majoring in social work who have committed to 68812

work for a public children services agency upon graduation; 68813

(3) Efforts supporting organizational excellence, including 68814
voluntary activities to be accredited by a nationally recognized 68815
accreditation organization. 68816

The funds withheld shall be in addition to any administration 68817
and training cost for which the department is reimbursed through 68818
its own cost allocation plan. 68819

(F) All federal financial participation funds received by a 68820
county pursuant to this section shall be deposited into the 68821
county's children services fund created pursuant to section 68822
5101.144 of the Revised Code. 68823

(G) The department shall periodically publish and distribute 68824
the maximum amounts that the department will reimburse public 68825
children services agencies for making payments on behalf of 68826
children eligible for foster care maintenance payments. 68827

(H) The department, by and through its director, is hereby 68828
authorized to develop, participate in the development of, 68829
negotiate, and enter into one or more interstate compacts on 68830
behalf of this state with agencies of any other states, for the 68831
provision of ~~medical assistance and other~~ social services to 68832
children in relation to whom all of the following apply: 68833

(1) They have special needs. 68834

(2) This state or another state that is a party to the 68835
interstate compact is providing adoption assistance on their 68836
behalf. 68837

(3) They move into this state from another state or move out 68838
of this state to another state. 68839

Sec. 5101.16. (A) As used in this section and sections 68840
5101.161 and 5101.162 of the Revised Code: 68841

- (1) "Disability financial assistance" means the financial assistance program established under Chapter 5115. of the Revised Code. 68842
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- (2) "Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code. 68845
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- ~~(3) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.~~ 68848
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- ~~(4)~~ "Ohio works first" means the program established by Chapter 5107. of the Revised Code. 68851
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- ~~(5)~~(4) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code. 68853
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- ~~(6)~~(5) "Public assistance expenditures" means expenditures for all of the following: 68855
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- (a) Ohio works first; 68857
 - (b) County administration of Ohio works first; 68858
 - (c) Prevention, retention, and contingency; 68859
 - (d) County administration of prevention, retention, and contingency; 68860
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 - (e) Disability financial assistance; 68862
 - (f) County administration of disability financial assistance; 68863
 - (g) County administration of the supplemental nutrition assistance program; 68864
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 - (h) County administration of medicaid, excluding administrative expenditures for transportation services covered by the medicaid program. 68866
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- (7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code. 68869
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(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of the supplemental nutrition assistance program and medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under

division (F) of this section. 68903

(C)(1) If a county's share of public assistance expenditures 68904
determined under division (B) of this section for a state fiscal 68905
year exceeds one hundred five per cent of the county's share for 68906
those expenditures for the immediately preceding state fiscal 68907
year, the department of job and family services shall reduce the 68908
county's share for expenditures under divisions (B)(1) and (2) of 68909
this section so that the total of the county's share for 68910
expenditures under division (B) of this section equals one hundred 68911
five per cent of the county's share of those expenditures for the 68912
immediately preceding state fiscal year. 68913

(2) A county's share of public assistance expenditures 68914
determined under division (B) of this section may be increased 68915
pursuant to section 5101.163 of the Revised Code and a sanction 68916
under section 5101.24 of the Revised Code. An increase made 68917
pursuant to section 5101.163 of the Revised Code may cause the 68918
county's share to exceed the limit established by division (C)(1) 68919
of this section. 68920

(D)(1) If the per capita tax duplicate of a county is less 68921
than the per capita tax duplicate of the state as a whole and 68922
division (D)(2) of this section does not apply to the county, the 68923
percentage to be used for the purpose of division (B)(2) of this 68924
section is the product of ten multiplied by a fraction of which 68925
the numerator is the per capita tax duplicate of the county and 68926
the denominator is the per capita tax duplicate of the state as a 68927
whole. The department of job and family services shall compute the 68928
per capita tax duplicate for the state and for each county by 68929
dividing the tax duplicate for the most recent available year by 68930
the current estimate of population prepared by the ~~department of~~ 68931
development services agency. 68932

(2) If the percentage of families in a county with an annual 68933
income of less than three thousand dollars is greater than the 68934

percentage of such families in the state and division (D)(1) of 68935
this section does not apply to the county, the percentage to be 68936
used for the purpose of division (B)(2) of this section is the 68937
product of ten multiplied by a fraction of which the numerator is 68938
the percentage of families in the state with an annual income of 68939
less than three thousand dollars a year and the denominator is the 68940
percentage of such families in the county. The department of job 68941
and family services shall compute the percentage of families with 68942
an annual income of less than three thousand dollars for the state 68943
and for each county by multiplying the most recent estimate of 68944
such families published by the ~~department of~~ development services 68945
agency, by a fraction, the numerator of which is the estimate of 68946
average annual personal income published by the bureau of economic 68947
analysis of the United States department of commerce for the year 68948
on which the census estimate is based and the denominator of which 68949
is the most recent such estimate published by the bureau. 68950

(3) If the per capita tax duplicate of a county is less than 68951
the per capita tax duplicate of the state as a whole and the 68952
percentage of families in the county with an annual income of less 68953
than three thousand dollars is greater than the percentage of such 68954
families in the state, the percentage to be used for the purpose 68955
of division (B)(2) of this section shall be determined as follows: 68956

(a) Multiply ten by the fraction determined under division 68957
(D)(1) of this section; 68958

(b) Multiply the product determined under division (D)(3)(a) 68959
of this section by the fraction determined under division (D)(2) 68960
of this section. 68961

(4) The department of job and family services shall 68962
determine, for each county, the percentage to be used for the 68963
purpose of division (B)(2) of this section not later than the 68964
first day of July of the year preceding the state fiscal year for 68965
which the percentage is used. 68966

(E) The department of job and family services shall credit to 68967
a county the amount of federal reimbursement the department 68968
receives from the United States departments of agriculture and 68969
health and human services for the county's expenditures for 68970
administration of the supplemental nutrition assistance program 68971
and medicaid (excluding administrative expenditures for 68972
transportation services covered by the medicaid program) that the 68973
department determines are allowable administrative expenditures. 68974

(F)(1) The director of job and family services shall adopt 68975
rules in accordance with section 111.15 of the Revised Code to 68976
establish all of the following: 68977

(a) The method the department is to use to change a county's 68978
share of public assistance expenditures determined under division 68979
(B) of this section as provided in division (C) of this section; 68980

(b) The allocation methodology and formula the department 68981
will use to determine the amount of funds to credit to a county 68982
under this section; 68983

(c) The method the department will use to change the payment 68984
of the county share of public assistance expenditures from a 68985
calendar-year basis to a state fiscal year basis; 68986

(d) The percentage to be used for the purpose of division 68987
(B)(3) of this section, which shall, except as provided in section 68988
5101.163 of the Revised Code, meet both of the following 68989
requirements: 68990

(i) The percentage shall not be less than seventy-five per 68991
cent nor more than eighty-two per cent; 68992

(ii) The percentage shall not exceed the percentage that the 68993
state's qualified state expenditures is of the state's historic 68994
state expenditures as those terms are defined in 42 U.S.C. 68995
609(a)(7). 68996

(e) Other procedures and requirements necessary to implement this section. 68997
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(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management. 68999
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Sec. 5101.162. Subject to available federal funds and appropriations made by the general assembly, the department of job and family services may, at its sole discretion, use available federal funds to reimburse county expenditures for county administration of the supplemental nutrition assistance program or medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) even though the county expenditures meet or exceed the maximum allowable reimbursement amount established by rules adopted under section 5101.161 of the Revised Code. The director of job and family services may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section. 69006
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Sec. 5101.18. ~~(A)~~ When the director of job and family services adopts rules under section 5107.05 regarding income requirements for the Ohio works first program and under section 5115.03 of the Revised Code regarding income and resource requirements for the disability financial assistance program, the director shall determine what payments shall be regarded or disregarded. In making this determination, the director shall consider: 69018
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~~(1)~~(A) The source of the payment; 69026

(2)(B) The amount of the payment;	69027
(3)(C) The purpose for which the payment was made;	69028
(4)(D) Whether regarding the payment as income would be in the public interest;	69029 69030
(5)(E) Whether treating the payment as income would be detrimental to any of the programs administered in whole or in part by the department of job and family services and whether such determination would jeopardize the receipt of any federal grant or payment by the state or any receipt of aid under Chapter 5107. of the Revised Code.	69031 69032 69033 69034 69035 69036
(B) Any recipient of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, whose money payment is discontinued as the result of a general increase in old age, survivors, and disability insurance benefits under such act, shall remain a recipient for the purpose of receiving medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.	69037 69038 69039 69040 69041 69042 69043
Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code:	69044 69045
(1) "Public, "public assistance" means any or all of the following:	69046 69047
(a)(1) Ohio works first;	69048
(b)(2) Prevention, retention, and contingency;	69049
(c)(3) Disability financial assistance;	69050
(d)(4) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.	69051 69052
(2) "Medical assistance" means medical assistance provided pursuant to, or under programs established by, section 5101.49, sections 5101.50 to 5101.529, Chapter 5111., or any other	69053 69054 69055

~~provision of the Revised Code.~~ 69056

(B) As part of the procedure for the determination of 69057
overpayment to a recipient of public assistance under Chapter 69058
5107., 5108., or 5115. of the Revised Code, the director of job 69059
and family services may furnish quarterly the name and social 69060
security number of each individual who receives public assistance 69061
to the director of administrative services, the administrator of 69062
the bureau of workers' compensation, and each of the state's 69063
retirement boards. Within fourteen days after receiving the name 69064
and social security number of an individual who receives public 69065
assistance, the director of administrative services, 69066
administrator, or board shall inform the auditor of state as to 69067
whether such individual is receiving wages or benefits, the amount 69068
of any wages or benefits being received, the social security 69069
number, and the address of the individual. The director of 69070
administrative services, administrator, boards, and any agent or 69071
employee of those officials and boards shall comply with the rules 69072
of the director of job and family services restricting the 69073
disclosure of information regarding recipients of public 69074
assistance. Any person who violates this provision shall 69075
thereafter be disqualified from acting as an agent or employee or 69076
in any other capacity under appointment or employment of any state 69077
board, commission, or agency. 69078

(C) The auditor of state may enter into a reciprocal 69079
agreement with the director of job and family services or 69080
comparable officer of any other state for the exchange of names, 69081
current or most recent addresses, or social security numbers of 69082
persons receiving public assistance under Title IV-A of the 69083
"Social Security Act," ~~49 Stat. 620 (1935)~~, 42 U.S.C. 301, ~~as~~ 69084
~~amended 601 et seq.~~ 69085

(D) The auditor of state shall retain, for not less than two 69086
years, at least one copy of all information received under this 69087

section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 69088
5101.182, and 5505.04 of the Revised Code. 69089

~~(E) On the request of the director of job and family services, the auditor of state may conduct an audit of an individual who receives medical assistance. If the auditor decides to conduct an audit, the auditor shall enter into an interagency agreement with the department of job and family services that specifies that the auditor agrees to comply with section 5101.271 of the Revised Code with respect to any information the auditor receives pursuant to the audit.~~ 69090
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~~(F)~~ The auditor shall review the information described in division (D) of this section to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services, the attorney general, and the county director of job and family services and county prosecutor of the county through which public assistance was received. 69098
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~~(G)~~(F) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with ~~sections~~ section 5101.27 and ~~5101.271~~ of the Revised Code and ~~adopts~~ rules of adopted by the director of job and family services restricting the disclosure of information regarding 69109
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recipients of public assistance ~~or medical assistance~~. Any person 69120
who violates this provision shall thereafter be disqualified from 69121
acting as an agent or employee or in any other capacity under 69122
appointment or employment of any state board, commission, or 69123
agency. 69124

~~(H)~~(G) Costs incurred by the auditor of state in carrying out 69125
the auditor of state's duties under this section shall be borne by 69126
the auditor of state. 69127

Sec. 5101.183. (A) ~~Except as provided in section 5111.12 of~~ 69128
~~the Revised Code, the~~ The director of job and family services, in 69129
accordance with section 111.15 of the Revised Code, may adopt 69130
rules under which county family services agencies shall take 69131
action to recover the cost of the following benefits and services 69132
available under programs administered by the department of job and 69133
family services: 69134

(1) Benefits or services provided to any of the following: 69135

(a) Persons who were not eligible for the benefits or 69136
services but who secured the benefits or services through fraud or 69137
misrepresentation; 69138

(b) Persons who were eligible for the benefits or services 69139
but who intentionally diverted the benefits or services to other 69140
persons who were not eligible for the benefits or services. 69141

(2) Any benefits or services provided by a county family 69142
services agency for which recovery is required or permitted by 69143
federal law for the federal programs administered by the agency. 69144

(B) A county family services agency may bring a civil action 69145
against a recipient of benefits or services to recover any costs 69146
described in division (A) of this section. 69147

(C) A county family services agency shall retain any money it 69148
recovers under division (A) of this section and shall use the 69149

money to meet a family services duty, except that, if federal law 69150
requires the department of job and family services to return any 69151
portion of the money so recovered to the federal government, the 69152
county family services agency shall pay that portion to the 69153
department of job and family services. 69154

Sec. 5101.184. (A) The director of job and family services 69155
shall work with the tax commissioner to collect overpayments of 69156
assistance under Chapter 5107., ~~5111.~~, or 5115., former Chapter 69157
5113., or section 5101.54 of the Revised Code from refunds of 69158
state income taxes for taxable year 1992 and thereafter that are 69159
payable to the recipients of such overpayments. 69160

Any overpayment of assistance, whether obtained by fraud or 69161
misrepresentation, as the result of an error by the recipient or 69162
by the agency making the payment, or in any other manner, may be 69163
collected under this section. Any reduction under section 5747.12 69164
or 5747.121 of the Revised Code to an income tax refund shall be 69165
made before a reduction under this section. No reduction shall be 69166
made under this section if the amount of the refund is less than 69167
twenty-five dollars after any reduction under section 5747.12 of 69168
the Revised Code. A reduction under this section shall be made 69169
before any part of the refund is contributed under section 69170
5747.113 of the Revised Code, or is credited under section 5747.12 69171
of the Revised Code against tax due in any subsequent year. 69172

The director and the tax commissioner, by rules adopted in 69173
accordance with Chapter 119. of the Revised Code, shall establish 69174
procedures to implement this division. The procedures shall 69175
provide for notice to a recipient of assistance and an opportunity 69176
for the recipient to be heard before the recipient's income tax 69177
refund is reduced. 69178

(B) The director of job and family services may enter into 69179
agreements with the federal government to collect overpayments of 69180

assistance from refunds of federal income taxes that are payable 69181
to recipients of the overpayments. 69182

Sec. 5101.26. As used in this section and in sections 5101.27 69183
to 5101.30 of the Revised Code: 69184

(A) "County agency" means a county department of job and 69185
family services or a public children services agency. 69186

(B) "Fugitive felon" means an individual who is fleeing to 69187
avoid prosecution, or custody or confinement after conviction, 69188
under the laws of the place from which the individual is fleeing, 69189
for a crime or an attempt to commit a crime that is a felony under 69190
the laws of the place from which the individual is fleeing or, in 69191
the case of New Jersey, a high misdemeanor, regardless of whether 69192
the individual has departed from the individual's usual place of 69193
residence. 69194

(C) "Information" means records as defined in section 149.011 69195
of the Revised Code, any other documents in any format, and data 69196
derived from records and documents that are generated, acquired, 69197
or maintained by the department of job and family services, a 69198
county agency, or an entity performing duties on behalf of the 69199
department or a county agency. 69200

(D) "Law enforcement agency" means the state highway patrol, 69201
an agency that employs peace officers as defined in section 109.71 69202
of the Revised Code, the adult parole authority, a county 69203
department of probation, a prosecuting attorney, the attorney 69204
general, similar agencies of other states, federal law enforcement 69205
agencies, and postal inspectors. "Law enforcement agency" includes 69206
the peace officers and other law enforcement officers employed by 69207
the agency. 69208

(E) ~~"Medical assistance" means medical assistance provided 69209
pursuant to, or under programs established by, section 5101.49, 69210~~

~~sections 5101.50 to 5101.529, Chapter 5111., or any other~~ 69211
~~provision of the Revised Code.~~ 69212

~~(F) "Medical assistance recipient" means an applicant for or~~ 69213
~~recipient or former recipient of medical assistance.~~ 69214

~~(G) "Public assistance" means financial assistance or social~~ 69215
~~services that are not medical assistance provided under a program~~ 69216
~~administered by the department of job and family services or a~~ 69217
~~county agency pursuant to Chapter 329., 5101., 5104., 5107.,~~ 69218
~~5108., or 5115. of the Revised Code or an executive order issued~~ 69219
~~under section 107.17 of the Revised Code. "Public assistance" does~~ 69220
~~not mean medical assistance provided under a medical assistance~~ 69221
~~program, as defined in section 5160.01 of the Revised Code.~~ 69222

~~(H)(F) "Public assistance recipient" means an applicant for~~ 69223
~~or recipient or former recipient of public assistance.~~ 69224

Sec. 5101.272. (A) For the purposes of ~~sections~~ section 69225
~~5101.27 and 5101.271~~ of the Revised Code, an authorization shall 69226
be made on a form that uses language understandable to the average 69227
person and contains all of the following: 69228

(1) A description of the information to be used or disclosed 69229
that identifies the information in a specific and meaningful 69230
fashion; 69231

(2) The name or other specific identification of the person 69232
or class of persons authorized to make the requested use or 69233
disclosure; 69234

(3) The name or other specific identification of the person 69235
or governmental entity to which the information may be released; 69236

(4) A description of each purpose of the requested use or 69237
disclosure of the information; 69238

(5) The date on which the authorization expires or an event 69239
related either to the individual who is the subject of the request 69240

or to the purposes of the requested use or disclosure, the 69241
occurrence of which will cause the authorization to expire; 69242

(6) A statement that the information used or disclosed 69243
pursuant to the authorization may be disclosed by the recipient of 69244
the information and may no longer be protected from disclosure; 69245

(7) The signature of the individual or the individual's 69246
authorized representative and the date on which the authorization 69247
was signed; 69248

(8) If signed by an authorized representative, a description 69249
of the representative's authority to act for the individual; 69250

(9) A statement of the individual or authorized 69251
representative's right to prospectively revoke the written 69252
authorization in writing, along with one of the following: 69253

(a) A description of how the individual or authorized 69254
representative may revoke the authorization; 69255

(b) If the department of job and family services' privacy 69256
notice contains a description of how the individual or authorized 69257
representative may revoke the authorization, a reference to that 69258
privacy notice. 69259

(10) A statement that treatment, payment, enrollment, or 69260
eligibility for public assistance ~~or medical assistance~~ cannot be 69261
conditioned on signing the authorization unless the authorization 69262
is necessary for determining eligibility for the public assistance 69263
~~or medical assistance~~ program. 69264

(B) ~~An authorization for the release of information regarding 69265
a medical assistance recipient to the recipient's attorney under 69266
division (C)(3) of section 5101.271 of the Revised Code may 69267
include a provision specifically authorizing the release of the 69268
recipient's electronic health records, if any, in accordance with 69269
rules the director of job and family services adopts under section 69270~~

~~5101.30 of the Revised Code.~~ 69271

~~(C)~~ When an individual requests information pursuant to 69272
section 5101.27 ~~or 5101.271~~ of the Revised Code regarding the 69273
individual's receipt of public assistance ~~or medical assistance~~ 69274
and does not wish to provide a statement of purpose, the statement 69275
"at request of the individual" is a sufficient description for 69276
purposes of division (A)(4) of this section. 69277

Sec. 5101.273. The department of job and family services 69278
shall enter into any necessary agreements with the United States 69279
department of health and human services and neighboring states to 69280
join and participate as an active member in the public assistance 69281
reporting information system. The department may disclose 69282
information regarding a public assistance recipient ~~or medical~~ 69283
~~assistance recipient~~ to the extent necessary to participate as an 69284
active member in the public assistance reporting information 69285
system. 69286

Sec. 5101.30. (A) The director of job and family services 69287
shall adopt rules in accordance with Chapter 119. of the Revised 69288
Code implementing sections 5101.26 to 5101.30 of the Revised Code 69289
and governing the custody, use, disclosure, and preservation of 69290
the information generated or received by the department of job and 69291
family services, county agencies, other state and county entities, 69292
contractors, grantees, private entities, or officials 69293
participating in the administration of public assistance ~~or~~ 69294
~~medical assistance~~ programs. The rules shall comply with 69295
applicable federal statutes and regulations. 69296

(1) The rules shall specify conditions and procedures for the 69297
release of information which may include, among other conditions 69298
and procedures, both of the following: 69299

(a) Permitting providers of services or assistance under 69300

public assistance programs limited access to information that is 69301
essential for the providers to render services or assistance or to 69302
bill for services or assistance rendered. The department of aging, 69303
when investigating a complaint under section 173.20 of the Revised 69304
Code, shall be granted any limited access permitted in the rules 69305
pursuant to division (A)(1) of this section. 69306

(b) Permitting a contractor, grantee, or other state or 69307
county entity limited access to information that is essential for 69308
the contractor, grantee, or entity to perform administrative or 69309
other duties on behalf of the department or county agency. A 69310
contractor, grantee, or entity given access to information 69311
pursuant to division (A)(2) of this section is bound by the 69312
director's rules, and disclosure of the information by the 69313
contractor, grantee, or entity in a manner not authorized by the 69314
rules is a violation of section 5101.27 of the Revised Code. 69315

(2) The rules may define who is an "authorized 69316
representative" for purposes of sections 5101.27, ~~5101.271~~, and 69317
5101.272 of the Revised Code. 69318

(B) Whenever names, addresses, or other information relating 69319
to public assistance recipients is held by any agency other than 69320
the department or a county agency, that other agency shall adopt 69321
rules consistent with sections 5101.26 to 5101.30 of the Revised 69322
Code to prevent the publication or disclosure of names, lists, or 69323
other information concerning those recipients. 69324

Sec. 5101.34. (A) There is hereby created in the department 69325
of job and family services the Ohio commission on fatherhood. The 69326
commission shall consist of the following members: 69327

(1)(a) Four members of the house of representatives appointed 69328
by the speaker of the house, not more than two of whom are members 69329
of the same political party. Two of the members must be from 69330
legislative districts that include a county or part of a county 69331

that is among the one-third of counties in this state with the 69332
highest number per capita of households headed by females. 69333

(b) Two members of the senate appointed by the president of 69334
the senate, each from a different political party. One of the 69335
members must be from a legislative district that includes a county 69336
or part of a county that is among the one-third of counties in 69337
this state with the highest number per capita of households headed 69338
by females. 69339

(2) The governor, or the governor's designee; 69340

(3) One representative of the judicial branch of government 69341
appointed by the chief justice of the supreme court; 69342

(4) The directors of health, job and family services, 69343
rehabilitation and correction, ~~alcohol and drug addiction services~~ 69344
mental health and addiction services, and youth services and the 69345
superintendent of public instruction, or their designees; 69346

(5) One representative of the Ohio family and children first 69347
cabinet council created under section 121.37 of the Revised Code 69348
appointed by the chairperson of the council; 69349

(6) Five representatives of the general public appointed by 69350
the governor. These members shall have extensive experience in 69351
issues related to fatherhood. 69352

(B) The appointing authorities of the Ohio commission on 69353
fatherhood shall make initial appointments to the commission 69354
within thirty days after September 29, 1999. Of the initial 69355
appointments to the commission made pursuant to divisions (A)(3), 69356
(5), and (6) of this section, three of the members shall serve a 69357
term of one year and four shall serve a term of two years. Members 69358
so appointed subsequently shall serve two-year terms. A member 69359
appointed pursuant to division (A)(1) of this section shall serve 69360
on the commission until the end of the general assembly from which 69361
the member was appointed or until the member ceases to serve in 69362

the chamber of the general assembly in which the member serves at 69363
the time of appointment, whichever occurs first. The governor or 69364
the governor's designee shall serve on the commission until the 69365
governor ceases to be governor. The directors and superintendent 69366
or their designees shall serve on the commission until they cease, 69367
or the director or superintendent a designee represents ceases, to 69368
be director or superintendent. Each member shall serve on the 69369
commission from the date of appointment until the end of the term 69370
for which the member was appointed. Members may be reappointed. 69371

Vacancies shall be filled in the manner provided for original 69372
appointments. Any member appointed to fill a vacancy occurring 69373
prior to the expiration date of the term for which the member's 69374
predecessor was appointed shall serve on the commission for the 69375
remainder of that term. A member shall continue to serve on the 69376
commission subsequent to the expiration date of the member's term 69377
until the member's successor is appointed or until a period of 69378
sixty days has elapsed, whichever occurs first. Members shall 69379
serve without compensation but shall be reimbursed for necessary 69380
expenses. 69381

Sec. 5101.35. (A) As used in this section: 69382

(1)(a) "Agency" means the following entities that administer 69383
a family services program: 69384

~~(a)~~(i) The department of job and family services; 69385

~~(b)~~(ii) A county department of job and family services; 69386

~~(c)~~(iii) A public children services agency; 69387

~~(d)~~(iv) A private or government entity administering, in 69388
whole or in part, a family services program for or on behalf of 69389
the department of job and family services or a county department 69390
of job and family services or public children services agency. 69391

(b) If the department of medicaid contracts with the 69392

department of job and family services to hear appeals authorized 69393
by section 5160.31 of the Revised Code regarding medical 69394
assistance programs, "agency" includes the department of medicaid. 69395

(2) "Appellant" means an applicant, participant, former 69396
participant, recipient, or former recipient of a family services 69397
program who is entitled by federal or state law to a hearing 69398
regarding a decision or order of the agency that administers the 69399
program. 69400

(3)(a) "Family services program" means ~~assistance provided~~ 69401
~~under a~~ all of the following: 69402

(i) A Title IV-A program as defined in section 5101.80 of the 69403
Revised Code ~~or~~; 69404

(ii) Programs that provide assistance under Chapter 5104. 69405
5111. ~~or 5115.~~ ~~or~~ of the Revised Code; 69406

(iii) Programs that provide assistance under section ~~5119.69,~~ 69407
~~5101.141, 5101.46,~~ 5101.461, 5101.54, 5119.41, 5153.163, or 69408
~~5153.165~~ of the Revised Code; 69409

(iv) Title XX social services provided under section 5101.46 69410
of the Revised Code, other than ~~assistance~~ such services provided 69411
~~under section 5101.46 of the Revised Code~~ by the department of 69412
~~mental health~~ mental health and addiction services, the department 69413
of developmental disabilities, a board of alcohol, drug addiction, 69414
and mental health services, or a county board of developmental 69415
disabilities. 69416

(b) If the department of medicaid contracts with the 69417
department of job and family services to hear appeals authorized 69418
by section 5160.31 of the Revised Code regarding medical 69419
assistance programs, "family services program" includes medical 69420
assistance programs. 69421

(4) "Medical assistance program" has the same meaning as in 69422

section 5160.01 of the Revised Code. 69423

(B) Except as provided by divisions (G) and (H) of this 69424
section, an appellant who appeals under federal or state law a 69425
decision or order of an agency administering a family services 69426
program shall, at the appellant's request, be granted a state 69427
hearing by the department of job and family services. This state 69428
hearing shall be conducted in accordance with rules adopted under 69429
this section. The state hearing shall be recorded, but neither the 69430
recording nor a transcript of the recording shall be part of the 69431
official record of the proceeding. A Except as provided in section 69432
5160.31 of the Revised Code, a state hearing decision is binding 69433
upon the agency and department, unless it is reversed or modified 69434
on appeal to the director of job and family services or a court of 69435
common pleas. 69436

(C) Except as provided by division (G) of this section, an 69437
appellant who disagrees with a state hearing decision may make an 69438
administrative appeal to the director of job and family services 69439
in accordance with rules adopted under this section. This 69440
administrative appeal does not require a hearing, but the director 69441
or the director's designee shall review the state hearing decision 69442
and previous administrative action and may affirm, modify, remand, 69443
or reverse the state hearing decision. An administrative appeal 69444
decision is the final decision of the department and, except as 69445
provided in section 5160.31 of the Revised Code, is binding upon 69446
the department and agency, unless it is reversed or modified on 69447
appeal to the court of common pleas. 69448

(D) An agency shall comply with a decision issued pursuant to 69449
division (B) or (C) of this section within the time limits 69450
established by rules adopted under this section. If a county 69451
department of job and family services or a public children 69452
services agency fails to comply within these time limits, the 69453
department may take action pursuant to section 5101.24 of the 69454

Revised Code. If another agency, other than the department of 69455
medicaid, fails to comply within the time limits, the department 69456
may force compliance by withholding funds due the agency or 69457
imposing another sanction established by rules adopted under this 69458
section. 69459

(E) An appellant who disagrees with an administrative appeal 69460
decision of the director of job and family services or the 69461
director's designee issued under division (C) of this section may 69462
appeal from the decision to the court of common pleas pursuant to 69463
section 119.12 of the Revised Code. The appeal shall be governed 69464
by section 119.12 of the Revised Code except that: 69465

(1) The person may appeal to the court of common pleas of the 69466
county in which the person resides, or to the court of common 69467
pleas of Franklin county if the person does not reside in this 69468
state. 69469

(2) The person may apply to the court for designation as an 69470
indigent and, if the court grants this application, the appellant 69471
shall not be required to furnish the costs of the appeal. 69472

(3) The appellant shall mail the notice of appeal to the 69473
department of job and family services and file notice of appeal 69474
with the court within thirty days after the department mails the 69475
administrative appeal decision to the appellant. For good cause 69476
shown, the court may extend the time for mailing and filing notice 69477
of appeal, but such time shall not exceed six months from the date 69478
the department mails the administrative appeal decision. Filing 69479
notice of appeal with the court shall be the only act necessary to 69480
vest jurisdiction in the court. 69481

(4) The department shall be required to file a transcript of 69482
the testimony of the state hearing with the court only if the 69483
court orders the department to file the transcript. The court 69484
shall make such an order only if it finds that the department and 69485

the appellant are unable to stipulate to the facts of the case and 69486
that the transcript is essential to a determination of the appeal. 69487
The department shall file the transcript not later than thirty 69488
days after the day such an order is issued. 69489

(F) The department of job and family services shall adopt 69490
rules in accordance with Chapter 119. of the Revised Code to 69491
implement this section, including rules governing the following: 69492

(1) State hearings under division (B) of this section. The 69493
rules shall include provisions regarding notice of eligibility 69494
termination and the opportunity of an appellant appealing a 69495
decision or order of a county department of job and family 69496
services to request a county conference with the county department 69497
before the state hearing is held. 69498

(2) Administrative appeals under division (C) of this 69499
section; 69500

(3) Time limits for complying with a decision issued under 69501
division (B) or (C) of this section; 69502

(4) Sanctions that may be applied against an agency under 69503
division (D) of this section. 69504

(G) The department of job and family services may adopt rules 69505
in accordance with Chapter 119. of the Revised Code establishing 69506
an appeals process for an appellant who appeals a decision or 69507
order regarding a Title IV-A program identified under division 69508
(A)(4)(c), (d), (e), ~~or (f)~~, or (g) of section 5101.80 of the 69509
Revised Code that is different from the appeals process 69510
established by this section. The different appeals process may 69511
include having a state agency that administers the Title IV-A 69512
program pursuant to an interagency agreement entered into under 69513
section 5101.801 of the Revised Code administer the appeals 69514
process. 69515

(H) If an appellant receiving medicaid through a health 69516

insuring corporation that holds a certificate of authority under 69517
Chapter 1751. of the Revised Code is appealing a denial of 69518
medicaid services based on lack of medical necessity or other 69519
clinical issues regarding coverage by the health insuring 69520
corporation, the person hearing the appeal may order an 69521
independent medical review if that person determines that a review 69522
is necessary. The review shall be performed by a health care 69523
professional with appropriate clinical expertise in treating the 69524
recipient's condition or disease. The department shall pay the 69525
costs associated with the review. 69526

A review ordered under this division shall be part of the 69527
record of the hearing and shall be given appropriate evidentiary 69528
consideration by the person hearing the appeal. 69529

(I) The requirements of Chapter 119. of the Revised Code 69530
apply to a state hearing or administrative appeal under this 69531
section only to the extent, if any, specifically provided by rules 69532
adopted under this section. 69533

Sec. 5101.36. Any application for public assistance gives a 69534
right of subrogation to the department of job and family services 69535
for any workers' compensation benefits payable to a person who is 69536
subject to a support order, as defined in section 3119.01 of the 69537
Revised Code, on behalf of the applicant, to the extent of any 69538
public assistance payments made on the applicant's behalf. If the 69539
director of job and family services, in consultation with a child 69540
support enforcement agency and the administrator of the bureau of 69541
workers' compensation, determines that a person responsible for 69542
support payments to a recipient of public assistance is receiving 69543
workers' compensation, the director shall notify the administrator 69544
of the amount of the benefit to be paid to the department of job 69545
and family services. 69546

For purposes of this section, "public assistance" means 69547

~~medical assistance provided through the medical assistance program~~ 69548
~~established under section 5111.01 of the Revised Code;~~ Ohio works 69549
first provided under Chapter 5107. of the Revised Code; 69550
prevention, retention, and contingency benefits and services 69551
provided under Chapter 5108. of the Revised Code; or disability 69552
financial assistance provided under Chapter 5115. of the Revised 69553
Code. 69554

Sec. 5101.46. (A) As used in this section: 69555

(1) "Title XX" means Title XX of the "Social Security Act," 69556
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 69557

(2) "Respective local agency" means, with respect to the 69558
department of job and family services, a county department of job 69559
and family services; with respect to the department of ~~mental~~ 69560
~~health~~ mental health and addiction services, a board of alcohol, 69561
drug addiction, and mental health services; and with respect to 69562
the department of developmental disabilities, a county board of 69563
developmental disabilities. 69564

(3) "Federal poverty guidelines" means the poverty guidelines 69565
as revised annually by the United States department of health and 69566
human services in accordance with section 673(2) of the "Omnibus 69567
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 69568
9902, as amended, for a family size equal to the size of the 69569
family of the person whose income is being determined. 69570

(B) The departments of job and family services, mental 69571
health, and developmental disabilities, with their respective 69572
local agencies, shall administer the provision of social services 69573
funded through grants made under Title XX. The social services 69574
furnished with Title XX funds shall be directed at the following 69575
goals: 69576

(1) Achieving or maintaining economic self-support to 69577

prevent, reduce, or eliminate dependency; 69578

(2) Achieving or maintaining self-sufficiency, including 69579
reduction or prevention of dependency; 69580

(3) Preventing or remedying neglect, abuse, or exploitation 69581
of children and adults unable to protect their own interests, or 69582
preserving, rehabilitating, or reuniting families; 69583

(4) Preventing or reducing inappropriate institutional care 69584
by providing for community-based care, home-based care, or other 69585
forms of less intensive care; 69586

(5) Securing referral or admission for institutional care 69587
when other forms of care are not appropriate, or providing 69588
services to individuals in institutions. 69589

(C)(1) All federal funds received under Title XX shall be 69590
appropriated as follows: 69591

(a) Seventy-two and one-half per cent to the department of 69592
job and family services; 69593

(b) Twelve and ninety-three one-hundredths per cent to the 69594
department of ~~mental health~~ mental health and addiction services; 69595

(c) Fourteen and fifty-seven one-hundredths per cent to the 69596
department of developmental disabilities. 69597

(2) Each of the state departments shall, subject to the 69598
approval of the controlling board, develop a formula for the 69599
distribution of the Title XX funds appropriated to the department 69600
to its respective local agencies. The formula developed by each 69601
state department shall take into account all of the following for 69602
each of its respective local agencies: 69603

(a) The total population of the area that is served by the 69604
respective local agency; 69605

(b) The percentage of the population in the area served that 69606
falls below the federal poverty guidelines; 69607

(c) The respective local agency's history of and ability to utilize Title XX funds. 69608
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(3) Each of the state departments shall expend for state administrative costs not more than three per cent of the Title XX funds appropriated to the department. 69610
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Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. 69613
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(4) The department of job and family services shall expend for the training of the following not more than two per cent of the Title XX funds appropriated to the department: 69621
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(a) Employees of county departments of job and family services; 69624
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(b) Providers of services under contract with the state departments' respective local agencies; 69626
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(c) Employees of a public children services agency directly engaged in providing Title XX services. 69628
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(5) Title XX funds distributed for the purpose of providing family planning services shall be distributed by the respective local agencies according to the same order of priority that applies to the department of job and family services under section 5101.101 of the Revised Code. 69630
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(D) The department of job and family services shall prepare an annual comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a 69635
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method for obtaining public comment during the development of the 69638
plan and following its completion. 69639

For each federal fiscal year, the department of job and 69640
family services shall prepare a report on the actual use of Title 69641
XX funds. The department shall make the annual report available 69642
for public inspection. 69643

The departments of ~~mental health~~ mental health and addiction 69644
services and developmental disabilities shall prepare and submit 69645
to the department of job and family services the portions of each 69646
annual plan and report that apply to services for mental health 69647
and mental retardation and developmental disabilities. Each 69648
respective local agency of the three state departments shall 69649
submit information as necessary for the preparation of annual 69650
plans and reports. 69651

(E) Each county department of job and family services shall 69652
adopt a county profile for the administration and provision of 69653
Title XX social services in the county. In developing its county 69654
profile, the county department shall take into consideration the 69655
comments and recommendations received from the public by the 69656
county family services planning committee pursuant to section 69657
329.06 of the Revised Code. As part of its preparation of the 69658
county profile, the county department may prepare a local needs 69659
report analyzing the need for Title XX social services. 69660

The county department shall submit the county profile to the 69661
board of county commissioners for its review. Once the county 69662
profile has been approved by the board, the county department 69663
shall file a copy of the county profile with the department of job 69664
and family services. The department shall approve the county 69665
profile if the department determines the profile provides for the 69666
Title XX social services to meet the goals specified in division 69667
(B) of this section. 69668

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services may adopt any rules it considers necessary to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5101.461. (A) As used in this section:

(1) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(2) "Title XX" has the same meaning as in section 5101.46 of the Revised Code. 69700
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(B) To the extent authorized by federal law, the department of job and family services may use funds received through the Title IV-A temporary assistance for needy families block grant for purposes of providing Title XX social services. The amount used under this section shall not exceed the maximum amount permitted by federal law. The funds and provision of Title XX social services with the funds are not subject to section 5101.46 of the Revised Code. 69702
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Funds distributed under this section for the purpose of providing family planning services shall be distributed by a county department of job and family services according to the same order of priority that applies to the department of job and family services under section 5101.101 of the Revised Code. 69710
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(C) The department and any county department of job and family services may require an entity under contract to provide Title XX social services with funds used under this section to submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or county department for the cost it incurred in conducting the audit or having the audit conducted. 69715
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If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state department or county department the amount of the adverse findings. The amount shall not be reimbursed with funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider. 69723
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(D) The state department of job and family services may adopt 69732
rules to implement and carry out the purposes of this section. 69733
Rules governing financial and operational matters of the 69734
department or matters between the department and county 69735
departments of job and family services shall be adopted as 69736
internal management rules in accordance with section 111.15 of the 69737
Revised Code. Rules governing eligibility for services, program 69738
participation, and other matters pertaining to applicants and 69739
participants shall be adopted in accordance with Chapter 119. of 69740
the Revised Code. 69741

Sec. 5101.47. (A) Except as provided in divisions (B) and (C) 69742
of this section, the department of job and family services may 69743
accept applications, determine eligibility, redetermine 69744
eligibility, and perform related administrative activities for one 69745
or more of the following: 69746

~~(1) The medicaid program established by Chapter 5111. of the 69747
Revised Code;~~ 69748

~~(2) The children's health insurance program parts I, II, and 69749
III provided for under sections 5101.50 to 5101.529 of the Revised 69750
Code;~~ 69751

~~(3) Publicly funded child care provided under Chapter 5104. 69752
of the Revised Code;~~ 69753

~~(4)~~(2) The supplemental nutrition assistance program 69754
administered by the department pursuant to section 5101.54 of the 69755
Revised Code; 69756

~~(5)~~(3) Other programs administered by the department that the 69757
director of job and family services determines are supportive of 69758
children, adults, or families; 69759

~~(6)~~(4) Other programs administered by the department 69760
regarding which the director determines administrative cost 69761

savings and efficiency may be achieved through the department 69762
accepting applications, determining eligibility, redetermining 69763
eligibility, or performing related administrative activities. 69764

~~(B) To the extent permitted by federal law, the department 69765
may enter into agreements with one or more other state agencies,
local government entities, or political subdivisions to accept 69766
applications, determine eligibility, redetermine eligibility, and 69767
perform related administrative activities on behalf of the 69768
department with respect to the medicaid program and the children's 69769
health insurance program. 69770
health insurance program. 69771~~

~~(C)~~ If federal law requires a face-to-face interview to 69772
complete an eligibility determination for a program specified in 69773
or pursuant to division (A) of this section, the face-to-face 69774
interview shall not be conducted by the department of job and 69775
family services. 69776

~~(D)~~(C) Subject to division ~~(C)~~(B) of this section, if the 69777
department elects to accept applications, determine eligibility, 69778
redetermine eligibility, and perform related administrative 69779
activities for a program specified in or pursuant to division (A) 69780
of this section, both of the following apply: 69781

(1) An individual seeking services under the program may 69782
apply for the program to the department or to the entity that 69783
state law governing the program authorizes to accept applications 69784
for the program. 69785

(2) The department is subject to federal statutes and 69786
regulations and state statutes and rules that require, permit, or 69787
prohibit an action regarding accepting applications, determining 69788
or redetermining eligibility, and performing related 69789
administrative activities for the program. 69790

~~(E)~~(D) The director may adopt rules as necessary to implement 69791
this section. 69792

Sec. 5101.49. The department of job and family services shall 69793
administer funds received under the "Refugee Act of 1980," 94 69794
Stat. 102, 8 U.S.C.A. 1521, as amended. In administering the 69795
funds, the department may establish a refugee cash assistance 69796
program and a state legalization impact assistance program. The 69797
director of job and family services may adopt rules in accordance 69798
with section 111.15 of the Revised Code and issue appropriate 69799
orders as necessary for administration of these funds and 69800
programs. 69801

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the 69802
Revised Code: 69803

(A) "Abuse" means the infliction upon an adult by self or 69804
others of injury, unreasonable confinement, intimidation, or cruel 69805
punishment with resulting physical harm, pain, or mental anguish. 69806

(B) "Adult" means any person sixty years of age or older 69807
within this state who is handicapped by the infirmities of aging 69808
or who has a physical or mental impairment which prevents the 69809
person from providing for the person's own care or protection, and 69810
who resides in an independent living arrangement. An "independent 69811
living arrangement" is a domicile of a person's own choosing, 69812
including, but not limited to, a private home, apartment, trailer, 69813
or rooming house. An "independent living arrangement" includes a 69814
residential facility licensed under section ~~5119.22~~ 5119.34 of the 69815
Revised Code that provides accommodations, supervision, and 69816
personal care services for three to sixteen unrelated adults, but 69817
does not include other institutions or facilities licensed by the 69818
state or facilities in which a person resides as a result of 69819
voluntary, civil, or criminal commitment. 69820

(C) "Caretaker" means the person assuming the responsibility 69821
for the care of an adult on a voluntary basis, by contract, 69822

through receipt of payment for care, as a result of a family 69823
relationship, or by order of a court of competent jurisdiction. 69824

(D) "Court" means the probate court in the county where an 69825
adult resides. 69826

(E) "Emergency" means that the adult is living in conditions 69827
which present a substantial risk of immediate and irreparable 69828
physical harm or death to self or any other person. 69829

(F) "Emergency services" means protective services furnished 69830
to an adult in an emergency. 69831

(G) "Exploitation" means the unlawful or improper act of a 69832
caretaker using an adult or an adult's resources for monetary or 69833
personal benefit, profit, or gain. 69834

(H) "In need of protective services" means an adult known or 69835
suspected to be suffering from abuse, neglect, or exploitation to 69836
an extent that either life is endangered or physical harm, mental 69837
anguish, or mental illness results or is likely to result. 69838

(I) "Incapacitated person" means a person who is impaired for 69839
any reason to the extent that the person lacks sufficient 69840
understanding or capacity to make and carry out reasonable 69841
decisions concerning the person's self or resources, with or 69842
without the assistance of a caretaker. Refusal to consent to the 69843
provision of services shall not be the sole determinative that the 69844
person is incapacitated. "Reasonable decisions" are decisions made 69845
in daily living which facilitate the provision of food, shelter, 69846
clothing, and health care necessary for life support. 69847

(J) "Mental illness" means a substantial disorder of thought, 69848
mood, perception, orientation, or memory that grossly impairs 69849
judgment, behavior, capacity to recognize reality, or ability to 69850
meet the ordinary demands of life. 69851

(K) "Neglect" means the failure of an adult to provide for 69852

self the goods or services necessary to avoid physical harm, 69853
mental anguish, or mental illness or the failure of a caretaker to 69854
provide such goods or services. 69855

(L) "Peace officer" means a peace officer as defined in 69856
section 2935.01 of the Revised Code. 69857

(M) "Physical harm" means bodily pain, injury, impairment, or 69858
disease suffered by an adult. 69859

(N) "Protective services" means services provided by the 69860
county department of job and family services or its designated 69861
agency to an adult who has been determined by evaluation to 69862
require such services for the prevention, correction, or 69863
discontinuance of an act of as well as conditions resulting from 69864
abuse, neglect, or exploitation. Protective services may include, 69865
but are not limited to, case work services, medical care, mental 69866
health services, legal services, fiscal management, home health 69867
care, homemaker services, housing-related services, guardianship 69868
services, and placement services as well as the provision of such 69869
commodities as food, clothing, and shelter. 69870

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, 69871
and Friday, except when such day is a holiday as defined in 69872
section 1.14 of the Revised Code. 69873

Sec. 5101.61. (A) As used in this section: 69874

(1) "Senior service provider" means any person who provides 69875
care or services to a person who is an adult as defined in 69876
division (B) of section 5101.60 of the Revised Code. 69877

(2) "Ambulatory health facility" means a nonprofit, public or 69878
proprietary freestanding organization or a unit of such an agency 69879
or organization that: 69880

(a) Provides preventive, diagnostic, therapeutic, 69881
rehabilitative, or palliative items or services furnished to an 69882

outpatient or ambulatory patient, by or under the direction of a 69883
physician or dentist in a facility which is not a part of a 69884
hospital, but which is organized and operated to provide medical 69885
care to outpatients; 69886

(b) Has health and medical care policies which are developed 69887
with the advice of, and with the provision of review of such 69888
policies, an advisory committee of professional personnel, 69889
including one or more physicians, one or more dentists, if dental 69890
care is provided, and one or more registered nurses; 69891

(c) Has a medical director, a dental director, if dental care 69892
is provided, and a nursing director responsible for the execution 69893
of such policies, and has physicians, dentists, nursing, and 69894
ancillary staff appropriate to the scope of services provided; 69895

(d) Requires that the health care and medical care of every 69896
patient be under the supervision of a physician, provides for 69897
medical care in a case of emergency, has in effect a written 69898
agreement with one or more hospitals and other centers or clinics, 69899
and has an established patient referral system to other resources, 69900
and a utilization review plan and program; 69901

(e) Maintains clinical records on all patients; 69902

(f) Provides nursing services and other therapeutic services 69903
in accordance with programs and policies, with such services 69904
supervised by a registered professional nurse, and has a 69905
registered professional nurse on duty at all times of clinical 69906
operations; 69907

(g) Provides approved methods and procedures for the 69908
dispensing and administration of drugs and biologicals; 69909

(h) Has established an accounting and record keeping system 69910
to determine reasonable and allowable costs; 69911

(i) "Ambulatory health facilities" also includes an 69912

alcoholism treatment facility approved by the joint commission on 69913
accreditation of healthcare organizations as an alcoholism 69914
treatment facility or certified by the department of ~~alcohol and~~ 69915
~~drug addiction services~~ mental health and addiction services, and 69916
such facility shall comply with other provisions of this division 69917
not inconsistent with such accreditation or certification. 69918

(3) "Community mental health facility" means a facility which 69919
provides community mental health services and is included in the 69920
comprehensive mental health plan for the alcohol, drug addiction, 69921
and mental health service district in which it is located. 69922

(4) "Community mental health service" means services, other 69923
than inpatient services, provided by a community mental health 69924
facility. 69925

(5) "Home health agency" means an institution or a distinct 69926
part of an institution operated in this state which: 69927

(a) Is primarily engaged in providing home health services; 69928

(b) Has home health policies which are established by a group 69929
of professional personnel, including one or more duly licensed 69930
doctors of medicine or osteopathy and one or more registered 69931
professional nurses, to govern the home health services it 69932
provides and which includes a requirement that every patient must 69933
be under the care of a duly licensed doctor of medicine or 69934
osteopathy; 69935

(c) Is under the supervision of a duly licensed doctor of 69936
medicine or doctor of osteopathy or a registered professional 69937
nurse who is responsible for the execution of such home health 69938
policies; 69939

(d) Maintains comprehensive records on all patients; 69940

(e) Is operated by the state, a political subdivision, or an 69941
agency of either, or is operated not for profit in this state and 69942

is licensed or registered, if required, pursuant to law by the 69943
appropriate department of the state, county, or municipality in 69944
which it furnishes services; or is operated for profit in this 69945
state, meets all the requirements specified in divisions (A)(5)(a) 69946
to (d) of this section, and is certified under Title XVIII of the 69947
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 69948
amended. 69949

(6) "Home health service" means the following items and 69950
services, provided, except as provided in division (A)(6)(g) of 69951
this section, on a visiting basis in a place of residence used as 69952
the patient's home: 69953

(a) Nursing care provided by or under the supervision of a 69954
registered professional nurse; 69955

(b) Physical, occupational, or speech therapy ordered by the 69956
patient's attending physician; 69957

(c) Medical social services performed by or under the 69958
supervision of a qualified medical or psychiatric social worker 69959
and under the direction of the patient's attending physician; 69960

(d) Personal health care of the patient performed by aides in 69961
accordance with the orders of a doctor of medicine or osteopathy 69962
and under the supervision of a registered professional nurse; 69963

(e) Medical supplies and the use of medical appliances; 69964

(f) Medical services of interns and residents-in-training 69965
under an approved teaching program of a nonprofit hospital and 69966
under the direction and supervision of the patient's attending 69967
physician; 69968

(g) Any of the foregoing items and services which: 69969

(i) Are provided on an outpatient basis under arrangements 69970
made by the home health agency at a hospital or skilled nursing 69971
facility; 69972

(ii) Involve the use of equipment of such a nature that the 69973
items and services cannot readily be made available to the patient 69974
in the patient's place of residence, or which are furnished at the 69975
hospital or skilled nursing facility while the patient is there to 69976
receive any item or service involving the use of such equipment. 69977

Any attorney, physician, osteopath, podiatrist, chiropractor, 69978
dentist, psychologist, any employee of a hospital as defined in 69979
section 3701.01 of the Revised Code, any nurse licensed under 69980
Chapter 4723. of the Revised Code, any employee of an ambulatory 69981
health facility, any employee of a home health agency, any 69982
employee of a residential facility licensed under section ~~5119.22~~ 69983
5119.34 of the Revised Code that provides accommodations, 69984
supervision, and personal care services for three to sixteen 69985
unrelated adults, any employee of a nursing home, residential care 69986
facility, or home for the aging, as defined in section 3721.01 of 69987
the Revised Code, any senior service provider, any peace officer, 69988
coroner, member of the clergy, any employee of a community mental 69989
health facility, and any person engaged in social work or 69990
counseling having reasonable cause to believe that an adult is 69991
being abused, neglected, or exploited, or is in a condition which 69992
is the result of abuse, neglect, or exploitation shall immediately 69993
report such belief to the county department of job and family 69994
services. This section does not apply to employees of any hospital 69995
or public hospital as defined in section 5122.01 of the Revised 69996
Code. 69997

(B) Any person having reasonable cause to believe that an 69998
adult has suffered abuse, neglect, or exploitation may report, or 69999
cause reports to be made of such belief to the department. 70000

(C) The reports made under this section shall be made orally 70001
or in writing except that oral reports shall be followed by a 70002
written report if a written report is requested by the department. 70003
Written reports shall include: 70004

(1) The name, address, and approximate age of the adult who is the subject of the report; 70005
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(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known; 70007
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(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult; 70010
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(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited. 70012
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(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose. 70014
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(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section. 70024
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(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized 70030
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by the department to receive information contained in the report, 70036
and to legal counsel for the adult. 70037

Sec. 5101.80. (A) As used in this section and in section 70038
5101.801 of the Revised Code: 70039

(1) "County family services agency" has the same meaning as 70040
in section 307.981 of the Revised Code. 70041

(2) "State agency" has the same meaning as in section 9.82 of 70042
the Revised Code. 70043

(3) "Title IV-A administrative agency" means both of the 70044
following: 70045

(a) A county family services agency or state agency 70046
administering a Title IV-A program under the supervision of the 70047
department of job and family services; 70048

(b) A government agency or private, not-for-profit entity 70049
administering a project funded in whole or in part with funds 70050
provided under the Title IV-A demonstration program created under 70051
section 5101.803 of the Revised Code. 70052

(4) "Title IV-A program" means all of the following that are 70053
funded in part with funds provided under the temporary assistance 70054
for needy families block grant established by Title IV-A of the 70055
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 70056
amended: 70057

(a) The Ohio works first program established under Chapter 70058
5107. of the Revised Code; 70059

(b) The prevention, retention, and contingency program 70060
established under Chapter 5108. of the Revised Code; 70061

(c) A program established by the general assembly or an 70062
executive order issued by the governor that is administered or 70063
supervised by the department of job and family services pursuant 70064

to section 5101.801 of the Revised Code; 70065

(d) The kinship permanency incentive program created under 70066
section 5101.802 of the Revised Code; 70067

(e) The Title IV-A demonstration program created under 70068
section 5101.803 of the Revised Code; 70069

(f) The Ohio parenting and pregnancy program created under 70070
section 5101.804 of the Revised Code; 70071

(g) A component of a Title IV-A program identified under 70072
divisions (A)(4)(a) to ~~(e)~~(f) of this section that the Title IV-A 70073
state plan prepared under division (C)(1) of this section 70074
identifies as a component. 70075

(B) The department of job and family services shall act as 70076
the single state agency to administer and supervise the 70077
administration of Title IV-A programs. The Title IV-A state plan 70078
and amendments to the plan prepared under division (C) of this 70079
section are binding on Title IV-A administrative agencies. No 70080
Title IV-A administrative agency may establish, by rule or 70081
otherwise, a policy governing a Title IV-A program that is 70082
inconsistent with a Title IV-A program policy established, in rule 70083
or otherwise, by the director of job and family services. 70084

(C) The department of job and family services shall do all of 70085
the following: 70086

(1) Prepare and submit to the United States secretary of 70087
health and human services a Title IV-A state plan for Title IV-A 70088
programs; 70089

(2) Prepare and submit to the United States secretary of 70090
health and human services amendments to the Title IV-A state plan 70091
that the department determines necessary, including amendments 70092
necessary to implement Title IV-A programs identified in divisions 70093
(A)(4)(c) to ~~(f)~~(g) of this section; 70094

(3) Prescribe forms for applications, certificates, reports, records, and accounts of Title IV-A administrative agencies, and other matters related to Title IV-A programs;

(4) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding Title IV-A programs;

(5) Require reports and information from each Title IV-A administrative agency as may be necessary or advisable regarding a Title IV-A program;

(6) Afford a fair hearing in accordance with section 5101.35 of the Revised Code to any applicant for, or participant or former participant of, a Title IV-A program aggrieved by a decision regarding the program;

(7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and sections 5101.801, 5101.802, and 5101.803 of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and sections and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended;

(8) Conduct investigations and audits as are necessary regarding Title IV-A programs;

(9) Enter into reciprocal agreements with other states relative to the provision of Ohio works first and prevention, retention, and contingency to residents and nonresidents;

(10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;	70125 70126
(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;	70127 70128 70129 70130 70131 70132 70133 70134
(c) Provide the department with reports at times the department specifies.	70135 70136
(11) Not later than the last day of each January and July, prepare a report containing information on the following:	70137 70138
(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.	70139 70140 70141
(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.	70142 70143 70144
(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under division (C)(11) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government entity on request.	70145 70146 70147 70148 70149 70150 70151
(E) An authorized representative of the department or a county family services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations	70152 70153 70154 70155

conducted pursuant to this section. An authorized representative 70156
of a government entity or private, not-for-profit entity 70157
administering a project funded in whole or in part with funds 70158
provided under the Title IV-A demonstration program shall have 70159
access to all records and information bearing on the project for 70160
the purpose of investigations conducted pursuant to this section. 70161

Sec. 5101.801. (A) Except as otherwise provided by the law 70162
enacted by the general assembly or executive order issued by the 70163
governor establishing the Title IV-A program, a Title IV-A program 70164
identified under division (A)(4)(c), (d), (e), ~~or~~ (f), or (g) of 70165
section 5101.80 of the Revised Code shall provide benefits and 70166
services that are not "assistance" as defined in 45 C.F.R. 70167
260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) 70168
excludes from the definition of assistance. 70169

(B)(1) Except as otherwise provided by the law enacted by the 70170
general assembly or executive order issued by the governor 70171
establishing the Title IV-A program, the department of job and 70172
family services shall do either of the following regarding a Title 70173
IV-A program identified under division (A)(4)(c), (d), (e), ~~or~~ 70174
(f), or (g) of section 5101.80 of the Revised Code: 70175

(a) Administer the program or supervise a county family 70176
services agency's administration of the program; 70177

(b) Enter into an interagency agreement with a state agency 70178
for the state agency to administer the program under the 70179
department's supervision. 70180

(2) The department may enter into an agreement with a 70181
government entity and, to the extent permitted by federal law, a 70182
private, not-for-profit entity for the entity to receive funding 70183
for a project under the Title IV-A demonstration program. 70184

(C) The department may adopt rules governing Title IV-A 70185

programs identified under divisions (A)(4)(c), (d), (e), ~~and (f)~~ and (g) of section 5101.80 of the Revised Code. Rules governing financial and operational matters of the department or between the department and county family services agencies shall be adopted as internal management rules adopted in accordance with section 111.15 of the Revised Code. All other rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(D) If the department enters into an agreement regarding a Title IV-A program identified under division (A)(4)(c), (e), ~~or (f)~~ or (g) of section 5101.80 of the Revised Code pursuant to division (B)(1)(b) or (2) of this section, the agreement shall include at least all of the following:

(1) A requirement that the state agency or entity comply with the requirements for the program or project, including all of the following requirements established by federal statutes and regulations, state statutes and rules, the United States office of management and budget, and the Title IV-A state plan prepared under section 5101.80 of the Revised Code:

(a) Eligibility;

(b) Reports;

(c) Benefits and services;

(d) Use of funds;

(e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;

(f) Audits.

(2) A complete description of all of the following:

(a) The benefits and services that the program or project is to provide;

(b) The methods of program or project administration;

(c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program or project's benefits and services; 70215
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(d) Other requirements that the department requires be included. 70218
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(3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency or entity establishes for the program or project before the policy is established; 70220
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(4) Provisions regarding how the department is to reimburse the state agency or entity for allowable expenditures under the program or project that the department approves, including all of the following: 70224
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(a) Limitations on administrative costs; 70228

(b) The department, at its discretion, doing either of the following: 70229
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(i) Withholding no more than five per cent of the funds that the department would otherwise provide to the state agency or entity for the program or project; 70231
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(ii) Charging the state agency or entity for the costs to the department of performing, or contracting for the performance of, audits and other administrative functions associated with the program or project. 70234
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(5) If the state agency or entity arranges by contract, grant, or other agreement for another entity to perform a function the state agency or entity would otherwise perform regarding the program or project, the state agency or entity's responsibilities for both of the following: 70238
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(a) Ensuring that the other entity complies with the agreement between the state agency or entity and department and 70243
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federal statutes and regulations and state statutes and rules 70245
governing the use of funds for the program or project; 70246

(b) Auditing the other entity in accordance with requirements 70247
established by the United States office of management and budget. 70248

(6) The state agency or entity's responsibilities regarding 70249
the prompt payment, including any interest assessed, of any 70250
adverse audit finding, final disallowance of federal funds, or 70251
other sanction or penalty imposed by the federal government, 70252
auditor of state, department, a court, or other entity regarding 70253
funds for the program or project; 70254

(7) Provisions for the department to terminate the agreement 70255
or withhold reimbursement from the state agency or entity if 70256
either of the following occur: 70257

(a) The federal government disapproves the program or project 70258
or reduces federal funds for the program or project; 70259

(b) The state agency or entity fails to comply with the terms 70260
of the agreement. 70261

(8) Provisions for both of the following: 70262

(a) The department and state agency or entity determining the 70263
performance outcomes expected for the program or project; 70264

(b) An evaluation of the program or project to determine its 70265
success in achieving the performance outcomes determined under 70266
division (D)(8)(a) of this section. 70267

(E) To the extent consistent with the law enacted by the 70268
general assembly or executive order issued by the governor 70269
establishing the Title IV-A program and subject to the approval of 70270
the director of budget and management, the director of job and 70271
family services may terminate a Title IV-A program identified 70272
under division (A)(4)(c), (d), (e), ~~or~~ (f), or (g) of section 70273
5101.80 of the Revised Code or reduce funding for the program if 70274

the director of job and family services determines that federal or 70275
state funds are insufficient to fund the program. If the director 70276
of budget and management approves the termination or reduction in 70277
funding for such a program, the director of job and family 70278
services shall issue instructions for the termination or funding 70279
reduction. If a Title IV-A administrative agency is administering 70280
the program, the agency is bound by the termination or funding 70281
reduction and shall comply with the director's instructions. 70282

(F) The director of job and family services may adopt 70283
internal management rules in accordance with section 111.15 of the 70284
Revised Code as necessary to implement this section. The rules are 70285
binding on each Title IV-A administrative agency. 70286

Sec. 5101.804. (A) Subject to division (E) of section 70287
5101.801 of the Revised Code, there is hereby created the Ohio 70288
parenting and pregnancy program to provide services for pregnant 70289
women and parents or other relatives caring for children twelve 70290
months of age or younger that do both of the following: 70291

(1) Promote childbirth, parenting, and alternatives to 70292
abortion; 70293

(2) Meet one or more of the four purposes of the temporary 70294
assistance for needy families block grant as specified in 42 70295
U.S.C. 601. 70296

(B) To the extent permitted by federal law, the department of 70297
job and family services may provide funds to entities with which 70298
the department enters into agreements under division (B)(2) of 70299
section 5101.801 of the Revised Code for the purposes of this 70300
program. The department may solicit proposals from entities 70301
seeking to provide services, support, or both, under the program 70302
and may enter into an agreement with an entity that meets all of 70303
the following conditions: 70304

<u>(1) Is a private, not-for-profit entity;</u>	70305
<u>(2) Is committed to counseling pregnant women and parents or other relatives caring for children twelve months of age or younger about childbirth, parenting, and alternatives to abortion, including adoption;</u>	70306 70307 70308 70309
<u>(3) Provides services and support to pregnant women and parents or other relatives caring for children twelve months of age or younger, including clothing, counseling, diapers, food, furniture, health care, postpartum recovery, parenting classes, and shelter;</u>	70310 70311 70312 70313 70314
<u>(4) Does not charge pregnant women and parents or other relatives caring for children twelve months of age or younger a fee for any services received;</u>	70315 70316 70317
<u>(5) Is not involved or associated with any abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising;</u>	70318 70319 70320 70321
<u>(6) Does not discriminate in its provision of services on the basis of race, religion, color, age, marital status, national origin, disability, or gender.</u>	70322 70323 70324
<u>(C) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the Ohio pregnancy and parenting program.</u>	70325 70326 70327
Sec. 5103.02. As used in sections 5103.03 to 5103.17 of the Revised Code:	70328 70329
<u>(A)(1) "Association" or "institution" includes any all of the following:</u>	70330 70331
<u>(a) Any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks; any</u>	70332 70333 70334

(b) Any individual, including the operator of a foster home, 70335
who, for hire, gain, or reward, receives or cares for children for 70336
two or more consecutive weeks, unless the individual is related to 70337
them by blood or marriage; ~~and any~~ 70338

(c) Any individual not in the regular employ of a court, or 70339
of an institution or association certified in accordance with 70340
section 5103.03 of the Revised Code, who in any manner becomes a 70341
party to the placing of children in foster homes, unless the 70342
individual is related to such children by blood or marriage, or is 70343
the appointed guardian of such children; ~~provided, that any.~~ 70344

(2) "Association" or "institution" does not include any of 70345
the following: 70346

(a) Any organization, society, association, school, agency, 70347
child guidance center, detention or rehabilitation facility, or 70348
children's clinic licensed, regulated, approved, operated under 70349
the direction of, or otherwise certified by the department of 70350
education, a local board of education, the department of youth 70351
services, the department of ~~mental health~~ mental health and 70352
addiction services, or the department of developmental 70353
disabilities, ~~or any;~~ 70354

(b) Any individual who provides care for only a single-family 70355
group, placed there by their parents or other relative having 70356
custody, ~~shall not be considered as being within the purview of~~ 70357
~~these sections;~~ 70358

(c) A therapeutic wilderness camp. 70359

(B) "Family foster home" means a foster home that is not a 70360
specialized foster home. 70361

(C) "Foster caregiver" means a person holding a valid foster 70362
home certificate issued under section 5103.03 of the Revised Code. 70363

(D) "Foster home" means a private residence in which children 70364

are received apart from their parents, guardian, or legal 70365
custodian, by an individual reimbursed for providing the children 70366
nonsecure care, supervision, or training twenty-four hours a day. 70367
"Foster home" does not include care provided for a child in the 70368
home of a person other than the child's parent, guardian, or legal 70369
custodian while the parent, guardian, or legal custodian is 70370
temporarily away. Family foster homes and specialized foster homes 70371
are types of foster homes. 70372

(E) "Medically fragile foster home" means a foster home that 70373
provides specialized medical services designed to meet the needs 70374
of children with intensive health care needs who meet all of the 70375
following criteria: 70376

(1) Under rules adopted by the ~~department of job and family~~ 70377
~~services~~ medicaid director governing ~~payment under Chapter 5111.~~ 70378
~~of the Revised Code~~ medicaid payments for long-term care services, 70379
the children require a skilled level of care. 70380

(2) The children require the services of a doctor of medicine 70381
or osteopathic medicine at least once a week due to the 70382
instability of their medical conditions. 70383

(3) The children require the services of a registered nurse 70384
on a daily basis. 70385

(4) The children are at risk of institutionalization in a 70386
hospital, skilled nursing facility, or intermediate care facility 70387
for the mentally retarded. 70388

(F) "Recommending agency" means a public children services 70389
agency, private child placing agency, or private noncustodial 70390
agency that recommends that the department of job and family 70391
services take any of the following actions under section 5103.03 70392
of the Revised Code regarding a foster home: 70393

(1) Issue a certificate; 70394

(2) Deny a certificate;	70395
(3) Renew a certificate;	70396
(4) Deny renewal of a certificate;	70397
(5) Revoke a certificate.	70398
(G) "Specialized foster home" means a medically fragile foster home or a treatment foster home.	70399 70400
(H) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, chemically dependent, mentally retarded, developmentally disabled, or who otherwise have exceptional needs.	70401 70402 70403 70404 70405 70406
<u>(I) "Therapeutic wilderness camp" means a structured, alternative residential setting for children who are experiencing emotional, behavioral, moral, social, or learning difficulties at home or school in which both of the following are the case:</u>	70407 70408 70409 70410
<u>(1) The children spend the majority of their time, including overnight, either outdoors or in a primitive structure;</u>	70411 70412
<u>(2) The children have been placed there by their parents or another relative having custody."</u>	70413 70414
Sec. 5103.0323. (A) As used in this section, "government auditing standards" means the government auditing standards published by the comptroller general of the United States general accounting office <u>"American institute of certified public accountants auditing standards"</u> and <u>"AICPA auditing standards"</u> <u>mean the auditing standards published by the American institute of certified public accountants.</u>	70415 70416 70417 70418 70419 70420 70421
(B) The first time that a private child placing agency or private noncustodial agency seeks renewal of a certificate issued	70422 70423

under section 5103.03 of the Revised Code, it shall provide the 70424
department of job and family services, as a condition of renewal, 70425
evidence of an independent financial statement audit ~~of its first~~ 70426
~~year of certification, unless the auditor of state has audited the~~ 70427
~~agency during that year and the audit sets forth that no money has~~ 70428
~~been illegally expended, converted, misappropriated, or is~~ 70429
~~unaccounted for or sets forth findings that are inconsequential,~~ 70430
~~as defined by government~~ performed by a licensed public accounting 70431
firm following applicable AICPA auditing standards for the most 70432
recent fiscal year. Thereafter, when an agency seeks renewal of 70433
its certificate, it shall provide the department evidence of an 70434
independent financial statement audit performed by a licensed 70435
public accounting firm following applicable AICPA auditing 70436
standards for the two most recent previous fiscal years it is 70437
possible for an independent audit to have been conducted, ~~unless~~ 70438
~~the auditor of state has audited the agency during those years and~~ 70439
~~the audit sets forth that no money has been illegally expended,~~ 70440
~~converted, misappropriated, or is unaccounted for or sets forth~~ 70441
~~findings that are inconsequential, as defined by government~~ 70442
~~auditing standards.~~ 70443

(C) For an agency to be eligible for renewal, the independent 70444
audits must demonstrate that the agency operated in a fiscally 70445
accountable manner ~~in accordance with state laws and rules and any~~ 70446
~~agreement between the agency and a public children services~~ 70447
~~agency.~~ 70448

~~All audits required by this section shall be conducted in~~ 70449
~~accordance with generally accepted government auditing standards~~ 70450
~~as determined by the department of job and family services.~~ 70451

(D) The director of job and family services may adopt rules 70452
as necessary to implement this section. The director shall adopt 70453
the rules in accordance with section 111.15 of the Revised Code. 70454

Sec. 5103.13. (A) As used in this section and section 70455
5103.131 of the Revised Code: 70456

(1)(a) "Children's crisis care facility" means a facility 70457
that has as its primary purpose the provision of residential and 70458
other care to either or both of the following: 70459

(i) One or more preteens voluntarily placed in the facility 70460
by the preteen's parent or other caretaker who is facing a crisis 70461
that causes the parent or other caretaker to seek temporary care 70462
for the preteen and referral for support services; 70463

(ii) One or more preteens placed in the facility by a public 70464
children services agency or private child placing agency that has 70465
legal custody or permanent custody of the preteen and determines 70466
that an emergency situation exists necessitating the preteen's 70467
placement in the facility rather than an institution certified 70468
under section 5103.03 of the Revised Code or elsewhere. 70469

(b) "Children's crisis care facility" does not include either 70470
of the following: 70471

(i) Any organization, society, association, school, agency, 70472
child guidance center, detention or rehabilitation facility, or 70473
children's clinic licensed, regulated, approved, operated under 70474
the direction of, or otherwise certified by the department of 70475
education, a local board of education, the department of youth 70476
services, the department of ~~mental health~~ mental health and
addiction services, or the department of developmental 70477
disabilities; 70478
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(ii) Any individual who provides care for only a 70480
single-family group, placed there by their parents or other 70481
relative having custody. 70482

(2) "Legal custody" and "permanent custody" have the same 70483
meanings as in section 2151.011 of the Revised Code. 70484

(3) "Preteen" means an individual under thirteen years of age. 70485
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(B) No person shall operate a children's crisis care facility or hold a children's crisis care facility out as a certified children's crisis care facility unless there is a valid children's crisis care facility certificate issued under this section for the facility. 70487
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(C) A person seeking to operate a children's crisis care facility shall apply to the director of job and family services to obtain a certificate for the facility. The director shall certify the person's children's crisis care facility if the facility meets all of the certification standards established in rules adopted under division (F) of this section and the person complies with all of the rules governing the certification of children's crisis care facilities adopted under that division. The issuance of a children's crisis care facility certificate does not exempt the facility from a requirement to obtain another certificate or license mandated by law. 70492
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(D)(1) No certified children's crisis care facility shall do any of the following: 70503
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(a) Provide residential care to a preteen for more than one hundred twenty days in a calendar year; 70505
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(b) Subject to division (D)(1)(c) of this section and except as provided in division (D)(2) of this section, provide residential care to a preteen for more than sixty consecutive days; 70507
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(c) Except as provided in division (D)(3) of this section, provide residential care to a preteen for more than seventy-two consecutive hours if a public children services agency or private child placing agency placed the preteen in the facility; 70511
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(d) Fail to comply with section 2151.86 of the Revised Code. 70515

(2) A certified children's crisis care facility may provide residential care to a preteen for up to ninety consecutive days, other than a preteen placed in the facility by a public children services agency or private child placing agency, if any of the following are the case:

(a) The preteen's parent or other caretaker is enrolled in an alcohol and drug addiction ~~program certified under section 3793.06 of the Revised Code~~ service or a community mental health service certified under section ~~5119.611~~ 5119.36 of the Revised Code;

(b) The preteen's parent or other caretaker is an inpatient in a hospital;

(c) The preteen's parent or other caretaker is incarcerated;

(d) A physician has diagnosed the preteen's parent or other caretaker as medically incapacitated.

(3) A certified children's crisis care facility may provide residential care to a preteen placed in the facility by a public children services agency or private child placing agency for more than seventy-two consecutive hours if the director of job and family services or the director's designee issues the agency a waiver of the seventy-two consecutive hour limitation. The waiver may authorize the certified children's crisis care facility to provide residential care to the preteen for up to fourteen consecutive days.

(E) The director of job and family services may suspend or revoke a children's crisis care facility's certificate pursuant to Chapter 119. of the Revised Code if the facility violates division (D) of this section or ceases to meet any of the certification standards established in rules adopted under division (F) of this section or the facility's operator ceases to comply with any of the rules governing the certification of children's crisis care facilities adopted under that division.

(F) Not later than ninety days after September 21, 2006, the director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code for the certification of children's crisis care facilities. The rules shall specify that a certificate shall not be issued to an applicant if the conditions at the children's crisis care facility would jeopardize the health or safety of the preteens placed in the facility.

Sec. 5103.42. Prior to the beginning of the fiscal biennium that first follows October 5, 2000, the public children services agencies of Athens, Cuyahoga, Franklin, Greene, Guernsey, ~~Hamilton~~, Lucas, and Summit counties shall each establish and maintain a regional training center. Prior to the beginning of the fiscal biennium that first follows the effective date of this amendment, the public children services agency of Butler county shall establish and maintain a regional training center. At any time after the beginning of ~~that~~ the specified biennium, the department of job and family services, on the recommendation of the Ohio child welfare training program steering committee, may direct a public children services agency to establish and maintain a training center to replace the center established by an agency under this section. There may be no more and no less than eight centers in existence at any time. The department may make a grant to a public children services agency that establishes and maintains a regional training center under this section for the purpose of wholly or partially subsidizing the operation of the center. The department shall specify in the grant all of the center's duties, including the duties specified in section 5103.422 of the Revised Code.

The regional training center established by the public children services agency of Butler county under this section replaces the regional training center previously established by the public children services agency of Hamilton county under this

section. 70579

Sec. 5104.012. (A)(1) At the times specified in this 70580
division, the administrator of a child day-care center or a type A 70581
family day-care home shall request the superintendent of the 70582
bureau of criminal identification and investigation to conduct a 70583
criminal records check with respect to any applicant who has 70584
applied to the center or type A home for employment as a person 70585
responsible for the care, custody, or control of a child. 70586

The administrator shall request a criminal records check 70587
pursuant to this division at the time of the applicant's initial 70588
application for employment and every ~~four~~ five years thereafter. 70589
When the administrator requests pursuant to this division a 70590
criminal records check for an applicant at the time of the 70591
applicant's initial application for employment, the administrator 70592
shall request that the superintendent obtain information from the 70593
federal bureau of investigation as a part of the criminal records 70594
check for the applicant, including fingerprint-based checks of 70595
national crime information databases as described in 42 U.S.C. 70596
671, for the person subject to the criminal records check. In all 70597
other cases in which the administrator requests a criminal records 70598
check for an applicant pursuant to this division, the 70599
administrator may request that the superintendent include 70600
information from the federal bureau of investigation in the 70601
criminal records check, including fingerprint-based checks of 70602
national crime information databases as described in 42 U.S.C. 70603
671. 70604

(2) A person required by division (A)(1) of this section to 70605
request a criminal records check shall provide to each applicant a 70606
copy of the form prescribed pursuant to division (C)(1) of section 70607
109.572 of the Revised Code, provide to each applicant a standard 70608
impression sheet to obtain fingerprint impressions prescribed 70609

pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. On and after August 14, 2008, the administrator of a child day-care center or a type A family day-care home shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home

may employ an applicant conditionally until the criminal records 70642
check required by this section is completed and the center or home 70643
receives the results of the criminal records check. If the results 70644
of the criminal records check indicate that, pursuant to division 70645
(B)(1) of this section, the applicant does not qualify for 70646
employment, the center or home shall release the applicant from 70647
employment. 70648

(C)(1) Each child day-care center and type A family day-care 70649
home shall pay to the bureau of criminal identification and 70650
investigation the fee prescribed pursuant to division (C)(3) of 70651
section 109.572 of the Revised Code for each criminal records 70652
check conducted in accordance with that section upon the request 70653
pursuant to division (A)(1) of this section of the administrator 70654
or provider of the center or home. 70655

(2) A child day-care center and type A family day-care home 70656
may charge an applicant a fee for the costs it incurs in obtaining 70657
a criminal records check under this section. A fee charged under 70658
this division shall not exceed the amount of fees the center or 70659
home pays under division (C)(1) of this section. If a fee is 70660
charged under this division, the center or home shall notify the 70661
applicant at the time of the applicant's initial application for 70662
employment of the amount of the fee and that, unless the fee is 70663
paid, the center or type A home will not consider the applicant 70664
for employment. 70665

(D) The report of any criminal records check conducted by the 70666
bureau of criminal identification and investigation in accordance 70667
with section 109.572 of the Revised Code and pursuant to a request 70668
under division (A)(1) of this section is not a public record for 70669
the purposes of section 149.43 of the Revised Code and shall not 70670
be made available to any person other than the applicant who is 70671
the subject of the criminal records check or the applicant's 70672
representative; the center or type A home requesting the criminal 70673

records check or its representative; the department of job and 70674
family services or a county department of job and family services; 70675
and any court, hearing officer, or other necessary individual 70676
involved in a case dealing with the denial of employment to the 70677
applicant. 70678

(E) The director of job and family services shall adopt rules 70679
pursuant to Chapter 119. of the Revised Code to implement this 70680
section, including rules specifying circumstances under which a 70681
center or home may hire a person who has been convicted of an 70682
offense listed in division (B)(1) of this section but who meets 70683
standards in regard to rehabilitation set by the department. 70684

(F) Any person required by division (A)(1) of this section to 70685
request a criminal records check shall inform each person, at the 70686
time of the person's initial application for employment, that the 70687
person is required to provide a set of impressions of the person's 70688
fingerprints and that a criminal records check is required to be 70689
conducted and satisfactorily completed in accordance with section 70690
109.572 of the Revised Code if the person comes under final 70691
consideration for appointment or employment as a precondition to 70692
employment for that position. 70693

(G) As used in this section: 70694

(1) "Applicant" means a person who is under final 70695
consideration for appointment to or employment in a position with 70696
a child day-care center or a type A family day-care home as a 70697
person responsible for the care, custody, or control of a child; 70698
an in-home aide certified pursuant to section 5104.12 of the 70699
Revised Code; or any person who would serve in any position with a 70700
child day-care center or a type A family day-care home as a person 70701
responsible for the care, custody, or control of a child pursuant 70702
to a contract with another entity. 70703

(2) "Criminal records check" has the same meaning as in 70704

section 109.572 of the Revised Code. 70705

Sec. 5104.013. (A)(1) At the times specified in division 70706
(A)(3) of this section, the director of job and family services, 70707
as part of the process of licensure of child day-care centers and 70708
type A family day-care homes, shall request the superintendent of 70709
the bureau of criminal identification and investigation to conduct 70710
a criminal records check with respect to the following persons: 70711

(a) Any owner, licensee, or administrator of a child day-care 70712
center; 70713

(b) Any owner, licensee, or administrator of a type A family 70714
day-care home and any person eighteen years of age or older who 70715
resides in a type A family day-care home. 70716

(2) At the times specified in division (A)(3) of this 70717
section, the director of a county department of job and family 70718
services, as part of the process of certification of type B family 70719
day-care homes, shall request the superintendent of the bureau of 70720
criminal identification and investigation to conduct a criminal 70721
records check with respect to any authorized provider of a 70722
certified type B family day-care home and any person eighteen 70723
years of age or older who resides in a certified type B family 70724
day-care home. 70725

(3) The director of job and family services shall request a 70726
criminal records check pursuant to division (A)(1) of this section 70727
at the time of the initial application for licensure and every 70728
~~four~~ five years thereafter. The director of a county department of 70729
job and family services shall request a criminal records check 70730
pursuant to division (A)(2) of this section at the time of the 70731
initial application for certification and every ~~four~~ five years 70732
thereafter at the time of a certification renewal. When the 70733
director of job and family services or the director of a county 70734
department of job and family services requests pursuant to 70735

division (A)(1) or (2) of this section a criminal records check 70736
for a person at the time of the person's initial application for 70737
licensure or certification, the director shall request that the 70738
superintendent of the bureau of criminal identification and 70739
investigation obtain information from the federal bureau of 70740
investigation as a part of the criminal records check for the 70741
person, including fingerprint-based checks of national crime 70742
information databases as described in 42 U.S.C. 671 for the person 70743
subject to the criminal records check. In all other cases in which 70744
the director of job and family services or the director of a 70745
county department of job and family services requests a criminal 70746
records check for an applicant pursuant to division (A)(1) or (2) 70747
of this section, the director may request that the superintendent 70748
include information from the federal bureau of investigation in 70749
the criminal records check, including fingerprint-based checks of 70750
national crime information databases as described in 42 U.S.C. 70751
671. 70752

(4) The director of job and family services shall review the 70753
results of a criminal records check subsequent to a request made 70754
pursuant to divisions (A)(1) and (3) of this section prior to 70755
approval of a license. The director of a county department of job 70756
and family services shall review the results of a criminal records 70757
check subsequent to a request made pursuant to divisions (A)(2) 70758
and (3) of this section prior to approval of certification. 70759

(B) The director of job and family services or the director 70760
of a county department of job and family services shall provide to 70761
each person for whom a criminal records check is required under 70762
this section a copy of the form prescribed pursuant to division 70763
(C)(1) of section 109.572 of the Revised Code and a standard 70764
impression sheet to obtain fingerprint impressions prescribed 70765
pursuant to division (C)(2) of that section, obtain the completed 70766
form and impression sheet from that person, and forward the 70767

completed form and impression sheet to the superintendent of the 70768
bureau of criminal identification and investigation. 70769

(C) A person who receives pursuant to division (B) of this 70770
section a copy of the form and standard impression sheet described 70771
in that division and who is requested to complete the form and 70772
provide a set of fingerprint impressions shall complete the form 70773
or provide all the information necessary to complete the form and 70774
shall provide the impression sheet with the impressions of the 70775
person's fingerprints. If the person, upon request, fails to 70776
provide the information necessary to complete the form or fails to 70777
provide impressions of the person's fingerprints, the director may 70778
consider the failure as a reason to deny licensure or 70779
certification. 70780

(D) Except as provided in rules adopted under division (G) of 70781
this section, the director of job and family services shall not 70782
grant a license to a child day-care center or type A family 70783
day-care home and a county director of job and family services 70784
shall not certify a type B family day-care home if a person for 70785
whom a criminal records check was required in connection with the 70786
center or home previously has been convicted of or pleaded guilty 70787
to any of the violations described in division (A)(5) of section 70788
109.572 of the Revised Code. 70789

(E) Each child day-care center, type A family day-care home, 70790
and type B family day-care home shall pay to the bureau of 70791
criminal identification and investigation the fee prescribed 70792
pursuant to division (C)(3) of section 109.572 of the Revised Code 70793
for each criminal records check conducted in accordance with that 70794
section upon a request made pursuant to division (A) of this 70795
section. 70796

(F) The report of any criminal records check conducted by the 70797
bureau of criminal identification and investigation in accordance 70798
with section 109.572 of the Revised Code and pursuant to a request 70799

made under division (A) of this section is not a public record for 70800
the purposes of section 149.43 of the Revised Code and shall not 70801
be made available to any person other than the person who is the 70802
subject of the criminal records check or the person's 70803
representative, the director of job and family services, the 70804
director of a county department of job and family services, the 70805
center, type A home, or type B home involved, and any court, 70806
hearing officer, or other necessary individual involved in a case 70807
dealing with a denial of licensure or certification related to the 70808
criminal records check. 70809

(G) The director of job and family services shall adopt rules 70810
pursuant to Chapter 119. of the Revised Code to implement this 70811
section, including rules specifying exceptions to the prohibition 70812
in division (D) of this section for persons who have been 70813
convicted of an offense listed in that division but who meet 70814
standards in regard to rehabilitation set by the director. 70815

(H) As used in this section, "criminal records check" has the 70816
same meaning as in section 109.572 of the Revised Code. 70817

Sec. 5104.02. (A) The director of job and family services is 70818
responsible for the licensing of child day-care centers and type A 70819
family day-care homes. Each entity operating a head start program 70820
shall meet the criteria for, and be licensed as, a child day-care 70821
center. The director is responsible for the enforcement of this 70822
chapter and of rules promulgated pursuant to this chapter. 70823

No person, firm, organization, institution, or agency shall 70824
operate, establish, manage, conduct, or maintain a child day-care 70825
center or type A family day-care home without a license issued 70826
under section 5104.03 of the Revised Code. The current license 70827
shall be posted in a conspicuous place in the center or type A 70828
home that is accessible to parents, custodians, or guardians and 70829
employees of the center or type A home at all times when the 70830

center or type A home is in operation. 70831

(B) A person, firm, institution, organization, or agency 70832
operating any of the following programs is exempt from the 70833
requirements of this chapter: 70834

(1) A program of child care that operates for two or less 70835
consecutive weeks; 70836

(2) Child care in places of worship during religious 70837
activities during which children are cared for while at least one 70838
parent, guardian, or custodian of each child is participating in 70839
such activities and is readily available; 70840

(3) Religious activities which do not provide child care; 70841

(4) Supervised training, instruction, or activities of 70842
children in specific areas, including, but not limited to: art; 70843
drama; dance; music; gymnastics, swimming, or another athletic 70844
skill or sport; computers; or an educational subject conducted on 70845
an organized or periodic basis no more than one day a week and for 70846
no more than six hours duration; 70847

(5) Programs in which the director determines that at least 70848
one parent, custodian, or guardian of each child is on the 70849
premises of the facility offering child care and is readily 70850
accessible at all times, except that child care provided on the 70851
premises at which a parent, custodian, or guardian is employed 70852
more than two and one-half hours a day shall be licensed in 70853
accordance with division (A) of this section; 70854

(6)(a) Programs that provide child care funded and regulated 70855
or operated and regulated by state departments other than the 70856
department of job and family services or the state board of 70857
education when the director of job and family services has 70858
determined that the rules governing the program are equivalent to 70859
or exceed the rules promulgated pursuant to this chapter. 70860

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of job and family services a copy of the rules that govern programs that provide child care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

(i) The site location of the program;

(ii) The maximum number of infants, toddlers, preschool-age children, or school-age children served by the program at one time;

(iii) The number of adults providing child care for the number of infants, toddlers, preschool-age children, or school-age children;

(iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child care to school-age children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child care that meets all of the

following requirements and, on October 20, 1987, was being 70891
operated by a nonpublic school that holds a charter issued by the 70892
state board of education for kindergarten only: 70893

(a) The nonpublic school has given the notice to the state 70894
board and the director of job and family services required by 70895
Section 4 of Substitute House Bill No. 253 of the 117th general 70896
assembly; 70897

(b) The nonpublic school continues to be chartered by the 70898
state board for kindergarten, or receives and continues to hold a 70899
charter from the state board for kindergarten through grade five; 70900

(c) The program is conducted in a school building; 70901

(d) The program is operated in accordance with rules 70902
promulgated by the state board under sections 3301.52 to 3301.57 70903
of the Revised Code. 70904

(9) A youth development program operated outside of school 70905
hours by a community-based center to which all of the following 70906
apply: 70907

(a) The children enrolled in the program are under nineteen 70908
years of age and enrolled in or eligible to be enrolled in a grade 70909
of kindergarten or above. 70910

(b) The program provides informal child care ~~and at least~~ 70911
two, which is child care that does not require parental signature, 70912
permission, or notice for the child receiving the care to enter or 70913
leave the program; 70914

(c) The program provides any of the following supervised 70915
activities: educational, recreational, culturally enriching, 70916
social, and personal development activities. 70917

~~(e)~~(d) The program is eligible for participation in the child 70918
and adult care food program as an outside-school-hours care center 70919
pursuant to standards established under section 3313.813 of the 70920

Revised Code. 70921

~~(d)~~(e) The community-based center operating the program is 70922
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 70923
and (c)(3). 70924

Sec. 5104.021. The director of job and family services may 70925
~~not~~ issue a child day-care center or type A family day-care home 70926
license to a youth development program that is exempted by 70927
division (B)(9) of section 5104.02 of the Revised Code from the 70928
requirements of this chapter if the youth development program 70929
applies for and meets all of the requirements for the license. 70930

Sec. 5104.03. (A) Any person, firm, organization, 70931
institution, or agency desiring to establish a child day-care 70932
center or type A family day-care home shall apply for a license to 70933
the director of job and family services on such form as the 70934
director prescribes. The director shall provide at no charge to 70935
each applicant for licensure a copy of the child care license 70936
requirements in this chapter and a copy of the rules adopted 70937
pursuant to this chapter. The copies may be provided in paper or 70938
electronic form. 70939

Fees shall be set by the director pursuant to section 70940
5104.011 of the Revised Code and shall be paid at the time of 70941
application for a license to operate a center or type A home. Fees 70942
collected under this section shall be paid into the state treasury 70943
to the credit of the general revenue fund. 70944

(B) Upon filing of the application for a license, the 70945
director shall investigate and inspect the center or type A home 70946
to determine the license capacity for each age category of 70947
children of the center or type A home and to determine whether the 70948
center or type A home complies with this chapter and rules adopted 70949
pursuant to this chapter. When, after investigation and 70950

inspection, the director is satisfied that this chapter and rules 70951
adopted pursuant to it are complied with, subject to division (G) 70952
of this section, a provisional license shall be issued as soon as 70953
practicable in such form and manner as prescribed by the director. 70954
The provisional license shall be valid for twelve months from the 70955
date of issuance unless revoked. 70956

(C) The director shall investigate and inspect the center or 70957
type A home at least once during operation under the provisional 70958
license. If after the investigation and inspection the director 70959
determines that the requirements of this chapter and rules adopted 70960
pursuant to this chapter are met, subject to division (G) of this 70961
section, the director shall issue a license to the center or home. 70962

(D) The license or provisional license shall state the name 70963
of the licensee, the name of the administrator, the address of the 70964
center or type A home, and the license capacity for each age 70965
category of children. The license or provisional license shall 70966
include thereon, in accordance with section 5104.011 of the 70967
Revised Code, the toll-free telephone number to be used by persons 70968
suspecting that the center or type A home has violated a provision 70969
of this chapter or rules adopted pursuant to this chapter. A 70970
license or provisional license is valid only for the licensee, 70971
administrator, address, and license capacity for each age category 70972
of children designated on the license. The license capacity 70973
specified on the license or provisional license is the maximum 70974
number of children in each age category that may be cared for in 70975
the center or type A home at one time. 70976

The center or type A home licensee shall notify the director 70977
when the administrator of the center or home changes. The director 70978
shall amend the current license or provisional license to reflect 70979
a change in an administrator, if the administrator meets the 70980
requirements of Chapter 5104. of the Revised Code and rules 70981
adopted pursuant to Chapter 5104. of the Revised Code, or a change 70982

in license capacity for any age category of children as determined 70983
by the director of job and family services. 70984

(E) If the director revokes the license of a center or a type 70985
A home, the director shall not issue another license to the owner 70986
of the center or type A home until five years have elapsed from 70987
the date the license is revoked. 70988

If the director denies an application for a license, the 70989
director shall not accept another application from the applicant 70990
until five years have elapsed from the date the application is 70991
denied. 70992

(F) If during the application for licensure process the 70993
director determines that the license of the owner has been 70994
revoked, the investigation of the center or type A home shall 70995
cease. This action does not constitute denial of the application 70996
and may not be appealed under division (G) of this section. 70997

(G) All actions of the director with respect to licensing 70998
centers or type A homes, refusal to license, and revocation of a 70999
license shall be in accordance with Chapter 119. of the Revised 71000
Code. Any applicant who is denied a license or any owner whose 71001
license is revoked may appeal in accordance with section 119.12 of 71002
the Revised Code. 71003

(H) In no case shall the director issue a license or 71004
provisional license under this section for a type A home or center 71005
if the director, based on documentation provided by the 71006
appropriate county department of job and family services, 71007
determines that the applicant previously had been certified as a 71008
type B family day-care home, that the county department revoked 71009
that certification within the immediately preceding five years, 71010
that the revocation was based on the applicant's refusal or 71011
inability to comply with the criteria for certification, and that 71012
the refusal or inability resulted in a risk to the health or 71013

safety of children. 71014

Sec. 5104.08. (A) There is hereby created in the department 71015
of job and family services a child care advisory council to advise 71016
and assist the department in the administration of this chapter 71017
and in the development of child care. The council shall consist of 71018
twenty-two voting members appointed by the director of job and 71019
family services with the approval of the governor. The director of 71020
job and family services, the director of developmental 71021
disabilities, the director of ~~mental health~~ mental health and 71022
addiction services, the superintendent of public instruction, the 71023
director of health, the director of commerce, and the state fire 71024
marshal shall serve as nonvoting members of the council. 71025

Six members shall be representatives of child care centers 71026
subject to licensing, the members to represent a variety of 71027
centers, including nonprofit and proprietary, from different 71028
geographical areas of the state. At least three members shall be 71029
parents, guardians, or custodians of children receiving child care 71030
or publicly funded child care in the child's own home, a center, a 71031
type A home, a head start program, a certified type B home, or a 71032
type B home at the time of appointment. Three members shall be 71033
representatives of in-home aides, type A homes, certified type B 71034
homes, or type B homes or head start programs. At least six 71035
members shall represent county departments of job and family 71036
services. The remaining members shall be representatives of the 71037
teaching, child development, and health professions, and other 71038
individuals interested in the welfare of children. At least six 71039
members of the council shall not be employees or licensees of a 71040
child day-care center, head start program, or type A home, or 71041
providers operating a certified type B home or type B home, or 71042
in-home aides. 71043

Appointments shall be for three-year terms. Vacancies shall 71044

be filled for the unexpired terms. A member of the council is 71045
subject to removal by the director of job and family services for 71046
a willful and flagrant exercise of authority or power that is not 71047
authorized by law, for a refusal or willful neglect to perform any 71048
official duty as a member of the council imposed by law, or for 71049
being guilty of misfeasance, malfeasance, nonfeasance, or gross 71050
neglect of duty as a member of the council. 71051

There shall be two co-chairpersons of the council. One 71052
co-chairperson shall be the director of job and family services or 71053
the director's designee, and one co-chairperson shall be elected 71054
by the members of the council. The council shall meet as often as 71055
is necessary to perform its duties, provided that it shall meet at 71056
least once in each quarter of each calendar year and at the call 71057
of the co-chairpersons. The co-chairpersons or their designee 71058
shall send to each member a written notice of the date, time, and 71059
place of each meeting. 71060

Members of the council shall serve without compensation, but 71061
shall be reimbursed for necessary expenses. 71062

(B) The child care advisory council shall advise the director 71063
on matters affecting the licensing of centers and type A homes and 71064
the certification of type B homes and in-home aides. The council 71065
shall make an annual report to the director of job and family 71066
services that addresses the availability, affordability, 71067
accessibility, and quality of child care and that summarizes the 71068
recommendations and plans of action that the council has proposed 71069
to the director during the preceding fiscal year. The director of 71070
job and family services shall provide copies of the report to the 71071
governor, speaker and minority leader of the house of 71072
representatives, and the president and minority leader of the 71073
senate and, on request, shall make copies available to the public. 71074

(C) The director of job and family services shall adopt rules 71075
pursuant to Chapter 119. of the Revised Code to implement this 71076

section. 71077

Sec. 5104.11. (A)(1) Every person desiring to receive 71078
certification for a type B family day-care home to provide 71079
publicly funded child care shall apply for certification to the 71080
county director of job and family services on such forms as the 71081
director of job and family services prescribes. The county 71082
director shall provide at no charge to each applicant a copy of 71083
rules for certifying type B family day-care homes adopted pursuant 71084
to this chapter. 71085

(2) Except as provided in division (G)(1) of section 5104.011 71086
of the Revised Code, after receipt of an application for 71087
certification from a type B family day-care home, the county 71088
director of job and family services shall inspect the home. If it 71089
complies with this chapter and any applicable rules adopted under 71090
this chapter, the county department shall certify the type B 71091
family day-care home to provide publicly funded child care 71092
pursuant to this chapter and any rules adopted under it. The 71093
director of job and family services or a county director of job 71094
and family services may contract with a government entity or a 71095
private nonprofit entity for that entity to inspect and certify 71096
type B family day-care homes pursuant to this section. The county 71097
department of job and family services, government entity, or 71098
nonprofit entity shall conduct the inspection prior to the 71099
issuance of a certificate for the type B home and, as part of that 71100
inspection, ensure that the type B home is safe and sanitary. 71101

(3)(a) On receipt of an application for certification for a 71102
type B family day-care home to provide publicly funded child care 71103
or for renewal of such certification, the county department shall 71104
request from ~~both of the following~~ the public children services 71105
agency information concerning any abuse or neglect report made 71106
pursuant to section 2151.421 of the Revised Code of which the 71107

applicant, any other adult residing in the applicant's home, or a 71108
person designated by the applicant to be an emergency or 71109
substitute caregiver for the applicant is the subject+ 71110

~~(i) The public children services agency, until the county 71111
department is notified by the department of job and family 71112
services that the uniform statewide automated child welfare 71113
information system has been finalized statewide; 71114~~

~~(ii) Upon receipt of notification under division (D) of 71115
section 5101.13 of the Revised Code that the uniform statewide 71116
automated child welfare information system has been implemented 71117
statewide, the uniform statewide automated child welfare 71118
information system via the department. 71119~~

(b) The county department shall consider any information 71120
provided by the agency ~~or the department~~ pursuant to section 71121
5153.175 of the Revised Code. If the county department determines 71122
that the information, when viewed within the totality of the 71123
circumstances, reasonably leads to the conclusion that the 71124
applicant may directly or indirectly endanger the health, safety, 71125
or welfare of children, the county department shall deny the 71126
application for certification or renewal of certification, or 71127
revoke the certification of an authorized provider. 71128

(c) As used in division (A)(3) of this section, "public 71129
children services agency" means either an entity separate from the 71130
county department or the part of the county department that serves 71131
as the county's public children services agency, as appropriate. 71132

(4) Except as provided in division (A)(5) of this section, an 71133
authorized provider of a type B family day-care home that receives 71134
a certificate pursuant to this section to provide publicly funded 71135
child care is an independent contractor and is not an employee of 71136
the county department of job and family services that issues the 71137
certificate. 71138

(5) For purposes of Chapter 4141. of the Revised Code, 71139
determinations concerning the employment of an authorized provider 71140
of a type B family day-care home that receives a certificate 71141
pursuant to this section shall be determined under Chapter 4141. 71142
of the Revised Code. 71143

(B)(1) If the county director of job and family services 71144
determines that the type B family day-care home complies with this 71145
chapter and any rules adopted under it, the county director shall 71146
issue to the provider a certificate to provide publicly funded 71147
child care, ~~which. The~~ certificate is valid for twelve months, 71148
unless revoked earlier. ~~The county director may revoke the~~ 71149
~~certificate after determining that revocation is necessary.~~ The 71150
authorized provider shall post the certificate in a conspicuous 71151
place in the certified type B home that is accessible to parents, 71152
custodians, or guardians at all times. The certificate shall state 71153
the name and address of the authorized provider, the maximum 71154
number of children who may be cared for at any one time in the 71155
certified type B home, the expiration date of the certification, 71156
and the name and telephone number of the county director who 71157
issued the certificate. 71158

(2) The county director may revoke a certificate to provide 71159
publicly funded child care in either of the following 71160
circumstances: 71161

(a) The county director determines, pursuant to rules adopted 71162
under Chapter 119. of the Revised Code, that revocation is 71163
necessary; 71164

(b) The authorized provider does not comply with division 71165
(D)(2) of section 5104.32 of the Revised Code. 71166

(C)(1) The county director shall inspect every certified type 71167
B family day-care home at least twice within each twelve-month 71168
period of the operation of the certified type B home. A minimum of 71169

one inspection shall be unannounced and all inspections may be unannounced. Upon receipt of a complaint, the county director shall investigate the certified type B home, and division (C)(2) of this section applies regarding the complaint. The authorized provider shall permit the county director to inspect any part of the certified type B home. The county director shall prepare a written inspection report and furnish one copy to the authorized provider within a reasonable time after the inspection.

(2) Upon receipt of a complaint as described in division (C)(1) of this section, in addition to the investigation that is required under that division, both of the following apply:

(a) If the complaint alleges that a child suffered physical harm while receiving child care at the certified type B family day-care home or that the noncompliance with law or act alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the home, the county director shall inspect the home.

(b) If division (C)(2)(a) of this section does not apply regarding the complaint, the county director may inspect the certified type B family day-care home.

(3) Division (C)(2) of this section does not limit, restrict, or negate any duty of the county director to inspect a certified type B family day-care home that otherwise is imposed under this section, or any authority of the county director to inspect a home that otherwise is granted under this section when the county director believes the inspection is necessary and it is permitted under the grant.

(D) The county director of job and family services, in accordance with rules adopted pursuant to section 5104.052 of the Revised Code regarding fire safety and fire prevention, shall inspect each type B home that applies to be certified that is

providing or is to provide publicly funded child care. 71201

(E) All materials that are supplied by the department of job 71202
and family services to type A family day-care home providers, type 71203
B family day-care home providers, in-home aides, persons who 71204
desire to be type A family day-care home providers, type B family 71205
day-care home providers, or in-home aides, and caretaker parents 71206
shall be written at no higher than the sixth grade reading level. 71207
The department may employ a readability expert to verify its 71208
compliance with this division. 71209

Sec. 5104.12. (A) The county director of job and family 71210
services may certify in-home aides to provide publicly funded 71211
child care pursuant to this chapter and any rules adopted under 71212
it. Any in-home aide who receives a certificate pursuant to this 71213
section to provide publicly funded child care is an independent 71214
contractor and is not an employee of the county department of job 71215
and family services that issues the certificate. 71216

(B) Every person desiring to receive certification as an 71217
in-home aide shall apply for certification to the county director 71218
of job and family services on such forms as the director of job 71219
and family services prescribes. The county director shall provide 71220
at no charge to each applicant a copy of rules for certifying 71221
in-home aides adopted pursuant to this chapter. 71222

(C)(1) If the county director of job and family services 71223
determines that public funds are available and that the person 71224
complies with this chapter and any rules adopted under it, the 71225
county director shall certify the person as an in-home aide and 71226
issue the person a certificate to provide publicly funded child 71227
care for twelve months. ~~The county director may revoke the~~ 71228
~~certificate after determining that revocation is necessary.~~ 71229
The county director shall furnish a copy of the certificate to the 71230
parent, custodian, or guardian. The certificate shall state the 71231

name and address of the in-home aide, the expiration date of the 71232
certification, and the name and telephone number of the county 71233
director who issued the certificate. 71234

(2) The county director may revoke the certificate in either 71235
of the following circumstances: 71236

(a) The county director determines, pursuant to rules adopted 71237
under Chapter 119. of the Revised Code, that revocation is 71238
necessary; 71239

(b) The in-home aide does not comply with division (D)(2) of 71240
section 5104.32 of the Revised Code. 71241

(D)(1) The county director of job and family services shall 71242
inspect every home of a child who is receiving publicly funded 71243
child care in the child's own home while the in-home aide is 71244
providing the services. Inspections may be unannounced. Upon 71245
receipt of a complaint, the county director shall investigate the 71246
in-home aide, shall investigate the home of a child who is 71247
receiving publicly funded child care in the child's own home, and 71248
division (D)(2) of this section applies regarding the complaint. 71249
The caretaker parent shall permit the county director to inspect 71250
any part of the child's home. The county director shall prepare a 71251
written inspection report and furnish one copy each to the in-home 71252
aide and the caretaker parent within a reasonable time after the 71253
inspection. 71254

(2) Upon receipt of a complaint as described in division 71255
(D)(1) of this section, in addition to the investigations that are 71256
required under that division, both of the following apply: 71257

(a) If the complaint alleges that a child suffered physical 71258
harm while receiving publicly funded child care in the child's own 71259
home from an in-home aide or that the noncompliance with law or 71260
act alleged in the complaint involved, resulted in, or poses a 71261
substantial risk of physical harm to a child receiving publicly 71262

funded child care in the child's own home from an in-home aide, 71263
the county director shall inspect the home of the child. 71264

(b) If division (D)(2)(a) of this section does not apply 71265
regarding the complaint, the county director may inspect the home 71266
of the child. 71267

(3) Division (D)(2) of this section does not limit, restrict, 71268
or negate any duty of the county director to inspect a home of a 71269
child who is receiving publicly funded child care from an in-home 71270
aide that otherwise is imposed under this section, or any 71271
authority of the county director to inspect such a home that 71272
otherwise is granted under this section when the county director 71273
believes the inspection is necessary and it is permitted under the 71274
grant. 71275

Sec. 5104.32. (A) Except as provided in division (C) of this 71276
section, all purchases of publicly funded child care shall be made 71277
under a contract entered into by a licensed child day-care center, 71278
licensed type A family day-care home, certified type B family 71279
day-care home, certified in-home aide, approved child day camp, 71280
licensed preschool program, licensed school child program, or 71281
border state child care provider and the department of job and 71282
family services. All contracts for publicly funded child care 71283
shall be contingent upon the availability of state and federal 71284
funds. The department shall prescribe a standard form to be used 71285
for all contracts for the purchase of publicly funded child care, 71286
regardless of the source of public funds used to purchase the 71287
child care. To the extent permitted by federal law and 71288
notwithstanding any other provision of the Revised Code that 71289
regulates state contracts or contracts involving the expenditure 71290
of state or federal funds, all contracts for publicly funded child 71291
care shall be entered into in accordance with the provisions of 71292
this chapter and are exempt from any other provision of the 71293

Revised Code that regulates state contracts or contracts involving 71294
the expenditure of state or federal funds. 71295

(B) Each contract for publicly funded child care shall 71296
specify at least the following: 71297

(1) That the provider of publicly funded child care agrees to 71298
be paid for rendering services at the lower of the rate 71299
customarily charged by the provider for children enrolled for 71300
child care or the reimbursement ceiling or rate of payment 71301
established pursuant to section 5104.30 of the Revised Code; 71302

(2) That, if a provider provides child care to an individual 71303
potentially eligible for publicly funded child care who is 71304
subsequently determined to be eligible, the department agrees to 71305
pay for all child care provided between the date the county 71306
department of job and family services receives the individual's 71307
completed application and the date the individual's eligibility is 71308
determined; 71309

(3) Whether the county department of job and family services, 71310
the provider, or a child care resource and referral service 71311
organization will make eligibility determinations, whether the 71312
provider or a child care resource and referral service 71313
organization will be required to collect information to be used by 71314
the county department to make eligibility determinations, and the 71315
time period within which the provider or child care resource and 71316
referral service organization is required to complete required 71317
eligibility determinations or to transmit to the county department 71318
any information collected for the purpose of making eligibility 71319
determinations; 71320

(4) That the provider, other than a border state child care 71321
provider, shall continue to be licensed, approved, or certified 71322
pursuant to this chapter and shall comply with all standards and 71323
other requirements in this chapter and in rules adopted pursuant 71324

to this chapter for maintaining the provider's license, approval, 71325
or certification; 71326

(5) That, in the case of a border state child care provider, 71327
the provider shall continue to be licensed, certified, or 71328
otherwise approved by the state in which the provider is located 71329
and shall comply with all standards and other requirements 71330
established by that state for maintaining the provider's license, 71331
certificate, or other approval; 71332

(6) Whether the provider will be paid by the state department 71333
of job and family services or in some other manner as prescribed 71334
by rules adopted under section 5104.42 of the Revised Code; 71335

(7) That the contract is subject to the availability of state 71336
and federal funds. 71337

(C) Unless specifically prohibited by federal law or by rules 71338
adopted under section 5104.42 of the Revised Code, the county 71339
department of job and family services shall give individuals 71340
eligible for publicly funded child care the option of obtaining 71341
certificates that the individual may use to purchase services from 71342
any provider qualified to provide publicly funded child care under 71343
section 5104.31 of the Revised Code. Providers of publicly funded 71344
child care may present these certificates for payment in 71345
accordance with rules that the director of job and family services 71346
shall adopt. Only providers may receive payment for certificates. 71347
The value of the certificate shall be based on the lower of the 71348
rate customarily charged by the provider or the rate of payment 71349
established pursuant to section 5104.30 of the Revised Code. The 71350
county department may provide the certificates to the individuals 71351
or may contract with child care providers or child care resource 71352
and referral service organizations that make determinations of 71353
eligibility for publicly funded child care pursuant to contracts 71354
entered into under section 5104.34 of the Revised Code for the 71355
providers or resource and referral service organizations to 71356

provide the certificates to individuals whom they determine are 71357
eligible for publicly funded child care. 71358

For each six-month period a provider of publicly funded child 71359
care provides publicly funded child care to the child of an 71360
individual given certificates, the individual shall provide the 71361
provider certificates for days the provider would have provided 71362
publicly funded child care to the child had the child been 71363
present. The maximum number of days providers shall be provided 71364
certificates shall not exceed ten days in a six-month period 71365
during which publicly funded child care is provided to the child 71366
regardless of the number of providers that provide publicly funded 71367
child care to the child during that period. 71368

(D)(1) The department shall establish the Ohio electronic 71369
child care system to track attendance and calculate payments for 71370
publicly funded child care. The system shall include issuing an 71371
electronic child care card to each caretaker parent to swipe 71372
through a point-of-service device issued to an eligible provider, 71373
as described in section 5104.31 of the Revised Code. 71374

(2) Each eligible provider that provides publicly funded 71375
child care shall participate in the Ohio electronic child care 71376
system. A provider participating in the system shall not do any of 71377
the following: 71378

(a) Use or have possession of an electronic child care card 71379
issued to a caretaker parent; 71380

(b) Falsify attendance records; 71381

(c) Knowingly seek payment for publicly funded child care 71382
that was not provided; 71383

(d) Knowingly accept reimbursement for publicly funded child 71384
care that was not provided. 71385

Sec. 5107.10. (A) As used in this section: 71386

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code. 71387
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(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code, except that references to a person's family in the definition shall be deemed to be references to the person's assistance group. 71390
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(3) "Gross income" means gross earned income and gross unearned income. 71394
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(4) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment. 71396
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(B) Under the Ohio works first program, an assistance group shall receive, except as otherwise provided by this chapter, time-limited cash assistance. In the case of an assistance group that includes a minor head of household or adult, assistance shall be provided in accordance with the self-sufficiency contract entered into under section 5107.14 of the Revised Code. 71405
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(C) To be eligible to participate in Ohio works first, an assistance group must meet all of the following requirements: 71411
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(1) The assistance group, except as provided in division (E) of this section, must include at least one of the following: 71413
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(a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A 71415
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and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;

(b) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;

(c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care or adoption assistance;

(d) A woman at least six months pregnant.

(2) The assistance group must meet the income requirements established by division (D) of this section.

(3) No member of the assistance group may be involved in a strike.

(4) The assistance group must satisfy the requirements for Ohio works first established by this chapter and ~~sections 5101.58, 5101.59, and~~ section 5101.83 of the Revised Code.

(5) The assistance group must meet requirements for Ohio works first established by rules adopted under section 5107.05 of the Revised Code.

(D)(1) Except as provided in division (D)(4) of this section, to determine whether an assistance group is initially eligible to participate in Ohio works first, a county department of job and family services shall do the following:

(a) Determine whether the assistance group's gross income exceeds fifty per cent of the federal poverty guidelines. In making this determination, the county department shall disregard amounts that federal statutes or regulations and sections 5101.17

and 5117.10 of the Revised Code require be disregarded. The 71448
assistance group is ineligible to participate in Ohio works first 71449
if the assistance group's gross income, less the amounts 71450
disregarded, exceeds fifty per cent of the federal poverty 71451
guidelines. 71452

(b) If the assistance group's gross income, less the amounts 71453
disregarded pursuant to division (D)(1)(a) of this section, does 71454
not exceed fifty per cent of the federal poverty guidelines, 71455
determine whether the assistance group's countable income is less 71456
than the payment standard. The assistance group is ineligible to 71457
participate in Ohio works first if the assistance group's 71458
countable income equals or exceeds the payment standard. 71459

(2) For the purpose of determining whether an assistance 71460
group meets the income requirement established by division 71461
(D)(1)(a) of this section, the annual revision that the United 71462
States department of health and human services makes to the 71463
federal poverty guidelines shall go into effect on the first day 71464
of July of the year for which the revision is made. 71465

(3) To determine whether an assistance group participating in 71466
Ohio works first continues to be eligible to participate, a county 71467
department of job and family services shall determine whether the 71468
assistance group's countable income continues to be less than the 71469
payment standard. In making this determination, the county 71470
department shall disregard the first two hundred fifty dollars and 71471
fifty per cent of the remainder of the assistance group's gross 71472
earned income. No amounts shall be disregarded from the assistance 71473
group's gross unearned income. The assistance group ceases to be 71474
eligible to participate in Ohio works first if its countable 71475
income, less the amounts disregarded, equals or exceeds the 71476
payment standard. 71477

(4) If an assistance group reapplies to participate in Ohio 71478
works first not more than four months after ceasing to 71479

participate, a county department of job and family services shall 71480
use the income requirement established by division (D)(3) of this 71481
section to determine eligibility for resumed participation rather 71482
than the income requirement established by division (D)(1) of this 71483
section. 71484

(E)(1) An assistance group may continue to participate in 71485
Ohio works first even though a public children services agency 71486
removes the assistance group's minor children from the assistance 71487
group's home due to abuse, neglect, or dependency if the agency 71488
does both of the following: 71489

(a) Notifies the county department of job and family services 71490
at the time the agency removes the children that it believes the 71491
children will be able to return to the assistance group within six 71492
months; 71493

(b) Informs the county department at the end of each of the 71494
first five months after the agency removes the children that the 71495
parent, guardian, custodian, or specified relative of the children 71496
is cooperating with the case plans prepared for the children under 71497
section 2151.412 of the Revised Code and that the agency is making 71498
reasonable efforts to return the children to the assistance group. 71499

(2) An assistance group may continue to participate in Ohio 71500
works first pursuant to division (E)(1) of this section for not 71501
more than six payment months. This division does not affect the 71502
eligibility of an assistance group that includes a woman at least 71503
six months pregnant. 71504

Sec. 5107.14. (A) An assistance group is ineligible to 71505
participate in Ohio works first unless the following enter into a 71506
written self-sufficiency contract with the county department of 71507
job and family services: 71508

(1) Each adult member of the assistance group; 71509

- (2) The assistance group's minor head of household. 71510
- (B) A self-sufficiency contract shall set forth the rights 71511
and responsibilities of the assistance group as applicants for and 71512
participants of Ohio works first. Each self-sufficiency contract 71513
shall include, based on appraisals conducted under section 5107.41 71514
of the Revised Code and assessments conducted under section 71515
5107.70 of the Revised Code, the following: 71516
- (1) The assistance group's plan, developed under section 71517
5107.41 of the Revised Code, to achieve the goal of self 71518
sufficiency and personal responsibility through unsubsidized 71519
employment within the time limit for participating in Ohio works 71520
first established by section 5107.18 of the Revised Code; 71521
- (2) Work activities, developmental activities, and 71522
alternative work activities to which members of the assistance 71523
group are assigned under sections 5107.40 to 5107.69 of the 71524
Revised Code; 71525
- (3) The responsibility of a caretaker member of the 71526
assistance group to cooperate in establishing a minor child's 71527
paternity and establishing, modifying, and enforcing a support 71528
order for the child in accordance with section 5107.22 of the 71529
Revised Code; 71530
- (4) Other responsibilities that members of the assistance 71531
group must satisfy to participate in Ohio works first and the 71532
consequences for failure or refusal to satisfy the 71533
responsibilities; 71534
- (5) An agreement that, except as otherwise provided in a 71535
waiver issued under section 5107.714 of the Revised Code, the 71536
assistance group will comply with the conditions of participating 71537
in Ohio works first established by this chapter and ~~sections~~ 71538
~~5101.58, 5101.59, and~~ section 5101.83 of the Revised Code; 71539
- (6) Assistance and services the county department will 71540

provide to the assistance group; 71541

(7) Assistance and services the child support enforcement 71542
agency and public children services agency will provide to the 71543
assistance group pursuant to a plan of cooperation entered into 71544
under section 307.983 of the Revised Code; 71545

(8) Other provisions designed to assist the assistance group 71546
in achieving self sufficiency and personal responsibility; 71547

(9) Procedures for assessing whether responsibilities are 71548
being satisfied and whether the contract should be amended; 71549

(10) Procedures for amending the contract. 71550

(C) No self-sufficiency contract shall include provisions 71551
regarding the LEAP program. 71552

(D) The county department shall provide without charge a copy 71553
of the self-sufficiency contract to each assistance group member 71554
who signs it. 71555

Sec. 5107.16. (A) If a member of an assistance group fails or 71556
refuses, without good cause, to comply in full with a provision of 71557
a self-sufficiency contract entered into under section 5107.14 of 71558
the Revised Code, a county department of job and family services 71559
shall sanction the assistance group as follows: 71560

(1) For a first failure or refusal, the county department 71561
shall deny or terminate the assistance group's eligibility to 71562
participate in Ohio works first for one payment month or until the 71563
failure or refusal ceases, whichever is longer; 71564

(2) For a second failure or refusal, the county department 71565
shall deny or terminate the assistance group's eligibility to 71566
participate in Ohio works first for three payment months or until 71567
the failure or refusal ceases, whichever is longer; 71568

(3) For a third or subsequent failure or refusal, the county 71569

department shall deny or terminate the assistance group's 71570
eligibility to participate in Ohio works first for six payment 71571
months or until the failure or refusal ceases, whichever is 71572
longer. 71573

(B) The director of job and family services shall establish 71574
standards for the determination of good cause for failure or 71575
refusal to comply in full with a provision of a self-sufficiency 71576
contract in rules adopted under section 5107.05 of the Revised 71577
Code. 71578

(C) An assistance group member who fails or refuses, without 71579
good cause, to comply in full with a provision of a 71580
self-sufficiency contract must complete all compliance activities 71581
specified in rules adopted under section 5107.05 of the Revised 71582
Code in order for the failure or refusal to be considered to have 71583
ceased. 71584

(D) After sanctioning an assistance group under division (A) 71585
of this section, a county department of job and family services 71586
shall continue to work with the assistance group. 71587

(E) An adult eligible for medicaid ~~pursuant to division~~ 71588
~~(C)(1)(a) of section 5111.01 of the Revised Code~~ who is sanctioned 71589
under division (A)(3) of this section for a failure or refusal, 71590
without good cause, to comply in full with a provision of a 71591
self-sufficiency contract related to work responsibilities under 71592
sections 5107.40 to 5107.69 of the Revised Code loses eligibility 71593
for medicaid unless the adult is otherwise eligible for medicaid 71594
pursuant to ~~another division of section 5111.01 of the Revised~~ 71595
~~Code~~ an eligibility category other than the category associated 71596
with Title IV-A. 71597

An assistance group that would be participating in Ohio works 71598
first if not for a sanction under this section shall continue to 71599
be eligible for all of the following: 71600

(1) Publicly funded child care in accordance with division 71601
(A)(3) of section 5104.30 of the Revised Code; 71602

(2) Support services in accordance with section 5107.66 of 71603
the Revised Code; 71604

(3) To the extent permitted by the "Fair Labor Standards Act 71605
of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, to participate 71606
in work activities, developmental activities, and alternative work 71607
activities in accordance with sections 5107.40 to 5107.69 of the 71608
Revised Code. 71609

Sec. 5107.20. As used in this section, "support" means child 71610
support, spousal support, and support for a spouse or a former 71611
spouse. 71612

Participation in Ohio works first constitutes an assignment 71613
to the department of job and family services of any rights members 71614
of an assistance group have to support from any other person, 71615
~~excluding medical support assigned pursuant to section 5101.59 of~~ 71616
~~the Revised Code.~~ The rights to support assigned to the department 71617
pursuant to this section constitute an obligation of the person 71618
who is responsible for providing the support to the state for the 71619
amount of cash assistance provided to the assistance group. 71620

The office of child support in the department of job and 71621
family services shall collect and distribute support payments owed 71622
to Ohio works first participants, whether assigned to the 71623
department or unassigned, in accordance with 42 U.S.C. 654 B and 71624
657 and regulations adopted under those statutes, state statutes, 71625
and rules adopted under section 5107.05 of the Revised Code. 71626

Upon implementation of centralized collection and 71627
disbursement under Chapter 3121. of the Revised Code, in 71628
accordance with 42 U.S.C. 654 B and 657 and regulations adopted 71629
under those statutes, the department shall deposit support 71630

payments it receives pursuant to this section into the state 71631
treasury to the credit of the child support collections fund or 71632
the child support administrative fund, both of which are hereby 71633
created. Money credited to the funds shall be used to make cash 71634
assistance payments under Ohio works first. 71635

Sec. 5107.24. (A) As used in this section: 71636

(1) "Adult-supervised living arrangement" means a family 71637
setting approved, licensed, or certified by the department of job 71638
and family services, the department of ~~mental health~~ mental health 71639
and addiction services, the department of developmental 71640
disabilities, the department of youth services, a public children 71641
services agency, a private child placing agency, or a private 71642
noncustodial agency that is maintained by a person age eighteen or 71643
older who assumes responsibility for the care and control of a 71644
minor parent, pregnant minor, or child of a minor parent or 71645
provides the minor parent, pregnant minor, or child of a minor 71646
parent supportive services, including counseling, guidance, and 71647
supervision. "Adult-supervised living arrangement" does not mean a 71648
public institution. 71649

(2) "Child of a minor parent" means a child born to a minor 71650
parent, except that the child ceases to be considered a child of 71651
minor parent when the minor parent attains age eighteen. 71652

(3) "Minor parent" means a parent who is under age eighteen 71653
and is not married. 71654

(4) "Pregnant minor" means a pregnant person who is under age 71655
eighteen and not married. 71656

(B)(1) Except as provided in division (B)(2) of this section 71657
and to the extent permitted by Title IV-A and federal regulations 71658
adopted under Title IV-A, a pregnant minor, minor parent, or child 71659
of a minor parent must reside in a place of residence maintained 71660

by a parent, guardian, custodian, or specified relative of the 71661
pregnant minor or minor parent as the parent's, guardian's, 71662
custodian's, or specified relative's own home to be eligible to 71663
participate in Ohio works first. 71664

(2) To the extent permitted by Title IV-A and federal 71665
regulations adopted under it, a pregnant minor, minor parent, or 71666
child of a minor parent is exempt from the requirement of division 71667
(B)(1) of this section if any of the following apply: 71668

(a) The minor parent or pregnant minor does not have a 71669
parent, guardian, custodian, or specified relative living or whose 71670
whereabouts are known. 71671

(b) No parent, guardian, custodian, or specified relative of 71672
the minor parent or pregnant minor will allow the pregnant minor, 71673
minor parent, or minor parent's child to live in the parent's, 71674
guardian's, custodian's, or specified relative's home. 71675

(c) The department of job and family services, a county 71676
department of job and family services, or a public children 71677
services agency determines that the physical or emotional health 71678
or safety of the pregnant minor, minor parent, or minor parent's 71679
child would be in jeopardy if the pregnant minor, minor parent, or 71680
minor parent's child lived in the same home as the parent, 71681
guardian, custodian, or specified relative. 71682

(d) The department of job and family services, a county 71683
department of job and family services, or a public children 71684
services agency otherwise determines that it is in the best 71685
interest of the pregnant minor, minor parent, or minor parent's 71686
child to waive the requirement of division (B)(1) of this section. 71687

(C) A pregnant minor, minor parent, or child of a minor 71688
parent exempt from the requirement of division (B)(1) of this 71689
section must reside in an adult-supervised living arrangement to 71690
be eligible to participate in Ohio works first. 71691

(D) The department of job and family services, whenever possible and to the extent permitted by Title IV-A and federal regulations adopted under it, shall provide cash assistance under Ohio works first to the parent, guardian, custodian, or specified relative of a pregnant minor or minor parent on behalf of the pregnant minor, minor parent, or minor parent's child.

Sec. 5107.26. (A) As used in this section:

~~(1) "Transitional, "transitional child care" means publicly funded child care provided under division (A)(3) of section 5104.34 of the Revised Code.~~

~~(2) "Transitional medicaid" means the medical assistance provided under section 5111.0115 of the Revised Code.~~

(B) Except as provided in division (C) of this section, ~~each:~~

(1) Each member of an assistance group participating in Ohio works first is ineligible to participate in the program for six payment months if a county department of job and family services determines that a member of the assistance group terminated the member's employment ~~and each.~~

(2) Each person who, on the day prior to the day a recipient begins to receive transitional child care ~~or transitional medicaid~~, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment.

(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child care ~~or transitional medicaid~~ secured comparable or better employment or the county department of job and family services

certifies that the member or recipient terminated the employment with just cause.

Just cause includes the following:

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin;

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(3) Employment that has become unsuitable due to any of the following:

(a) The wage is less than the federal minimum wage;

(b) The work is at a site subject to a strike or lockout, unless the strike has been enjoined under section 208 of the "Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 178, as amended, an injunction has been issued under section 10 of the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as amended, or an injunction has been issued under section 4117.16 of the Revised Code;

(c) The documented degree of risk to the member or recipient's health and safety is unreasonable;

(d) The member or recipient is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(4) Documented illness of the member or recipient or of another assistance group member of the member or recipient requiring the presence of the member or recipient;

(5) A documented household emergency;

(6) Lack of adequate child care for children of the member or recipient who are under six years of age.

Sec. 5107.42. (A) Except as provided in divisions (B) and (C) 71751
of this section, county departments of job and family services 71752
shall assign each minor head of household and adult participating 71753
in Ohio works first, other than a minor head of household 71754
participating in the LEAP program, to one or more work activities 71755
and developmental activities. 71756

If a county department assigns a minor head of household or 71757
adult to the work activity established under division (H) of 71758
section 5107.60 of the Revised Code, the county department shall 71759
make reasonable efforts to assign the minor head of household or 71760
adult to at least one other work activity at the same time. If a 71761
county department assigns a minor head of household or adult to 71762
the work activity established under section 5107.58 of the Revised 71763
Code, the county department shall assign the minor head of 71764
household or adult to at least one other work activity at the same 71765
time. 71766

A county department may not assign a minor head of household 71767
or adult to a work activity established under division (D) of 71768
section 5107.60 of the Revised Code for more than twelve months. 71769

(B) If a county department determines that a minor head of 71770
household or adult has a temporary or permanent barrier to 71771
participation in a work activity, it may assign the minor head of 71772
household or adult to one or more alternative work activities 71773
instead of assigning the minor head of household or adult to one 71774
or more work activities or developmental activities. A county 71775
department may not assign more than twenty per cent of minor heads 71776
of household and adults participating in Ohio works first to an 71777
alternative work activity. 71778

County departments shall establish standards for determining 71779
whether a minor head of household or adult has a temporary or 71780
permanent barrier to participating in a work activity. The 71781

following are examples of circumstances that a county department
may consider when it develops its standards:

(1) A minor head of household or adult provides the county
department documented evidence that one or more members of the
assistance group have been the victim of domestic violence and are
in imminent danger of suffering continued domestic violence;

(2) A minor head of household or adult is actively
participating in ~~an alcohol or drug~~ a community addiction ~~program~~
services provider certified by the department of ~~alcohol and drug~~
~~addiction services~~ mental health and addiction services under
section ~~3793.06~~ 5119.36 of the Revised Code;

(3) An assistance group is homeless.

(C) A county department may exempt a minor head of household
or adult who is unmarried and caring for a minor child under
twelve months of age from the work requirements of sections
5107.40 to 5107.69 of the Revised Code for not more than twelve
months. While exempt, the minor head of household or adult shall
be disregarded in determining whether the county department is
meeting the requirement of section 5107.44 of the Revised Code.
The county department shall assign the exempt minor head of
household or adult to at least one developmental activity for a
number of hours a week the county department determines. The
county department may assign the exempt minor head of household or
adult to one or more work activities, in addition to developmental
activities, for a number of hours the county department
determines. Division (B) of section 5107.43 of the Revised Code
does not apply to the exempt minor head of household or adult.

(D) A county department may reassign a minor head of
household or adult when the county department determines
reassignment will aid the assistance group in achieving self
sufficiency and personal responsibility and shall make

reassignments when circumstances requiring reassignment occur, 71813
including when a temporary barrier to participating in a work 71814
activity is eliminated. 71815

A county department shall include assignments in the 71816
self-sufficiency contract entered into under section 5107.14 of 71817
the Revised Code and shall amend the contract when a reassignment 71818
is made to include the reassignment in the contract. 71819

Sec. 5107.64. County departments of job and family services 71820
shall establish and administer alternative work activities for 71821
minor heads of households and adults participating in Ohio works 71822
first. In establishing alternative work activities, county 71823
departments are not limited by the restrictions Title IV-A imposes 71824
on work activities. The following are examples of alternative work 71825
activities that a county department may establish: 71826

(A) Parenting classes and life-skills training; 71827

(B) Participation in ~~an alcohol or drug~~ a community addiction 71828
~~program~~ services provider certified by the department of ~~alcohol~~ 71829
~~and drug addiction services~~ mental health and addiction services 71830
under section ~~3793.06~~ 5119.36 of the Revised Code; 71831

(C) In the case of a homeless assistance group, finding a 71832
home; 71833

(D) In the case of a minor head of household or adult with a 71834
disability, active work in an individual written rehabilitation 71835
plan with the rehabilitation services commission; 71836

(E) In the case of a minor head of household or adult who has 71837
been the victim of domestic violence, residing in a domestic 71838
violence shelter, receiving counseling or treatment related to the 71839
domestic violence, or participating in criminal justice activities 71840
against the domestic violence offender; 71841

(F) An education program under which a participant who does 71842

not speak English attends English as a second language course. 71843

Sec. 5115.20. (A) The department of job and family services 71844
shall establish a disability advocacy program and each county 71845
department of job and family services shall establish a disability 71846
advocacy program unit or join with other county departments of job 71847
and family services to establish a joint county disability 71848
advocacy program unit. Through the program the department and 71849
county departments shall cooperate in efforts to assist applicants 71850
for and recipients of assistance under the disability financial 71851
assistance program, who might be eligible for supplemental 71852
security income benefits under Title XVI of the "Social Security 71853
Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, in 71854
applying for those benefits. 71855

As part of their disability advocacy programs, the state 71856
department and county departments may enter into contracts for the 71857
services of persons and government entities that in the judgment 71858
of the department or county department have demonstrated expertise 71859
in representing persons seeking supplemental security income 71860
benefits. Each contract shall require the person or entity with 71861
which a department contracts to assess each person referred to it 71862
by the department to determine whether the person appears to be 71863
eligible for supplemental security income benefits, and, if the 71864
person appears to be eligible, assist the person in applying and 71865
represent the person in any proceeding of the social security 71866
administration, including any appeal or reconsideration of a 71867
denial of benefits. The department or county department shall 71868
provide to the person or entity with which it contracts all 71869
records in its possession relevant to the application for 71870
supplemental security income benefits. The department shall 71871
require a county department with relevant records to submit them 71872
to the person or entity. 71873

(B) Each applicant for or recipient of disability financial assistance who, in the judgment of the department of job and family services or a county department of job and family services might be eligible for supplemental security benefits, shall, as a condition of eligibility for assistance, apply for such benefits if directed to do so by the department or county department.

(C) With regard to applicants for and recipients of disability financial assistance, each county department of job and family services shall do all of the following:

(1) Identify applicants and recipients who might be eligible for supplemental security income benefits;

(2) Assist applicants and recipients in securing documentation of disabling conditions or refer them for such assistance to a person or government entity with which the department of job and family services or county department has contracted under division (A) of this section;

(3) Inform applicants and recipients of available sources of representation, which may include a person or government entity with which the department or county department has contracted under division (A) of this section, and of their right to represent themselves in reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits. The county department may require the applicants and recipients, as a condition of eligibility for assistance, to pursue reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits, and shall assist applicants and recipients as necessary to obtain such benefits or refer them to a person or government entity with which the department or county department has contracted under division (A) of this section.

(4) Require applicants and recipients who, in the judgment of

the county department, are or may be aged, blind, or disabled, to 71905
apply for ~~medical assistance under Chapter 5111. of the Revised~~ 71906
~~Code~~ the medicaid program, make determinations when appropriate as 71907
to eligibility for ~~medical assistance~~ medicaid, and refer their 71908
applications when necessary to the disability determination unit 71909
established in accordance with division (F) of this section for 71910
expedited review; 71911

(5) Require each applicant and recipient who in the judgment 71912
of the department or the county department might be eligible for 71913
supplemental security income benefits, as a condition of 71914
eligibility for disability financial assistance, to execute a 71915
written authorization for the secretary of health and human 71916
services to withhold benefits due that individual and pay to the 71917
director of job and family services or the director's designee an 71918
amount sufficient to reimburse the state and county shares of 71919
interim assistance furnished to the individual. For the purposes 71920
of division (C)(5) of this section, "benefits" and "interim 71921
assistance" have the meanings given in Title XVI of the "Social 71922
Security Act." 71923

(D) The director of job and family services shall adopt rules 71924
in accordance with section 111.15 of the Revised Code for the 71925
effective administration of the disability advocacy program. The 71926
rules shall include all of the following: 71927

(1) Methods to be used in collecting information from and 71928
disseminating it to county departments, including the following: 71929

(a) The number of individuals in the county who are disabled 71930
recipients of disability financial assistance; 71931

(b) The final decision made either by the social security 71932
administration or by a court for each application or 71933
reconsideration in which an individual was assisted pursuant to 71934
this section. 71935

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department of job and family services shall provide basic and continuing training to employees of the county department of job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The department of medicaid shall establish a disability determination unit and develop guidelines for expediting reviews of applications for ~~medical assistance under Chapter 5111. of the Revised Code~~ the medicaid program for persons who have been referred to the unit under division (C)(4) of this section. The department of medicaid shall make determinations of eligibility for ~~medical assistance~~ medicaid for any such person within the time prescribed by federal regulations.

(G) The department of job and family services may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director of job and family services shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the

rules adopted by the director pursuant to this section. 71967

Sec. 5117.10. (A) On or before the fifteenth day of January, 71968
the director of development shall pay each applicant determined 71969
eligible for a payment under divisions (A) and (B) of section 71970
5117.07 of the Revised Code one hundred twenty-five dollars. 71971

(B) The director may withhold from any payment to which a 71972
person would otherwise be entitled under division (A) of this 71973
section any amount that the director determines was erroneously 71974
received by such person in a preceding year under this or the 71975
program established under Am. Sub. H.B. 230, as amended by Am. 71976
H.B. 937, Am. Sub. H.B. 1073, Am. Sub. S.B. 493, and Am. Sub. S.B. 71977
523 of the 112th general assembly, provided the director has 71978
employed all other legal methods reasonably available to obtain 71979
reimbursement for the erroneous payment or credit prior to the 71980
commencement of the current program year. 71981

(C) Payments made under this section and credits granted 71982
under section 5117.09 of the Revised Code shall not be considered 71983
income for the purpose of determining eligibility or the level of 71984
benefits or assistance under section 329.042 or Chapters 5107.7 71985
~~5111.7~~ and 5115. of the Revised Code; the medicaid program; 71986
supplemental security income payments under Title XVI of the 71987
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 71988
amended; or any other program under which eligibility or the level 71989
of benefits or assistance is based upon need measured by income. 71990

Sec. ~~3793.01~~ 5119.01. (A) As used in this chapter: 71991

(1) "Addiction" means the chronic and habitual use of 71992
alcoholic beverages, the use of a drug of abuse as defined in 71993
section 3719.011 of the Revised Code, or the use of gambling by an 71994
individual to the extent that the individual no longer can control 71995
the individual's use of alcohol, the individual becomes physically 71996

or psychologically dependent on the drug, the individual's use of 71997
alcohol or drugs endangers the health, safety, or welfare of the 71998
individual or others, or the individual's gambling causes 71999
psychological, financial, emotional, marital, legal, or other 72000
difficulties endangering the health, safety, or welfare of the 72001
individual or others. 72002

(2) "Addiction services" means services, including 72003
intervention, for the treatment of persons with alcohol, drug, or 72004
gambling addictions, and for the prevention of such addictions. 72005

(3) "Alcohol and drug addiction services" means services, 72006
including intervention, for the treatment of alcoholics or persons 72007
who abuse drugs of abuse and for the prevention of alcoholism and 72008
drug addiction. 72009

(4) "Alcoholic" means a person suffering from alcoholism. 72010

(5) "Alcoholism" means the chronic and habitual use of 72011
alcoholic beverages by an individual to the extent that the 72012
individual no longer can control the individual's use of alcohol 72013
or endangers the health, safety, or welfare of the individual or 72014
others. 72015

~~(2) "Alcoholic" means a person suffering from alcoholism.~~ 72016

~~(3)~~(6) "Community addiction services provider" means an 72017
agency, association, corporation, individual, or program that 72018
provides community alcohol, drug addiction, or gambling addiction 72019
services that are certified by the department of mental health and 72020
addiction services under section 5119.36 of the Revised Code. 72021

(7) "Community mental health services provider" means an 72022
agency, association, corporation, individual, or program that 72023
provides community mental health services that are certified by 72024
the department of mental health and addiction services under 72025
section 5119.36 of the Revised Code. 72026

(8) "Drug addiction" means the use of a drug of abuse, as 72027
defined in section 3719.011 of the Revised Code, by an individual 72028
to the extent that the individual becomes physically or 72029
psychologically dependent on the drug or endangers the health, 72030
safety, or welfare of the individual or others. 72031

~~(4) "Alcohol and drug addiction services" means services,~~ 72032
~~including intervention, for the treatment of alcoholics or persons~~ 72033
~~who abuse drugs of abuse and for the prevention of alcoholism and~~ 72034
~~drug addiction.~~ 72035

~~(5) "Alcohol and drug addiction program" means a program that~~ 72036
~~provides alcohol or drug addiction services and includes a~~ 72037
~~facility or entity that operates such a program.~~ 72038

~~(6)~~(9) "Gambling addiction" means the use of gambling by an 72039
individual to the extent that it causes psychological, financial, 72040
emotional, marital, legal, or other difficulties endangering the 72041
health, safety, or welfare of the individual or others. 72042

~~(7)~~(10) "Gambling addiction services" means services for the 72043
treatment of persons who have a gambling addiction and for the 72044
prevention of gambling addiction. 72045

(11) "Hospital" means a hospital or inpatient unit licensed 72046
by the department of mental health and addiction services under 72047
section 5119.33 of the Revised Code, and any institution, 72048
hospital, or other place established, controlled, or supervised by 72049
the department under Chapter 5119. of the Revised Code. 72050

(12) "Mental illness" means a substantial disorder of 72051
thought, mood, perception, orientation, or memory that grossly 72052
impairs judgment, behavior, capacity to recognize reality, or 72053
ability to meet the ordinary demands of life. 72054

(13) "Mental health services" means services for the 72055
assessment, care, or treatment of persons who have a mental 72056
illness as defined in this section. 72057

(14)(a) "Residence" means a person's physical presence in a 72058
county with intent to remain there, except in either of the 72059
following circumstances: 72060

(i) If a person is receiving a mental health service at a 72061
facility that includes nighttime sleeping accommodations, 72062
"residence" means that county in which the person maintained the 72063
person's primary place of residence at the time the person entered 72064
the facility; 72065

(ii) If a person is committed pursuant to section 2945.38, 72066
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 72067
"residence" means the county where the criminal charges were 72068
filed. 72069

(b) When the residence of a person is disputed, the matter of 72070
residence shall be referred to the department of mental health and 72071
addiction services for investigation and determination. Residence 72072
shall not be a basis for a board of alcohol, drug addiction, and 72073
mental health services to deny services to any person present in 72074
the board's service district, and the board shall provide services 72075
for a person whose residence is in dispute while residence is 72076
being determined and for a person in an emergency situation. 72077

(B) Any reference in this chapter to a board of alcohol, drug 72078
addiction, and mental health services also refers to an alcohol 72079
and drug addiction services board or a community mental health 72080
board in a service district in which an alcohol and drug addiction 72081
services board or a community mental health board has been 72082
established under section 340.021 or former section 340.02 of the 72083
Revised Code. 72084

Sec. 5119.04. The department of ~~mental health~~ mental health 72085
and addiction services and any institutions under its supervision 72086
or jurisdiction shall, where applicable, be in substantial 72087
compliance with standards set forth for psychiatric facilities by 72088

the joint commission ~~on accreditation of healthcare organizations~~ 72089
or medical assistance standards under Title XIX of the "Social 72090
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or 72091
other applicable standards, ~~except that the department and any~~ 72092
~~institution under its supervision or jurisdiction shall be in~~ 72093
~~substantial compliance with standards for physical facilities and~~ 72094
~~equipment by July 1, 1989. The requirements of this section do not~~ 72095
~~apply to any facility designated by the director of mental health~~ 72096
~~for use as a psychiatric rehabilitation center.~~ 72097

The requirements of this section are in addition to any other 72098
requirements established by the Revised Code and nothing in this 72099
section shall be construed to limit any rights, privileges, 72100
protections, or immunities which may exist under the constitution 72101
and laws of the United States or this state. 72102

Sec. ~~5119.27~~ 5119.05. Subject to the rules of the director of 72103
~~mental health~~ mental health and addiction services, each 72104
institution under the jurisdiction of the department shall be 72105
under the management and control of a managing officer to be known 72106
as a ~~superintendent~~ chief executive officer or by another 72107
appropriate title. Such managing officer shall be appointed by the 72108
director of ~~mental health~~ mental health and addiction services, 72109
and shall be in the unclassified service and serve at the pleasure 72110
of the director. Each managing officer shall be of good moral 72111
character and have skill, ability, and experience in ~~his~~ the 72112
managing officer's profession. ~~Appointment to this position may be~~ 72113
~~made from persons holding positions in the classified service in~~ 72114
~~the department.~~ 72115

The managing officer, under the director, shall ~~have entire~~ 72116
~~executive charge~~ serve as the appointing authority of the 72117
institution ~~for~~ to which such managing officer is appointed. 72118
Subject to civil service rules, the managing officer shall have 72119

the power to appoint the necessary and remove employees and he or 72120
the director may remove such employees for cause of the 72121
institution. On behalf of the institution, the managing officer 72122
has the authority and responsibility for entering into contracts 72123
and other agreements for the efficient operations of the 72124
institution. 72125

Sec. ~~5119.44~~ 5119.051. The department of ~~mental health~~ mental 72126
health and addiction services shall keep in its office a proper 72127
and complete set of books and accounts with each institution, 72128
which shall clearly show the nature and amount of every 72129
expenditure authorized and made at such institution, and which 72130
shall contain an account of all appropriations made by the general 72131
assembly and of all other funds, together with the disposition of 72132
such funds. 72133

The department shall prescribe the form of vouchers, records, 72134
and methods of keeping accounts at each of the institutions, which 72135
shall be as nearly uniform as possible. The department may examine 72136
the records of each institution at any time. 72137

The department may authorize any of its ~~bookkeepers~~ 72138
bookkeepers, accountants, or employees to examine and check the 72139
records, accounts, and vouchers or take an inventory of the 72140
property of any institution, or do whatever is necessary, and pay 72141
the actual and reasonable expenses incurred in such service when 72142
an itemized account is filed and approved. 72143

Sec. ~~5119.43~~ 5119.06. The department of ~~mental health~~ mental 72144
health and addiction services shall keep in its office, accessible 72145
only to its employees, except by the consent of the department or 72146
the order of the judge of a court of record, a record showing the 72147
name, residence, sex, age, nativity, occupation, condition, and 72148
date of entrance or commitment of every patient in the 72149

institutions governed by it, the date, cause, and terms of 72150
discharge and the condition of such person at the time of leaving, 72151
and also a record of all transfers from one institution to 72152
another, and, if such person dies while in the care or custody of 72153
the department, the date and cause of death. These and such other 72154
facts as the department requires shall be furnished by the 72155
managing officer of each institution within twenty-four hours 72156
after the commitment, entrance, death, or discharge of a patient. 72157

In case of an accident or injury or peculiar death of a 72158
patient the managing officer shall make a special report to the 72159
department within twenty-four hours thereafter, giving the 72160
circumstances as fully as possible. 72161

Sec. ~~5119.42~~ 5119.07. A person, firm, or corporation may file 72162
a petition in the court of common pleas of the county in which a 72163
benevolent institution of the department of mental health and 72164
addiction services is located, in which petition the desire to 72165
erect or carry on at a less distance than that prescribed in 72166
section 3767.19 of the Revised Code shall be set forth, the 72167
business prohibited, the precise point of its establishment, and 72168
the reasons and circumstances, in its opinion, why the erection or 72169
carrying on ~~thereof~~ of the business would not annoy or endanger 72170
the health, convenience, or recovery of the patients of such 72171
institution. The petitioner shall give notice in a newspaper of 72172
general circulation in the county of the pendency and prayer of 72173
the petition for at least six consecutive weeks before the day set 72174
for hearing the petition and serve a written notice upon the 72175
~~superintendent~~ managing officer of the institution at least thirty 72176
days before the day set for hearing the petition. 72177

If, upon the hearing of the petition, it appears that the 72178
notice has been given as required and the court is of the opinion 72179
that no good reason exists why such establishment may not be 72180

erected or such business carried on and that by the erection or 72181
carrying on ~~thereof~~ of the business at the point named, the 72182
institution will sustain no detriment, the court may issue an 72183
order granting the prayer of the petitioner. Thereafter the 72184
petitioner may locate such establishment or carry on such business 72185
at the point named in the petition. 72186

Sec. ~~5119.14~~ 5119.08. (A) As used in this section, "felony" 72187
has the same meaning as in section 109.511 of the Revised Code. 72188

(B)(1) Subject to division (C) of this section, upon the 72189
recommendation of the director of ~~mental health~~ mental health and 72190
addiction services, the managing officer of an institution under 72191
the jurisdiction of the department of ~~mental health~~ mental health 72192
and addiction services may designate one or more employees to be 72193
special police officers of the department. The special police 72194
officers shall take an oath of office, wear the badge of office, 72195
and give bond for the proper and faithful discharge of their 72196
duties in an amount that the director requires. 72197

(2) In accordance with section 109.77 of the Revised Code, 72198
the special police officers shall be required to complete 72199
successfully a peace officer basic training program approved by 72200
the Ohio peace officer training commission and to be certified by 72201
the commission. The cost of the training shall be paid by the 72202
department of ~~mental health~~ mental health and addiction services. 72203

(3) Special police officers, on the premises of institutions 72204
under the jurisdiction of the department of ~~mental health~~ mental 72205
health and addiction services and subject to the rules of the 72206
department, shall protect the property of the institutions and the 72207
persons and property of patients in the institutions, suppress 72208
riots, disturbances, and breaches of the peace, and enforce the 72209
laws of the state and the rules of the department for the 72210
preservation of good order. They may arrest any person without a 72211

warrant and detain the person until a warrant can be obtained 72212
under the circumstances described in division (F) of section 72213
2935.03 of the Revised Code. 72214

(C)(1) The managing officer of an institution under the 72215
jurisdiction of the department of ~~mental health~~ mental health and 72216
addiction services shall not designate an employee as a special 72217
police officer of the department pursuant to division (B)(1) of 72218
this section on a permanent basis, on a temporary basis, for a 72219
probationary term, or on other than a permanent basis if the 72220
employee previously has been convicted of or has pleaded guilty to 72221
a felony. 72222

(2)(a) The managing officer of an institution under the 72223
jurisdiction of the department of ~~mental health~~ mental health and 72224
addiction services shall terminate the employment as a special 72225
police officer of the department of an employee designated as a 72226
special police officer under division (B)(1) of this section if 72227
that employee does either of the following: 72228

(i) Pleads guilty to a felony; 72229

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 72230
plea agreement as provided in division (D) of section 2929.43 of 72231
the Revised Code in which the employee agrees to surrender the 72232
certificate awarded to that employee under section 109.77 of the 72233
Revised Code. 72234

(b) The managing officer shall suspend from employment as a 72235
special police officer of the department an employee designated as 72236
a special police officer under division (B)(1) of this section if 72237
that employee is convicted, after trial, of a felony. If the 72238
special police officer files an appeal from that conviction and 72239
the conviction is upheld by the highest court to which the appeal 72240
is taken or if the special police officer does not file a timely 72241
appeal, the managing officer shall terminate the employment of 72242

that special police officer. If the special police officer files 72243
an appeal that results in that special police officer's acquittal 72244
of the felony or conviction of a misdemeanor, or in the dismissal 72245
of the felony charge against that special police officer, the 72246
managing officer shall reinstate that special police officer. A 72247
special police officer of the department who is reinstated under 72248
division (C)(2)(b) of this section shall not receive any back pay 72249
unless that special police officer's conviction of the felony was 72250
reversed on appeal, or the felony charge was dismissed, because 72251
the court found insufficient evidence to convict the special 72252
police officer of the felony. 72253

(3) Division (C) of this section does not apply regarding an 72254
offense that was committed prior to January 1, 1997. 72255

(4) The suspension from employment, or the termination of the 72256
employment, of a special police officer under division (C)(2) of 72257
this section shall be in accordance with ~~Chapter 119. of the~~ 72258
~~Revised Code~~ applicable collective bargaining agreements. 72259

Sec. ~~5119.30~~ 5119.09. The attorney general shall attend to 72260
all ~~suits~~ claims instituted on behalf of or against the department 72261
of mental health and addiction services or any institution under 72262
the jurisdiction of the department ~~of mental health~~ and the 72263
managing officer thereof, except such institutions as are 72264
privately owned or operated under a license from the department of 72265
~~mental health~~ mental health and addiction services, and shall 72266
represent the public hospital in proceedings under section 5122.15 72267
of the Revised Code. The department of ~~mental health~~ mental health 72268
and addiction services shall reimburse the attorney general for 72269
the compensation of assistant attorneys general required to 72270
represent the public hospital in proceedings under section 5122.15 72271
of the Revised code and shall also pay the costs of litigation 72272
incurred by the attorney general under that section. 72273

If a writ of habeas corpus is applied for, the clerk of the 72274
court shall give notice of the time and place of hearing to the 72275
attorney general. 72276

Sec. ~~5119.01~~ 5119.10. (A) The director of ~~mental health~~ 72277
mental health and addiction services is the chief executive and 72278
~~administrative officer~~ appointing authority of the department of 72279
~~mental health~~ mental health and addiction services. The director 72280
may organize the department for its efficient operation, including 72281
creating divisions or offices as necessary. The director may 72282
establish procedures for the governance of the department, conduct 72283
of its employees and officers, performance of its business, and 72284
custody, use, and preservation of departmental records, papers, 72285
books, documents, and property. Whenever the Revised Code imposes 72286
a duty upon or requires an action of the department or any of its 72287
institutions, the director or the director's designee shall 72288
perform the action or duty in the name of the department, except 72289
that the medical director appointed pursuant to section ~~5119.07~~ 72290
5119.11 of the Revised Code shall be responsible for decisions 72291
relating to medical diagnosis, treatment, rehabilitation, quality 72292
assurance, and the clinical aspects of the following: licensure of 72293
hospitals and residential facilities, research, community 72294
addiction and mental health services plans, and certification and 72295
delivery of mental health and addiction services. 72296

(B) The director shall: 72297

~~(A)(1)~~ Adopt rules for the proper execution of the powers and 72298
duties of the department with respect to the institutions under 72299
its control, and require the performance of additional duties by 72300
the officers of the institutions as necessary to fully meet the 72301
requirements, intents, and purposes of this chapter. In case of an 72302
apparent conflict between the powers conferred upon any managing 72303
officer and those conferred by such sections upon the department, 72304

the presumption shall be conclusive in favor of the department. 72305

~~(B)~~(2) Adopt rules for the nonpartisan management of the 72306
institutions under the department's control. An officer or 72307
employee of the department or any officer or employee of any 72308
institution under its control who, by solicitation or otherwise, 72309
exerts influence directly or indirectly to induce any other 72310
officer or employee of the department or any of its institutions 72311
to adopt the exerting officer's or employee's political views or 72312
to favor any particular person, issue, or candidate for office 72313
shall be removed from the exerting officer's or employee's office 72314
or position, by the department in case of an officer or employee, 72315
and by the governor in case of the director. 72316

~~(C)~~(3) Appoint such employees, including the medical 72317
director, as are necessary for the efficient conduct of the 72318
department, and prescribe their titles and duties; 72319

~~(D)~~(4) Prescribe the forms of affidavits, applications, 72320
medical certificates, orders of hospitalization and release, and 72321
all other forms, reports, and records that are required in the 72322
hospitalization or admission and release of all persons to the 72323
institutions under the control of the department, or are otherwise 72324
required under this chapter or Chapter 5122. of the Revised Code; 72325

~~(E) Contract with hospitals licensed by the department under 72326
section 5119.20 of the Revised Code for the care and treatment of 72327
mentally ill patients, or with persons, organizations, or agencies 72328
for the custody, evaluation, supervision, care, or treatment of 72329
mentally ill persons receiving services elsewhere than within the 72330
enclosure of a hospital operated under section 5119.02 of the 72331
Revised Code;~~ 72332

~~(F)~~(5) Exercise the powers and perform the duties relating to 72333
community addiction and mental health facilities and services that 72334
are assigned to the director under this chapter and Chapter 340. 72335

of the Revised Code; 72336

~~(G)~~(6) Develop and implement clinical evaluation and 72337
monitoring of services that are operated by the department; 72338

~~(H)~~(7) Adopt rules establishing standards for the performance 72339
of evaluations by a forensic center or other psychiatric program 72340
or facility of the mental condition of defendants ordered by the 72341
court under section 2919.271, or 2945.371 of the Revised Code, and 72342
for the treatment of defendants who have been found incompetent to 72343
stand trial and ordered by the court under section 2945.38, 72344
2945.39, 2945.401, or 2945.402 of the Revised Code to receive 72345
treatment in facilities; 72346

~~(I)~~(8) On behalf of the department, have the authority and 72347
responsibility for entering into contracts and other agreements+ 72348
with providers, agencies, institutions, and other entities, both 72349
public and private, as necessary for the department to carry out 72350
its duties under this chapter and Chapters 340., 2919., 2945., and 72351
5122. of the Revised Code. Chapter 125. of the Revised Code does 72352
not apply to contracts the director enters into under this section 72353
for services provided to individuals with mental illness by 72354
providers, agencies, institutions, and other entities not owned or 72355
operated by the department. 72356

~~(J)~~ Prepare and publish regularly a state mental health plan 72357
that describes the department's philosophy, current activities, 72358
and long term and short term goals and activities; 72359

~~(K)~~(9) Adopt rules in accordance with Chapter 119. of the 72360
Revised Code specifying the supplemental services that may be 72361
provided through a trust authorized by section 5815.28 of the 72362
Revised Code; 72363

~~(L)~~(10) Adopt rules in accordance with Chapter 119. of the 72364
Revised Code establishing standards for the maintenance and 72365
distribution to a beneficiary of assets of a trust authorized by 72366

section 5815.28 of the Revised Code. 72367

(C) The director may contract with hospitals licensed by the 72368
department under section 5119.33 of the Revised Code for the care 72369
and treatment of mentally ill patients, or with persons, 72370
organizations, or agencies for the custody, evaluation, 72371
supervision, care, or treatment of mentally ill persons receiving 72372
services elsewhere than within the enclosure of a hospital 72373
operated under section 5119.14 of the Revised Code. 72374

Sec. ~~5119.07~~ 5119.11. (A) The director of mental health 72375
mental health and addiction services shall appoint a medical 72376
director who ~~is a psychiatrist as defined in division (E) of~~ 72377
~~section 5122.01 of the Revised Code,~~ is eligible or certified by 72378
the American board of psychiatry and neurology or the American 72379
osteopathic board of neurology and psychiatry, and has at least 72380
five years of clinical and two years of administrative experience. 72381
The medical director shall also have certification or substantial 72382
training and experience in the field of addiction medicine or 72383
addiction psychiatry. The medical director shall be responsible 72384
for decisions relating to medical diagnosis, treatment, 72385
prevention, rehabilitation, quality assurance, and the clinical 72386
aspects of mental health and addiction services involving all of 72387
the following: ~~licensure~~ 72388

(1) Licensure of hospitals ~~and,~~ residential facilities, 72389
~~research, community mental health and outpatient facilities;~~ 72390

(2) Research; 72391

(3) Community addiction and mental health services plans; 72392

(4) Certification and delivery of mental health and addiction 72393
services. ~~The~~ 72394

(B) The medical director shall also exercise clinical 72395
supervision of the chief clinical officers of hospitals and 72396

institutions under the jurisdiction of the department and shall 72397
review and approve decisions relating to the employment of the 72398
chief clinical officers. The medical director or ~~his~~ the medical 72399
director's designee shall advise the director on matters relating 72400
to licensure, research, ~~community mental health plans,~~ and the 72401
certification and delivery of mental health and addiction services 72402
and community plans. The medical director shall participate in the 72403
development of guidelines for community addiction and mental 72404
health services plans. The director of ~~mental health~~ mental health 72405
and addiction services may establish other duties of the medical 72406
director. ~~The medical director shall participate in the~~ 72407
~~development of guidelines for community mental health plans.~~ 72408

Sec. 5119.02 5119.14. (A) The department of ~~mental health~~ 72409
mental health and addiction services shall maintain, operate, 72410
manage, and govern state institutions and other services for the 72411
care and treatment of mentally ill persons. 72412

(B)(1) The department of ~~mental health~~ mental health and 72413
addiction services may, with the approval of the governor, 72414
designate ~~all~~ the name and purpose of any institutions under its 72415
jurisdiction ~~by appropriate respective names, regardless of~~ 72416
~~present statutory designation~~ and may change, with the approval of 72417
the governor, the designation and name when necessary. 72418

~~(C)~~(2) The department shall divide the state into districts 72419
for the purpose of designating the institution in which mentally 72420
ill persons are hospitalized and may change the districts. 72421

(3) Subject to section 5139.08 and pursuant to Chapter 5122. 72422
of the Revised Code and on the agreement of the departments of 72423
~~mental health~~ mental health and addiction services and youth 72424
services, the department of ~~mental health~~ mental health and 72425
addiction services may receive from the department of youth 72426
services for psychiatric observation, diagnosis, or treatment any 72427

person eighteen years of age or older in the custody of the 72428
department of youth services. The departments ~~shall~~ may enter into 72429
a written agreement specifying the procedures necessary to 72430
implement this division. 72431

~~(D)~~(C) The department of ~~mental health~~ mental health and 72432
addiction services shall designate hospitals, facilities, and 72433
community mental health ~~agencies~~ services providers for the 72434
custody, care, and special treatment of, and authorize payment for 72435
such custody, care, and special treatment provided to, persons who 72436
are charged with a crime and who are found incompetent to stand 72437
trial or not guilty by reason of insanity. 72438

~~(E)~~(D) The department of ~~mental health~~ mental health and 72439
addiction services may do ~~all~~ any of the following: 72440

(1) Require reports from the managing officer of any 72441
institution under the department's jurisdiction, relating to the 72442
admission, examination, comprehensive evaluation, diagnosis, 72443
release, or discharge of any patient; 72444

(2) Visit each institution regularly to review its operations 72445
and to investigate complaints made by any patient or by any person 72446
on behalf of a patient, provided these duties may be performed by 72447
a person designated by the director. 72448

~~(F) The department of mental health shall divide the state~~ 72449
~~into districts for the purpose of designating the institution in~~ 72450
~~which mentally ill persons are hospitalized, and may change the~~ 72451
~~districts.~~ 72452

~~(G)~~(E) The department of mental health and addiction services 72453
may provide or contract to provide addiction services for 72454
offenders incarcerated in the state prison system. 72455

(F) In addition to the powers expressly conferred, the 72456
department of ~~mental health~~ mental health and addiction services 72457
shall have all powers and authority necessary for the full and 72458

efficient exercise of the executive, administrative, and fiscal supervision over the state institutions described in this section.

~~(H) The department of mental health may provide for the eustody, supervision, control, treatment, and training of mentally ill persons hospitalized elsewhere than within the enclosure of a hospital, if the department so determines with respect to any individual or group of individuals. In all such cases, the department shall ensure adequate and proper supervision for the protection of such persons and of the public.~~

Sec. ~~5119.012~~ 5119.141. The department of ~~mental health~~ mental health and addiction services has all the authority necessary to carry out its powers and duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code, including the authority to adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code.

Sec. ~~5119.24~~ 5119.15. The department of ~~mental health~~ mental health and addiction services may make such investigations as are necessary in the performance of its duties and to that end the director of ~~mental health~~ mental health and addiction services shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The department shall keep a record of such investigations stating the time, place, charges or subject, witnesses summoned and examined, and its conclusions.

In matters involving the conduct of an officer, a stenographic report of the evidence shall be taken and a copy of such report, with all documents introduced, kept on file at the

office of the department. 72489

The fees of witnesses for attendance and travel shall be the 72490
same as in the court of common pleas, but no officer or employee 72491
of the institution under investigation is entitled to such fees. 72492

Any judge of the probate court or of the court of common 72493
pleas, upon application of the department, may compel the 72494
attendance of witnesses, the production of books or papers, and 72495
the giving of testimony before the department, by a judgment for 72496
contempt or otherwise, in the same manner as in cases before such 72497
courts. 72498

The department of ~~mental health~~ mental health and addiction 72499
services may appoint and commission any competent agency or 72500
person, to serve without compensation, as a special agent, 72501
investigator, or representative to perform a designated duty for 72502
the department. Specific credentials shall be given by the 72503
department to each person so designated. Each credential shall 72504
state the: 72505

- (A) Name of the agent, investigator, or representative; 72506
- (B) Agency with which such person is connected; 72507
- (C) Purpose of appointment; 72508
- (D) Date of expiration of appointment; 72509
- (E) Such information as the department considers proper. 72510

Sec. ~~3793.051~~ 5119.161. The department of ~~alcohol and drug~~ 72511
~~addiction services~~ mental health and addiction services, in 72512
conjunction with the department of job and family services, shall 72513
develop a joint state plan to improve the accessibility and 72514
timeliness of alcohol and drug addiction services for individuals 72515
identified by a public children services agency as in need of 72516
those services. The plan shall address the fact that Ohio works 72517
first participants may be among the persons receiving services 72518

under section 340.15 of the Revised Code and shall require the 72519
department of job and family services to seek federal funds 72520
available under Title IV-A of the "Social Security Act," 49 Stat. 72521
620 (1935), 42 U.S.C.A. 301, as amended, for the provision of the 72522
services to Ohio works first participants who are receiving 72523
services under section 340.15 of the Revised Code. 72524

The plan shall address the need and manner for sharing 72525
information and include a request for the general assembly to 72526
appropriate an amount of funds specified in the report to be used 72527
by the departments to pay for services under section 340.15 of the 72528
Revised Code. The departments shall review and amend the plan as 72529
necessary. 72530

Not later than the first day of July of each even-numbered 72531
year, the departments shall submit a report on the progress made 72532
under the joint state plan to the governor, president of the 72533
senate, and speaker of the house of representatives. The report 72534
shall include information on treatment capacity, needs 72535
assessments, and number of individuals who received services 72536
pursuant to section 340.15 of the Revised Code. 72537

Sec. ~~3793.15~~ 5119.17. (A) The department of ~~alcohol and drug~~ 72538
~~addiction services~~ mental health and addiction services, in 72539
accordance with division (B) of this section, shall give priority 72540
to developing, and promptly shall develop, with available public 72541
and private resources a program that does all of the following: 72542

(1) Provides a manner of identifying the aggregate number of 72543
pregnant women in this state who are addicted to a drug of abuse; 72544

(2) Provides for an effective means of intervention to 72545
eliminate the addiction of pregnant women to drugs of abuse prior 72546
to the birth of their children; 72547

(3) Provides for the continued monitoring of women who were 72548

addicted to a drug of abuse during their pregnancies, after the 72549
birth of their children, and for the availability of treatment and 72550
rehabilitation for those women; 72551

(4) Provides a manner of determining the aggregate number of 72552
children who are born in this state to women who are addicted, at 72553
the time of birth, to a drug of abuse, and of children who are 72554
born in this state with an addiction to or a dependency on a drug 72555
of abuse; 72556

(5) Provides for the continued monitoring of children who are 72557
born in this state to women who are addicted, at the time of 72558
birth, to a drug of abuse, or who are born in this state with an 72559
addiction to or dependency on a drug of abuse, after their birth; 72560

(6) Provides for the treatment and rehabilitation of any 72561
child who is born to a woman who is addicted, at the time of 72562
birth, to a drug of abuse, and of any child who is born with an 72563
addiction to or dependency on a drug of abuse. 72564

(B) In developing the program described in division (A) of 72565
this section, the department may obtain information from the 72566
department of health and the department of job and family 72567
services, and those departments shall cooperate with the 72568
department of ~~alcohol and drug addiction services~~ mental health 72569
and addiction services in its development and implementation of 72570
the program. 72571

(C) Immediately upon its development of the program described 72572
in division (A) of this section, the department shall implement 72573
the program. 72574

(D) Any record or information that is obtained or maintained 72575
by the department in connection with the program described in 72576
division (A) of this section and could enable the identification 72577
of any woman or child described in division (A)(1) or (4) of this 72578
section is not a public record subject to inspection or copying 72579

under section 149.43 of the Revised Code. 72580

Sec. ~~5119.071~~ 5119.18. An appointing authority may appoint a 72581
person who holds a certified or permanent position in the 72582
classified service within the department of ~~mental health~~ mental
health and addiction services to a position in the unclassified 72583
service within the department. A person appointed pursuant to this 72584
section to a position in the unclassified service shall retain the 72585
right to resume the position and status held by the person in the 72586
classified service immediately prior to the person's appointment 72587
to the position in the unclassified service, ~~regardless of the~~ 72588
~~number of positions the person held in the unclassified service.~~ 72589
~~An employee's right to resume a position in the classified service~~ 72590
~~may only be exercised when an appointing authority demotes the~~ 72591
~~employee to a pay range lower than the employee's current pay~~ 72592
~~range or revokes the employee's appointment to the unclassified~~ 72593
~~service. An employee forfeits the right to resume a position in~~ 72594
~~the classified service when the employee is removed from the~~ 72595
~~position in the unclassified service due to incompetence,~~ 72596
~~inefficiency, dishonesty, drunkenness, immoral conduct,~~ 72597
~~insubordination, discourteous treatment of the public, neglect of~~ 72598
~~duty, violation of this chapter or Chapter 124. of the Revised~~ 72599
~~Code, violation of the rules of the director of administrative~~ 72600
~~services or the director of mental health, any other failure of~~ 72601
~~good behavior, any other acts of misfeasance, malfeasance, or~~ 72602
~~nonfeasance in office, or conviction of a felony. An employee also~~ 72603
~~forfeits the right to resume a position in the classified service~~ 72604
~~upon transfer to a different agency.~~ 72605
72606

~~Reinstatement to a position in the classified service shall~~ 72607
~~be to a position substantially equal to that position in the~~ 72608
~~classified service held previously, as certified by the director~~ 72609
~~of administrative services. If the position the person previously~~ 72610
~~held in the classified service has been placed in the unclassified~~ 72611

~~service or is otherwise unavailable, the person shall be appointed 72612
to a position in the classified service within the department that 72613
the director of administrative services certifies is comparable in 72614
compensation to the position the person previously held in the 72615
classified service. Service in the position in the unclassified 72616
service shall be counted as service in the position in the 72617
classified service held by the person immediately prior to the 72618
person's appointment to the position in the unclassified service. 72619
When a person is reinstated to a position in the classified 72620
service as provided in this section, the person is entitled to all 72621
rights, status, and benefits accruing to the position in the 72622
classified service during the person's time of service in the 72623
position in the unclassified service pursuant to division (D) of 72624
section 124.11 of the Revised Code. 72625~~

Sec. ~~5119.072~~ 5119.181. (A) No appointing officer shall 72626
appoint a person to fill a position in either the classified or 72627
unclassified service of the department of ~~mental health~~ mental 72628
health and addiction services if the person has been convicted of 72629
or pleaded guilty to a violation of the following: 72630

(1) Any felony contained in the Revised Code, if the felony 72631
bears a direct and substantial relationship to the position being 72632
filled; 72633

(2) Any crime contained in the Revised Code constituting a 72634
misdemeanor of the first degree on the first offense and a felony 72635
on subsequent offenses, if the crime bears a direct and 72636
substantial relationship to the position being filled; 72637

(3) An existing or former law of this state, any other state, 72638
or the United States, if the law violated is substantially 72639
equivalent to any of the offenses described in division (A)(1) or 72640
(2) of this section. 72641

(B) The director of ~~mental health~~ mental health and addiction 72642

services shall adopt rules, in accordance with Chapter 119. of the Revised Code, to implement this section.

(C) The director or an appointing officer shall request the bureau of criminal identification and investigation created by section 109.51 of the Revised Code or, at ~~his~~ the director's or appointing officer's discretion, any other state or federal agency, to supply ~~him~~ the director or appointing officer with a written report regarding the criminal records of any applicant. For each investigation undertaken at the department's request under this section, the department shall pay a reasonable fee to the bureau or other state or federal agency conducting the investigation. The amount of the fee shall be determined by the bureau or other state or federal agency conducting the investigation and shall be sufficient to cover the costs of conducting the investigation. The report made by the bureau or other state or federal agency is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, except the applicant, the director, the appointing officer or ~~his designee~~ the appointing officer's designees, or any hearing officer involved in a case denying employment.

(D) As used in this section, "applicant" means a person who is under final consideration for appointment to a position in the classified or unclassified service of the department of ~~mental health~~ mental health and addiction services.

Sec. ~~5119.08~~ 5119.182. The department of ~~mental health~~ shall mental health and addiction services may require any of its employees and each officer and employee of every institution under its control who may be charged with custody or control of any money or property belonging to the state or who is required to give bond, to give a surety company bond, properly conditioned, in

a sum to be fixed by the department which when approved by the 72674
department, shall be filed in the office of the secretary of 72675
state. The cost of such bonds, when approved by the department, 72676
shall be paid from funds available for the department. The bonds 72677
required or authorized by this section may, in the discretion of 72678
the director of ~~mental health~~ mental health and addiction 72679
services, be individual, schedule, or blanket bonds. 72680

Sec. ~~5119.10~~ 5119.184. The department of ~~mental health~~ mental 72681
health and addiction services may provide educational grants or 72682
tuition reimbursements to upgrade the education, training, and 72683
professional achievement of its employees, whenever it determines 72684
that provision of such grants or reimbursements is essential to 72685
the achievement of its goals. The department may enter into 72686
agreements with its employees for the purposes of this section. 72687
The agreements may require, as a condition of each grant or 72688
reimbursement, that the employee continue employment with the 72689
department or with another federal, state, or local public agency 72690
designated by the department for a period of time stated in the 72691
agreement. If an employee does not fulfill the employment 72692
requirement stated in the agreement, the department may take 72693
action to recover the amount of all educational grants or tuition 72694
reimbursements paid to the employee under this section, plus 72695
interest at the rate of ten per cent per year calculated from the 72696
date of payment of each grant or reimbursement. 72697

Sec. ~~5119.101~~ 5119.185. (A) As used in this section, 72698
"physician" means an individual authorized under Chapter 4731. of 72699
the Revised Code to practice medicine and surgery or osteopathic 72700
medicine and surgery. 72701

(B) The department of ~~mental health~~ mental health and 72702
addiction services may establish a physician recruitment program 72703
under which the department agrees to repay all or part of the 72704

principal and interest of a government or other educational loan 72705
incurred by a physician who agrees to provide services to 72706
inpatients and outpatients of institutions under the department's 72707
administration. To be eligible to participate in the program, a 72708
physician must have attended a school that was, at the time of 72709
attendance, a medical school or osteopathic medical school in this 72710
country accredited by the liason committee on medical education or 72711
the American osteopathic association, or a medical school or 72712
osteopathic medical school located outside this country that was 72713
acknowledged by the world health organization and verified by a 72714
member state of that organization as operating within that state's 72715
jurisdiction. 72716

(C) The department shall enter into a contract with each 72717
physician it recruits under this section. Each contract shall 72718
include at least the following terms: 72719

(1) The physician agrees to provide a specified scope of 72720
medical or osteopathic medical services for a specified number of 72721
hours per week and a specified number of years to patients of one 72722
or more specified institutions administered by the department. 72723

(2) The department agrees to repay all or a specified portion 72724
of the principal and interest of a government or other educational 72725
loan taken by the physician for the following expenses if the 72726
physician meets the service obligation agreed to and the expenses 72727
were incurred while the physician was enrolled in, for up to a 72728
maximum of four years, a school that qualifies the physician to 72729
participate in the program: 72730

(a) Tuition; 72731

(b) Other educational expenses for specific purposes, 72732
including fees, books, and laboratory expenses, in amounts 72733
determined to be reasonable in accordance with rules adopted under 72734
division (D) of this section; 72735

(c) Room and board, in an amount determined to be reasonable 72736
in accordance with rules adopted under division (D) of this 72737
section. 72738

(3) The physician agrees to pay the department a specified 72739
amount, which shall be not less than the amount already paid by 72740
the department pursuant to its agreement, as damages if ~~he~~ the 72741
physician fails to complete the service obligation agreed to or 72742
fails to comply with other specified terms of the contract. The 72743
contract may vary the amount of damages based on the portion of 72744
the physician's service obligation that remains uncompleted as 72745
determined by the department. 72746

(4) Other terms agreed upon by the parties. 72747

(D) If the department elects to implement the physician 72748
recruitment program, it shall adopt rules in accordance with 72749
Chapter 119. of the Revised Code that establish all of the 72750
following: 72751

(1) Criteria for designating institutions for which 72752
physicians will be recruited; 72753

(2) Criteria for selecting physicians for participation in 72754
the program; 72755

(3) Criteria for determining the portion of a physician's 72756
loan that the department will agree to repay; 72757

(4) Criteria for determining reasonable amounts of the 72758
expenses described in divisions (C)(2)(b) and (c) of this section; 72759

(5) Procedures for monitoring compliance by physicians with 72760
the terms of their contracts; 72761

(6) Any other criteria or procedures necessary to implement 72762
the program. 72763

Sec. ~~5119.11~~ 5119.186. (A) The director of ~~mental health~~ 72764

mental health and addiction services or the managing officer of an 72765
institution of the department may enter into an agreement with 72766
boards of trustees or boards of directors of one or more 72767
institutions of higher education or hospitals licensed pursuant to 72768
section ~~5119.20~~ 5119.33 of the Revised Code to establish, manage, 72769
and conduct collaborative training efforts for students enrolled 72770
in courses of studies for occupations or professions ~~which may be~~ 72771
~~determined by the director upon the approval of the medical~~ 72772
~~director to be in occupations or professions needed to provide~~ 72773
~~adequate~~ that involve the care and treatment for persons receiving 72774
mental health or addiction services. 72775

(B) Such collaborative training efforts may include but are 72776
not limited to programs in psychiatry, psychology, nursing, social 72777
work, counseling professions, and others considered appropriate by 72778
the director of ~~mental health~~ mental health and addiction 72779
services. Any such program shall be approved or accredited by its 72780
respective professional organization or state board having 72781
jurisdiction over the profession. 72782

(1) The department shall require that the following be 72783
provided for in agreements between the department and institutions 72784
of higher education or hospitals licensed pursuant to section 72785
~~5119.20~~ 5119.33 of the Revised Code: 72786

(a) Establishment of inter-disciplinary committees to advise 72787
persons responsible for training programs. Each committee shall 72788
have representation drawn from the geographical community the 72789
institution of higher education or hospital serves and shall 72790
include representatives of agencies, boards, targeted populations 72791
as determined by the department, racial and ethnic minority 72792
groups, and publicly funded programs; 72793

(b) Funding procedures; 72794

(c) Specific outcomes and accomplishments that are expected 72795

or required of a program under such agreement; 72796

(d) The types of services to be provided under such 72797
agreement. 72798

(2) The department may require that the following be provided 72799
for in agreements between the department and institutions of 72800
higher education or hospitals licensed pursuant to section ~~5119.20~~ 72801
5119.33 of the Revised Code: 72802

(a) Special arrangements for individual residents or trainees 72803
to encourage their employment in publicly funded settings upon 72804
completion of their training; 72805

(b) Procedures for the selection of residents or trainees to 72806
promote the admission, retention, and graduation of women, 72807
minorities, and ~~handicapped~~ disabled persons; 72808

(c) Cross-cultural training and other subjects considered 72809
necessary to enhance training efforts and the care and treatment 72810
of patients and clients; 72811

(d) Funding of faculty positions oriented toward meeting the 72812
needs of publicly funded programs. 72813

Subject to appropriations by the general assembly, the 72814
director of ~~mental health~~ mental health and addiction services has 72815
final approval of the funding of these collaborative training 72816
efforts. 72817

Sec. ~~5119.12~~ 5119.187. The courses of study for the 72818
instruction and training of all persons in institutions under the 72819
control of the department of ~~mental health~~ mental health and 72820
addiction services shall be subject to the approval of the 72821
superintendent of public instruction. 72822

All teachers employed in institutions under the control of 72823
the department of ~~mental health~~ mental health and addiction 72824
services shall possess such educator licenses or have such 72825

qualifications and approval as the superintendent of public 72826
instruction, after consulting with the officers in charge of the 72827
institutions, prescribes for the various types of service in the 72828
institutions. 72829

Sec. ~~3793.16~~ 5119.188. (A) As used in this section, "state 72830
correctional institution" has the same meaning as in section 72831
2967.01 of the Revised Code. 72832

(B) The department of ~~alcohol and drug addiction services~~ 72833
mental health and addiction services shall develop a program that 72834
is designed to educate and train the employees of each state 72835
correctional institution, the employees of each department of 72836
youth services institution, and other persons associated by 72837
contract or otherwise with each state correctional institution or 72838
each department of youth services institution, who will be 72839
responsible for the conduct of, or otherwise providing treatment 72840
or rehabilitation services pursuant to, a substance abuse 72841
treatment or rehabilitation program offered in the institution to 72842
adult prisoners or juvenile offenders. Upon the development of the 72843
educational and training program, the department of ~~alcohol and~~ 72844
~~drug addiction services~~ mental health and addiction services 72845
promptly shall commence its implementation. The department of 72846
~~alcohol and drug addiction services~~ mental health and addiction 72847
services may charge to the department of rehabilitation and 72848
correction and to the department of youth services a reasonable 72849
annual fee that reflects the expenses incurred by it during the 72850
immediately preceding calendar year in preparing and offering the 72851
educational and training program during that year to the 72852
respective employees and other associated persons described in 72853
this division. 72854

The director of rehabilitation and correction and the 72855
director of youth services shall require the respective employees 72856

and other associated persons described in this division to attend 72857
and successfully complete the educational and training program 72858
developed pursuant to this division as a condition of their 72859
continuing to have responsibility for the conduct of, or their 72860
continuing to provide treatment or rehabilitation services 72861
pursuant to, any treatment or rehabilitation program that is 72862
offered in a state correctional institution or in a department of 72863
youth services institution to adult prisoners or juvenile 72864
offenders. If the department of ~~alcohol and drug addiction~~ 72865
~~services~~ mental health and addiction services charges a reasonable 72866
annual fee as described in this division, the director involved 72867
shall cause that fee to be paid from any available funds of the 72868
department of rehabilitation and correction or any available funds 72869
of the department of youth services. 72870

(C) The department of rehabilitation and correction and the 72871
department of ~~alcohol and drug addiction services~~ mental health 72872
and addiction services jointly shall develop program 72873
specifications for the alcohol and drug addiction treatment 72874
programs offered in state correctional institutions. 72875

Sec. ~~3793.031~~ 5119.201. (A) The director of ~~alcohol and drug~~ 72876
~~addiction services~~ mental health and addiction services may 72877
acquire by purchase, lease, or otherwise such real and personal 72878
property rights in the name of the state as are necessary for the 72879
purposes of the department. ~~The~~ 72880

(B) When it is necessary for a state institution under the 72881
jurisdiction of the department to acquire any real estate, 72882
right-of-way, or easement in real estate in order to accomplish 72883
the purposes for which it was organized or is being conducted, and 72884
the department is unable to agree with the owner of such property 72885
upon the price to be paid for the property, such property may be 72886
appropriated in the manner provided for the appropriation of 72887

property for other state purposes. 72888

~~(C) The director, with the approval of the governor and the attorney general,~~ 72889
may work with the department of administrative 72890
services to sell, lease, or exchange portions of real and personal 72891
property of the department when the sale, lease, or exchange is 72892
advantageous to the state. Money received from such sales, leases, 72893
or exchanges shall be credited to the ~~general revenue~~ the 72894
department of mental health and addiction services trust fund, 72895
created in section 5119.46 of the Revised Code. 72896

(D) Any instrument by which real property is acquired 72897
pursuant to this section shall identify the agency of the state 72898
that has the use and benefit of the real property as specified in 72899
section 5301.012 of the Revised Code. 72900

Sec. ~~5119.06~~ 5119.21. (A) The department of ~~mental health~~ 72901
mental health and addiction services shall: 72902

~~(A)(1)~~ To the extent the department has available resources 72903
and in consultation with boards of alcohol, drug addiction, and 72904
mental health services, support a ~~community support system~~ 72905
continuum of care in accordance with ~~section 340.03~~ Chapter 340. 72906
of the Revised Code on a district or multi-district basis. The 72907
department shall define the essential elements of a ~~community~~ 72908
~~support system~~ continuum of care, shall assist in identifying 72909
resources, and may prioritize support for one or more of the 72910
elements. 72911

~~(B) Operate inpatient and other mental health services;~~ 72912

~~(C)(2)~~ Provide training, consultation, and technical 72913
assistance regarding mental health ~~programs~~ and addiction services 72914
and appropriate prevention, recovery, and mental health promotion 72915
activities, including those that are culturally ~~sensitive~~ 72916
competent, to employees of the department, community mental health 72917

~~agencies and addiction services providers, boards of alcohol, drug~~ 72918
~~addiction, and mental health services,~~ and other agencies 72919
providing mental health and addiction services; 72920

~~(D)~~(3) To the extent the department has available resources, 72921
promote and support a full range of mental health and addiction 72922
services that are available and accessible to all residents of 72923
this state, especially for severely mentally disabled children, 72924
adolescents, ~~and~~ adults, pregnant women, parents, guardians or 72925
custodians of children at risk of abuse or neglect, and other 72926
special target populations, including racial and ethnic 72927
minorities, as determined by the department; 72928

~~(E)~~(4) Develop standards and measures for evaluating the 72929
effectiveness of mental health and addiction services, including 72930
services that use methadone treatment, of gambling addiction 72931
services, and for increasing the accountability of mental health 72932
and alcohol and addiction services providers and of gambling 72933
addiction services providers; 72934

(5) Design and set criteria for the determination of ~~severe~~ 72935
~~mental disability~~ priority populations; 72936

~~(F)~~ ~~Establish standards for evaluation of mental health~~ 72937
~~programs;~~ 72938

~~(G)~~(6) Promote, direct, conduct, and coordinate scientific 72939
research, taking ethnic and racial differences into consideration, 72940
concerning the causes and prevention of mental illness and 72941
addiction, methods of providing effective services and treatment, 72942
and means of enhancing the mental health of and recovery from 72943
addiction of all residents of this state; 72944

~~(H)~~(7) Foster the establishment and availability of 72945
vocational rehabilitation services and the creation of employment 72946
opportunities for consumers of mental health and addiction 72947
services, including members of racial and ethnic minorities; 72948

~~(I)~~(8) Establish a program to protect and promote the rights of persons receiving mental health and addiction services, including the issuance of guidelines on informed consent and other rights;

~~(J)~~ Establish, in consultation with board of alcohol, drug addiction, and mental health services representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code;

~~(K)~~(9) Promote the involvement of persons who are receiving or have received mental health or addiction services, including families and other persons having a close relationship to a person receiving ~~mental health~~ those services, in the planning, evaluation, delivery, and operation of mental health and addiction services;

~~(L)~~(10) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of ~~mental health~~ mental health and addiction services. These constituencies shall include consumers of mental health and addiction services and their families, and may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department shall adopt rules under Chapter 119. of the Revised Code that establish procedures for the notification and consultation required by this division.

~~(M)~~ In cooperation with board of alcohol, drug addiction, and mental health services representatives, provide training regarding the provision of community based mental health services to those

~~department employees who are utilized in state operated,~~ 72981
~~community based mental health services;~~ 72982

~~(N)~~(11) Provide consultation to the department of 72983
rehabilitation and correction concerning the delivery of mental 72984
health and addiction services in state correctional institutions. 72985

(12) Promote and coordinate efforts in the provision of 72986
alcohol and drug addiction services and of gambling addiction 72987
services by other state agencies, as defined in section 1.60 of 72988
the Revised Code; courts; hospitals; clinics; physicians in 72989
private practice; public health authorities; boards of alcohol, 72990
drug addiction, and mental health services; alcohol and drug 72991
addiction services providers; law enforcement agencies; gambling 72992
addiction services providers; and related groups; 72993

(13) Provide to each court of record, and biennially update, 72994
a list of the treatment and education programs within that court's 72995
jurisdiction that the court may require an offender, sentenced 72996
pursuant to section 4511.19 of the Revised Code, to attend; 72997

(14) Make the warning sign described in sections 3313.752, 72998
3345.41, and 3707.50 of the Revised Code available on the 72999
department's internet web site; 73000

(15) Provide a program of gambling addiction services on 73001
behalf of the state lottery commission, pursuant to an agreement 73002
entered into with the director of the commission under division 73003
(K) of section 3770.02 of the Revised Code, and provide a program 73004
of gambling addiction services on behalf of the Ohio casino 73005
control commission, under an agreement entered into with the 73006
executive director of the commission under section 3772.062 of the 73007
Revised Code. Under Section 6(C)(3) of Article XV, Ohio 73008
Constitution, the department may enter into agreements with boards 73009
of alcohol, drug addiction, and mental health services, including 73010
boards with districts in which a casino facility is not located, 73011

and nonprofit organizations to provide gambling addiction services 73012
and substance abuse services, and with state institutions of 73013
higher education or private nonprofit institutions that possess a 73014
certificate of authorization issued under Chapter 1713. of the 73015
Revised Code to perform related research. 73016

(B) The department may accept and administer grants from 73017
public or private sources for carrying out any of the duties 73018
enumerated in this section. 73019

(C) Pursuant to Chapter 119. of the Revised Code, the 73020
department shall adopt a rule defining the term "intervention" as 73021
it is used in this chapter in connection with alcohol and drug 73022
addiction services and in connection with gambling addiction 73023
services. The department may adopt other rules as necessary to 73024
implement the requirements of this chapter. 73025

~~Sec. 5119.61 5119.22. Any provision in this chapter that~~ 73026
~~refers to a board of alcohol, drug addiction, and mental health~~ 73027
~~services also refers to the community mental health board in an~~ 73028
~~alcohol, drug addiction, and mental health service district that~~ 73029
~~has a community mental health board.~~ 73030

The director of ~~mental health~~ mental health and addiction 73031
services with respect to all mental health and addiction 73032
facilities and ~~programs~~ services established and operated or 73033
provided under Chapter 340. of the Revised Code ~~for mentally ill~~ 73034
~~and emotionally disturbed persons~~, shall do all of the following: 73035

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 73036
that may be necessary to carry out the purposes of ~~Chapter this~~ 73037
chapter and Chapters 340. and ~~sections 5119.61 to 5119.63 5122.~~ of 73038
the Revised Code. 73039

~~(1) The rules shall include the following:~~ 73040

~~(a) Rules governing a community mental health agency's~~ 73041

~~services under section 340.091 of the Revised Code to an individual referred to the agency under division (D)(2) of section 5119.69 of the Revised Code;~~

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~~(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services regarding referrals of individuals with mental illness or severe mental disability to residential facilities as defined in division (A)(9)(b) of section 5119.22 of the Revised Code and effective arrangements for ongoing mental health services for the individuals.~~

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~~(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023 of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.~~

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~~(B) Review and evaluate, and the continuum of care in each service district, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program submitted under division (A)(4) of section 340.03 of the Revised Code and the requirements and priorities and plans of the state mental health plan department, including the needs of residents of the district now residing in state mental institutions currently receiving services in state-operated hospitals, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;~~

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~~(C) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;~~

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~~(D)~~ At the director's discretion, provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section ~~5119.62~~ 5119.23 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

(D) Establish, in consultation with board of alcohol, drug addiction, and mental health service representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health and addiction services plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code.

(E) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of its contracted services ~~provided through its community mental health plan~~. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. ~~or section 5119.62~~ of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

(F) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services, develop and operate, or contract for the operation of, a community ~~mental~~ behavioral health information system or systems. The department shall specify the information that must be provided by boards of alcohol, drug addiction, and

mental health services for inclusion in the system or systems. 73106

Boards of alcohol, drug addiction, and mental health services 73107
shall submit information requested by the department in the form 73108
and manner and in accordance with time frames prescribed by the 73109
department. Information collected by the department ~~shall~~ may 73110
~~include, but not be limited to,~~ all of the following: 73111

(1) Information ~~regarding units of~~ on services provided in 73112
whole or in part under contract with a board, ~~including diagnosis~~ 73113
~~and special needs, demographic information, the number of units of~~ 73114
~~service provided, past treatment, financial status, and service~~ 73115
~~dates in accordance with rules adopted by the department in~~ 73116
~~accordance with Chapter 119. of the Revised Code;~~ 73117

(2) Financial information ~~other than price or price related~~ 73118
~~data~~ regarding expenditures of federal, state, or local funds by 73119
~~boards and community mental health agencies, including units of~~ 73120
~~service provided, budgeted and actual expenses by type, and~~ 73121
~~sources of funds;~~ 73122

(3) Information about persons served under contract with a 73123
board. 73124

~~Boards shall submit the information specified in division~~ 73125
~~(F)(1) of this section no less frequently than annually for each~~ 73126
~~client, and each time the client's case is opened or closed. The~~ 73127
department shall not collect any personal information from the 73128
boards except as required or permitted by state or federal law for 73129
purposes related to payment, health care operations, program and 73130
service evaluation, reporting activities, research, system 73131
administration, and oversight. 73132

(G)(1) Review each board's community mental health and 73133
addiction services plan, budget, and statement of services to be 73134
made available submitted pursuant to ~~section~~ sections 340.03 and 73135
340.08 of the Revised Code and approve or disapprove ~~it~~ the plan, 73136

~~the budget, and the statement of services in whole or in part. 73137~~
~~Periodically, in consultation with representatives of boards and 73138~~
~~after considering the recommendations of the medical director, the 73139~~
~~director shall issue criteria for determining when a plan is 73140~~
~~complete, criteria for plan approval or disapproval, and 73141~~
~~provisions for conditional approval. The factors that the director 73142~~
~~considers may include, but are not limited to, the following: 73143~~

~~(1) The mental health needs of all persons residing within 73144~~
~~the board's service district, especially severely mentally 73145~~
~~disabled children, adolescents, and adults; 73146~~

~~(2) The demonstrated quality, effectiveness, efficiency, and 73147~~
~~cultural relevance of the services provided in each service 73148~~
~~district, the extent to which any services are duplicative of 73149~~
~~other available services, and whether the services meet the needs 73150~~
~~identified above; 73151~~

~~(3) The adequacy of the board's accounting for the 73152~~
~~expenditure of funds. 73153~~

~~If the director disapproves all or part of any plan, the 73154~~
~~director shall provide the board an opportunity to present its 73155~~
~~position. The director shall inform the board of the reasons for 73156~~
~~the disapproval and of the criteria that must be met before the 73157~~
~~plan may be approved. The director shall give the board a 73158~~
~~reasonable time within which to meet the criteria, and shall offer 73159~~
~~technical assistance to the board to help it meet the criteria. 73160~~

~~If the approval of a plan remains in dispute, the board or 73161~~
~~the director may request that the dispute be submitted to a 73162~~
~~mutually agreed upon third party mediator with the cost to be 73163~~
~~shared by the board and the department. The mediator shall issue 73164~~
~~to the board and the department recommendations for resolution of 73165~~
~~the dispute. The director, taking into consideration the 73166~~
~~recommendations of the mediator, shall make a final determination 73167~~

and approve or disapprove the plan, in whole or in part 73168
The department may withhold all or part of the funds allocated to a 73169
board if it disapproves all or part of a plan, budget, or 73170
statement of services. Prior to a final decision to disapprove a 73171
plan, budget, or statement of services, or to withhold funds from 73172
a board, a representative of the director of mental health and 73173
addiction services shall meet with the board and discuss the 73174
reason for the action the department proposes to take and any 73175
corrective action that should be taken to make the plan, budget, 73176
or statement of services acceptable to the department. In 73177
addition, the department shall offer technical assistance to the 73178
board to assist it to make the plan, budget, or statement of 73179
services acceptable. The department shall give the board a 73180
reasonable time in which to revise the plan, budget, or statement 73181
of services. The board thereafter shall submit a revised plan, 73182
budget, or statement of services, or a new plan, budget, or 73183
statement of services. 73184

(2) If a board determines that it is necessary to amend the 73185
plan, budget, or statement of services that has been approved 73186
under this section, the board shall submit the proposed amendment 73187
to the department. The department may approve or disapprove all or 73188
part of the amendment. 73189

(3) If the director disapproves of all or part of any 73190
proposed amendment, the director shall provide the board an 73191
opportunity to present its position. The director shall inform the 73192
board of the reasons for the disapproval and of the criteria that 73193
must be met before the proposed amendment may be approved. The 73194
director shall give the board a reasonable time within which to 73195
meet the criteria and shall offer technical assistance to the 73196
board to help it meet the criteria. 73197

(4) The department shall establish procedures for the review 73198
of plans, budgets, and statements of services, and a timetable for 73199

submission and review of plans, budgets, and statements of 73200
services and for corrective action and submission of new or 73201
revised plans, budgets, and statements of services. 73202

Sec. ~~5119.62~~ 5119.23. (A) The department of ~~mental health~~ 73203
mental health and addiction services shall establish a methodology 73204
for allocating to boards of alcohol, drug addiction, and mental 73205
health services the funds appropriated by the general assembly to 73206
the department for the purpose of local mental health ~~systems and~~ 73207
addiction services continuums of care. The department shall 73208
establish the methodology after notifying and consulting with 73209
relevant constituencies as required by division ~~(L)(A)(10)~~ of 73210
section ~~5119.06~~ 5119.21 of the Revised Code. The methodology may 73211
provide for the funds to be allocated to boards on a district or 73212
multi-district basis. ~~Subject~~ 73213

(B) Subject to sections ~~5119.622 and 5119.623~~ section 5119.25 73214
of the Revised Code, and to required submissions and approvals 73215
under section 340.08 of the Revised Code, the department shall 73216
allocate the funds to the boards in a manner consistent with the 73217
methodology, this section, other state and federal laws, rules, 73218
and regulations. 73219

~~(B) The department may allocate to boards a portion of the~~ 73220
~~funds appropriated by the general assembly to the department for~~ 73221
~~the operation of state hospital services. If the department~~ 73222
~~allocates the funds, the department shall do all of the following:~~ 73223

~~(1) In consultation with the boards:~~ 73224

~~(a) Annually determine the unit costs of providing state~~ 73225
~~hospital services; and~~ 73226

~~(b) Establish the methodology for allocating the funds to the~~ 73227
~~boards.~~ 73228

~~(2) Determine the type of unit costs of providing state~~ 73229

~~hospital services to be included as a factor in the methodology 73230
and include that unit cost as a factor in the methodology; 73231~~

~~(3) Subject to sections 5119.622 and 5119.623 of the Revised 73232
Code, allocate the funds to the boards in a manner consistent with 73233
the methodology, this section, other state and federal laws, 73234
rules, and regulations. 73235~~

~~(c) Not later than the first day of April of each year, the 73236
department shall notify each board of the department's estimate of 73237
the amount of funds to be allocated to the board under this 73238
section during the fiscal year beginning on the next July first. 73239
If the department makes an allocation under division (B) of this 73240
section, the department shall also notify each board of the unit 73241
costs of providing state hospital services for the upcoming fiscal 73242
year as determined under that division. Not later than the first 73243
day of May of each year, each board shall notify the department as 73244
to which of the following options it has elected for the upcoming 73245
fiscal year: 73246~~

~~(1) The board elects to accept distribution of the amount 73247
allocated to it under this section. Funds distributed to each 73248
board shall be used to supplement and not to supplant other state, 73249
local, or federal funds that are being used to support 73250
community based programs for severely mentally disabled children, 73251
adolescents, and adults, unless the funds have been specifically 73252
designated for the initiation of programs in accordance with the 73253
community mental health plan developed and submitted under section 73254
340.03 and approved under section 5119.61 of the Revised Code. 73255
Notwithstanding section 131.33 of the Revised Code, any board may 73256
expend unexpended funds distributed to the board from 73257
appropriations for the purpose of local management of mental 73258
health services in the fiscal year following the fiscal year for 73259
which the appropriations are made, in accordance with the approved 73260
community mental health plan. 73261~~

~~(2) Subject to division (D) of this section, the board elects not to accept the amount allocated to it under this section, authorizes the department to determine the use of its allocation, and agrees to provide the department with a statement of projected utilization of state hospitals and other state operated services by residents of its service district during the fiscal year.~~

~~(D) No board shall elect the option in division (C)(2) of this section unless all of the following apply:~~

~~(1) Either the total funds estimated by the department to be allocated to the board under this section for the next fiscal year are reduced by a substantial amount, as defined in guidelines adopted by the director of mental health under division (E) of this section, in comparison to the amount allocated for the current fiscal year, for reasons not related to performance or the board has experienced other circumstances specified in the guidelines.~~

~~(2) The board provides the department written confirmation that the board has received input about the impact that the board's election will have on the mental health system in the board's district from all of the following:~~

~~(a) Individuals who receive mental health services and such individuals' families;~~

~~(b) Boards of county commissioners;~~

~~(c) Judges of juvenile and probate courts;~~

~~(d) County sheriffs, jail administrators, and other local law enforcement officials.~~

~~(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation required by division (D)(2) of this section, the board conducts a public hearing on the issue.~~

~~(E) For the purpose of division (D)(1) of this section, the director of mental health shall consult with the boards and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of funds and what other circumstances qualify a board to elect the option in division (C)(2) of this section.~~

~~(F) No board shall use state funds for the purpose of discouraging employees from seeking collective bargaining representation or encouraging employees to decertify a recognized collective bargaining agent.~~

~~(G) The department shall charge against the allocation made to a board under division (B) of this section, if any, any unreimbursed costs for services provided by the department.~~

~~(H) A board's use of funds allocated under this section is subject to audit by county, state, and federal authorities.~~

(C) In consultation with boards, community mental health and addiction services providers, and persons receiving services, the department shall establish guidelines for the use of funds allocated and distributed under this section.

Sec. 5119.621 5119.24. (A) As used in this section, "administrative function" means a function related to one or more of the following:

(1) Continuous quality improvement;

(2) Utilization review;

(3) Resource development;

(4) Fiscal administration;

(5) General administration;

(6) Any other function related to administration that is required by Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of ~~mental health~~ mental health and addiction services specifying how the board used funds allocated to the board under section ~~5119.62~~ 5119.23 of the Revised Code for administrative functions in the year preceding the report's submission. The director of ~~mental health~~ mental health and addiction services shall establish the date by which the report must be submitted each year.

Sec. ~~5119.622~~ 5119.25. (A) The director of ~~mental health~~ mental health and addiction services, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section ~~5119.62~~ 5119.23 of the Revised Code if the board fails to comply with Chapter 340. or section ~~5119.61, 5119.611, 5119.612, or 5119.621~~ 5119.22, 5119.24, 5119.36, or 5119.37 of the Revised Code or rules of the department of ~~mental health regarding a community mental health service~~ mental health and addiction services. The

(B) The director of mental health and addiction services may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.23 of the Revised Code if the board denies available service on the basis of race, color, religion, sex, national origin, marital status, sexual orientation, genetic information, or developmental disability, or age, disability, or military status as defined in section 4112.01 of the Revised Code.

(C) The director shall identify issue a notice identifying the areas of noncompliance and the action necessary to achieve compliance. The director shall may offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or shall have ten days from receipt of the notice of noncompliance to present its

position that it is in compliance. Before withholding funds, the 73352
director or the director's designee shall hold a hearing ~~shall be~~ 73353
~~conducted~~ within ten days of receipt of the board's position to 73354
determine if there are continuing violations and that either 73355
assistance is rejected or the board is unable to achieve 73356
compliance. Subsequent to the hearing process, if it is determined 73357
that compliance has not been achieved, the director may allocate 73358
all or part of the withheld funds to a public or private agency to 73359
provide the community mental health or community addiction service 73360
for which the board is not in compliance until the time that there 73361
is compliance. The director ~~shall~~ may adopt rules in accordance 73362
with Chapter 119. of the Revised Code to implement this section. 73363

Sec. ~~3793.14~~ 5119.26. Any person treated under this chapter 73364
or rules adopted under it shall retain ~~his~~ the person's civil 73365
rights and liberties, including the right not to be experimented 73366
upon with treatment not accepted as good medical practice without 73367
~~his~~ the person's fully informed consent, the right as a ~~patient~~ 73368
person receiving services to maintain the confidentiality of 73369
health and medical records, the right as a person detained for 73370
medical purposes to receive adequate and appropriate treatment, 73371
and the right to vote. 73372

Sec. ~~3793.13~~ 5119.27. (A) Records or information, other than 73373
court journal entries or court docket entries, pertaining to the 73374
identity, diagnosis, or treatment of any ~~patient~~ person seeking or 73375
receiving services that are maintained in connection with the 73376
performance of any drug treatment program or services licensed by, 73377
or certified by, the director of ~~alcohol and drug addiction~~ 73378
~~services,~~ mental health and addiction services under ~~section~~ 73379
~~3793.11 of the Revised Code,~~ this chapter shall be kept 73380
confidential, may be disclosed only for the purposes and under the 73381
circumstances expressly authorized under this section, and may not 73382

otherwise be divulged in any civil, criminal, administrative, or legislative proceeding.

(B) When the ~~patient~~ person, with respect to whom any record or information referred to in division (A) of this section is maintained, gives consent in the form of a written release signed by the ~~patient~~ person, the content of the record or information may be disclosed if the written release conforms to all of the following:

(1) Specifically identifies the person, official, or entity to whom the information is to be provided;

(2) Describes with reasonable specificity the record, records, or information to be disclosed; and

(3) Describes with reasonable specificity the purposes of the disclosure and the intended use of the disclosed information.

(C) A ~~patient~~ person who is subject to a community control sanction, parole, or a post-release control sanction or who is ordered to rehabilitation in lieu of conviction, and who has agreed to participate in a drug treatment or rehabilitation program as a condition of the community control sanction, post-release control sanction, parole, or order to rehabilitation, shall be considered to have consented to the release of records and information relating to the progress of treatment, frequency of treatment, adherence to treatment requirements, and probable outcome of treatment. Release of information and records under this division shall be limited to the court or governmental personnel having the responsibility for supervising the ~~patient's~~ person's community control sanction, post-release control sanction, parole, or order to rehabilitation. A ~~patient~~ person, described in this division, who refuses to allow disclosure may be considered in violation of the conditions of the ~~patient's~~ person's community control sanction, post-release control

sanction, parole, or order to rehabilitation. 73414

(D) Disclosure of a ~~patient's~~ person's record may be made 73415
without the ~~patient's~~ person's consent to qualified personnel for 73416
the purpose of conducting scientific research, management, 73417
financial audits, or program evaluation, but these personnel may 73418
not identify, directly or indirectly, any individual ~~patient~~ 73419
person in any report of the research, audit, or evaluation, or 73420
otherwise disclose a ~~patient's~~ person's identity in any manner. 73421

(E) Upon the request of a prosecuting attorney or the 73422
director of ~~alcohol and drug addiction services~~ mental health and 73423
addiction services, a court of competent jurisdiction may order 73424
the disclosure of records or information referred to in division 73425
(A) of this section if the court has reason to believe that a 73426
treatment program or facility is being operated or used in a 73427
manner contrary to law. The use of any information or record so 73428
disclosed shall be limited to the prosecution of persons who are 73429
or may be charged with any offense related to the illegal 73430
operation or use of the drug treatment program or facility, or to 73431
the decision to withdraw the authority of a drug treatment program 73432
or facility to continue operation. For purposes of this division 73433
the court shall: 73434

(1) Limit disclosure to those parts of the ~~patient's~~ person's 73435
record considered essential to fulfill the objective for which the 73436
order was granted; 73437

(2) Require, where appropriate, that all information be 73438
disclosed in chambers; 73439

(3) Include any other appropriate measures to keep disclosure 73440
to a minimum, consistent with the protection of the ~~patients~~ 73441
persons seeking or receiving services, the physician-patient 73442
relationship, and the administration of the drug treatment and 73443
rehabilitation program. 73444

(F) As used in this section:	73445
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	73446 73447
(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	73448 73449
<u>Sec. 5119.28. (A) All records, and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the person's mental health condition, assessment, provision of care or treatment, or payment for assessment, care or treatment that are maintained in connection with any services certified by the department of mental health and addiction services, or any hospitals or facilities licensed or operated by the department, shall be kept confidential and shall not be disclosed by any person except:</u>	73450 73451 73452 73453 73454 73455 73456 73457 73458
<u>(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents;</u>	73459 73460 73461
<u>(2) When disclosure is provided for in this chapter or Chapter 340. or 5122., or Title XLVII of the Revised Code;</u>	73462 73463
<u>(3) That hospitals, boards of alcohol, drug addiction, and mental health services, licensed facilities, and community mental health services providers may release necessary information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the person;</u>	73464 73465 73466 73467 73468 73469
<u>(4) Pursuant to a court order signed by a judge;</u>	73470
<u>(5) That a person shall be granted access to the person's own psychiatric and medical records, unless access specifically is restricted in a person's treatment plan for clear treatment reasons;</u>	73471 73472 73473 73474

(6) That the department of mental health and addiction services may exchange psychiatric records and other pertinent information with community mental health services providers and boards of alcohol, drug addiction, and mental health services relating to the person's care or services. Records and information that may be exchanged pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

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(7) That the department of mental health and addiction services, hospitals and community providers operated by the department, hospitals licensed by the department under section 5119.33 of the Revised Code, and community mental health services providers may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for the person or for the emergency treatment of the person;

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(8) That the department of mental health and addiction services and community mental health services providers may exchange psychiatric records and other pertinent information with boards of alcohol, drug addiction, and mental health services for purposes of any board function set forth in Chapter 340. of the Revised Code. Boards of alcohol, drug addiction, and mental health services shall not access any personal information from the department or providers except as required or permitted by this section, or Chapter 340. or 5122. of the Revised Code for purposes related to payment, care coordination, health care operations, program and service evaluation, reporting activities, research, system administration, oversight, or other authorized purposes.

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(9) That a person's family member who is involved in the provision, planning, and monitoring of services to the person may

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receive medication information, a summary of the person's 73507
diagnosis and prognosis, and a list of the services and personnel 73508
available to assist the person and the person's family, if the 73509
person's treatment provider determines that the disclosure would 73510
be in the best interests of the person. No such disclosure shall 73511
be made unless the person is notified first and receives the 73512
information and does not object to the disclosure. 73513

(10) That community mental health services providers may 73514
exchange psychiatric records and certain other information with 73515
the board of alcohol, drug addiction, and mental health services 73516
and other providers in order to provide services to a person 73517
involuntarily committed to a board. Release of records under this 73518
division shall be limited to medication history, physical health 73519
status and history, financial status, summary of course of 73520
treatment, summary of treatment needs, and discharge summary, if 73521
any. 73522

(11) That information may be disclosed to the executor or the 73523
administrator of an estate of a deceased person when the 73524
information is necessary to administer the estate; 73525

(12) That information may be disclosed to staff members of 73526
the appropriate board or to staff members designated by the 73527
director of mental health and addiction services for the purpose 73528
of evaluating the quality, effectiveness, and efficiency of 73529
services and determining if the services meet minimum standards. 73530
Information obtained during such evaluations shall not be retained 73531
with the name of any person. 73532

(13) That records pertaining to the person's diagnosis, 73533
course of treatment, treatment needs, and prognosis shall be 73534
disclosed and released to the appropriate prosecuting attorney if 73535
the person was committed pursuant to section 2945.38, 2945.39, 73536
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 73537
attorney designated by the board for proceedings pursuant to 73538

involuntary commitment under Chapter 5122. of the Revised Code. 73539

(14) That the department of mental health and addiction 73540
services may exchange psychiatric hospitalization records, other 73541
mental health treatment records, and other pertinent information 73542
with the department of rehabilitation and correction and with the 73543
department of youth services to ensure continuity of care for 73544
inmates and offenders who are receiving mental health services in 73545
an institution of the department of rehabilitation and correction 73546
or the department of youth services and may exchange psychiatric 73547
hospitalization records, other mental health treatment records, 73548
and other pertinent information with boards of alcohol, drug 73549
addiction, and mental health services and community mental health 73550
services providers to ensure continuity of care for inmates or 73551
offenders who are receiving mental health services in an 73552
institution and are scheduled for release within six months. The 73553
release of records under this division is limited to records 73554
regarding an inmate's or offender's medication history, physical 73555
health status and history, summary of course of treatment, summary 73556
of treatment needs, and a discharge summary, if any. 73557

(15) That a community mental health services provider that 73558
ceases to operate may transfer to either a community mental health 73559
services provider that assumes its caseload or to the board of 73560
alcohol, drug addiction, and mental health services of the service 73561
district in which the person resided at the time services were 73562
most recently provided any treatment records that have not been 73563
transferred elsewhere at the person's request. 73564

(B) Before records are disclosed pursuant to divisions 73565
(A)(3), (6), and (10) of this section, the custodian of the 73566
records shall attempt to obtain the person's consent for the 73567
disclosure. 73568

(C) No person shall reveal the content of a medical record of 73569
a person that is confidential pursuant to this section, except as 73570

authorized by law. 73571

Sec. ~~5119.57~~ 5119.29. ~~No later than January 1, 1998, the~~ The 73572
~~department of mental health~~ mental health and addiction services, 73573
in conjunction with boards of alcohol, drug addiction, and mental 73574
health services and community mental health boards, shall develop 73575
a coordinated system for tracking and monitoring persons found not 73576
guilty by reason of insanity and committed pursuant to section 73577
2945.40 of the Revised Code who have been granted a conditional 73578
release and persons found incompetent to stand trial and committed 73579
pursuant to section 2945.39 of the Revised Code who have been 73580
granted a conditional release. The system shall do all of the 73581
following: 73582

(A) Centralize responsibility for the tracking of those 73583
persons; 73584

(B) Develop uniformity in monitoring those persons; 73585

(C) Develop a mechanism to allow prompt rehospitalization, 73586
reinstitutionalization, or detention when a violation of the 73587
conditional release or decompensation occurs. 73588

Sec. ~~3793.18~~ 5119.30. The department of ~~alcohol and drug~~ 73589
~~addiction services~~ mental health and addiction services promptly 73590
shall develop and maintain a program that continually provides the 73591
courts of this state with relevant information pertaining to 73592
~~alcohol and drug~~ addiction services and programs available both 73593
within their jurisdictions and statewide in order to facilitate 73594
the ability of the courts to utilize treatment and rehabilitation 73595
alternatives in addition to or in lieu of imposing sentences of 73596
imprisonment upon appropriate offenders. 73597

Sec. ~~5119.23~~ 5119.31. The department of ~~mental health~~ mental 73598
health and addiction services may examine into, with or without 73599

expert assistance, the question of the mental and physical 73600
condition of any person committed to or involuntarily confined in 73601
any hospital for the mentally ill, or restrained of ~~his~~ liberty at 73602
any place within this state by reason of alleged mental illness 73603
and may order and compel the discharge of any such person who is 73604
not a mentally ill person subject to hospitalization by court 73605
order as defined in division (B) of section 5122.01 of the Revised 73606
Code and direct what disposition shall be made of ~~him~~ the person. 73607
The order of discharge shall be signed by the director of ~~mental~~ 73608
~~health~~ mental health and addiction services. Upon receipt of such 73609
order by the superintendent or other person in charge of the 73610
building in which the person named in such order is confined, such 73611
person shall forthwith be discharged or otherwise disposed of 73612
according to the terms of said order, and any further or other 73613
detention of such person is unlawful. No such order shall be made 73614
in favor of any person committed and held for trial on a criminal 73615
charge, in confinement by an order of a judge or court made in a 73616
criminal proceeding, or in any case unless notice is given to the 73617
superintendent or other person having charge of the building in 73618
which the alleged mentally ill person is detained, and a 73619
reasonable opportunity is allowed the person in charge to justify 73620
further detention of the person confined. 73621

Sec. ~~5119.60~~ 5119.32. The department of ~~mental health~~ mental 73622
health and addiction services is hereby designated as the state 73623
administrative agency for the ~~alcohol, drug abuse and mental~~ 73624
~~health services~~ substance abuse prevention treatment block grant 73625
and the community mental health services block grant authorized by 73626
the "Public Health Services Act," 95 Stat. 357, 543, 42 U.S.C. 73627
300x, as amended, and similar alcohol, drug abuse, or mental 73628
health programs that are specified in an appropriations act. ~~The~~ 73629
~~department shall establish and administer an annual plan to~~ 73630
~~utilize federal block grant funds. The department shall consult~~ 73631

~~with the department of alcohol and drug addiction services on the 73632
allocation of funds for alcohol and drug addiction services 73633
pursuant to Chapter 3793. of the Revised Code and shall notify the 73634
controlling board, which shall authorize the transfer of funds 73635
allocated to the department of alcohol and drug addiction 73636
services. 73637~~

Sec. ~~5119.20~~ 5119.33. The department of ~~mental health~~ mental 73638
health and addiction services shall inspect and license all 73639
hospitals that receive mentally ill persons, except those 73640
hospitals managed by the department. No hospital may receive for 73641
care or treatment, either at public or private expense, any person 73642
who is or appears to be mentally ill, whether or not so 73643
adjudicated, unless the hospital has received a license from the 73644
department authorizing it to receive for care or treatment persons 73645
who are mentally ill or the hospital is managed by the department. 73646

No such license shall be granted to a hospital for the 73647
treatment of mentally ill persons unless the department is 73648
satisfied, after investigation, that the hospital is managed and 73649
operated by qualified persons and has on its staff one or more 73650
qualified physicians responsible for the medical care of the 73651
patients confined there. At least one such physician shall be a 73652
psychiatrist. 73653

The department shall adopt rules under Chapter 119. of the 73654
Revised Code prescribing minimum standards for the operation of 73655
hospitals for the care and treatment of mentally ill persons and 73656
establishing standards and procedures for the issuance, renewal, 73657
or revocation of full, probationary, and interim licenses. No 73658
license shall be granted to any hospital established or used for 73659
the care of mentally ill persons unless such hospital is operating 73660
in accordance with this section and rules adopted pursuant to this 73661
section. A full license shall expire one year after the date of 73662

issuance, a probationary license shall expire at the time 73663
prescribed by rule adopted pursuant to Chapter 119. of the Revised 73664
Code by the director of ~~mental health~~ mental health and addiction 73665
services, and an interim license shall expire ninety days after 73666
the date of issuance. A full, probationary, or interim license may 73667
be renewed, except that an interim license may be renewed only 73668
twice. The department may fix reasonable fees for licenses and for 73669
license renewals. Such hospitals are subject to inspection and 73670
~~visitation~~ on-site review by the department. 73671

Except as otherwise provided in Chapter 5122. of the Revised 73672
Code, neither the director of ~~the department of mental health~~ 73673
mental health and addiction services; an employee of the 73674
department; a board of alcohol, drug addiction, and mental health 73675
services or ~~agency~~ employee of a community mental health services 73676
provider; nor any other public official shall hospitalize any 73677
mentally ill person for care or treatment in any hospital that is 73678
not licensed in accordance with this section. 73679

Any license issued by the department under this section may 73680
be revoked by the department for any of the following reasons: 73681

(A) The hospital is no longer a suitable place for the care 73682
or treatment of mentally ill persons. 73683

(B) The hospital refuses to be subject to inspection or 73684
~~visitation~~ on-site review by the department. 73685

(C) The hospital has failed to furnish humane, kind, and 73686
adequate treatment and care. 73687

(D) The hospital fails to comply with the licensure rules of 73688
the department. 73689

The department may inspect, ~~visit~~ conduct an on-site review, 73690
and review the records of any hospital that the department has 73691
reason to believe is operating without a license. 73692

Sec. ~~5119.201~~ 5119.331. If the department of ~~mental health~~ mental health and addiction services determines that a hospital not licensed by the department is receiving for care or treatment any person who is or appears to be mentally ill, the department may request in writing that the attorney general petition the court of common pleas in the county where the hospital is located to enjoin the hospital from continued operation in violation of section ~~5119.20~~ 5119.33 of the Revised Code.

Sec. ~~5119.202~~ 5119.332. No third-party payer shall directly or indirectly reimburse, nor shall any person be obligated to pay any hospital for psychiatric services for which a license is required under section ~~5119.20~~ 5119.33 of the Revised Code unless the hospital is licensed by the department of ~~mental health~~ mental health and addiction services.

As used in this section, "third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5101. of the Revised Code, or any self-insurance plan.

Sec. ~~5119.21~~ 5119.333. No person shall keep or maintain a hospital for the care or treatment of mentally ill persons unless it is licensed by the department of ~~mental health~~ mental health and addiction services, as provided by section ~~5119.20~~ 5119.33 of the Revised Code.

Sec. ~~5119.22~~ 5119.34. (A) As used in this section and ~~section 5119.221~~ sections 5119.341 and 5119.342 of the Revised Code:

(1) "Accommodations" means housing, daily meal preparation,

laundry, housekeeping, arranging for transportation, social and 73722
recreational activities, maintenance, security, and other services 73723
that do not constitute personal care services or skilled nursing 73724
care. 73725

(2) "ADAMHS board" means a board of alcohol, drug addiction, 73726
and mental health services. 73727

(3) "Adult" means a person who is eighteen years of age or 73728
older, other than a person described in division (A)(4) of this 73729
section who is between eighteen and twenty-one years of age. 73730

(4) "Child" means a person who is under eighteen years of age 73731
or a person with a mental disability who is under twenty-one years 73732
of age. 73733

(5) "Community mental health ~~agency~~ services provider" means 73734
a community mental health ~~agency~~ services provider as defined in 73735
~~division (H) of section 5122.01~~ 5119.01 of the Revised Code. 73736

(6) "Community mental health services" means any ~~of the~~ 73737
mental health services listed in certified by the department 73738
pursuant to section 340.09 5119.36 of the Revised Code. 73739

(7) "Operator" means the person or persons, firm, 73740
partnership, agency, governing body, association, corporation, or 73741
other entity that is responsible for the administration and 73742
management of a residential facility and that is the applicant for 73743
a residential facility license. 73744

(8) "Personal care services" means services including, but 73745
not limited to, the following: 73746

(a) Assisting residents with activities of daily living; 73747

(b) Assisting residents with self-administration of 73748
medication in accordance with rules adopted under this section; 73749

(c) Preparing special diets, other than complex therapeutic 73750
diets, for residents pursuant to the instructions of a physician 73751

or a licensed dietitian, in accordance with rules adopted under 73752
this section. 73753

"Personal care services" does not include "skilled nursing 73754
care" as defined in section 3721.01 of the Revised Code. A 73755
facility need not provide more than one of the services listed in 73756
division (A)(8) of this section to be considered to be providing 73757
personal care services. 73758

(9) "Residential facility" means a publicly or privately 73759
operated home or facility that provides one of the following: 73760

(a) Accommodations, supervision, personal care services, and 73761
community mental health services for one or more ~~of the following~~ 73762
unrelated persons adults with mental illness or severe mental 73763
disabilities or to one or more unrelated children and adolescents 73764
with a serious emotional disturbance or who are in need of mental 73765
health services who are referred by or are receiving community 73766
mental health services from a community mental health ~~agency,~~ 73767
services provider, hospital, or practitioner; 73768

~~(i) Adults with mental illness;~~ 73769

~~(ii) Persons of any age with severe mental disabilities;~~ 73770

~~(iii) Children with serious emotional disturbances or in need 73771
of mental health services.~~ 73772

(b) Accommodations, supervision, and personal care services 73773
~~for only one or two unrelated adults; accommodations, supervision,~~ 73774
~~and personal care services for three to sixteen unrelated adults;~~ 73775
~~or accommodations, supervision, and personal care services for one~~ 73776
~~or two of the following unrelated persons:~~ 73777

~~(i) Persons of any age with mental illness who are referred 73778
by or are receiving community mental health services from a 73779
community mental health agency, hospital, or practitioner;~~ 73780

~~(ii) Persons of any age with severe mental disabilities who 73781~~

~~are referred by or are receiving community mental health services~~ 73782
~~from a community mental health agency, hospital, or practitioner~~ 73783
to any of the following: 73784

(i) One or two unrelated persons with mental illness or 73785
persons with severe mental disabilities who are referred by or are 73786
receiving mental health services from a community mental health 73787
services provider, hospital, or practitioner; 73788

(ii) One or two unrelated adults who are receiving 73789
residential state supplement payments; 73790

(iii) Three to sixteen unrelated adults. 73791

(c) Room and board for five or more ~~of the following~~ 73792
~~unrelated persons:~~ 73793

~~(i) Adults~~ adults with mental illness or severe mental 73794
disability who are referred by or are receiving community mental 73795
health services from a community mental health ~~agency, services~~ 73796
~~provider, hospital, or practitioner.~~ 73797

~~(ii) Adults with severe mental disabilities who are referred~~ 73798
~~by or are receiving community mental health services from a~~ 73799
~~community mental health agency, hospital, or practitioner.~~ 73800

(10) "Residential facility" does not include any of the 73801
following: 73802

(a) A hospital subject to licensure under section ~~5119.20~~ 73803
5119.33 of the Revised Code; 73804

(b) A residential facility licensed under section 5123.19 of 73805
the Revised Code or otherwise regulated by the department of 73806
developmental disabilities; 73807

(c) An institution or association subject to certification 73808
under section 5103.03 of the Revised Code; 73809

(d) A facility operated by a hospice care program licensed 73810
under section 3712.04 of the Revised Code that is used exclusively 73811

for care of hospice patients; 73812

~~(e) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;~~ 73813
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~~(f)~~ A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code; 73816
73817

~~(g) An alcohol~~ (f) Alcohol or drug addiction program as defined in services certified pursuant to section 3793.01 5119.36 of the Revised Code; 73818
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~~(h)~~(g) A facility licensed to provide methadone treatment under section ~~3793.11~~ 5119.39 of the Revised Code; 73821
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~~(i)~~(h) Any facility that receives funding for operating costs from the ~~department of development services agency~~ under any program established to provide emergency shelter housing or transitional housing for the homeless; 73823
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~~(j)~~(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code; 73827
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~~(k)~~(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans. 73830
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(11) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof. 73834
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(12) "Residential state supplement" means the program administered under section 5119.41 of the Revised Code and related provisions of the Administrative Code under which the state supplements the supplemental security income payments received by aged, blind, or disabled adults under Title XVI of the Social 73837
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Security Act. Residential state supplement payments are used for 73842
the provision of accommodations, supervision, and personal care 73843
services to supplemental security income recipients the department 73844
of mental health and addition services determines are at risk of 73845
needing institutional care. 73846

(13) "Supervision" means any of the following: 73847

(a) Observing a resident to ensure the resident's health, 73848
safety, and welfare while the resident engages in activities of 73849
daily living or other activities; 73850

(b) Reminding a resident to perform or complete an activity, 73851
such as reminding a resident to engage in personal hygiene or 73852
other self-care activities; 73853

(c) Assisting a resident in making or keeping an appointment. 73854

~~(13)~~(14) "Unrelated" means that a resident is not related to 73855
the owner or operator of a residential facility or to the owner's 73856
or operator's spouse as a parent, grandparent, child, stepchild, 73857
grandchild, brother, sister, niece, nephew, aunt, or uncle, or as 73858
the child of an aunt or uncle. 73859

(B) Nothing in division (A)(9) of this section shall be 73860
construed to permit personal care services to be imposed on a 73861
resident who is capable of performing the activity in question 73862
without assistance. 73863

(C) Except in the case of a residential facility described in 73864
division (A)(9)(a) of this section, members of the staff of a 73865
residential facility shall not administer medication to the 73866
facility's residents, but may do any of the following: 73867

(1) Remind a resident when to take medication and watch to 73868
ensure that the resident follows the directions on the container; 73869

(2) Assist a resident in the self-administration of 73870
medication by taking the medication from the locked area where it 73871

is stored, in accordance with rules adopted pursuant to this 73872
section, and handing it to the resident. If the resident is 73873
physically unable to open the container, a staff member may open 73874
the container for the resident. 73875

(3) Assist a physically impaired but mentally alert resident, 73876
such as a resident with arthritis, cerebral palsy, or Parkinson's 73877
disease, in removing oral or topical medication from containers 73878
and in consuming or applying the medication, upon request by or 73879
with the consent of the resident. If a resident is physically 73880
unable to place a dose of medicine to the resident's mouth without 73881
spilling it, a staff member may place the dose in a container and 73882
place the container to the mouth of the resident. 73883

(D)(1) Except as provided in division (D)(2) of this section, 73884
a person operating or seeking to operate a residential facility 73885
shall apply for licensure of the facility to the department of 73886
~~mental health~~ mental health and addiction services. The 73887
application shall be submitted by the operator. When applying for 73888
the license, the applicant shall pay to the department the 73889
application fee specified in rules adopted under division ~~(L)~~(K) 73890
of this section. The fee is nonrefundable. 73891

The department shall send a copy of an application to the 73892
ADAMHS board serving the county in which the person operates or 73893
seeks to operate the facility. The ADAMHS board shall review the 73894
application and provide to the department any information about 73895
the applicant or the facility that the board would like the 73896
department to consider in reviewing the application. 73897

(2) A person may not apply for a license to operate a 73898
residential facility if the person is or has been the owner, 73899
operator, or manager of a residential facility for which a license 73900
to operate was revoked or for which renewal of a license was 73901
refused for any reason other than nonpayment of the license 73902
renewal fee, unless both of the following conditions are met: 73903

(a) A period of not less than two years has elapsed since the 73904
date the director of ~~mental health~~ mental health and addiction 73905
services issued the order revoking or refusing to renew the 73906
facility's license. 73907

(b) The director's revocation or refusal to renew the license 73908
was not based on an act or omission at the facility that violated 73909
a resident's right to be free from abuse, neglect, or 73910
exploitation. 73911

(E)(1) ~~Any person may operate a residential facility~~ 73912
~~providing accommodations and personal care services for one to~~ 73913
~~five unrelated persons and licensed as a residential facility that~~ 73914
~~meets the criteria specified in division (A)(9)(b) of this section~~ 73915
~~as a permitted use in any residential district or zone, including~~ 73916
~~any single family residential district or zone of any political~~ 73917
~~subdivision. Such facilities may be required to comply with area,~~ 73918
~~height, yard, and architectural compatibility requirements that~~ 73919
~~are uniformly imposed upon all single family residences within the~~ 73920
~~district or zone.~~ 73921

~~(2) Any person may operate a residential facility providing~~ 73922
~~accommodations and personal care services for six to sixteen~~ 73923
~~persons and licensed as a residential facility that meets the~~ 73924
~~criteria specified in division (A)(9)(b) of this section as a~~ 73925
~~permitted use in any multiple family residential district or zone~~ 73926
~~of any political subdivision, except that a political subdivision~~ 73927
~~that has enacted a zoning ordinance or resolution establishing~~ 73928
~~planned unit development districts as defined in section 519.021~~ 73929
~~of the Revised Code may exclude such facilities from such~~ 73930
~~districts, and a political subdivision that has enacted a zoning~~ 73931
~~ordinance or resolution may regulate such facilities in~~ 73932
~~multiple family residential districts or zones as a conditionally~~ 73933
~~permitted use or special exception, in either case, under~~ 73934
~~reasonable and specific standards and conditions set out in the~~ 73935

~~zoning ordinance or resolution to:~~ 73936

~~(a) Require the architectural design and site layout of the~~ 73937
~~home and the location, nature, and height of any walls, screens,~~ 73938
~~and fences to be compatible with adjoining land uses and the~~ 73939
~~residential character of the neighborhood;~~ 73940

~~(b) Require compliance with yard, parking, and sign~~ 73941
~~regulation.~~ 73942

~~(3) Divisions (E)(1) and (2) of this section do not affect~~ 73943
~~any right of a political subdivision to permit a person to operate~~ 73944
~~a residential facility licensed under this section in a~~ 73945
~~single family residential district or zone under conditions~~ 73946
~~established by the political subdivision.~~ 73947

~~(4)(a) Notwithstanding divisions (E)(1) and (2) of this~~ 73948
~~section and except as provided in division (E)(4)(b) of this~~ 73949
~~section, a political subdivision that has enacted a zoning~~ 73950
~~ordinance or resolution may limit the excessive concentration of~~ 73951
~~licensed residential facilities that meet the criteria specified~~ 73952
~~in division (A)(9)(b) of this section.~~ 73953

~~(b) Division (E)(4)(a) of this section does not authorize a~~ 73954
~~political subdivision to prevent or limit the continued existence~~ 73955
~~and operation of residential facilities existing and operating on~~ 73956
~~September 10, 2012, and that meet the criteria specified in~~ 73957
~~division (A)(9)(b) of this section. A political subdivision may~~ 73958
~~consider the existence of such facilities for the purpose of~~ 73959
~~limiting the excessive concentration of such facilities that meet~~ 73960
~~the criteria specified in division (A)(9)(b) of this section that~~ 73961
~~are not existing and operating on September 10, 2012.~~ 73962

~~(F)(1) The department of mental health mental health and~~ 73963
~~addiction services shall inspect and license the operation of~~ 73964
~~residential facilities. The department shall consider the past~~ 73965
~~record of the facility and the applicant or licensee in arriving~~ 73966

at its licensure decision. 73967

The department may issue full, probationary, and interim 73968
licenses. A full license shall expire ~~two~~ up to three years after 73969
the date of issuance, a probationary license shall expire in a 73970
shorter period of time as specified in rules adopted by the 73971
director of mental health under division ~~(L)~~(K) of this section, 73972
and an interim license shall expire ninety days after the date of 73973
issuance. A license may be renewed in accordance with rules 73974
adopted by the director under division ~~(L)~~(K) of this section. The 73975
renewal application shall be submitted by the operator. When 73976
applying for renewal of a license, the applicant shall pay to the 73977
department the renewal fee specified in rules adopted under 73978
division ~~(L)~~(K) of this section. The fee is nonrefundable. 73979

(2) The department may issue an order suspending the 73980
admission of residents to the facility or refuse to issue or renew 73981
and may revoke a license if it finds the facility is not in 73982
compliance with rules adopted by the director pursuant to division 73983
~~(L)~~(K) of this section or if any facility operated by the 73984
applicant or licensee has been cited for repeated violations of 73985
statutes or rules during the period of previous licenses. 73986
Proceedings initiated to deny applications for full or 73987
probationary licenses or to revoke such licenses are governed by 73988
Chapter 119. of the Revised Code. 73989

~~(G)~~(F) The department may issue an interim license to operate 73990
a residential facility if both of the following conditions are 73991
met: 73992

(1) The department determines that the closing of or the need 73993
to remove residents from another residential facility has created 73994
an emergency situation requiring immediate removal of residents 73995
and an insufficient number of licensed beds are available. 73996

(2) The residential facility applying for an interim license 73997

meets standards established for interim licenses in rules adopted 73998
by the director under division ~~(H)~~(K) of this section. 73999

An interim license shall be valid for ninety days and may be 74000
renewed by the director no more than twice. Proceedings initiated 74001
to deny applications for or to revoke interim licenses under this 74002
division are not subject to Chapter 119. of the Revised Code. 74003

~~(H)~~(G)(1) The department of ~~mental health~~ mental health and 74004
addiction services may conduct an inspection of a residential 74005
facility as follows: 74006

(a) Prior to issuance of a license for the facility; 74007

(b) Prior to renewal of the license; 74008

(c) To determine whether the facility has completed a plan of 74009
correction required pursuant to division ~~(H)~~(G)(2) of this section 74010
and corrected deficiencies to the satisfaction of the department 74011
and in compliance with this section and rules adopted pursuant to 74012
it; 74013

(d) Upon complaint by any individual or agency; 74014

(e) At any time the director considers an inspection to be 74015
necessary in order to determine whether the facility is in 74016
compliance with this section and rules adopted pursuant to this 74017
section. 74018

(2) In conducting inspections the department may conduct an 74019
on-site examination and evaluation of the residential facility and 74020
its personnel, activities, and services. The department shall have 74021
access to examine and copy all records, accounts, and any other 74022
documents relating to the operation of the residential facility, 74023
including records pertaining to residents, and shall have access 74024
to the facility in order to conduct interviews with the operator, 74025
staff, and residents. Following each inspection and review, the 74026
department shall complete a report listing any deficiencies, and 74027

including, when appropriate, a time table within which the 74028
operator shall correct the deficiencies. The department may 74029
require the operator to submit a plan of correction describing how 74030
the deficiencies will be corrected. 74031

~~(I)~~(H) No person shall do any of the following: 74032

(1) Operate a residential facility unless the facility holds 74033
a valid license; 74034

(2) Violate any of the conditions of licensure after having 74035
been granted a license; 74036

(3) Interfere with a state or local official's inspection or 74037
investigation of a residential facility; 74038

(4) Violate any of the provisions of this section or any 74039
rules adopted pursuant to this section. 74040

~~(J)~~(I) The following may enter a residential facility at any 74041
time: 74042

(1) Employees designated by the director of ~~mental health~~ 74043
mental health and addiction services; 74044

(2) Employees of an ADAMHS board under either of the 74045
following circumstances: 74046

(a) When a resident of the facility is receiving services 74047
from a community mental health ~~agency~~ services provider under 74048
contract with that ADAMHS board or another ADAMHS board; 74049

(b) When authorized by section 340.05 of the Revised Code. 74050

(3) Employees of a community mental health ~~agency~~ services 74051
provider under either of the following circumstances: 74052

(a) When the ~~agency~~ services provider has a ~~client~~ person 74053
receiving services residing in the facility; 74054

(b) When the ~~agency~~ services provider is acting as an agent 74055
of an ADAMHS board other than the board with which it is under 74056

contract. 74057

(4) Representatives of the state long-term care ~~ombudsperson~~ 74058
ombudsman program when the facility provides accommodations, 74059
supervision, and personal care services for three to sixteen 74060
unrelated adults or to one or two unrelated adults who are 74061
recipients under the residential state supplement program. 74062

The persons specified in division ~~(J)~~(I) of this section 74063
shall be afforded access to examine and copy all records, 74064
accounts, and any other documents relating to the operation of the 74065
residential facility, including records pertaining to residents. 74066

~~(K)~~(J) Employees of the department of ~~mental health~~ mental 74067
health and addiction services may enter, for the purpose of 74068
investigation, any institution, residence, facility, or other 74069
structure which has been reported to the department as, or that 74070
the department has reasonable cause to believe is, operating as a 74071
residential facility without a valid license. 74072

~~(L)~~(K) The director shall adopt and may amend and rescind 74073
rules pursuant to Chapter 119. of the Revised Code governing the 74074
licensing and operation of residential facilities. The rules shall 74075
establish all of the following: 74076

(1) Minimum standards for the health, safety, adequacy, and 74077
cultural competency of treatment of and services for persons in 74078
residential facilities; 74079

(2) Procedures for the issuance, renewal, or revocation of 74080
the licenses of residential facilities; 74081

(3) Procedures for conducting criminal records checks for 74082
prospective or current operators, ~~staff employees~~, and ~~other~~ 74083
~~individuals~~ volunteers who, ~~if employed by a residential facility,~~ 74084
~~would~~ may have ~~unsupervised~~ direct access to facility residents; 74085
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(4) The fee to be paid when applying for a new residential facility license or renewing the license;	74087 74088
(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;	74089 74090 74091 74092 74093 74094
(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;	74095 74096
(7) Measures to be taken by residential facilities relative to residents' medication;	74097 74098
(8) Requirements relating to preparation of special diets;	74099
(9) The maximum number of residents who may be served in a residential facility;	74100 74101
(10) The rights of residents of residential facilities and procedures to protect such rights;	74102 74103
(11) Procedures for obtaining an affiliation agreement approved by the board between a residential facility and a community mental health agency <u>services provider</u> ;	74104 74105 74106
(12) Standards and procedures under which the director may waive the requirements of any of the rules adopted.	74107 74108
(M) (L)(1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.	74109 74110 74111 74112 74113 74114 74115 74116

(2) Any person who makes a complaint under division ~~(M)~~(L)(1) 74117
of this section, or any person who participates in an 74118
administrative or judicial proceeding resulting from such a 74119
complaint, is immune from civil liability and is not subject to 74120
criminal prosecution, other than for perjury, unless the person 74121
has acted in bad faith or with malicious purpose. 74122

~~(N)~~(M)(1) The director of ~~mental health~~ mental health and 74123
addiction services may petition the court of common pleas of the 74124
county in which a residential facility is located for an order 74125
enjoining any person from operating a residential facility without 74126
a license or from operating a licensed facility when, in the 74127
director's judgment, there is a present danger to the health or 74128
safety of any of the occupants of the facility. The court shall 74129
have jurisdiction to grant such injunctive relief upon a showing 74130
that the respondent named in the petition is operating a facility 74131
without a license or there is a present danger to the health or 74132
safety of any residents of the facility. 74133

(2) When the court grants injunctive relief in the case of a 74134
facility operating without a license, the court shall issue, at a 74135
minimum, an order enjoining the facility from admitting new 74136
residents to the facility and an order requiring the facility to 74137
assist with the safe and orderly relocation of the facility's 74138
residents. 74139

(3) If injunctive relief is granted against a facility for 74140
operating without a license and the facility continues to operate 74141
without a license, the director shall refer the case to the 74142
attorney general for further action. 74143

~~(O)~~(N) The director may fine a person for violating division 74144
~~(I)~~(H) of this section. The fine shall be five hundred dollars for 74145
a first offense; for each subsequent offense, the fine shall be 74146
one thousand dollars. The director's actions in imposing a fine 74147
shall be taken in accordance with Chapter 119. of the Revised 74148

Code. 74149

Sec. 5119.341. (A) Any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code as a permitted use in any residential district or zone, including any single-family residential district or zone of any political subdivision. Such facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone. 74150
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(B) Any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit developments as defined in section 519.021 of the Revised Code may exclude such facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to: 74161
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(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood; 74176
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(2) Require compliance with yard, parking, and sign regulation. 74180
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(C) Divisions (A) and (B) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under section 5119.34 of the Revised Code in a single-family residential district or zone under conditions established by the political subdivision. 74182
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(D)(1) Notwithstanding divisions (A) and (B) of this section and except as provided in division (D)(2) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code. 74187
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(2) Division (D)(1) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on September 10, 2012, and that meet the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code that are not existing and operating on September 10, 2012. 74193
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Sec. ~~5119.221~~ 5119.342. (A) Upon petition by the director of ~~mental health~~ mental health and addiction services, the court of common pleas or the probate court may appoint a receiver to take possession of and operate a residential facility licensed pursuant to section ~~5119.22~~ 5119.34 of the Revised Code, when conditions existing at the residential facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the 74203
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residents. 74211

Petitions filed pursuant to this section shall include: 74212

(1) A description of the specific conditions existing at the 74213
residential facility which present a substantial risk of physical 74214
or mental harm to residents; 74215

(2) A statement of the absence of other adequate remedies at 74216
law; 74217

(3) The number of individuals residing at the facility; 74218

(4) A statement that the facts have been brought to the 74219
attention of the owner or licensee and that conditions have not 74220
been remedied within a reasonable period of time or that the 74221
conditions, though remedied periodically, habitually exist at the 74222
residential facility as a pattern or practice; and 74223

(5) The name and address of the person holding the license 74224
for the residential facility. 74225

(B) A court in which a petition is filed pursuant to this 74226
section shall notify the person holding the license for the 74227
facility of the filing. The department shall send notice of the 74228
filing to the following, as appropriate: the Ohio protection and 74229
advocacy system as defined in section 5123.60 of the Revised Code; 74230
facility owner; facility operator; board of alcohol, drug 74231
addiction, and mental health services; board of health; department 74232
of developmental disabilities; department of job and family 74233
services; facility residents; and residents' families and 74234
guardians. The court shall provide a hearing on the petition 74235
within five court days of the time it was filed, except that the 74236
court may appoint a receiver prior to that time if it determines 74237
that the circumstances necessitate such action. 74238

Following a hearing on the petition, and upon a determination 74239
that the appointment of a receiver is warranted, the court shall 74240

appoint a receiver and notify the department of ~~mental health~~ 74241
mental health and addiction services and appropriate persons of 74242
this action. 74243

In setting forth the powers of the receiver, the court may 74244
generally authorize the receiver to do all that is prudent and 74245
necessary to safely and efficiently operate the residential 74246
facility within the requirements of state and federal law, but 74247
shall require the receiver to obtain court approval prior to 74248
making any single expenditure of more than five thousand dollars 74249
to correct deficiencies in the structure or furnishings of a 74250
facility. The court shall closely review the conduct of the 74251
receiver and shall require regular and detailed reports. 74252

(C) A receivership established pursuant to this section shall 74253
be terminated, following notification of the appropriate parties 74254
and a hearing, if the court determines either of the following: 74255

(1) The residential facility has been closed and the former 74256
residents have been relocated to an appropriate facility; 74257

(2) Circumstances no longer exist at the residential facility 74258
which present a substantial risk of physical or mental harm to 74259
residents, and there is no deficiency in the residential facility 74260
that is likely to create a future risk of harm. 74261

Notwithstanding division (C)(2) of this section, the court 74262
shall not terminate a receivership for a residential facility that 74263
has previously operated under another receivership unless the 74264
responsibility for the operation of the facility is transferred to 74265
an operator approved by the court and the department of ~~mental~~ 74266
health mental health and addiction services. 74267

(D) Except for the department of ~~mental health~~ mental health 74268
and addiction services or appropriate board of alcohol, drug 74269
addiction, and mental health services, no party or person 74270
interested in an action shall be appointed a receiver pursuant to 74271

this section. 74272

To assist the court in identifying persons qualified to be 74273
named as receivers, the director of ~~the department of mental~~ 74274
~~health~~ mental health and addiction services shall maintain a list 74275
of the names of such persons. The department of ~~mental health~~ 74276
mental health and addiction services, the department of job and 74277
family services, and the department of health shall provide 74278
technical assistance to any receiver appointed pursuant to this 74279
section. 74280

Before entering upon the duties of receiver, the receiver 74281
must be sworn to perform the duties faithfully, and, with surety 74282
approved by the court, judge, or clerk, execute a bond to such 74283
person, and in such sum as the court or judge directs, to the 74284
effect that such receiver will faithfully discharge the duties of 74285
receiver in the action, and obey the orders of the court therein. 74286

(1) Under the control of the appointing court, a receiver may 74287
do the following: 74288

(a) Bring and defend actions in the appointee's name as 74289
receiver; 74290

(b) Take and keep possession of property. 74291

(2) The court shall authorize the receiver to do the 74292
following: 74293

(a) Collect payment for all goods and services provided to 74294
the residents or others during the period of the receivership at 74295
the same rate as was charged by the licensee at the time the 74296
petition for receivership was filed, unless a different rate is 74297
set by the court; 74298

(b) Honor all leases, mortgages, and secured transactions 74299
governing all buildings, goods, and fixtures of which the receiver 74300
has taken possession, but, in the case of a rental agreement only 74301

to the extent of payments that are for the use of the property 74302
during the period of the receivership, or, in the case of a 74303
purchase agreement, only to the extent that payments come due 74304
during the period of the receivership; 74305

(c) If transfer of residents is necessary, provide for the 74306
orderly transfer of residents by: 74307

(i) Cooperating with all appropriate state and local agencies 74308
in carrying out the transfer of residents to alternative community 74309
placements; 74310

(ii) Providing for the transportation of residents' 74311
belongings and records; 74312

(iii) Helping to locate alternative placements and develop 74313
plans for transfer; 74314

(iv) Encouraging residents or guardians to participate in 74315
transfer planning except when an emergency exists and immediate 74316
transfer is necessary. 74317

(d) Make periodic reports on the status of the residential 74318
facility to the court; the appropriate state agencies; and the 74319
board of alcohol, drug addiction, and mental health services. Each 74320
report shall be made available to residents, their guardians, and 74321
families. 74322

(e) Compromise demands or claims; and 74323

(f) Generally do such acts respecting the residential 74324
facility as the court authorizes. 74325

Notwithstanding any other provision of law, contracts which 74326
are necessary to carry out the powers and duties of the receiver 74327
need not be competitively bid. 74328

Sec. ~~5119.611~~ 5119.36. (A) A community mental health agency 74329
services provider applicant or community addiction services 74330

provider applicant that seeks certification of its community 74331
mental health services or community addiction services shall 74332
submit an application to the director of ~~mental health~~ mental 74333
health and addiction services. On receipt of the application, the 74334
director may ~~visit~~ conduct an on-site review and shall evaluate 74335
the ~~agency~~ provider to determine whether its services satisfy the 74336
standards established by rules adopted under division ~~(C)~~(E) of 74337
this section. The director shall make the evaluation, and, if the 74338
director ~~visits~~ conducts an on-site review of the agency provider, 74339
~~shall~~ may make the ~~visit~~ review, in cooperation with the board of 74340
alcohol, drug addiction, and mental health services with which the 74341
~~agency~~ provider seeks to contract under division (A)(8)(a) of 74342
section 340.03 of the Revised Code. 74343

(B) Subject to section ~~5119.612~~ 5119.37 of the Revised Code, 74344
the director shall determine whether the services of an 74345
~~applicant's community mental health agency~~ applicant satisfy the 74346
standards for certification of the services. If the director 74347
determines that a community mental health ~~agency's~~ services 74348
provider's or a community addiction services provider's services 74349
satisfy the standards for certification and the ~~agency~~ provider 74350
has paid the fee required under division (D) of this section, the 74351
director shall certify the services. No community mental health 74352
services provider or community addiction services provider shall 74353
be eligible to receive state or federal funds, or funds 74354
administered by an alcohol, drug addiction, and mental health 74355
services board unless its services have been certified by the 74356
department. 74357

(C) If the director determines that a community mental health 74358
~~agency's~~ services provider's or a community addiction services 74359
provider's services do not satisfy the standards for 74360
certification, the director shall identify the areas of 74361
noncompliance, specify what action is necessary to satisfy the 74362

standards, and may offer technical assistance to the provider and 74363
to the board of alcohol, drug addiction, and mental health 74364
services so that the board may assist the agency provider in 74365
satisfying the standards. The director shall give the agency 74366
provider a reasonable time within which to demonstrate that its 74367
services satisfy the standards or to bring the services into 74368
compliance with the standards. If the director concludes that the 74369
services continue to fail to satisfy the standards, the director 74370
may request that the board reallocate ~~the~~ any funds for the 74371
~~community~~ mental health or addiction services the agency provider 74372
was to provide to another community mental health agency or 74373
addiction services provider whose community mental health or 74374
community addiction services satisfy the standards. If the board 74375
does not reallocate ~~those~~ such funds in a reasonable period of 74376
time, the director may withhold state and federal funds for the 74377
~~community mental health~~ services and allocate those funds directly 74378
to a community mental health agency or community addiction 74379
services provider whose ~~community mental health~~ services satisfy 74380
the standards. 74381

(D) Each community mental health agency services provider or 74382
community addiction services provider seeking certification of its 74383
~~community~~ mental health or addiction services under this section 74384
shall pay a fee for the certification required by this section, 74385
unless the provider is exempt under rules adopted under division 74386
(E) of this section. Fees shall be paid into the state treasury to 74387
the credit of the sale of goods and services fund created pursuant 74388
to section ~~5119.161~~ 5119.45 of the Revised Code. 74389

(E) The director shall adopt rules in accordance with Chapter 74390
119. of the Revised Code to implement this section. The rules 74391
shall do all of the following: 74392

(1) Establish certification standards for ~~community~~ mental 74393
health services, ~~including assertive community treatment and~~ 74394

~~intensive home based mental health services, and addiction~~ 74395
~~services~~ that are consistent with nationally recognized applicable 74396
standards and facilitate participation in federal assistance 74397
programs. The rules shall include as certification standards only 74398
requirements that improve the quality of services or the health 74399
and safety of ~~clients of~~ persons receiving community mental health 74400
and addiction services. The standards shall address at a minimum 74401
all of the following: 74402

(a) Reporting major unusual incidents to the director; 74403

(b) Procedures for applicants for and ~~clients of~~ persons 74404
receiving community mental health and addiction services to file 74405
grievances and complaints; 74406

(c) Seclusion; 74407

(d) Restraint; 74408

(e) Development of written policies addressing the rights of 74409
~~clients~~ persons receiving services, including all of the 74410
following: 74411

(i) The right to a copy of the written policies addressing 74412
~~client~~ the rights of persons receiving services; 74413

(ii) The right at all times to be treated with consideration 74414
and respect for the ~~client's~~ person's privacy and dignity; 74415

(iii) The right to have access to the ~~client's~~ person's own 74416
psychiatric, medical, or other treatment records unless access is 74417
specifically restricted in the ~~client's~~ person's treatment plan 74418
for clear treatment reasons; 74419

(iv) The right to have a client rights officer provided by 74420
the ~~agency~~ services provider or board of alcohol, drug addiction, 74421
and mental health services advise the ~~client~~ person of the 74422
~~client's~~ person's rights, including the ~~client's~~ person's rights 74423
under Chapter 5122. of the Revised Code if the ~~client~~ person is 74424

committed to the ~~agency~~ provider or board. 74425

(2) ~~Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;~~ 74426
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~~(3)~~ Establish the process for certification of community mental health and addiction services; 74429
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~~(4)~~(3) Set the amount of certification review fees ~~based on a portion of the cost of performing the review;~~ 74431
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~~(5)~~(4) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds. 74433
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Sec. ~~5119.613~~ 5119.361. The director of ~~mental health~~ mental health and addiction services shall require that each board of alcohol, drug addiction, and mental health services ensure that each community mental health ~~agency~~ services provider and community addiction services provider with which it contracts under division (A)(8)(a) of section 340.03 of the Revised Code to provide community mental health or addiction services establish grievance procedures consistent with rules adopted under section ~~5119.611~~ 5119.36 of the Revised Code that are available to all ~~applicants for and clients of the~~ persons seeking or receiving services from a community mental health or addiction services provider. 74435
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Sec. ~~5119.612~~ 5119.37. (A) In lieu of a determination by the director of ~~mental health~~ mental health and addiction services of whether the services of a community mental health ~~agency~~ services provider or a community addiction services provider satisfy the standards for certification under section ~~5119.611~~ 5119.36 of the Revised Code, the director shall accept appropriate accreditation of an applicant's mental health services, alcohol and drug addiction services, integrated mental health and alcohol and other 74447
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drug addiction services, ~~or~~ integrated mental health and physical health services, or integrated alcohol and other drug addiction and physical health services being provided in this state from any of the following national accrediting organizations as evidence that the applicant satisfies the standards for certification:

(1) The joint commission;

(2) The commission on accreditation of rehabilitation facilities;

(3) The council on accreditation.

(B) If the director determines that an applicant's accreditation is current, is appropriate for the services for which the applicant is seeking certification, and the applicant meets any other requirements established under this section or in rules adopted under this section, the director shall certify the applicant's services that are accredited. Except as provided in division (C)(2) of this section, the director shall issue the certification without further evaluation of the services.

(C) For purposes of this section, all of the following apply:

(1) The director may review the accrediting organizations listed in division (A) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services, alcohol or other drug addiction services, physical health services, or both. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The director may ~~visit~~ conduct an on-site review or otherwise evaluate a community mental health ~~agency~~ services provider or a community addiction services provider at any time based on cause, including complaints made by or on behalf of

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~~consumers~~ persons receiving services and confirmed or alleged 74485
deficiencies brought to the attention of the director. 74486

(3) The director shall require a community mental health 74487
~~agency services provider and a community addiction services~~ 74488
provider to notify the director not later than ten days after any 74489
change in the ~~agency's~~ provider's accreditation status. The ~~agency~~ 74490
provider may notify the director by providing a copy of the 74491
relevant document the ~~agency~~ provider received from the 74492
accrediting organization. 74493

(4) The director shall require a community mental health 74494
~~agency services provider and a community addiction services~~ 74495
provider to submit to the director reports of major unusual 74496
incidents. 74497

(5) The director may require a community mental health ~~agency~~ 74498
services provider or a community addiction services provider to 74499
submit to the director cost reports pertaining to the ~~agency~~ 74500
provider. 74501

(D) The director shall adopt rules in accordance with Chapter 74502
119. of the Revised Code to implement this section. In adopting 74503
the rules, the director shall do all of the following: 74504

(1) Specify the documentation that must be submitted as 74505
evidence of holding appropriate accreditation; 74506

(2) Establish a process by which the director may review the 74507
accreditation standards and processes used by the national 74508
accrediting organizations listed in division (A) of this section; 74509

(3) Specify the circumstances under which reports of major 74510
unusual incidents and ~~agency~~ provider cost reports must be 74511
submitted to the director; 74512

(4) Specify the circumstances under which the director may 74513
~~visit~~ conduct an on-site review or otherwise evaluate a community 74514

mental health ~~agency~~ services provider and a community addiction 74515
services provider for cause; 74516

(5) Establish a process by which the director, based on 74517
deficiencies identified as a result of ~~visiting~~ conducting an 74518
on-site review or evaluating a community mental health ~~agency~~ 74519
services provider or a community addiction services provider under 74520
division (C)(2) of this section, may take any of a range of 74521
corrective actions, with the most stringent being revocation of 74522
the certification of the ~~agency's~~ provider's services. 74523

Sec. ~~3793.10~~ 5119.38. A drivers' intervention program may be 74524
used as an alternative to a term of imprisonment for an offender 74525
sentenced pursuant to division (G)(1)(a) of section 4511.19 of the 74526
Revised Code, if it is certified by the director of ~~alcohol and~~ 74527
~~drug addiction services~~ mental health and addiction services 74528
pursuant to this section. No drivers' intervention program shall 74529
be used as an alternative to a term of imprisonment that is 74530
imposed pursuant to division (G)(1)(b), (c), (d), or (e) of 74531
section 4511.19 of the Revised Code. 74532

To qualify for certification by the director and to receive 74533
funds from the statewide treatment and prevention fund created by 74534
section 4301.30 of the Revised Code in any amounts and at any 74535
times that the director determines are appropriate, a drivers' 74536
intervention program shall meet state minimum standards that the 74537
director shall establish by rule. The rules shall include, but are 74538
not limited to, standards governing program course hours and 74539
content, qualifications of program personnel, methods of 74540
identifying and testing participants to isolate participants with 74541
alcohol and drug abuse problems, referral of such persons to 74542
~~alcohol and drug~~ community addiction programs services providers, 74543
the prompt notification of courts by program operators of the 74544
completion of the programs by persons required by courts to attend 74545

them, and record keeping, including methods of tracking 74546
participants for a reasonable time after they have left the 74547
program. 74548

The director shall issue a certificate to any qualified 74549
drivers' intervention program. The certificate is valid for three 74550
years. 74551

Sec. ~~3793.11~~ 5119.39. (A) No ~~alcohol and drug~~ community 74552
~~addiction program services provider~~ shall employ methadone 74553
treatment or prescribe, dispense, or administer methadone unless 74554
the program is licensed under this section. No ~~alcohol and drug~~ 74555
community ~~addiction program services provider~~ licensed under this 74556
section shall maintain methadone treatment in a manner 74557
inconsistent with this section and the rules adopted under it. 74558

(B) ~~An alcohol and drug~~ A community addiction ~~program~~ 74559
services provider may apply to the department of ~~alcohol and drug~~ 74560
~~addiction services~~ mental health and addiction services for a 74561
license to maintain methadone treatment. The department shall 74562
review all applications received. 74563

(C) The department may issue a license to maintain methadone 74564
treatment to an ~~alcohol and drug~~ community addiction ~~program~~ 74565
services provider only if all of the following apply: 74566

(1) The ~~program~~ provider is operated by a private, nonprofit 74567
organization or by a government entity; 74568

(2) For at least two years immediately preceding the date of 74569
application, the ~~program~~ provider has been fully certified under 74570
section ~~3793.06~~ 5119.36 of the Revised Code; 74571

(3) The ~~program~~ provider has not been denied a license to 74572
maintain methadone treatment or had its license withdrawn or 74573
revoked within the five-year period immediately preceding the date 74574
of application; 74575

(4) It affirmatively appears to the department that the program provider is adequately staffed and equipped to maintain methadone treatment;

(5) It affirmatively appears to the department that the program provider will maintain methadone treatment in strict compliance with section 3719.61 of the Revised Code, all other laws relating to drug abuse, and the rules adopted by the department;

(6) Except as provided in division (D) of this section, there is no public or private school, licensed child day-care center, or other child-serving agency within a radius of five hundred feet of the location where the program is to maintain methadone treatment.

(D) The department may waive the requirement of division (C)(6) of this section if it receives, from each public or private school, licensed child day-care center, or other child-serving agency that is within the applicable radius of the location where the program is to maintain methadone treatment, a letter of support for the location. The department shall determine whether a letter of support is satisfactory for purposes of waiving the requirement.

(E) A license to maintain methadone treatment shall expire one year from the date of issuance. Licenses may be renewed.

(F) The department shall establish procedures and adopt rules for licensing, inspection, and supervision of ~~alcohol and drug~~ community addiction programs services providers that maintain methadone treatment. The rules shall establish standards for the control, storage, furnishing, use, and dispensing of methadone, prescribe minimum standards for the operation of the methadone treatment component of the ~~program,~~ provider's operations and comply with federal laws and regulations.

All rules adopted under this division shall be adopted in

accordance with Chapter 119. of the Revised Code. All actions 74607
taken by the department regarding the licensing of ~~programs~~ 74608
providers to maintain methadone treatment shall be conducted in 74609
accordance with Chapter 119. of the Revised Code, except as 74610
provided in division (L) of this section. 74611

(G) The department of ~~alcohol and drug addiction services~~ 74612
mental health and addiction services shall inspect all ~~alcohol and~~ 74613
~~drug~~ community addiction programs services providers licensed to 74614
maintain methadone treatment. Inspections shall be conducted at 74615
least annually and may be conducted more frequently. No person or 74616
government entity shall interfere with a state or local government 74617
official acting on behalf of the department while conducting an 74618
inspection. 74619

(H) An ~~alcohol and drug~~ community addiction program services 74620
provider shall not administer or dispense methadone in a tablet, 74621
powder, or intravenous form. Methadone shall be administered or 74622
dispensed only in a liquid form intended for ingestion. A ~~program~~ 74623
services provider shall not administer or dispense methadone to an 74624
individual for pain or other medical reasons. 74625

(I) As used in this division, "program sponsor" means a 74626
person who assumes responsibility for the operation and employees 74627
of the methadone treatment component of an ~~alcohol and drug~~ a 74628
community addiction program services provider. 74629

~~An alcohol and drug~~ A community addiction program services 74630
provider shall not employ an individual who receives methadone 74631
treatment from that ~~program services provider~~. A program shall not 74632
permit an individual to act as a ~~program~~ provider sponsor, medical 74633
director, or director of the ~~program~~ provider if the individual is 74634
receiving methadone treatment from any ~~alcohol and drug~~ community 74635
addiction ~~program services provider~~. 74636

(J) The department may issue orders to assure compliance with 74637

section 3719.61 of the Revised Code, all other laws relating to 74638
drug abuse, and the rules adopted under this section. Subject to 74639
section ~~3793.13~~ 5119.27 of the Revised Code, the department may 74640
hold hearings, require the production of relevant matter, compel 74641
testimony, issue subpoenas, and make adjudications. Upon failure 74642
of a person without lawful excuse to obey a subpoena or to produce 74643
relevant matter, the department may apply to a court of common 74644
pleas for an order compelling compliance. 74645

(K) The department may refuse to issue, or may withdraw or 74646
revoke, a license to maintain methadone treatment. A license may 74647
be refused if ~~an alcohol and drug~~ a community addiction ~~program~~ 74648
services provider does not meet the requirements of division (C) 74649
of this section. A license may be withdrawn at any time the 74650
department determines that the program no longer meets the 74651
requirements for receiving the license. A license may be revoked 74652
in accordance with division (L) of this section. 74653

In the case of a license issued prior to ~~the effective date~~ 74654
~~of this amendment~~ December 20, 2012, the department shall not 74655
consider the requirement of division (C)(6) of this section in 74656
determining whether to renew, withdraw, or revoke the license. 74657

(L) If the department of ~~alcohol and drug addiction services~~ 74658
mental health and addiction services finds reasonable cause to 74659
believe that ~~an alcohol and drug~~ a community addiction ~~program~~ 74660
services provider licensed under this section is in violation of 74661
any provision of section 3719.61 of the Revised Code, or of any 74662
other state or federal law or rule relating to drug abuse, the 74663
department may issue an order immediately revoking the license, 74664
subject to division (M) of this section. The department shall set 74665
a date not more than fifteen days later than the date of the order 74666
of revocation for a hearing on the continuation or cancellation of 74667
the revocation. For good cause, the department may continue the 74668
hearing on application of any interested party. In conducting 74669

hearings, the department has all the authority and power set forth 74670
in division (J) of this section. Following the hearing, the 74671
department shall either confirm or cancel the revocation. The 74672
hearing shall be conducted in accordance with Chapter 119. of the 74673
Revised Code, except that the ~~program~~ provider shall not be 74674
permitted to maintain methadone treatment pending the hearing or 74675
pending any appeal from an adjudication made as a result of the 74676
hearing. Notwithstanding any provision of Chapter 119. of the 74677
Revised Code to the contrary, a court shall not stay or suspend 74678
any order of revocation issued by the director under this division 74679
pending judicial appeal. 74680

(M) The department shall not revoke a license to maintain 74681
methadone treatment unless all ~~clients~~ services recipients 74682
receiving methadone treatment from the ~~alcohol and drug~~ community 74683
addiction ~~program~~ services provider are provided adequate 74684
substitute treatment. For purposes of this division, the 74685
department may transfer the ~~clients~~ services recipients to other 74686
programs licensed to maintain methadone treatment or replace any 74687
or all of the administrators and staff of the ~~program~~ provider 74688
with representatives of the department who shall continue on a 74689
provisional basis the methadone treatment component of the 74690
program. 74691

(N) Each time the department receives an application from ~~an~~ 74692
~~alcohol and drug~~ a community addiction ~~program~~ services provider 74693
for a license to maintain methadone treatment, issues or refuses 74694
to issue a license, or withdraws or revokes a license, the 74695
department shall notify the board of alcohol, drug addiction, and 74696
mental health services of each alcohol, drug addiction, and mental 74697
health service district in which the ~~program is operated~~ provider 74698
operates. 74699

(O) Whenever it appears to the department from files, upon 74700
complaint, or otherwise, that ~~an alcohol and drug~~ a community 74701

addiction ~~program~~ services provider has engaged in any practice 74702
declared to be illegal or prohibited by section 3719.61 of the 74703
Revised Code, or any other state or federal laws or regulations 74704
relating to drug abuse, or when the department believes it to be 74705
in the best interest of the public and necessary for the 74706
protection of the citizens of the state, the department may 74707
request criminal proceedings by laying before the prosecuting 74708
attorney of the proper county any evidence of criminality which 74709
may come to its knowledge. 74710

(P) The department shall maintain a current list of ~~alcohol~~ 74711
~~and drug~~ community addiction programs services providers licensed 74712
by the department under this section and shall provide a copy of 74713
the current list to a judge of a court of common pleas who 74714
requests a copy for the use of the judge under division (H) of 74715
section 2925.03 of the Revised Code. The list of licensed ~~alcohol~~ 74716
~~and drug~~ community addiction programs services providers shall 74717
identify each licensed ~~program~~ provider by its name, its address, 74718
and the county in which it is located. 74719

Sec. ~~5119.061~~ 5119.40. (A) As used in this section, "mentally 74720
ill individual" and "specialized services" have the same meanings 74721
as in section ~~5111.202~~ 5165.03 of the Revised Code. 74722

(B)(1) Except as provided in division (B)(2) of this section 74723
and rules adopted under division (E)(3) of this section, for 74724
purposes of section ~~5111.202~~ 5165.03 of the Revised Code, the 74725
department of ~~mental health~~ mental health and addiction services 74726
shall determine in accordance with ~~section 1919(e)(7)~~ of the 74727
"Social Security Act," ~~49 Stat. 620 (1935)~~ section 1919(e)(7), 42 74728
U.S.C.A. ~~301~~ 1396r(e)(7), ~~as amended~~, and regulations adopted 74729
under section 1919(f)(8)(A) of that act, 42 U.S.C. 1396r(f)(8)(A), 74730
whether, because of the individual's physical and mental 74731
condition, a mentally ill individual seeking admission to a 74732

nursing facility requires the level of services provided by a 74733
nursing facility and, if the individual requires that level of 74734
services, whether the individual requires specialized services for 74735
mental illness. The determination required by this division shall 74736
be based on an independent physical and mental evaluation 74737
performed by a person or entity other than the department. 74738

(2) A Except as provided in division (B)(3) of this section, 74739
a determination under ~~this~~ division (B)(1) of this section is not 74740
required for any of the following: 74741

(a) An individual seeking readmission to a nursing facility 74742
after having been transferred from a nursing facility to a 74743
hospital for care; 74744

(b) An individual who meets all of the following conditions: 74745

(i) The individual is admitted to the nursing facility 74746
directly from a hospital after receiving inpatient care at the 74747
hospital; 74748

(ii) The individual requires nursing facility services for 74749
the condition for which care in the hospital was received; 74750

(iii) The individual's attending physician has certified, 74751
before admission to the nursing facility, that the individual is 74752
likely to require less than thirty days of nursing facility 74753
services. 74754

(c) An individual transferred from one nursing facility to 74755
another nursing facility, with or without an intervening hospital 74756
stay. 74757

(3) A determination under division (B)(1) of this section is 74758
required for an individual described in division (B)(2)(a) or (b) 74759
of this section if the hospital from which the individual is 74760
transferred or directly admitted to a nursing facility is either 74761
of the following: 74762

(a) A hospital that the department maintains, operates, manages, and governs under section 5119.14 of the Revised Code for the care and treatment of mentally ill persons; 74763
74764
74765

(b) A free-standing hospital, or unit of a hospital, licensed by the department under section 5119.33 of the Revised Code. 74766
74767

(C) Except as provided in rules adopted under division 74768
~~(F)~~(E)(3) of this section, the department of ~~mental health~~ mental 74769
health and addiction services shall review and determine for each 74770
resident of a nursing facility who is mentally ill, whether the 74771
resident, because of the resident's physical and mental condition, 74772
requires the level of services provided by a nursing facility and 74773
whether the resident requires specialized services for mental 74774
illness. The review and determination shall be conducted in 74775
accordance with section 1919(e)(7) of the "Social Security Act" 74776
and the regulations adopted under section 1919(f)(8)(A) of the act 74777
and based on an independent physical and mental evaluation 74778
performed by a person or entity other than the department. The 74779
review and determination shall be completed promptly after a 74780
nursing facility has notified the department that there has been a 74781
significant change in the resident's mental or physical condition. 74782

(D)(1) In the case of a nursing facility resident who has 74783
continuously resided in a nursing facility for at least thirty 74784
months before the date of a review and determination under 74785
division (C) of this section, if the resident is determined not to 74786
require the level of services provided by a nursing facility, but 74787
is determined to require specialized services for mental illness, 74788
the department, in consultation with the resident's family or 74789
legal representative and care givers, shall do all of the 74790
following: 74791

(a) Inform the resident of the institutional and 74792
noninstitutional alternatives covered under the state plan for 74793
medical assistance; 74794

(b) Offer the resident the choice of remaining in the nursing facility or receiving covered services in an alternative institutional or noninstitutional setting;

(c) Clarify the effect on eligibility for services under the state plan for medical assistance if the resident chooses to leave the facility, including its effect on readmission to the facility;

(d) Provide for or arrange for the provision of specialized services for the resident's mental illness in the setting chosen by the resident.

(2) In the case of a nursing facility resident who has continuously resided in a nursing facility for less than thirty months before the date of the review and determination under division (C) of this section, if the resident is determined not to require the level of services provided by a nursing facility, but is determined to require specialized services for mental illness, or if the resident is determined to require neither the level of services provided by a nursing facility nor specialized services for mental illness, the department shall act in accordance with its alternative disposition plan approved by the United States department of health and human services under section 1919(e)(7)(E) of the "Social Security Act."

(3) In the case of an individual who is determined under division (B) or (C) of this section to require both the level of services provided by a nursing facility and specialized services for mental illness, the department of ~~mental health~~ mental health and addiction services shall provide or arrange for the provision of the specialized services needed by the individual or resident while residing in a nursing facility.

(E) The department of ~~mental health~~ mental health and addiction services shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Establish criteria to be used in making the 74826
determinations required by divisions (B) and (C) of this section. 74827
The criteria shall not exceed the criteria established by 74828
regulations adopted by the United States department of health and 74829
human services under section 1919(f)(8)(A) of the "Social Security 74830
Act." 74831

(2) Specify information to be provided by the individual or 74832
nursing facility resident being assessed; 74833

(3) Specify any circumstances, in addition to circumstances 74834
listed in division (B) of this section, under which determinations 74835
under divisions (B) and (C) of this section are not required to be 74836
made. 74837

Sec. ~~5119.69~~ 5119.41. (A) As used in this section and section 74838
~~5119.691~~ 5119.411 of the Revised Code: 74839

(1) ~~"Long term care consultation program" means the program~~ 74840
~~the department of aging is required to develop under section~~ 74841
~~173.42 of the Revised Code.~~ 74842

~~(2) "Long term care consultation program administrator" or~~ 74843
~~"administrator" means the department of aging or, if the~~ 74844
~~department contracts with an area agency on aging or other entity~~ 74845
~~to administer the long term care consultation program for a~~ 74846
~~particular area, that agency or entity.~~ 74847

~~(3)~~ "Nursing facility" has the same meaning as in section 74848
~~5111.20~~ 5165.01 of the Revised Code. 74849

~~(4)~~(2) "Residential state supplement administrative agency" 74850
means the department of ~~mental health~~ mental health and addiction 74851
services or, if the department designates an entity under division 74852
(C) of this section for a particular area, the designated entity. 74853

~~(5)~~(3) "Residential state supplement program" means the 74854
program administered pursuant to this section. 74855

(B) The department of ~~mental health~~ mental health and 74856
addiction services shall implement the residential state 74857
supplement program under which the state supplements the 74858
supplemental security income payments received by aged, blind, or 74859
disabled adults under Title XVI of the "Social Security Act," ~~49~~ 74860
~~Stat. 620 (1935)~~, 42 U.S.C.A., ~~as amended~~ 1381 et seq. Residential 74861
state supplement payments shall be used for the provision of 74862
accommodations, supervision, and personal care services to social 74863
security, supplemental security income, and social security 74864
disability insurance recipients who the department determines are 74865
at risk of needing institutional care. 74866

(C) In implementing the program, the department may designate 74867
one or more entities to be responsible for providing 74868
administrative services regarding the program. The department may 74869
designate an entity to be a residential state supplement 74870
administrative agency under this division either by entering into 74871
a contract with the entity to serve in that capacity or by 74872
otherwise delegating to the entity the responsibility to serve in 74873
that capacity. 74874

(D) For an individual to be eligible for residential state 74875
supplement payments, all of the following must be the case: 74876

(1) Except as provided by division (H) of this section, the 74877
individual must reside in one of the following: 74878

(a) A ~~home or~~ residential care facility, ~~other than a nursing~~ 74879
~~home or nursing home unit of a home for the aging~~, licensed by the 74880
department of health under Chapter 3721. of the Revised Code or an 74881
assisted living program as defined in section 5111.89 of the 74882
Revised Code; 74883

(b) A residential facility as defined in division (A)(9)(b) 74884
of section ~~5119.22~~ 5119.34 of the Revised Code licensed by the 74885
department of ~~mental health~~ mental health and addiction services; 74886

(c) An apartment or room used to provide community mental health housing services certified by the department of ~~mental health~~ mental health and addiction services under section ~~5119.611~~ 5119.36 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)(14) of section 340.03 of the Revised Code.

(2) A residential state supplement administrative agency must have determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. If the individual is eligible for social security payments, supplemental security income payments, or social security disability insurance benefits because of a mental disability, the residential state supplement administrative agency shall refer the individual to a community mental health ~~agency~~ services provider for an assessment under division (A) of section 340.091 of the Revised Code.

(3) The individual satisfies all eligibility requirements established by rules adopted under division (E) of this section.

(E) The ~~directors~~ director of ~~mental health~~ mental health and addiction services and ~~job and family services~~ medicaid director shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement the residential state supplement program.

To the extent permitted by Title XVI of the "Social Security Act," and any other provision of federal law, the medicaid director ~~of job and family services~~ may adopt rules establishing standards for adjusting the eligibility requirements concerning the level of impairment a person must have so that the amount appropriated for the program by the general assembly is adequate for the number of eligible individuals. The rules shall not limit the eligibility of disabled persons solely on a basis classifying disabilities as physical or mental. The medicaid director ~~of job~~

~~and family services~~ also may adopt rules that establish 74919
eligibility standards for aged, blind, or disabled individuals who 74920
reside in one of the homes or facilities specified in division 74921
(D)(1) of this section but who, because of their income, do not 74922
receive supplemental security income payments. The rules may 74923
provide that these individuals may include individuals who receive 74924
other types of benefits, including, social security payments or 74925
social security disability insurance benefits provided under Title 74926
II of the "Social Security Act," ~~49 Stat. 620 (1935)~~, 42 U.S.C.A. 74927
401, ~~as amended et seq.~~ Notwithstanding division (B) of this 74928
section, such payments may be made if funds are available for 74929
them. 74930

The director of ~~mental health~~ mental health and addiction 74931
services may adopt rules establishing the method to be used to 74932
determine the amount an eligible individual will receive under the 74933
program. The amount the general assembly appropriates for the 74934
program may be a factor included in the method that director 74935
establishes. 74936

(F) The county department of job and family services of the 74937
county in which an applicant for the residential state supplement 74938
program resides shall determine whether the applicant meets income 74939
and resource requirements for the program. 74940

(G) The department of ~~mental health~~ mental health and 74941
addiction services shall maintain a waiting list of any 74942
individuals eligible for payments under this section but not 74943
receiving them because moneys appropriated to the department for 74944
the purposes of this section are insufficient to make payments to 74945
all eligible individuals. An individual may apply to be placed on 74946
the waiting list even though the individual does not reside in one 74947
of the homes or facilities specified in division (D)(1) of this 74948
section at the time of application. The director of ~~mental health~~ 74949
mental health and addiction services, by rules adopted in 74950

accordance with Chapter 119. of the Revised Code, may specify 74951
procedures and requirements for placing an individual on the 74952
waiting list and priorities for the order in which individuals 74953
placed on the waiting list are to begin to receive residential 74954
state supplement payments. The rules specifying priorities may 74955
give priority to individuals placed on the waiting list on or 74956
after July 1, 2006, who receive social security payments, social 74957
security disability insurance, or supplemental security income 74958
benefits under Title XVI of the "Social Security Act," ~~86 Stat.~~ 74959
~~1475 (1972)~~, 42 U.S.C. 1381, ~~as amended~~ et seq. The rules shall 74960
not affect the place on the waiting list of any person who was on 74961
the list on July 1, 2006. The rules specifying priorities may also 74962
set additional priorities based on living arrangement, such as 74963
whether an individual resides in a facility listed in division 74964
(D)(1) of this section or has been admitted to a nursing facility. 74965

(H) An individual in a licensed or certified living 74966
arrangement receiving state supplementation on November 15, 1990, 74967
under former section 5101.531 of the Revised Code shall not become 74968
ineligible for payments under this section solely by reason of the 74969
individual's living arrangement as long as the individual remains 74970
in the living arrangement in which the individual resided on 74971
November 15, 1990. 74972

(I) The ~~department of mental health~~ county department of job 74973
and family services from which the person is receiving benefits 74974
shall notify each person denied approval for payments under this 74975
section of the person's right to a hearing. On request, the 74976
hearing shall be provided in accordance with Chapter 119. of the 74977
Revised Code. 74978

Sec. ~~5119.691~~ 5119.411. On a periodic schedule determined by 74979
the department of ~~mental health~~ mental health and addiction 74980
services, each residential state supplement administrative agency 74981

shall determine whether individuals who reside in the area that 74982
the agency serves and are on a waiting list for the residential 74983
state supplement program have been admitted to a nursing facility. 74984
~~if~~ The department shall have a process in place to ensure that if 74985
a residential state supplement administrative agency determines 74986
that such an individual has been admitted to a nursing facility, 74987
~~the agency shall notify the long term care consultation program~~ 74988
~~administrator serving the area in which the individual resides~~ 74989
~~about the determination. The administrator shall determine there~~ 74990
~~shall be a determination~~ whether the residential state supplement 74991
program is appropriate for the individual and whether the 74992
individual would rather participate in the program than continue 74993
residing in the nursing facility. ~~If the administrator determines~~ 74994
~~it is determined~~ that the residential state supplement program is 74995
appropriate for the individual and the individual would rather 74996
participate in the program than continue residing in the nursing 74997
facility, ~~the administrator shall so notify the department of~~ 74998
~~mental health. On receipt of the notice from the administrator,~~ 74999
~~the department of mental health~~ mental health and addiction 75000
services shall approve the individual's enrollment in the 75001
residential state supplement program in accordance with the 75002
priorities specified in rules adopted under division (G) of 75003
section ~~5119.69~~ 5119.41 of the Revised Code. Each quarter in which 75004
a waiting list is in place, the department of ~~mental health~~ mental 75005
health and addiction services shall certify to the director of 75006
budget and management the estimated increase in costs of the 75007
residential state supplement program resulting from enrollment of 75008
individuals in the program pursuant to this section. 75009

Sec. ~~5119.63~~ 5119.42. (A) As used in this section, "private, 75010
nonprofit organization" means a private association, organization, 75011
corporation, or other entity that is tax exempt under section 75012
501(a) and described in section 501(c) of the "Internal Revenue 75013

Code of 1986," 100 Stat. 2085, 26 U.S.C. 501. 75014

(B) To the extent funds are available and on application by 75015
boards of alcohol, drug addiction, and mental health services, the 75016
director of ~~mental health~~ mental health and addiction services may 75017
approve state reimbursement of, or state grants for, community 75018
~~mental health~~ construction programs including residential housing 75019
for severely mentally disabled persons and persons with substance 75020
use disorders. The director may also approve an application for 75021
reimbursement or a grant for such programs submitted by other 75022
governmental entities or by private, nonprofit organizations, 75023
after the application has been reviewed and recommended for 75024
approval or disapproval by the board of alcohol, drug addiction, 75025
and mental health services for the district from which the 75026
application came, and the application is consistent with the plan 75027
submitted by the board under division (A) of section 340.03 of the 75028
Revised Code and the budget and statement of services submitted by 75029
the board under divisions (A) and (B) of section 340.08 of the 75030
Revised Code. 75031

(C)(1) The director of ~~mental health~~ mental health and 75032
addiction services shall adopt rules in accordance with Chapter 75033
119. of the Revised Code that specify procedures for applying for 75034
state reimbursement of and state grants for community construction 75035
programs, including residential housing for severely mentally 75036
disabled persons and persons with substance use disorders and 75037
procedures and criteria for approval of such reimbursement and 75038
grants. 75039

(2) The director of ~~mental health~~ mental health and addiction 75040
services shall not approve state reimbursement or a state grant 75041
unless all of the following conditions are met: 75042

(a) The applicant includes with the application a plan 75043
specifying the services, in addition to housing, that will be 75044
provided to persons who will reside in the residential housing. 75045

Services specified may include any of the services ~~listed~~ 75046
described in section 340.09 of the Revised Code. 75047

(b) The director is satisfied that the residential housing 75048
for severely mentally disabled persons will be developed to 75049
promote the maximum practical integration of severely mentally 75050
disabled persons with persons at the same site who are not 75051
severely mentally disabled. 75052

(c) The use of any funds distributed pursuant to the 75053
reimbursement or grant will not subject any obligation from which 75054
the funds are derived to federal income taxation. 75055

(3) The director may enter into an agreement establishing 75056
terms for any reimbursement or grant approved under this division 75057
with the organization, board, or other government entity that is 75058
the recipient of the reimbursement or grant. Any such agreement is 75059
subject to any covenant or agreement pertaining to any obligation 75060
issued to provide funds for the reimbursement or grant. 75061

Sec. ~~5119.631~~ 5119.421. (A) This section applies to a board 75062
of alcohol, drug addiction, and mental health services, another 75063
governmental entity, or a private, nonprofit organization that 75064
received a grant or reimbursement under section ~~5119.63~~ 5119.42 of 75065
the Revised Code for a facility on which the department of ~~mental~~ 75066
~~health~~ mental health and addiction services holds a security 75067
interest. 75068

(B) A board of alcohol, drug addiction, and mental health 75069
services, another governmental entity, or a private, nonprofit 75070
organization to which this section applies may apply to the 75071
director of ~~mental health~~ mental health and addiction services for 75072
approval to sell its facility and acquire, construct, or renovate 75073
a replacement facility pursuant to this section. The director 75074
shall prescribe the form of the application. Before submitting an 75075
application to the director, a governmental entity or private, 75076

nonprofit organization must obtain approval of the application 75077
from the board of alcohol, drug addiction, and mental health 75078
services with jurisdiction over the service district in which the 75079
existing facility is located. The director shall approve an 75080
application for a replacement project upon determining that the 75081
project provides for the continuation of appropriate mental health 75082
and addiction services to the population served by the board, 75083
entity, or organization. 75084

(C) A board, entity, or organization that obtains approval 75085
for a project under division (B) of this section shall pay the 75086
proceeds of the sale of its facility to the director of ~~mental~~ 75087
~~health~~ mental health and addiction services. The director shall 75088
deposit the proceeds to the credit of the community capital 75089
replacement facilities fund. 75090

(D) When a board, entity, or organization that has sold its 75091
facility notifies the director of ~~mental health~~ mental health and 75092
addiction services that it is ready to acquire, construct, or 75093
renovate a replacement facility, the director shall do one of the 75094
following: 75095

(1) If the replacement facility is located in the same 75096
alcohol, drug addiction, and mental health service district as the 75097
original facility, and if the purposes for which the replacement 75098
facility will be used are the same as or similar to those for the 75099
original facility, the director shall pay to the board, entity, or 75100
organization from the community capital replacement facilities 75101
fund an amount equal to the lesser of an amount equal to the 75102
proceeds of the sale of the original facility or the amount of the 75103
state's agreed-upon participation (as a per cent of the total 75104
cost) in the cost of the replacement facility. If the amount of 75105
the state's agreed-upon participation in the cost of the 75106
replacement facility is less than the value of the state's 75107
security interest in the original facility, the difference between 75108

the state's agreed-upon participation in the cost of the 75109
replacement facility and the value of the state's security 75110
interest in the original facility shall be retained in the 75111
community capital replacement facilities fund, and any excess 75112
proceeds shall be paid to the board, entity, or organization. 75113

(2) If the replacement facility is located in a different 75114
alcohol, drug addiction, and mental health service district than 75115
the original facility, or if the purposes for which the 75116
replacement facility will be used are not the same as or similar 75117
to those for the original facility, the director shall request 75118
controlling board approval for release of funds for the project. 75119
If the controlling board so approves, the director shall pay to 75120
the board, entity, or organization from the community capital 75121
replacement facilities fund the lesser of an amount equal to the 75122
proceeds of the sale of the original facility or the amount of the 75123
state's agreed-upon participation (as a per cent of the total 75124
cost) in the cost of the replacement facility. ~~if~~ If the amount of 75125
the state's agreed-upon participation in the cost of the 75126
replacement facility is less than the value of the state's 75127
security interest in the original facility, the difference between 75128
the state's agreed-upon participation in the cost of the 75129
replacement facility and the value of the state's security 75130
interest in the original facility shall be retained in the 75131
community capital replacement facilities fund, and any excess 75132
proceeds shall be paid to the board, entity, or organization. 75133

(E) The director of ~~mental health~~ mental health and addiction 75134
services and a board, entity, or organization shall enter into an 75135
agreement specifying the terms of any payment made to the board, 75136
entity, or organization under division (D) of this section. The 75137
terms may include provision for the department of ~~mental health~~ 75138
mental health and addiction services to hold a security interest 75139
in the facility. 75140

(F)(1) When approving an application under division (B) of this section, the director of ~~mental health~~ mental health and addiction services shall establish a deadline by which the board, entity, or organization must notify the director that it is ready to acquire, construct, or renovate a replacement facility. If the board, entity, or organization does not notify the director on or before the deadline, the director may cancel the project. Upon canceling the project, the director shall pay to the board, entity, or organization from the community capital replacement facilities fund an amount equal to the portion of the proceeds of the sale of the original facility that exceeds the value of the state's security interest in the facility.

(2) Notwithstanding the deadline established under division (F)(1) of this section, if at any time a board, entity, or organization notifies the director that it does not intend to acquire, construct, or renovate a replacement facility under this section, the director shall cancel the replacement project and pay to the board, entity, or organization from the community capital replacement facilities fund an amount equal to the portion of the proceeds of the sale of the original facility that exceeds the value of the state's security interest in the facility.

(G) If a replacement project is canceled after the sale of the original facility, the director of ~~mental health~~ mental health and addiction services shall use funds equal to the value of the state's security interest in the original facility for additional grants or reimbursements under section ~~5119.63~~ 5119.42 of the Revised Code. The director shall obtain the approval of the controlling board before releasing the additional grants or reimbursements.

(H) The community capital replacement facilities fund is hereby created in the state treasury. The director of ~~mental health~~ mental health and addiction services shall use the fund for

the purposes of this section. 75173

Sec. ~~5119.16~~ 5119.44. As used in this section, "free clinic" 75174
has the same meaning as in section 2305.2341 of the Revised Code. 75175

(A) The department of ~~mental health~~ mental health and 75176
addiction services may provide certain goods and services for the 75177
department of ~~mental health~~ mental health and addiction services, 75178
the department of developmental disabilities, the department of 75179
rehabilitation and correction, the department of youth services, 75180
and other state, county, or municipal agencies requesting such 75181
goods and services when the department of ~~mental health~~ mental 75182
health and addiction services determines that it is in the public 75183
interest, and considers it advisable, to provide these goods and 75184
services. The department of ~~mental health~~ mental health and 75185
addiction services also may provide goods and services to agencies 75186
operated by the United States government and to public or private 75187
nonprofit agencies, other than free clinics, that are funded in 75188
whole or in part by the state if the public or private nonprofit 75189
agencies are designated for participation in this program by the 75190
director of ~~mental health~~ mental health and addiction services for 75191
community addiction services providers and community mental health 75192
~~agencies~~ services providers, the director of developmental 75193
disabilities for community mental retardation and developmental 75194
disabilities agencies, the director of rehabilitation and 75195
correction for community rehabilitation and correction agencies, 75196
or the director of youth services for community youth services 75197
agencies. 75198

Designated community agencies or services providers shall 75199
receive goods and services through the department of ~~mental health~~ 75200
mental health and addiction services only in those cases where the 75201
designating state agency certifies that providing such goods and 75202
services to the agency or services provider will conserve public 75203

resources to the benefit of the public and where the provision of 75204
such goods and services is considered feasible by the department 75205
of ~~mental health~~ mental health and addiction services. 75206

(B) The department of ~~mental health~~ mental health and 75207
addiction services may permit free clinics to purchase certain 75208
goods and services to the extent the purchases fall within the 75209
exemption to the Robinson-Patman Act, 15 U.S.C. 13 et seq., 75210
applicable to nonprofit institutions, in 15 U.S.C. 13c, as 75211
amended. 75212

(C) The goods and services that may be provided by the 75213
department of ~~mental health~~ mental health and addiction services 75214
under divisions (A) and (B) of this section may include: 75215

(1) Procurement, storage, processing, and distribution of 75216
food and professional consultation on food operations; 75217

(2) Procurement, storage, and distribution of medical and 75218
laboratory supplies, dental supplies, medical records, forms, 75219
optical supplies, and sundries, subject to section 5120.135 of the 75220
Revised Code; 75221

(3) Procurement, storage, repackaging, distribution, and 75222
dispensing of drugs, the provision of professional pharmacy 75223
consultation, and drug information services; 75224

(4) Other goods and services. 75225

(D) The department of ~~mental health~~ mental health and 75226
addiction services may provide the goods and services designated 75227
in division (C) of this section to its institutions and to 75228
state-operated community-based mental health or addiction services 75229
providers. 75230

(E) After consultation with and advice from the director of 75231
developmental disabilities, the director of rehabilitation and 75232
correction, and the director of youth services, the department of 75233

~~mental health~~ mental health and addiction services may provide the 75234
goods and services designated in division (C) of this section to 75235
the department of developmental disabilities, the department of 75236
rehabilitation and correction, and the department of youth 75237
services. 75238

(F) The cost of administration of this section shall be 75239
determined by the department of ~~mental health~~ mental health and 75240
addiction services and paid by the agencies, services providers, 75241
or free clinics receiving the goods and services to the department 75242
for deposit in the state treasury to the credit of the ~~mental~~ 75243
~~health~~ office of support services fund, which is hereby created. 75244
The fund shall be used to pay the cost of administration of this 75245
section to the department. 75246

(G) Whenever a state agency fails to make a payment for goods 75247
and services provided under this section within thirty-one days 75248
after the date the payment was due, the office of budget and 75249
management may transfer moneys from the state agency to the 75250
department of ~~mental health~~ mental health and addiction services. 75251
The amount transferred shall not exceed the amount of overdue 75252
payments. Prior to making a transfer under this division, the 75253
office of budget and management shall apply any credits the state 75254
agency has accumulated in payments for goods and services provided 75255
under this section. 75256

(H) Purchases of goods and services under this section are 75257
not subject to section 307.86 of the Revised Code. 75258

Sec. ~~5119.161~~ 5119.45. Unless otherwise specifically provided 75259
by law, all moneys received by the department of ~~mental health~~ 75260
mental health and addiction services from the sale of goods and 75261
services, including, but not limited to, shared service agreements 75262
with other governmental entities and nongovernmental entities, 75263
employee housing and cafeteria receipts, fees for copying 75264

services, and sales of other tangible personal property under the 75265
department's control, shall be paid into the state treasury to the 75266
credit of the sale of goods and services fund, which is hereby 75267
created. Moneys received by the department pursuant to section 75268
~~5119.16~~ 5119.44 of the Revised Code shall not be paid into the 75269
fund. The department shall use the moneys in the fund for paying 75270
operating expenses of the department. 75271

Sec. ~~5119.18~~ 5119.46. There is hereby created in the state 75272
treasury the department of ~~mental health~~ mental health and 75273
addiction services trust fund. Not later than the first day of 75274
September of each year, the director of ~~mental health~~ mental 75275
health and addiction services shall certify to the director of 75276
budget and management the amount of all of the unexpended, 75277
unencumbered balances of general revenue fund appropriations made 75278
to the department of ~~mental health~~ mental health and addiction 75279
services for the previous fiscal year, excluding funds 75280
appropriated for rental payments to the Ohio public facilities 75281
commission. On receipt of the certification, the director of 75282
budget and management shall transfer cash to the trust fund in an 75283
amount up to, but not exceeding, the total of the amounts 75284
certified by the director of ~~mental health~~ mental health and 75285
addiction services. 75286

In addition, the trust fund shall receive all amounts, 75287
subject to any provisions in bond documents, received from the 75288
sale or lease of lands and facilities by the department. 75289

All moneys in the trust fund shall be used by the department 75290
of ~~mental health~~ mental health and addiction services to pay for 75291
expenditures the department incurs in performing any of its duties 75292
under this chapter. The use of moneys in the trust fund pursuant 75293
to this section does not represent an ongoing commitment to the 75294
continuation of the trust fund or to the use of moneys in the 75295

trust fund. 75296

Sec. ~~3793.032~~ 5119.47. The director of ~~alcohol and drug~~ 75297
~~addiction services~~ mental health and addiction services shall 75298
administer the problem casino gambling and addictions fund. The 75299
director shall use the money in the fund to support ~~programs that~~ 75300
~~provide~~ gambling addiction services, alcohol and drug addiction 75301
~~programs that provide alcohol and drug addiction~~ services, other 75302
~~programs~~ services that relate to gambling addiction and substance 75303
abuse, and research that relates to gambling addiction and 75304
substance abuse. Treatment and prevention services ~~provided under~~ 75305
~~programs~~ supported by money in the fund under this section shall 75306
be services that are ~~provided by alcohol and drug addiction~~ 75307
~~treatment programs~~ certified by the department of ~~alcohol and drug~~ 75308
~~addiction services~~ or ~~provided by counselors who are certified by~~ 75309
~~the department~~ mental health and addiction services. Prevention 75310
~~services provided under programs supported by money in the fund~~ 75311
~~under this section shall be services that are provided by alcohol~~ 75312
~~and drug addiction prevention programs certified by the department~~ 75313
~~of alcohol and drug addiction services.~~ 75314

The director shall prepare an annual report describing the 75315
use of the fund for these purposes. The director shall submit the 75316
report to the Ohio casino control commission, the speaker and 75317
minority leader of the house of representatives, the president and 75318
minority leader of the senate, the governor, and the joint 75319
committee on gaming and wagering. 75320

Sec. ~~3793.22~~ 5119.49. (A) The director of ~~alcohol and drug~~ 75321
~~addiction services~~ mental health and addiction services shall 75322
collaborate with the state board of pharmacy and attorney general 75323
in the establishment and administration of a drug take-back 75324
program, as provided under section 4729.69 of the Revised Code. 75325

(B) The department may accept grants, gifts, or donations for 75326
purposes of the program. Money received under this division shall 75327
be deposited into the drug take-back program fund established 75328
under section 109.90 of the Revised Code. 75329

Sec. ~~5119.34~~ 5119.50. The director of ~~mental health~~ mental 75330
health and addiction services may accept, hold, and administer in 75331
trust on behalf of the state, if it is for the public interest, 75332
any grant, gift, devise, or bequest of money or property made to 75333
the state for the use or benefit of any institution described in 75334
section ~~5119.02~~ 5119.14 of the Revised Code or for the use and 75335
benefit of mentally ill persons under its control. If the trust so 75336
provides, the money or property may be used for any work which the 75337
department of ~~mental health~~ mental health and addiction services 75338
is authorized to undertake. 75339

The department shall keep such gift, grant, devise, or 75340
bequest as a distinct property or fund and, if it is in money, 75341
shall invest it in the manner provided by law. The department may 75342
deposit in a proper trust company or savings bank any money left 75343
in trust during a specified life or lives and shall adopt rules 75344
governing the deposit, transfer, withdrawal, or investment of such 75345
money and the income thereof. 75346

The department shall, in the manner prescribed by the 75347
director of budget and management pursuant to section 126.21 of 75348
the Revised Code, account for all money or property received or 75349
expended under this section. The records, together with a 75350
statement certified by the depository showing the funds deposited 75351
there to the credit of the trust, shall be open to public 75352
inspection. The director of budget and management may require the 75353
department to file a report with ~~him~~ the director on any 75354
particular portion, or the whole, of any trust property received 75355
or expended by it. 75356

The department shall, upon the expiration of any trust 75357
according to its terms, dispose of the funds or property held 75358
thereunder in the manner provided in the instrument creating the 75359
trust. If the instrument creating the trust failed to make any 75360
terms of disposition, or if no trust was in evidence, then the 75361
decedent patient's money, saving or commercial deposits, dividends 75362
or distributions, bonds, or any other interest-bearing debt 75363
certificate or stamp issued by the United States government shall 75364
escheat to the state. All such unclaimed intangible personal 75365
property of a former patient shall be retained by the managing 75366
officer in such institution for the period of one year, during 75367
which time every possible effort shall be made to find such former 75368
patient or ~~his~~ the former patient's legal representative. 75369

If, after a period of one year from the time the patient has 75370
left the institution or has died, the managing officer has been 75371
unable to locate such person or ~~his~~ the person's legal 75372
representative, then upon proper notice of such fact the director 75373
shall at that time formulate in writing a method of disposition on 75374
the minutes of the department authorizing the managing officer to 75375
convert such intangible personal property to cash to be paid into 75376
the state treasury to the credit of the general revenue fund. 75377

The department shall include in its annual report a statement 75378
of all money and property and the terms and conditions relating 75379
thereto. 75380

Sec. ~~5119.17~~ 5119.51. (A) As used in this section, 75381
"supplemental services" has the same meaning as in section 5815.28 75382
of the Revised Code. 75383

(B) There is hereby created in the state treasury the 75384
services fund for individuals with mental illness. On the death of 75385
the beneficiary of a trust created pursuant to section 5815.28 of 75386
the Revised Code, the portion of the remaining assets of the trust 75387

specified in the trust instrument shall be deposited to the credit 75388
of the fund. Money credited to the fund shall be used for 75389
individuals with mental illness. 75390

Supplemental services may be provided through the department 75391
or boards of alcohol, drug addiction, and mental health services. 75392
In accordance with Chapter 119. of the Revised Code, the 75393
department of ~~mental health~~ mental health and addiction services 75394
may adopt any rules necessary to implement this section. 75395

Sec. ~~5119.36~~ 5119.52. Each managing officer of an institution 75396
under the jurisdiction of the department of ~~mental health~~ mental 75397
health and addiction services as described in section ~~5119.02~~ 75398
5119.14 of the Revised Code, with the approval of the director of 75399
~~mental health~~ mental health and addiction services, may establish 75400
local institution funds designated as follows: 75401

(A) Industrial and entertainment fund created and maintained 75403
for the entertainment and welfare of the patients of the 75404
institution. The director shall establish rules for the operation 75405
of the industrial and entertainment fund. 75406

(B) Commissary fund created and maintained for the benefit of 75407
patients in the institution. Commissary revenue over and above 75408
operating costs and reserve shall be considered profits. All 75409
profits from the commissary fund operations shall be paid into the 75410
industrial and entertainment fund and used only for the 75411
entertainment and ~~wel-fare~~ welfare of patients. The director shall 75412
establish rules for the operation of the commissary fund. 75413

Sec. ~~5119.33~~ 5119.54. The treasurer of state shall have 75414
charge of all funds under the jurisdiction of the department of 75415
~~mental health~~ mental health and addiction services and shall pay 75416
out the same only in accordance with this chapter. 75417

The department shall cause to be furnished a contract of indemnity to cover all funds received by it or by its managing officers, employees, or agents while the funds are in the possession of such managing officers, employees or agents. Such funds are designated as follows:

(A) Funds which are due and payable to the treasurer of state as provided by Chapter 131. of the Revised Code;

(B) Those funds which are held in trust by the managing officers, employees, or agents of the institution as local funds or accounts under the jurisdiction of the department.

Such contract of indemnity shall be made payable to the state and the premium for such contract of indemnity may be paid from any of the moneys received for the use of the department under this chapter and Chapters 5121. and 5122. of the Revised Code.

Funds collected from various sources, such as the sale of goods, and all miscellaneous articles, shall be transmitted on or before Monday of each week to the treasurer of state and a detailed statement of such collections shall be made to the department.

Sec. ~~5119.351~~ 5119.55. The department of ~~mental health~~ mental health and addiction services may pay an amount for personal use to each individual residing in a state institution as described in section ~~5119.02~~ 5119.14 of the Revised Code who would be eligible for supplemental security income benefits at the reduced rate established by Title XVI of the "Social Security Act," ~~49 Stat. 620 (1935),~~ 42 U.S.C.A. ~~1382,~~ 1381 et seq., if the ~~state plan for providing medical assistance under section 5111.01 of the Revised Code included reimbursement of~~ medicaid program covers services provided in such institutions. The amount paid by the department shall not exceed the reduced supplemental security income benefit rate established by Title XVI of the "Social

Security Act." 75449

Sec. ~~5119.35~~ 5119.56. Money or property deposited with 75450
managing officers of institutions under the jurisdiction of the 75451
department of ~~mental health~~ mental health and addiction services 75452
by any patient under the department's control or by relatives, 75453
guardians, conservators, and others for the special benefit of 75454
such patient, as well as all other funds and all other income paid 75455
to the patient, ~~his~~ the patient's estate, or on ~~his~~ the patient's 75456
behalf, or paid to the managing officer or to the institution as 75457
representative payee or otherwise paid on the patient's behalf, 75458
shall remain in the hands of such officers in appropriate accounts 75459
for use accordingly. The managing officer shall keep itemized book 75460
accounts of the receipt and disposition of such money and 75461
property, which book shall be open at all times to the inspection 75462
of the department. The director of ~~mental health~~ mental health and 75463
addiction services shall adopt rules governing the deposit, 75464
transfer, withdrawal, or investment of the funds and the income 75465
thereof, as well as rules under which such funds and income shall 75466
be paid by managing officers for the support of the patients 75467
pursuant to Chapter 5121. of the Revised Code, or for their other 75468
needs. 75469

Whenever any patient confined in any state institution 75470
subject to the jurisdiction of the department dies, escapes, or is 75471
discharged from such institution, and any personal funds of such 75472
person remain in the hands of the managing officer thereof and no 75473
demand for such funds is made upon such managing officer by the 75474
owner of the funds or ~~his~~ the owner's legally appointed 75475
representative, the managing officer shall hold the funds in the 75476
personal deposit fund for a period of at least one year during 75477
which time the managing officer shall make every effort possible 75478
to locate the owner or ~~his~~ the owner's legally appointed 75479
representative. 75480

If at the end of this period no demand has been made for the 75481
funds, the managing officer shall dispose of the funds as follows: 75482

(A) All money in a personal deposit fund in excess of ten 75483
dollars due for the support of a patient shall be paid in 75484
accordance with the provisions of Chapter 5121. of the Revised 75485
Code. 75486

(B) All money in a personal deposit fund in excess of ten 75487
dollars not due for the support of a patient shall be placed to 75488
the credit of the institution's local account designated as the 75489
"industrial and entertainment" fund. 75490

(C) The first ten dollars to the credit of a patient shall be 75491
placed to the credit of the institution's local account designated 75492
as the "industrial and entertainment" fund. 75493

Whenever any patient in any state institution subject to the 75494
jurisdiction of the department dies, escapes, or is discharged 75495
from such institution, and any personal effects of such person 75496
remain in the hands of the managing officer thereof, and no demand 75497
is made upon such managing officer by the owner of the property or 75498
~~his~~ the owner's legally appointed representative, the managing 75499
officer shall hold and dispose of such property in the following 75500
manner. 75501

All the miscellaneous personal effects shall be held for a 75502
period of at least one year, during which time the managing 75503
officer shall make every effort possible to locate the owner or 75504
~~his~~ the owner's legal representative. If at the end of this 75505
period, no demand has been made by the owner of the property or 75506
~~his~~ the owner's legal representative, the managing officer shall 75507
file with the county recorder of the county of commitment of such 75508
owner, all deeds, wills, contract mortgages, or assignments. The 75509
balance of the personal effects shall be sold at public auction 75510
after being duly advertised, and the funds turned over to the 75511

treasurer of state for credit to the general revenue fund. If any 75512
of the property is not of a type to be filed with the county 75513
recorder and is not salable at public auction, then the managing 75514
officer of the institution shall destroy such property. 75515

Sec. ~~5119.46~~ 5119.60. ~~In its annual report, the~~ The 75516
department of ~~mental health~~ mental health and addiction services 75517
shall submit an annual report to the governor that shall describe 75518
the services the department offers and how appropriated funds have 75519
been spent. The report shall include ~~the~~ all of the following: 75520

(A) The utilization of state hospitals by each alcohol, drug 75521
addiction, and mental health service district, ~~the~~ i 75522

(B) The number of persons served by community addiction 75523
services providers that receive funds distributed by the 75524
department, with a breakdown into categories including age, sex, 75525
race, the type of drug to which the person is addicted, and any 75526
other categories the director of mental health and addiction 75527
services considers significant; 75528

(C) The number of severely mentally disabled persons served 75529
in each district, ~~and the~~ i 75530

(D) The number and types of services provided to severely 75531
mentally disabled persons through state-operated services and 75532
community mental health ~~agencies~~ services providers; 75533

(E) A report measuring the success of community addiction 75534
services providers, based on the measures for accountability 75535
developed by the department, including the percentage of persons 75536
served by such community addiction services providers who have not 75537
relapsed; 75538

(F) Any other information that the director considers 75539
significant or is requested by the governor. 75540

~~Sec. 3793.12~~ 5119.61. (A) The department of alcohol and drug 75541
~~addiction services~~ mental health and addiction services shall 75542
collect and compile statistics and other information on the care 75543
and treatment of mentally disabled persons, and the care, 75544
treatment, and rehabilitation of alcoholics, drug dependent 75545
persons, and persons in danger of drug dependence in this state, 75546
including, without limitation, information on the number of such 75547
persons, the type of drug involved, the type of care, treatment, 75548
or rehabilitation prescribed or undertaken, and the success or 75549
failure of the care, treatment, or rehabilitation. The department 75550
shall collect information about services delivered and persons 75551
served as required for reporting and evaluation relating to state 75552
and federal funds expended for such purposes. 75553

(B) No alcohol ~~or~~, drug addiction program, or mental health 75554
services provider shall fail to supply statistics and other 75555
information within its knowledge and with respect to its ~~programs~~ 75556
services, upon request of the department. 75557

(C) Communications by a person seeking aid in good faith for 75558
alcoholism or drug dependence are confidential, and this section 75559
does not require the collection or permit the disclosure of 75560
information which reveals or comprises the identity of any person 75561
seeking aid. 75562

(D) Based on the information collected and compiled under 75563
division (A) of this section, the department shall develop a 75564
project to assess the outcomes of persons served by alcohol and 75565
drug addiction ~~programs~~ services providers and mental health 75566
services providers that receive funds distributed by the 75567
department. 75568

~~Sec. 5119.50~~ 5119.70. The "interstate compact on mental 75569
health" is hereby ratified, enacted into law, and entered into by 75570

the state of Ohio as a party thereto with any other state which 75571
has legally joined in the compact as follows: 75572

INTERSTATE COMPACT ON MENTAL HEALTH 75573

The contracting states solemnly agree that: 75574

Article I 75575

The party states find that the proper and expeditious 75576
treatment of the mentally ill and mentally retarded can be 75577
facilitated by cooperative action, to the benefit of the patients, 75578
their families, and society as a whole. Further, the party states 75579
find that the necessity of and desirability for furnishing such 75580
care and treatment bears no primary relation to the residence or 75581
citizenship of the patient but that, on the contrary, the 75582
controlling factors of community safety and humanitarianism 75583
require that facilities and services be made available for all who 75584
are in need of them. Consequently, it is the purpose of this 75585
compact and of the party states to provide the necessary legal 75586
basis for the institutionalization or other appropriate care and 75587
treatment of the mentally ill and mentally retarded under a system 75588
that recognizes the paramount importance of patient welfare and to 75589
establish the responsibilities of the party states in terms of 75590
such welfare. 75591

Article II 75592

As used in this compact: 75593

(a) "Sending state" shall mean a party state from which a 75594
patient is transported pursuant to the provisions of the compact 75595
or from which it is contemplated that a patient may be so sent. 75596

(b) "Receiving state" shall mean a party state to which a 75597
patient is transported pursuant to the provisions of the compact 75598
or to which it is contemplated that a patient may be so sent. 75599

(c) "Institution" shall mean any hospital or other facility 75600
maintained by a party state or political subdivision thereof for 75601

the care and treatment of mental illness or mental retardation. 75602

(d) "Patient" shall mean any person subject to or eligible as 75603
determined by the laws of the sending state, for 75604
institutionalization or other care, treatment, or supervision 75605
pursuant to the provisions of this compact. 75606

(e) "After-care" shall mean care, treatment and services 75607
provided a patient, as defined herein, or convalescent status or 75608
conditional release. 75609

(f) "Mental illness" shall mean mental disease to such extent 75610
that a person so afflicted requires care and treatment for his own 75611
welfare, or the welfare of others, or of the community. 75612

(g) "Mental retardation" shall mean mental retardation as 75613
defined by appropriate clinical authorities to such extent that a 75614
person so afflicted is incapable of managing himself and his 75615
affairs, but shall not include mental illness as defined herein. 75616

(h) "State" shall mean any state, territory or possession of 75617
the United States, the District of Columbia, and the Commonwealth 75618
of Puerto Rico. 75619

Article III 75620

(a) Whenever a person physically present in any party state 75621
shall be in need of institutionalization by reason of mental 75622
illness or mental retardation, he shall be eligible for care and 75623
treatment in an institution in that state irrespective of his 75624
residence, settlement or citizenship qualifications. 75625

(b) The provisions of paragraph (a) of this article to the 75626
contrary notwithstanding, any patient may be transferred to an 75627
institution in another state whenever there are factors based upon 75628
clinical determinations indicating that the care and treatment of 75629
said patient would be facilitated or improved thereby. Any such 75630
institutionalization may be for the entire period of care and 75631
treatment or for any portion or portions thereof. The factors 75632

referred to in this paragraph shall include the patient's full 75633
record with due regard for the location of the patient's family, 75634
character of the illness and probable duration thereof, and such 75635
other factors as shall be considered appropriate. 75636

(c) No state shall be obliged to receive any patient pursuant 75637
to the provisions of paragraph (b) of this article unless the 75638
sending state has given advance notice of its intention to send 75639
the patient; furnished all available medical and other pertinent 75640
records concerning the patient; given the qualified medical or 75641
other appropriate clinical authorities of the receiving state an 75642
opportunity to examine the patient if said authorities so wish; 75643
and unless the receiving state shall agree to accept the patient. 75644

(d) In the event that the laws of the receiving state 75645
establish a system of priorities for the admission of patients, an 75646
interstate patient under this compact shall receive the same 75647
priority as a local patient and shall be taken in the same order 75648
and at the same time that he would be taken if he were a local 75649
patient. 75650

(e) Pursuant to this compact, the determination as to the 75651
suitable place of institutionalization for a patient may be 75652
reviewed at any time and such further transfer of the patient may 75653
be made as seems likely to be in the best interest of the patient. 75654

Article IV 75655

(a) Whenever, pursuant to the laws of the state in which a 75656
patient is physically present, it shall be determined that the 75657
patient should receive after-care or supervision, such care or 75658
supervision may be provided in a receiving state. If the medical 75659
or other appropriate clinical authorities having responsibility 75660
for the care and treatment of the patient in the sending state 75661
shall have reason to believe that after-care in another state 75662
would be in the best interest of the patient and would not 75663
jeopardize the public safety, they shall request the appropriate 75664

authorities in the receiving state to investigate the desirability 75665
of affording the patient such after-care in said receiving state, 75666
and such investigation shall be made with all reasonable speed. 75667
The request for investigation shall be accompanied by complete 75668
information concerning the patient's intended place of residence 75669
and the identity of the person in whose charge it is proposed to 75670
place the patient, the complete medical history of the patient, 75671
and such other documents as may be pertinent. 75672

(b) If the medical or other appropriate clinical authorities 75673
having responsibility for the care and treatment of the patient in 75674
the sending state and the appropriate authorities in the receiving 75675
state find that the best interest of the patient would be served 75676
thereby, and if the public safety would not be jeopardized 75677
thereby, the patient may receive after-care or supervision in the 75678
receiving state. 75679

(c) In supervising, treating, or caring for a patient on 75680
after-care pursuant to the terms of this article, a receiving 75681
state shall employ the same standards of visitation, examination, 75682
care, and treatment that it employs for similar local patients. 75683

Article V 75684

Whenever a dangerous or potentially dangerous patient escapes 75685
from an institution in any party state, that state shall promptly 75686
notify all appropriate authorities within and without the 75687
jurisdiction of the escape in a manner reasonably calculated to 75688
facilitate the speedy apprehension of the escapee. Immediately 75689
upon the apprehension and identification of any such dangerous or 75690
potentially dangerous patient, he shall be detained in the state 75691
where found pending disposition in accordance with law. 75692

Article VI 75693

The duly accredited officers of any state party to this 75694
compact, upon the establishment of their authority and the 75695
identity of the patient, shall be permitted to transport any 75696

patient being moved pursuant to this compact through any and all 75697
states party to this compact, without interference. 75698

Article VII 75699

(a) No person shall be deemed a patient of more than one 75700
institution at any given time. Completion of transfer of any 75701
patient to an institution in a receiving state shall have the 75702
effect of making the person a patient of the institution in the 75703
receiving state. 75704

(b) The sending state shall pay all costs of and incidental 75705
to the transportation of any patient pursuant to this compact, but 75706
any two or more party states may, by making a specific agreement 75707
for that purpose, arrange for a different allocation of costs as 75708
among themselves. 75709

(c) No provision of this compact shall be construed to alter 75710
or affect any internal relationships among the departments, 75711
agencies and officers of and in the government of a party state, 75712
or between a party state and its subdivisions, as to the payment 75713
of costs, or responsibilities therefor. 75714

(d) Nothing in this compact shall be construed to prevent any 75715
party state or subdivision thereof from asserting any right 75716
against any person, agency or other entity in regard to costs for 75717
which such party state or subdivision thereof may be responsible 75718
pursuant to any provision of this compact. 75719

(e) Nothing in this compact shall be construed to invalidate 75720
any reciprocal agreement between a party state and a nonparty 75721
state relating to institutionalization, care or treatment of the 75722
mentally ill or mentally retarded, or any statutory authority 75723
pursuant to which such agreements may be made. 75724

Article VIII 75725

(a) Nothing in this compact shall be construed to abridge, 75726
diminish, or in any way impair the rights, duties, and 75727

responsibilities of any patient's guardian on his own behalf or in 75728
respect of any patient for whom he may serve, except that where 75729
the transfer of any patient to another jurisdiction makes 75730
advisable the appointment of a supplemental or substitute 75731
guardian, any court of competent jurisdiction in the receiving 75732
state may make such supplemental or substitute appointment and the 75733
court which appointed the previous guardian shall upon being duly 75734
advised of the new appointment, and upon the satisfactory 75735
completion of such accounting and other acts as such court may by 75736
law require, relieve the previous guardian of power and 75737
responsibility to whatever extent shall be appropriate in the 75738
circumstances; provided, however, that in the case of any patient 75739
having settlement in the sending state, the court of competent 75740
jurisdiction in the sending state shall have the sole discretion 75741
to relieve a guardian appointed by it or continue his power and 75742
responsibility, whichever it shall deem advisable. The court in 75743
the receiving state may, in its discretion, confirm or reappoint 75744
the person or persons previously serving as guardian in the 75745
sending state in lieu of making a supplemental or substitute 75746
appointment. 75747

(b) The term "guardian" as used in paragraph (a) of this 75748
article shall include any guardian, trustee, legal committee, 75749
conservator, or other person or agency however denominated who is 75750
charged by law with power to act for or responsibility for the 75751
person or property of a patient. 75752

Article IX 75753

(a) No provision of this compact except Article V shall apply 75754
to any person institutionalized while under sentence in a penal or 75755
correctional institution or while subject to trial on a criminal 75756
charge, or whose institutionalization is due to the commission of 75757
an offense for which, in the absence of mental illness or mental 75758
retardation, said person would be subject to incarceration in a 75759

penal or correctional institution. 75760

(b) To every extent possible, it shall be the policy of 75761
states party to this compact that no patient shall be placed or 75762
detained in any prison, jail or lockup, but such patient shall, 75763
with all expedition, be taken to a suitable institutional facility 75764
for mental illness or mental retardation. 75765

Article X 75766

(a) Each party state shall appoint a "compact administrator" 75767
who, on behalf of his state, shall act as general coordinator of 75768
activities under the compact in his state and who shall receive 75769
copies of all reports, correspondence, and other documents 75770
relating to any patient processed under the compact by his state 75771
either in the capacity of sending or receiving state. The compact 75772
administrator or his duly designated representative shall be the 75773
official with whom other party states shall deal in any matter 75774
relating to the compact or any patient processed thereunder. 75775

(b) The compact administrators of the respective party states 75776
shall have power to promulgate reasonable rules and regulations to 75777
carry out more effectively the terms and provisions of this 75778
compact. 75779

Article XI 75780

The duly constituted administrative authorities of any two or 75781
more party states may enter into supplementary agreements for the 75782
provision of any service or facility or for the maintenance of any 75783
institution on a joint or cooperative basis whenever the states 75784
concerned shall find that such agreements will improve services, 75785
facilities, or institutional care and treatment in the fields of 75786
mental illness or mental retardation. No such supplementary 75787
agreement shall be construed so as to relieve any party state of 75788
any obligation which it otherwise would have under other 75789
provisions of this compact. 75790

Article XII 75791

This compact shall enter into full force and effect as to any 75792
state when enacted by it into law and such states shall thereafter 75793
be a party thereto with any and all states legally joining 75794
therein. 75795

Article XIII 75796

(a) A state party to this compact may withdraw therefrom by 75797
enacting a statute repealing the same. Such withdrawal shall take 75798
effect one year after notice thereof has been communicated 75799
officially and in writing to the governors and compact 75800
administrators of all other party states. However, the withdrawal 75801
of any state shall not change the status of any patient who has 75802
been sent to said state or sent out of said state pursuant to the 75803
provisions of the compact. 75804

(b) Withdrawal from any agreement permitted by Article VII 75805
(b) as to costs or from any supplementary agreement made pursuant 75806
to Article XI shall be in accordance with the terms of such 75807
agreement. 75808

Article XIV 75809

This compact shall be liberally construed so as to effectuate 75810
the purposes thereof. The provisions of this compact shall be 75811
severable and if any phrase, clause, sentence or provision of this 75812
compact is declared to be contrary to the constitution of any 75813
party state or of the United States or the applicability thereof 75814
to any government, agency, person or circumstance is held invalid, 75815
the validity of the remainder of this compact and the 75816
applicability thereof to any government, agency, person or 75817
circumstance shall not be affected thereby. If this compact shall 75818
be held contrary to the constitution of any state party thereto, 75819
the compact shall remain in full force and effect as to the 75820
remaining states and in full force and effect as to the state 75821
affected as to all severable matters. 75822

Sec. ~~5119.51~~ 5119.71. Pursuant to Article X of the compact 75823
set forth in section ~~5119.50~~ 5119.70 of the Revised Code, the 75824
director of ~~mental health~~ mental health and addiction services and 75825
the director of developmental disabilities each shall designate an 75826
officer who shall be the compact administrator for the department 75827
and who, acting jointly with like officers of other party states, 75828
shall adopt rules to carry out more effectively the terms of the 75829
compact. The compact administrators of each department shall serve 75830
subject to the pleasure of the governor and shall cooperate with 75831
all departments, agencies, and officers of and in the government 75832
of this state and its subdivisions in facilitating the proper 75833
administration of the compact or of any supplementary agreements 75834
entered into by this state thereunder. 75835

Sec. ~~5119.52~~ 5119.72. The compact administrator may enter 75836
into supplementary agreements with appropriate officials of other 75837
states pursuant to articles VII and XI of the compact set forth in 75838
section ~~5119.50~~ 5119.70 of the Revised Code. In the event that 75839
such supplementary agreements require or contemplate the use of 75840
any institution or facility of this state or require or 75841
contemplate the provision of any service by this state, no such 75842
agreement shall have force or effect until approved by the head of 75843
the department or agency under whose jurisdiction the institution 75844
or facility is operated or whose department or agency will be 75845
charged with the rendering of such service. 75846

Sec. ~~5119.53~~ 5119.73. Any payments necessary to discharge any 75847
financial obligations imposed upon the state of Ohio by the 75848
compact or by any supplementary agreement entered into thereunder, 75849
as provided in sections ~~5119.50~~ 5119.70 to ~~5119.52~~ 5119.72 of the 75850
Revised Code, shall be made from appropriated funds upon 75851
presentation to the director of budget and management of itemized 75852

vouchers approved by the compact administrator. 75853

Sec. ~~3793.31~~ 5119.90. As used in sections ~~3793.31~~ 5119.90 to 75854
~~3793.39~~ 5119.98 of the Revised Code: 75855

(A) "Alcohol and other drug abuse" means alcoholism or drug 75856
addiction. 75857

(B) "Another drug" means a controlled substance as defined in 75858
section 3719.01 of the Revised Code or a harmful intoxicant as 75859
defined in section 2925.01 of the Revised Code. 75860

(C) "Board of alcohol, drug addiction, and mental health 75861
services" means a board of alcohol, drug addiction, and mental 75862
health services established under section 340.02 or 340.021 of the 75863
Revised Code. 75864

(D) "Danger" or "threat of danger to self, family, or others" 75865
means substantial physical harm or threat of substantial physical 75866
harm upon self, family, or others. 75867

(E) "Hospital" has the same meaning as in section 3701.01 or 75868
3727.01 of the Revised Code but does not include either a hospital 75869
operated by the department of ~~mental health~~ mental health and 75870
addiction services or an inpatient unit licensed by the 75871
department. 75872

(F) "Intoxicated" means being under the influence of alcohol, 75873
another drug, or both alcohol and another drug and, as a result, 75874
having a significantly impaired ability to function. 75875

(G) "Petitioner" means a person who institutes a proceeding 75876
under sections ~~3793.32~~ 5119.91 to ~~3793.39~~ 5119.98 of the Revised 75877
Code. 75878

(H) "Probate court" means the probate division of the court 75879
of common pleas. 75880

(I) "Qualified health professional" means a person that is 75881

properly credentialed or licensed to conduct a drug and alcohol 75882
assessment and diagnosis under Ohio law. 75883

(J) "Residence" means the legal residence of a person as 75884
determined by applicable principles governing conflicts of law. 75885

(K) "Respondent" means a person alleged in a petition filed 75886
or hearing under sections ~~3793.32~~ 5119.91 to ~~3793.39~~ 5119.98 of 75887
the Revised Code to be a person who is suffering from alcohol and 75888
other drug abuse and who may be ordered under those sections to 75889
undergo treatment. 75890

(L) "Treatment" means services and programs for the care and 75891
rehabilitation of intoxicated persons and persons suffering from 75892
alcohol and other drug abuse. "Treatment" includes residential 75893
treatment, a halfway house setting, and an intensive outpatient or 75894
outpatient level of care. 75895

Sec. ~~3793.32~~ 5119.91. A probate court may order involuntary 75896
treatment for a person suffering from alcohol and other drug abuse 75897
pursuant to the procedures set forth in sections ~~3793.34~~ 5119.90 75898
to ~~3793.39~~ 5119.98 of the Revised Code. 75899

Sec. ~~3793.33~~ 5119.92. No person shall be ordered to undergo 75900
treatment under sections ~~3793.34~~ 5119.90 to ~~3793.39~~ 5119.98 of the 75901
Revised Code unless all of the following apply to that person: 75902

(A) The person suffers from alcohol and other drug abuse. 75903

(B) The person presents an imminent danger or imminent threat 75904
of danger to self, family, or others as a result of alcohol and 75905
other drug abuse, or there exists a substantial likelihood of such 75906
a threat in the near future. 75907

(C) The person can reasonably benefit from treatment. 75908

Sec. ~~3793.34~~ 5119.93. (A) A person may initiate proceedings 75909

for treatment for an individual suffering from alcohol and other 75910
drug abuse by filing a verified petition in the probate court and 75911
paying a filing fee in the same amount, if any, that is charged 75912
for the filing under section 5122.11 of the Revised Code of an 75913
affidavit seeking the hospitalization of a person. The petition 75914
and all subsequent court documents shall be entitled: "In the 75915
interest of (name of respondent)." A spouse, relative, or guardian 75916
of the individual concerning whom the petition is filed shall file 75917
the petition. 75918

(B) A petition filed under division (A) of this section shall 75919
set forth all of the following: 75920

(1) The petitioner's relationship to the respondent; 75921

(2) The respondent's name, residence address, and current 75922
location, if known; 75923

(3) The name and residence of the respondent's parents, if 75924
living and if known, or of the respondent's legal guardian, if any 75925
and if known; 75926

(4) The name and residence of the respondent's spouse, if any 75927
and if known; 75928

(5) The name and residence of the person having custody of 75929
the respondent, if any, or if no such person is known, the name 75930
and residence of a near relative or a statement that the person is 75931
unknown; 75932

(6) The petitioner's belief, including the factual basis for 75933
the belief, that the respondent is suffering from alcohol and 75934
other drug abuse and presents an imminent danger or imminent 75935
threat of danger to self, family, or others if not treated for 75936
alcohol or other drug abuse. 75937

(C)(1) Any petition filed pursuant to divisions (A) and (B) 75938
of this section shall be accompanied by a certificate of a 75939

physician who has examined the respondent within two days prior to 75940
the day that the petition is filed in the probate court. The 75941
physician shall be authorized to practice medicine and surgery or 75942
osteopathic medicine and surgery under Chapter 4731. of the 75943
Revised Code. The physician's certificate shall set forth the 75944
physician's findings in support of the need to treat the 75945
respondent for alcohol or other drug abuse. The certificate shall 75946
indicate if the respondent presents an imminent danger or imminent 75947
threat of danger to self, family, or others if not treated. 75948
Further, the certificate shall indicate the type and length of 75949
treatment required and if the respondent can reasonably benefit 75950
from treatment. If the physician's certificate indicates that 75951
inpatient treatment is required, the certificate shall identify 75952
any inpatient facilities known to the physician that are able and 75953
willing to provide the recommended inpatient treatment. 75954

If the respondent refuses to undergo an examination with a 75955
physician concerning the respondent's possible need for treatment 75956
for alcohol or other drug abuse, the petition shall state that the 75957
respondent has refused all requests made by the petitioner to 75958
undergo a physician's examination. In that case, the petitioner 75959
shall not be required to provide a physician's certificate with 75960
the petition. 75961

(2) Any petition filed pursuant to divisions (A) and (B) of 75962
this section shall contain a statement that the petitioner has 75963
arranged for treatment of the respondent. Further, the petition 75964
shall be accompanied by a statement from the person or facility 75965
who has agreed to provide the treatment that verifies that the 75966
person or facility has agreed to provide the treatment and the 75967
estimated cost of the treatment. 75968

(D) Any petition filed pursuant to divisions (A) and (B) of 75969
this section shall be accompanied by both of the following: 75970

(1) A security deposit to be deposited with the clerk of the 75971

probate court that will cover half of the estimated cost of 75972
treatment of the respondent; 75973

(2) A guarantee, signed by the petitioner or another person 75974
authorized to file the petition obligating the guarantor to pay 75975
the costs of the examinations of the respondent conducted by the 75976
physician and qualified health professional under division (B)(5) 75977
of section ~~3793.35~~ 5119.94 of the Revised Code, the costs of the 75978
respondent that are associated with a hearing conducted in 75979
accordance with section ~~3793.35~~ 5119.94 of the Revised Code and 75980
that the court determines to be appropriate, and the costs of any 75981
treatment ordered by the court. 75982

Sec. ~~3793.35~~ 5119.94. (A) Upon receipt of a petition filed 75983
under section ~~3793.34~~ 5119.93 of the Revised Code and the payment 75984
of the appropriate filing fee, if any, the probate court shall 75985
examine the petitioner under oath as to the contents of the 75986
petition. 75987

(B) If, after reviewing the allegations contained in the 75988
petition and examining the petitioner under oath, it appears to 75989
the probate court that there is probable cause to believe the 75990
respondent may reasonably benefit from treatment, the court shall 75991
do all of the following: 75992

(1) Schedule a hearing to be held within seven days to 75993
determine if there is clear and convincing evidence that the 75994
respondent may reasonably benefit from treatment for alcohol and 75995
other drug abuse; 75996

(2) Notify the respondent, the legal guardian, if any and if 75997
known, and the spouse, parents, or nearest relative or friend of 75998
the respondent concerning the allegations and contents of the 75999
petition and of the date and purpose of the hearing; 76000

(3) Notify the respondent that the respondent may retain 76001

counsel and, if the person is unable to obtain an attorney, that 76002
the respondent may be represented by court-appointed counsel at 76003
public expense if the person is indigent. Upon the appointment of 76004
an attorney to represent an indigent respondent, the court shall 76005
notify the respondent of the name, address, and telephone number 76006
of the attorney appointed to represent the respondent. 76007

(4) Notify the respondent that the court shall cause the 76008
respondent to be examined not later than twenty-four hours before 76009
the hearing date by a physician for the purpose of a physical 76010
examination and by a qualified health professional for the purpose 76011
of a drug and alcohol addiction assessment and diagnosis. In 76012
addition, the court shall notify the respondent that the 76013
respondent may have an independent expert evaluation of the 76014
person's physical and mental condition conducted at the 76015
respondent's own expense. 76016

(5) Cause the respondent to be examined not later than 76017
twenty-four hours before the hearing date by a physician for the 76018
purpose of a physical examination and by a qualified health 76019
professional for the purpose of a drug and alcohol addiction 76020
assessment and diagnosis; 76021

(6) Conduct the hearing. 76022

(C) The physician and qualified health professional who 76023
examine the respondent pursuant to division (B)(5) of this section 76024
or who are obtained by the respondent at the respondent's own 76025
expense shall certify their findings to the court within 76026
twenty-four hours of the examinations. The findings of each 76027
qualified health professional shall include a recommendation for 76028
treatment if the qualified health professional determines that 76029
treatment is necessary. 76030

(D)(1) If upon completion of the hearing held under this 76031
section the probate court finds by clear and convincing evidence 76032

that the respondent may reasonably benefit from treatment, the 76033
court may order the treatment after considering the qualified 76034
health professionals' recommendations for treatment that have been 76035
submitted to the court under division (C) of this section. If the 76036
court orders the treatment under this division, the court shall 76037
order the treatment to be provided through ~~an alcohol and drug~~ a 76038
community addiction program services provider certified under 76039
section ~~3793.06~~ 5119.36 of the Revised Code or by an individual 76040
licensed or certified by the state medical board under Chapter 76041
4731. of the Revised Code, the chemical dependency professionals 76042
board under Chapter 4758. of the Revised Code, the counselor, 76043
social worker, and marriage and family therapist board under 76044
Chapter 4757. of the Revised Code, or a similar board of another 76045
state authorized to provide substance abuse treatment. 76046

(2) Failure of a respondent to undergo and complete any 76047
treatment ordered pursuant to this division is contempt of court. 76048
Any alcohol and drug addiction program or person providing 76049
treatment under this division shall notify the probate court of a 76050
respondent's failure to undergo or complete the ordered treatment. 76051

(E) If, at any time after a petition is filed under section 76052
~~3793.34~~ 5119.93 of the Revised Code, the probate court finds that 76053
there is not probable cause to continue treatment or if the 76054
petitioner withdraws the petition, then the court shall dismiss 76055
the proceedings against the respondent. 76056

Sec. ~~3793.36~~ 5119.95. (A) Following an examination by a 76057
qualified health professional and a certification by that 76058
professional that the person meets the criteria specified in 76059
section ~~3793.33~~ 5119.92 of the Revised Code, a probate court may 76060
order the person hospitalized for a period not to exceed 76061
seventy-two hours if the court finds by clear and convincing 76062
evidence that the person presents an imminent threat of danger to 76063

self, family, or others as a result of alcohol and other drug 76064
abuse. However, if the hearing to be held under section ~~3793.35~~ 76065
5119.94 of the Revised Code will not be held within seventy-two 76066
hours, the court may order the person hospitalized until the 76067
hearing. In making its order, the court shall inform the person 76068
that the person may immediately make a reasonable number of 76069
telephone calls or use other reasonable means to contact an 76070
attorney, a licensed physician, or a qualified health 76071
professional, to contact any other person or persons to secure 76072
representation by counsel, or to obtain medical or psychological 76073
assistance and that the person will be provided assistance in 76074
making calls if the assistance is needed and requested. 76075

(B) Any person who has been admitted to a hospital under 76076
division (A) of this section shall be released from the hospital 76077
immediately upon the expiration of the time period established by 76078
the court for the hospitalization. 76079

(C) No person ordered hospitalized under this section shall 76080
be held in jail pending transportation to the hospital or 76081
evaluation unless the probate court previously has found the 76082
person to be in contempt of court for either failure to undergo 76083
treatment or failure to appear at the evaluation ordered pursuant 76084
to section ~~3793.35~~ 5119.94 of the Revised Code. 76085

Sec. ~~3793.37~~ 5119.96. When a probate court is authorized to 76086
issue an order that the respondent be transported to a hospital, 76087
the court may issue a summons. If the respondent fails to attend 76088
an examination scheduled before the hearing under section ~~3793.35~~ 76089
5119.94 of the Revised Code, the court shall issue a summons. A 76090
summons so issued shall be directed to the respondent and shall 76091
command the respondent to appear at a time and place specified in 76092
the summons. If a respondent who has been summoned fails to appear 76093
at the hospital or the examination, the probate court may order 76094

the sheriff or any other peace officer to transport the respondent 76095
to a hospital on the list provided under section ~~3793.38~~ 5119.97 76096
of the Revised Code for treatment. The sheriff or any other peace 76097
officer, upon agreement of a person authorized by the peace 76098
officer, may authorize a board of alcohol, drug addiction, and 76099
mental health services, a private ~~agency~~ services provider under 76100
contract with a board of alcohol, drug addiction, and mental 76101
health services, or an ambulance service designated by a board of 76102
alcohol, drug addiction, and mental health services to transport 76103
the respondent to the hospital. The transportation costs of the 76104
sheriff, other peace officer, ambulance service, or other private 76105
~~agency~~ services provider under contract with the board of alcohol, 76106
drug addiction, and mental health services shall be included in 76107
the costs of treatment for alcohol and other drug abuse to be paid 76108
by the petitioner. 76109

Sec. ~~3793.38~~ 5119.97. Each board of alcohol, drug addiction, 76110
and mental health services on at least an annual basis shall 76111
submit each of the following lists to the clerk of the probate 76112
court in each county served by the board: 76113

(A) A list of all hospitals in the counties served by the 76114
board that are able and willing to take respondents ordered to 76115
undergo seventy-two hours of treatment and observation pursuant to 76116
section ~~3793.36~~ 5119.95 of the Revised Code; 76117

(B) A list of hospitals and treatment providers in the 76118
counties served by the board that are able and willing to provide 76119
treatment for alcohol and other drug abuse ordered pursuant to 76120
section ~~3793.35~~ 5119.94 of the Revised Code. 76121

Sec. ~~3793.39~~ 5119.98. Sections ~~3793.12, 3793.13~~ 5119.26, 76122
5119.27, and ~~3793.14~~ 5119.61 of the Revised Code apply to a person 76123
who is ordered to undergo treatment under sections ~~3793.31 to~~ 76124

~~3793.39~~ 5119.90 to 5119.98 of the Revised Code. 76125

Sec. 5119.99. (A) Whoever violates section ~~5119.21~~ 5119.333 76126
of the Revised Code is guilty of a misdemeanor of the first 76127
degree. 76128

(B) Whoever violates division (B) of section 5119.61 of the 76129
Revised Code is guilty of a misdemeanor of the fourth degree. 76130

(C) Whoever violates section 5119.27 or 5119.28 of the 76131
Revised Code is guilty of a felony of the fifth degree. 76132

Sec. 5120.07. (A) There is hereby created the ex-offender 76133
reentry coalition consisting of the following ~~eighteen~~ seventeen 76134
members or their designees: 76135

(1) The director of rehabilitation and correction; 76136

(2) The director of aging; 76137

(3) The director of ~~alcohol and drug addiction services~~ 76138
mental health and addiction services; 76139

(4) The director of development services; 76140

(5) The superintendent of public instruction; 76141

(6) The director of health; 76142

(7) The director of job and family services; 76143

(8) ~~The director of mental health;~~ 76144

~~(9)~~ The director of developmental disabilities; 76145

~~(10)~~(9) The director of public safety; 76146

~~(11)~~(10) The director of youth services; 76147

~~(12)~~(11) The chancellor of the Ohio board of regents; 76148

~~(13)~~(12) A representative or member of the governor's staff; 76149

~~(14)~~(13) The director of the rehabilitation services 76150

commission; 76151

~~(15)~~(14) The director of the department of commerce; 76152

~~(16)~~(15) The executive director of a health care licensing 76153
board created under Title XLVII of the Revised Code, as appointed 76154
by the chairperson of the coalition; 76155

~~(17)~~(16) The director of veterans services; 76156

~~(18)~~(17) An ex-offender appointed by the director of 76157
rehabilitation and correction. 76158

(B) The members of the coalition shall serve without 76159
compensation. The director of rehabilitation and correction or the 76160
director's designee shall be the chairperson of the coalition. 76161

(C) In consultation with persons interested and involved in 76162
the reentry of ex-offenders into the community, including but not 76163
limited to, services providers, community-based organizations, and 76164
local governments, the coalition shall identify and examine social 76165
service barriers and other obstacles to the reentry of 76166
ex-offenders into the community. Not later than one year after 76167
April 7, 2009, and on or before the same date of each year 76168
thereafter, the coalition shall submit to the speaker of the house 76169
of representatives and the president of the senate a report, 76170
including recommendations for legislative action, the activities 76171
of the coalition, and the barriers affecting the successful 76172
reentry of ex-offenders into the community. The report shall 76173
analyze the effects of those barriers on ex-offenders and on their 76174
children and other family members in various areas, including but 76175
not limited to, the following: 76176

(1) Admission to public and other housing; 76177

(2) Child support obligations and procedures; 76178

(3) Parental incarceration and family reunification; 76179

(4) Social security benefits, veterans' benefits, food 76180

stamps, and other forms of public assistance;	76181
(5) Employment;	76182
(6) Education programs and financial assistance;	76183
(7) Substance abuse, mental health , and sex offender treatment programs and financial assistance <u>and mental health services and financial assistance</u> ;	76184 76185 76186
(8) Civic and political participation;	76187
(9) Other collateral consequences under the Revised Code or the Ohio administrative code law that may result from a criminal conviction.	76188 76189 76190
(D)(1) The report shall also include the following information:	76191 76192
(a) Identification of state appropriations for reentry programs;	76193 76194
(b) Identification of other funding sources for reentry programs that are not funded by the state;	76195 76196
(2) The coalition shall gather information about reentry programs in a repository maintained and made available by the coalition. Where available, the information shall include the following:	76197 76198 76199 76200
(a) The amount of funding received;	76201
(b) The number of program participants;	76202
(c) The composition of the program, including program goals, methods for measuring success, and program success rate;	76203 76204
(d) The type of post-program tracking that is utilized;	76205
(e) Information about employment rates and recidivism rates of ex-offenders.	76206 76207
(E) The coalition shall cease to exist on December 31, 2014.	76208

Sec. 5120.09. Under the supervision and control of the 76209
director of rehabilitation and correction, the division of 76210
business administration shall do all of the following: 76211

(A) Submit the budgets for the several divisions of the 76212
department of rehabilitation and correction, as prepared by the 76213
respective chiefs of those divisions, to the director. The 76214
director, with the assistance of the chief of the division of 76215
business administration, shall compile a departmental budget that 76216
contains all proposals submitted by the chiefs of the divisions 76217
and shall forward the departmental budget to the governor with 76218
comments and recommendations that the director considers 76219
necessary. 76220

(B) Maintain accounts and records and compile statistics that 76221
the director prescribes; 76222

(C) Under the control of the director, coordinate and make 76223
the necessary purchases and requisitions for the department and 76224
its divisions, except when goods and services are provided to the 76225
department as described in section ~~5119.16~~ 5119.44 of the Revised 76226
Code; 76227

(D) Administer within this state federal criminal justice 76228
acts that the governor requires the department to administer. In 76229
order to improve the criminal justice system of this state, the 76230
division of business administration shall apply for, allocate, 76231
disburse, and account for grants that are made available pursuant 76232
to those federal criminal justice acts and grants that are made 76233
available from other federal government sources, state government 76234
sources, or private sources. As used in this division, "criminal 76235
justice system" and "federal criminal justice acts" have the same 76236
meanings as in section 5502.61 of the Revised Code. 76237

(E) Audit the activities of governmental entities, persons as 76238
defined in section 1.59 of the Revised Code, and other types of 76239

nongovernmental entities that are financed in whole or in part by 76240
funds that the department allocates or disburses and that are 76241
derived from grants described in division (D) of this section; 76242

(F) Enter into contracts, including contracts with federal, 76243
state, or local governmental entities, persons as defined in 76244
section 1.59 of the Revised Code, foundations, and other types of 76245
nongovernmental entities, that are necessary for the department to 76246
carry out its duties and that neither the director nor another 76247
section of the Revised Code authorizes another division of the 76248
department to enter; 76249

(G) Exercise other powers and perform other duties that the 76250
director may assign to the division of business administration. 76251

Sec. 5120.135. (A) As used in this section, "laboratory 76252
services" includes the performance of medical laboratory analysis; 76253
professional laboratory and pathologist consultation; the 76254
procurement, storage, and distribution of laboratory supplies; and 76255
the performance of phlebotomy services. 76256

(B) The department of rehabilitation and correction may 76257
provide laboratory services to the departments of ~~mental health~~ 76258
mental health and addiction services, developmental disabilities, 76259
youth services, and rehabilitation and correction. The department 76260
of rehabilitation and correction may also provide laboratory 76261
services to other state, county, or municipal agencies and to 76262
private persons that request laboratory services if the department 76263
of rehabilitation and correction determines that the provision of 76264
laboratory services is in the public interest and considers it 76265
advisable to provide such services. The department of 76266
rehabilitation and correction may also provide laboratory services 76267
to agencies operated by the United States government and to public 76268
and private entities funded in whole or in part by the state if 76269
the director of rehabilitation and correction designates them as 76270

eligible to receive such services. 76271

The department of rehabilitation and correction shall provide 76272
laboratory services from a laboratory that complies with the 76273
standards for certification set by the United States department of 76274
health and human services under the "Clinical Laboratory 76275
Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. 76276
In addition, the laboratory shall maintain accreditation or 76277
certification with an appropriate accrediting or certifying 76278
organization as considered necessary by the recipients of its 76279
laboratory services and as authorized by the director of 76280
rehabilitation and correction. 76281

(C) The cost of administering this section shall be 76282
determined by the department of rehabilitation and correction and 76283
shall be paid by entities that receive laboratory services to the 76284
department for deposit in the state treasury to the credit of the 76285
laboratory services fund, which is hereby created. The fund shall 76286
be used to pay the costs the department incurs in administering 76287
this section. 76288

(D) Whenever a state agency fails to make a payment for 76289
laboratory services provided to it by the department of 76290
rehabilitation and correction under this section within thirty-one 76291
days after the date the payment was due, the office of budget and 76292
management may transfer moneys from that state agency to the 76293
department of rehabilitation and correction for deposit to the 76294
credit of the laboratory services fund. The amount transferred 76295
shall not exceed the amount of the overdue payments. Prior to 76296
making a transfer under this division, the office shall apply any 76297
credits the state agency has accumulated in payment for laboratory 76298
services provided under this section. 76299

Sec. 5120.17. (A) As used in this section: 76300

(1) "Mental illness" means a substantial disorder of thought, 76301

mood, perception, orientation, or memory that grossly impairs 76302
judgment, behavior, capacity to recognize reality, or ability to 76303
meet the ordinary demands of life. 76304

(2) "Mentally ill person subject to hospitalization" means a 76305
mentally ill person to whom any of the following applies because 76306
of the person's mental illness: 76307

(a) The person represents a substantial risk of physical harm 76308
to the person as manifested by evidence of threats of, or attempts 76309
at, suicide or serious self-inflicted bodily harm. 76310

(b) The person represents a substantial risk of physical harm 76311
to others as manifested by evidence of recent homicidal or other 76312
violent behavior, evidence of recent threats that place another in 76313
reasonable fear of violent behavior and serious physical harm, or 76314
other evidence of present dangerousness. 76315

(c) The person represents a substantial and immediate risk of 76316
serious physical impairment or injury to the person as manifested 76317
by evidence that the person is unable to provide for and is not 76318
providing for the person's basic physical needs because of the 76319
person's mental illness and that appropriate provision for those 76320
needs cannot be made immediately available in the correctional 76321
institution in which the inmate is currently housed. 76322

(d) The person would benefit from treatment in a hospital for 76323
the person's mental illness and is in need of treatment in a 76324
hospital as manifested by evidence of behavior that creates a 76325
grave and imminent risk to substantial rights of others or the 76326
person. 76327

(3) "Psychiatric hospital" means all or part of a facility 76328
that is operated and managed by the department of ~~mental health~~ 76329
mental health and addiction services to provide psychiatric 76330
hospitalization services in accordance with the requirements of 76331
this section pursuant to an agreement between the directors of 76332

rehabilitation and correction and ~~mental health~~ mental health and 76333
addiction services or, is licensed by the department of ~~mental~~ 76334
~~health~~ mental health and addiction services pursuant to section 76335
~~5119.20~~ 5119.33 of the Revised Code as a psychiatric hospital and 76336
is accredited by a healthcare accrediting organization approved by 76337
the department of ~~mental health~~ mental health and addiction 76338
services and the psychiatric hospital is any of the following: 76339

(a) Operated and managed by the department of rehabilitation 76340
and correction within a facility that is operated by the 76341
department of rehabilitation and correction; 76342

(b) Operated and managed by a contractor for the department 76343
of rehabilitation and correction within a facility that is 76344
operated by the department of rehabilitation and correction; 76345

(c) Operated and managed in the community by an entity that 76346
has contracted with the department of rehabilitation and 76347
correction to provide psychiatric hospitalization services in 76348
accordance with the requirements of this section. 76349

(4) "Inmate patient" means an inmate who is admitted to a 76350
psychiatric hospital. 76351

(5) "Admitted" to a psychiatric hospital means being accepted 76352
for and staying at least one night at the psychiatric hospital. 76353

(6) "Treatment plan" means a written statement of reasonable 76354
objectives and goals for an inmate patient that is based on the 76355
needs of the inmate patient and that is established by the 76356
treatment team, with the active participation of the inmate 76357
patient and with documentation of that participation. "Treatment 76358
plan" includes all of the following: 76359

(a) The specific criteria to be used in evaluating progress 76360
toward achieving the objectives and goals; 76361

(b) The services to be provided to the inmate patient during 76362

the inmate patient's hospitalization; 76363

(c) The services to be provided to the inmate patient after 76364
discharge from the hospital, including, but not limited to, 76365
housing and mental health services provided at the state 76366
correctional institution to which the inmate patient returns after 76367
discharge or community mental health services. 76368

(7) "Mentally retarded person subject to institutionalization 76369
by court order" has the same meaning as in section 5123.01 of the 76370
Revised Code. 76371

(8) "Emergency transfer" means the transfer of a mentally ill 76372
inmate to a psychiatric hospital when the inmate presents an 76373
immediate danger to self or others and requires hospital-level 76374
care. 76375

(9) "Uncontested transfer" means the transfer of a mentally 76376
ill inmate to a psychiatric hospital when the inmate has the 76377
mental capacity to, and has waived, the hearing required by 76378
division (B) of this section. 76379

(10)(a) "Independent decision-maker" means a person who is 76380
employed or retained by the department of rehabilitation and 76381
correction and is appointed by the chief or chief clinical officer 76382
of mental health services as a hospitalization hearing officer to 76383
conduct due process hearings. 76384

(b) An independent decision-maker who presides over any 76385
hearing or issues any order pursuant to this section shall be a 76386
psychiatrist, psychologist, or attorney, shall not be specifically 76387
associated with the institution in which the inmate who is the 76388
subject of the hearing or order resides at the time of the hearing 76389
or order, and previously shall not have had any treatment 76390
relationship with nor have represented in any legal proceeding the 76391
inmate who is the subject of the order. 76392

(B)(1) Except as provided in division (C) of this section, if 76393

the warden of a state correctional institution or the warden's 76394
designee believes that an inmate should be transferred from the 76395
institution to a psychiatric hospital, the department shall hold a 76396
hearing to determine whether the inmate is a mentally ill person 76397
subject to hospitalization. The department shall conduct the 76398
hearing at the state correctional institution in which the inmate 76399
is confined, and the department shall provide qualified 76400
independent assistance to the inmate for the hearing. An 76401
independent decision-maker provided by the department shall 76402
preside at the hearing and determine whether the inmate is a 76403
mentally ill person subject to hospitalization. 76404

(2) Except as provided in division (C) of this section, prior 76405
to the hearing held pursuant to division (B)(1) of this section, 76406
the warden or the warden's designee shall give written notice to 76407
the inmate that the department is considering transferring the 76408
inmate to a psychiatric hospital, that it will hold a hearing on 76409
the proposed transfer at which the inmate may be present, that at 76410
the hearing the inmate has the rights described in division (B)(3) 76411
of this section, and that the department will provide qualified 76412
independent assistance to the inmate with respect to the hearing. 76413
The department shall not hold the hearing until the inmate has 76414
received written notice of the proposed transfer and has had 76415
sufficient time to consult with the person appointed by the 76416
department to provide assistance to the inmate and to prepare for 76417
a presentation at the hearing. 76418

(3) At the hearing held pursuant to division (B)(1) of this 76419
section, the department shall disclose to the inmate the evidence 76420
that it relies upon for the transfer and shall give the inmate an 76421
opportunity to be heard. Unless the independent decision-maker 76422
finds good cause for not permitting it, the inmate may present 76423
documentary evidence and the testimony of witnesses at the hearing 76424
and may confront and cross-examine witnesses called by the 76425

department. 76426

(4) If the independent decision-maker does not find clear and 76427
convincing evidence that the inmate is a mentally ill person 76428
subject to hospitalization, the department shall not transfer the 76429
inmate to a psychiatric hospital but shall continue to confine the 76430
inmate in the same state correctional institution or in another 76431
state correctional institution that the department considers 76432
appropriate. If the independent decision-maker finds clear and 76433
convincing evidence that the inmate is a mentally ill person 76434
subject to hospitalization, the decision-maker shall order that 76435
the inmate be transported to a psychiatric hospital for 76436
observation and treatment for a period of not longer than thirty 76437
days. After the hearing, the independent decision-maker shall 76438
submit to the department a written decision that states one of the 76439
findings described in division (B)(4) of this section, the 76440
evidence that the decision-maker relied on in reaching that 76441
conclusion, and, if the decision is that the inmate should be 76442
transferred, the reasons for the transfer. 76443

(C)(1) The department may transfer an inmate to a psychiatric 76444
hospital under an emergency transfer order if the chief clinical 76445
officer of mental health services of the department or that 76446
officer's designee and either a psychiatrist employed or retained 76447
by the department or, in the absence of a psychiatrist, a 76448
psychologist employed or retained by the department determines 76449
that the inmate is mentally ill, presents an immediate danger to 76450
self or others, and requires hospital-level care. 76451

(2) The department may transfer an inmate to a psychiatric 76452
hospital under an uncontested transfer order if both of the 76453
following apply: 76454

(a) A psychiatrist employed or retained by the department 76455
determines all of the following apply: 76456

(i) The inmate has a mental illness or is a mentally ill person subject to hospitalization. 76457
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(ii) The inmate requires hospital care to address the mental illness. 76459
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(iii) The inmate has the mental capacity to make a reasoned choice regarding the inmate's transfer to a hospital. 76461
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(b) The inmate agrees to a transfer to a hospital. 76463

(3) The written notice and the hearing required under divisions (B)(1) and (2) of this section are not required for an emergency transfer or uncontested transfer under division (C)(1) or (2) of this section. 76464
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(4) After an emergency transfer under division (C)(1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department shall hold subsequent hearings pursuant to division (F) of this section at the same intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section. 76468
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(5) After an uncontested transfer under division (C)(2) of this section, the inmate may withdraw consent to the transfer in writing at any time. Upon the inmate's withdrawal of consent, the hospital shall discharge the inmate, or, within five working days, the department shall hold a hearing for continued hospitalization. The department shall hold subsequent hearings pursuant to division (F) of this section at the same time intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section. 76476
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(D)(1) If an independent decision-maker, pursuant to division (B)(4) of this section, orders an inmate transported to a psychiatric hospital or if an inmate is transferred pursuant to 76485
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division (C)(1) or (2) of this section, the staff of the 76488
psychiatric hospital shall examine the inmate patient when 76489
admitted to the psychiatric hospital as soon as practicable after 76490
the inmate patient arrives at the hospital and no later than 76491
twenty-four hours after the time of arrival. The attending 76492
physician responsible for the inmate patient's care shall give the 76493
inmate patient all information necessary to enable the patient to 76494
give a fully informed, intelligent, and knowing consent to the 76495
treatment the inmate patient will receive in the hospital. The 76496
attending physician shall tell the inmate patient the expected 76497
physical and medical consequences of any proposed treatment and 76498
shall give the inmate patient the opportunity to consult with 76499
another psychiatrist at the hospital and with the inmate advisor. 76500

(2) No inmate patient who is transported or transferred 76501
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 76502
psychiatric hospital within a facility that is operated by the 76503
department of rehabilitation and correction shall be subjected to 76504
any of the following procedures: 76505

(a) Convulsive therapy; 76506

(b) Major aversive interventions; 76507

(c) Any unusually hazardous treatment procedures; 76508

(d) Psychosurgery. 76509

(E) The department of rehabilitation and correction shall 76510
ensure that an inmate patient hospitalized pursuant to this 76511
section receives or has all of the following: 76512

(1) Receives sufficient professional care within twenty days 76513
of admission to ensure that an evaluation of the inmate patient's 76514
current status, differential diagnosis, probable prognosis, and 76515
description of the current treatment plan have been formulated and 76516
are stated on the inmate patient's official chart; 76517

- (2) Has a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals of treatment; 76518
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- (3) Receives treatment consistent with the treatment plan; 76520
- (4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days; 76521
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- (5) Is provided with adequate medical treatment for physical disease or injury; 76523
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- (6) Receives humane care and treatment, including, without being limited to, the following: 76525
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- (a) Access to the facilities and personnel required by the treatment plan; 76527
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- (b) A humane psychological and physical environment; 76529
- (c) The right to obtain current information concerning the treatment program, the expected outcomes of treatment, and the expectations for the inmate patient's participation in the treatment program in terms that the inmate patient reasonably can understand; 76530
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- (d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital; 76535
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- (e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation; 76538
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- (f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department. 76540
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- (F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section prior to the expiration of the initial thirty-day period of hospitalization. The department shall hold 76543
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any subsequent hearings, if necessary, not later than ninety days 76548
after the first thirty-day hearing and then not later than each 76549
one hundred and eighty days after the immediately prior hearing. 76550
An independent decision-maker shall conduct the hearings at the 76551
psychiatric hospital in which the inmate patient is confined. The 76552
inmate patient shall be afforded all of the rights set forth in 76553
this section for the hearing prior to transfer to the psychiatric 76554
hospital. The department may not waive a hearing for continued 76555
commitment. A hearing for continued commitment is mandatory for an 76556
inmate patient transported or transferred to a psychiatric 76557
hospital pursuant to division (B)(4) or (C)(1) of this section 76558
unless the inmate patient has the capacity to make a reasoned 76559
choice to execute a waiver and waives the hearing in writing. An 76560
inmate patient who is transferred to a psychiatric hospital 76561
pursuant to an uncontested transfer under division (C)(2) of this 76562
section and who has scheduled hearings after withdrawal of consent 76563
for hospitalization may waive any of the scheduled hearings if the 76564
inmate has the capacity to make a reasoned choice and executes a 76565
written waiver of the hearing. 76566

If upon completion of the hearing the independent 76567
decision-maker does not find by clear and convincing evidence that 76568
the inmate patient is a mentally ill person subject to 76569
hospitalization, the independent decision-maker shall order the 76570
inmate patient's discharge from the psychiatric hospital. If the 76571
independent decision-maker finds by clear and convincing evidence 76572
that the inmate patient is a mentally ill person subject to 76573
hospitalization, the independent decision-maker shall order that 76574
the inmate patient remain at the psychiatric hospital for 76575
continued hospitalization until the next required hearing. 76576

If at any time prior to the next required hearing for 76577
continued hospitalization, the medical director of the hospital or 76578
the attending physician determines that the treatment needs of the 76579

inmate patient could be met equally well in an available and 76580
appropriate less restrictive state correctional institution or 76581
unit, the medical director or attending physician may discharge 76582
the inmate to that facility. 76583

(G) An inmate patient is entitled to the credits toward the 76584
reduction of the inmate patient's stated prison term pursuant to 76585
Chapters 2967. and 5120. of the Revised Code under the same terms 76586
and conditions as if the inmate patient were in any other 76587
institution of the department of rehabilitation and correction. 76588

(H) The adult parole authority may place an inmate patient on 76589
parole or under post-release control directly from a psychiatric 76590
hospital. 76591

(I) If an inmate patient who is a mentally ill person subject 76592
to hospitalization is to be released from a psychiatric hospital 76593
because of the expiration of the inmate patient's stated prison 76594
term, the director of rehabilitation and correction or the 76595
director's designee, at least fourteen days before the expiration 76596
date, may file an affidavit under section 5122.11 or 5123.71 of 76597
the Revised Code with the probate court in the county where the 76598
psychiatric hospital is located or the probate court in the county 76599
where the inmate will reside, alleging that the inmate patient is 76600
a mentally ill person subject to hospitalization by court order or 76601
a mentally retarded person subject to institutionalization by 76602
court order, whichever is applicable. The proceedings in the 76603
probate court shall be conducted pursuant to Chapter 5122. or 76604
5123. of the Revised Code except as modified by this division. 76605

Upon the request of the inmate patient, the probate court 76606
shall grant the inmate patient an initial hearing under section 76607
5122.141 of the Revised Code or a probable cause hearing under 76608
section 5123.75 of the Revised Code before the expiration of the 76609
stated prison term. After holding a full hearing, the probate 76610
court shall make a disposition authorized by section 5122.15 or 76611

5123.76 of the Revised Code before the date of the expiration of 76612
the stated prison term. No inmate patient shall be held in the 76613
custody of the department of rehabilitation and correction past 76614
the date of the expiration of the inmate patient's stated prison 76615
term. 76616

(J) The department of rehabilitation and correction shall set 76617
standards for treatment provided to inmate patients. 76618

(K) A certificate, application, record, or report that is 76619
made in compliance with this section and that directly or 76620
indirectly identifies an inmate or former inmate whose 76621
hospitalization has been sought under this section is 76622
confidential. No person shall disclose the contents of any 76623
certificate, application, record, or report of that nature or any 76624
other psychiatric or medical record or report regarding a mentally 76625
ill inmate unless one of the following applies: 76626

(1) The person identified, or the person's legal guardian, if 76627
any, consents to disclosure, and the chief clinical officer or 76628
designee of mental health services of the department of 76629
rehabilitation and correction determines that disclosure is in the 76630
best interests of the person. 76631

(2) Disclosure is required by a court order signed by a 76632
judge. 76633

(3) An inmate patient seeks access to the inmate patient's 76634
own psychiatric and medical records, unless access is specifically 76635
restricted in the treatment plan for clear treatment reasons. 76636

(4) Hospitals and other institutions and facilities within 76637
the department of rehabilitation and correction may exchange 76638
psychiatric records and other pertinent information with other 76639
hospitals, institutions, and facilities of the department, but the 76640
information that may be released about an inmate patient is 76641
limited to medication history, physical health status and history, 76642

summary of course of treatment in the hospital, summary of 76643
treatment needs, and a discharge summary, if any. 76644

(5) An inmate patient's family member who is involved in 76645
planning, providing, and monitoring services to the inmate patient 76646
may receive medication information, a summary of the inmate 76647
patient's diagnosis and prognosis, and a list of the services and 76648
personnel available to assist the inmate patient and family if the 76649
attending physician determines that disclosure would be in the 76650
best interest of the inmate patient. No disclosure shall be made 76651
under this division unless the inmate patient is notified of the 76652
possible disclosure, receives the information to be disclosed, and 76653
does not object to the disclosure. 76654

(6) The department of rehabilitation and correction may 76655
exchange psychiatric hospitalization records, other mental health 76656
treatment records, and other pertinent information with county 76657
sheriffs' offices, hospitals, institutions, and facilities of the 76658
department of ~~mental health~~ mental health and addiction services 76659
and with community mental health ~~agencies~~ services providers and 76660
boards of alcohol, drug addiction, and mental health services with 76661
which the department of ~~mental health~~ mental health and addiction 76662
services has a current agreement for patient care or services to 76663
ensure continuity of care. Disclosure under this division is 76664
limited to records regarding a mentally ill inmate's medication 76665
history, physical health status and history, summary of course of 76666
treatment, summary of treatment needs, and a discharge summary, if 76667
any. No office, department, agency, provider, or board shall 76668
disclose the records and other information unless one of the 76669
following applies: 76670

(a) The mentally ill inmate is notified of the possible 76671
disclosure and consents to the disclosure. 76672

(b) The mentally ill inmate is notified of the possible 76673
disclosure, an attempt to gain the consent of the inmate is made, 76674

and the office, department, agency, or board documents the attempt to gain consent, the inmate's objections, if any, and the reasons for disclosure in spite of the inmate's objections.

(7) Information may be disclosed to staff members designated by the director of rehabilitation and correction for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards.

The name of an inmate patient shall not be retained with the information obtained during the evaluations.

(L) The director of rehabilitation and correction may adopt rules setting forth guidelines for the procedures required under divisions (B), (C)(1), and (C)(2) of this section.

Sec. 5120.171. (A) The department of rehabilitation and correction shall have exclusive direction and control of the care and treatment of seriously mentally ill inmates who are in the department's custody. The department shall enter into any arrangements it considers desirable on such matters, including but not limited to both of the following:

(1) The monitoring of such services by another state agency or agencies;

(2) Adopting joint standards for the provision and monitoring of mental health services with the department of ~~mental health~~ mental health and addiction services and other state agencies.

(B) In order to implement its duties imposed by division (A) of this section, the department of rehabilitation and correction may enter into a contract for the provision of the mental health services described in that division.

Sec. 5120.652. To participate in the prison nursery program, each eligible inmate selected by the department shall do all the

following: 76704

(A) Agree in writing to do all the following: 76705

(1) Comply with any program, educational, counseling, and 76706
other requirements established for the program by the department 76707
of rehabilitation and correction; 76708

(2) If eligible, have the child participate in the medicaid 76709
program or a health insurance program; 76710

(3) Accept the normal risks of childrearing; 76711

(4) Abide by any court decisions regarding the allocation of 76712
parental rights and responsibilities with respect to the child. 76713

(B) Assign to the department any rights to support from any 76714
other person, excluding support assigned pursuant to section 76715
5107.20 of the Revised Code and medical support assigned pursuant 76716
to section ~~5101.59~~ 5160.38 of the Revised Code; 76717

(C) Specify with whom the child is to be placed in the event 76718
the inmate's participation in the program is terminated for a 76719
reason other than release from imprisonment. 76720

Sec. 5120.654. (A) The rights to support assigned by an 76721
inmate pursuant to section 5120.652 of the Revised Code constitute 76722
an obligation of the person who is responsible for providing the 76723
support to the department of rehabilitation and correction for the 76724
support provided the inmate and child pursuant to the prison 76725
nursery program. The division of child support in the department 76726
of job and family services shall collect support payments made 76727
pursuant to the assignment and forward them to the department of 76728
rehabilitation and correction. 76729

(B) The department of rehabilitation and correction may 76730
receive the following: 76731

(1) Money that is assigned or donated on behalf of, and 76732

~~public~~ assistance provided under Ohio works first to, a specific inmate or child participating in the prison nursery program; 76733
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(2) Money assigned or donated to establish and maintain the prison nursery program. 76735
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(C) The amounts described in division (B)(1) of this section shall be placed in the individual nursery account created and maintained under section 5120.655 of the Revised Code for the inmate and child for whom the money was received. The money described in division (B)(2) of this section shall be deposited in the appropriate prison nursery program fund. 76737
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Sec. 5121.051. All outstanding liability of relatives for the support of any patient or resident in a benevolent institution under the control of the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities accrued prior to January 1, 1956, including the liability of the patient personally, is hereby canceled, provided that this section does not abrogate any written agreements or security arrangement for the payment of support charges entered into between the state and any patient or liable relative prior to such date. 76743
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Sec. 5121.30. As used in sections 5121.30 to 5121.56 of the Revised Code: 76753
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(A) ~~"Community mental health services client" or "client" means a person receiving state-operated community mental health services.~~ 76755
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~~(B)~~ "Countable assets" means all of the following: 76758

(1) Cash; 76759

(2) Bank deposits; 76760

(3) Securities; 76761

(4) Individual retirement accounts;	76762
(5) Qualified employer plans, including 401(k) and Keogh plans;	76763 76764
(6) Annuities;	76765
(7) Funds in a trust created under section 5815.28 of the Revised Code;	76766 76767
(8) Investment property and income;	76768
(9) The cash surrender values of life insurance policies;	76769
(10) Assets acquired by gift, bequest, devise, or inheritance;	76770 76771
(11) Any other asset determined by the department of mental health <u>mental health and addiction services</u> to be equivalent to the assets enumerated in this division.	76772 76773 76774
(C) (B) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	76775 76776 76777 76778 76779 76780 76781
(D) (C) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	76782 76783 76784 76785 76786 76787
(E) (D) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department of mental health <u>mental health and addiction services</u> under Chapter 5119. of the Revised Code.	76788 76789 76790 76791

~~(F)~~(E) "Liable relative" means all of the following: 76792

(1) A patient's spouse; 76793

(2) A patient's mother or father, or both, if the patient is 76794
under eighteen years of age; 76795

(3) A patient's guardian. 76796

~~(G)~~(F) "Patient" means a person admitted to a hospital for 76797
inpatient care or treatment, including a person transferred to a 76798
hospital from a state correctional institution or a person under 76799
indictment or conviction who has been transferred to a hospital. 76800

Sec. 5121.32. On an annual basis, the department of ~~mental~~ 76801
~~health~~ mental health and addiction services shall determine both 76802
of the following using generally accepted governmental accounting 76803
principles: 76804

(A) The applicable per diem charge for each hospital operated 76805
by the department; 76806

(B) The ancillary per diem rate for each hospital operated by 76807
the department. 76808

In determining a hospital's applicable per diem charge and 76809
ancillary per diem rate, the department shall consider the average 76810
actual per diem cost of maintaining and treating a patient at the 76811
hospital or, at the department's discretion, the average actual 76812
per diem cost of maintaining and treating a patient in a unit of 76813
the hospital. 76814

Sec. 5121.33. Except as provided in sections 5121.35, 76815
5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised 76816
Code, the department of ~~mental health~~ mental health and addiction 76817
services shall, for each billing cycle, charge a patient, 76818
patient's estate, or liable relative an amount equal to the sum of 76819
the following: 76820

(A) The applicable per diem charge multiplied by the number 76821
of days the patient was admitted to the hospital; 76822

(B) An amount that was previously billed but not paid. 76823

Sec. 5121.34. (A) A patient, patient's estate, and patient's 76824
liable relatives shall be jointly and severally liable for amounts 76825
charged by the department of ~~mental health~~ mental health and 76826
addiction services in accordance with section 5121.33 or 5121.35 76827
of the Revised Code. In no case shall any of the foregoing persons 76828
be liable for more than one hundred per cent of the full sum 76829
charged under section 5121.33 of the Revised Code. 76830

(B) Collections of support payments shall be made by the 76831
department and, subject to meeting prior requirements for payment 76832
and crediting of such collections and other available receipts, in 76833
accordance with the bond proceedings applicable to obligations 76834
issued pursuant to section 154.20 of the Revised Code. The 76835
collections and other available receipts designated by the 76836
director of ~~mental health~~ mental health and addiction services for 76837
deposit in the special accounts, together with insurance contract 76838
payments provided for in section 5121.43 of the Revised Code, 76839
shall be remitted to the treasurer of state for deposit in the 76840
state treasury to the credit of the mental health operating fund, 76841
which is hereby created, to be used for the general purposes of 76842
the department. The department shall make refunds of overpayment 76843
of support charges from the mental health operating fund. 76844

Sec. 5121.35. The department of ~~mental health~~ mental health 76845
and addiction services shall charge a patient, patient's estate, 76846
or liable relative an amount discounted from the amount the 76847
department charges under section 5121.33 of the Revised Code if 76848
the department determines through the application process 76849
described in section 5121.36 of the Revised Code or through the 76850

financial assessment process described in section 5121.37 of the Revised Code that the patient, estate, or relative is eligible for a discount.

Sec. 5121.36. (A) A patient, patient's estate, or liable relative may apply for a discount by completing an application form prescribed by the director of ~~mental health~~ mental health and addiction services. The department of ~~mental health~~ mental health and addiction services may require a patient, estate, or relative to furnish any of the following with an application form:

(1) A copy of the patient's, estate's, or liable relative's federal income tax return for the year preceding the date of application or, if that is not yet available, the preceding year;

(2) A copy of the patient's, estate's, or liable relative's employee tax withholding return (form W-2) for the year preceding the date of application;

(3) Any other relevant documents prescribed by the director of ~~mental health~~ mental health and addiction services.

(B) To be considered, an application must be submitted to the department not later than ninety days after the date the patient is admitted to a hospital.

(C) From the information provided by a patient, estate, or relative, the department shall determine whether the department will charge the person a discounted amount in accordance with sections 5121.40 and 5121.41 of the Revised Code. In making this determination, the department shall consider whether the patient is covered by an insurance policy or other contract that provides for payment of expenses and treatment for mental illness. If the department determines that the patient has coverage, the department shall require payment in accordance with section 5121.43 of the Revised Code.

(D) The department shall notify the patient, executor or administrator of the patient's estate, or liable relative who submitted the application form in writing regarding whether that person will be charged a discounted amount and the per diem rate to be charged.

(E) In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the application form was submitted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change.

Sec. 5121.37. After a patient's admittance to a hospital, the department of ~~mental health~~ mental health and addiction services shall conduct a financial assessment to determine whether the patient, patient's estate, or liable relative will be charged an amount discounted from the amount the department charges under section 5121.33 of the Revised Code. The department shall make the determination in accordance with sections 5121.40 and 5121.41 of the Revised Code.

If a discounted rate is to be charged, the department shall notify the person whose financial condition was assessed. The notice shall specify the per diem rate to be charged.

In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the assessment was conducted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change.

Sec. 5121.38. The department of ~~mental health~~ mental health 76911
and addiction services may subpoena witnesses, take testimony 76912
under oath, and examine any public records relating to the income 76913
and other assets of a patient or of a relative liable for such 76914
patient's support. All information, conclusions, and 76915
recommendations shall be submitted to the department by the 76916
investigating agent of the department. 76917

Sec. 5121.40. (A) A patient, patient's estate, or liable 76918
relative may be eligible to be charged an amount discounted from 76919
the amount the department of ~~mental health~~ mental health and 76920
addiction services charges under section 5121.33 of the Revised 76921
Code if the patient, estate, or relative has countable assets with 76922
a total value that is not greater than an amount equal to fifty 76923
per cent of the difference between the following: 76924

(1) The gross annual income that corresponds with a family 76925
size of two persons at one hundred per cent of the federal poverty 76926
level for the state; 76927

(2) The gross annual income that corresponds with a family 76928
size of one person at one hundred per cent of the federal poverty 76929
level for the state. For purposes of determining family size, the 76930
patient is one dependent. One additional dependent shall be 76931
included for each of the following circumstances and persons: 76932

(a) The patient or liable relative is legally blind or deaf. 76933

(b) The patient or liable relative is ~~of~~ sixty-five years of 76934
age or older. 76935

(c) Each child under eighteen years of age for which the 76936
patient or liable relative has legal custody; 76937

(d) The patient's or liable relative's spouse. 76938

(B) A patient, estate, or relative may, not later than ninety 76939

days after the patient's admission to a hospital, surrender the 76940
value of countable assets sufficient to reduce countable assets to 76941
not more than the limit described in division (A) of this section. 76942

Sec. 5121.42. (A) Except as provided in division (B) of this 76943
section, a patient, patient's estate, or liable relative shall 76944
cease to be eligible for a discount under ~~sections~~ section 5121.36 76945
or 5121.37 of the Revised Code on accumulation of countable assets 76946
in excess of an amount equal to fifty per cent of the difference 76947
between the following: 76948

(1) The gross annual income that corresponds with a family 76949
size of two persons at one hundred per cent of the federal poverty 76950
level for the state; 76951

(2) The gross annual income that corresponds with a family 76952
size of one person at one hundred per cent of the federal poverty 76953
level for the state. 76954

(B) Money needed to meet the patient's needs and burial fund 76955
as determined by a needs assessment conducted by the department of 76956
~~mental health~~ mental health and addiction services pursuant to 76957
rules adopted under ~~section 5119.01~~ 5119.10 of the Revised Code 76958
shall be excluded from any determination the department makes 76959
under division (A) of this section. 76960

Sec. 5121.43. If a patient is covered by an insurance policy 76961
or other contract that provides for payment of expenses for care 76962
and treatment for mental illness at or from a hospital under the 76963
jurisdiction of the department of ~~mental health~~ mental health and 76964
addiction services, sections 5121.33 to 5121.55 of the Revised 76965
Code are inapplicable to the extent that the policy or contract is 76966
in force. Any insurance carrier or other third party payor 76967
providing coverage for such care and treatment shall pay for the 76968
patient's support obligation in amounts equal to the lesser of 76969

amounts charged by the department under section 5121.33 of the Revised Code or the benefits provided under the policy or other contract. Whether or not an insured, owner of, or other person having an interest in such policy or other contract is liable for support payments, the insured, policy owner, or other person shall assign payment directly to the department of all assignable benefits under the policy or other contract and shall pay to the department, within ten days of receipt, all insurance or other benefits received as reimbursement or payment for expenses incurred by the patient or for any other reason. If the insured, policy owner, or other person refuses to assign payment to the department or refuses to pay received reimbursements or payments to the department within ten days of receipt, the total liability of the insured, policy owner, or other person for the services is an amount equal to the per diem charge for the hospital where the patient was admitted multiplied by the number of days the patient was admitted.

In no event shall this total liability exceed the department's actual cost of providing care and treatment to a patient. The department may disqualify patients and liable relatives who have retained third party funds from future discounts. The department may request that the attorney general petition a court of competent jurisdiction to compel the insured, owner of, or other person having an interest in the policy or contract to comply with the assignment requirements in this section.

Sec. 5121.44. The department of ~~mental health~~ mental health and addiction services may enter into an extended payment agreement with a patient, patient's estate, or liable relative who has notified the department that the patient, estate, or relative cannot reasonably pay an amount the department has charged. In no

case shall the department take a security interest, mortgage, or 77001
lien against the principal family residence of a patient or liable 77002
relative. 77003

Sec. 5121.45. (A) For purposes of this section, "delinquent 77004
payment" means an amount owed by a patient, patient's estate, or 77005
liable relative to the department of ~~mental health~~ mental health
and addiction services for which the person has failed to do 77006
either of the following not later than ninety days after the 77007
service associated with the charge was incurred: 77008
77009

(1) Make payment in full; 77010

(2) Make a payment in accordance with the terms of an 77011
agreement entered into under section 5121.44 of the Revised Code. 77012

(B) An action to enforce the collection of a delinquent 77013
payment shall be commenced not later than six years after the 77014
later of the following: 77015

(1) The last date the department received money to satisfy 77016
the delinquent payment; 77017

(2) The date the charge was due. 77018

(C) In all actions to enforce the collection of delinquent 77019
payments, a court of record shall receive into evidence the proof 77020
of claim document made by the state together with all debts and 77021
credits. The proof of claim document shall be prima-facie evidence 77022
of the facts stated in the document. 77023

Sec. 5121.46. The department of ~~mental health~~ mental health
and addiction services shall not charge a liable relative under 77024
sections 5121.33 and 5121.35 of the Revised Code who has done 77025
either of the following: 77026
77027

(A) Paid all amounts charged by the department for the care 77028

and treatment of a particular patient for fifteen consecutive 77029
years; 77030

(B) Paid amounts charged by the department for the care and 77031
treatment of more than one patient for a total of fifteen 77032
consecutive years. 77033

Sec. 5121.47. Irrespective of the number of patients for 77034
which the department of ~~mental health~~ mental health and addiction 77035
services may charge a liable relative under sections 5121.33 ~~or~~ 77036
and 5121.35 of the Revised Code, the department shall not charge a 77037
liable relative or group of liable relatives who are members of 77038
the same family unit for the support of more than one patient 77039
during the same period of time. 77040

Sec. 5121.49. (A) Any person who has been charged under 77041
section 5121.33 or 5121.35 of the Revised Code may petition the 77042
department of ~~mental health~~ mental health and addiction services 77043
to do the following: 77044

(1) Release the person from a charge; 77045

(2) Modify or cancel a charge. 77046

(B) The department shall respond to a petition in writing and 77047
inform the petitioner of whether a release, modification, or 77048
cancellation has been approved. 77049

Sec. 5121.50. When a patient is committed to a hospital 77050
pursuant to judicial proceedings, the judge ordering the 77051
commitment shall: 77052

(A) Make a reliable report on the financial condition of the 77053
patient and of each liable relative, as provided in rules adopted 77054
by the director of ~~mental health~~ mental health and addiction 77055
services; 77056

(B) Certify the report required under division (A) of this section to the managing officer of the hospital. The managing officer shall thereupon enter in the managing officer's records the name and address of any guardian appointed and of any relative liable for the patient's support.

Sec. 5121.51. In case the estate of any patient in a hospital is sufficient for the patient's support and no guardian has been appointed for such estate, the agent of the department of ~~mental health~~ mental health and addiction services shall petition the probate court of the proper county to appoint a guardian.

Sec. 5121.52. On the death of a person who is a patient, or has been a patient in a hospital, or on the death of a person responsible under section 5121.34 of the Revised Code for the support of a patient, the department of ~~mental health~~ mental health and addiction services may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a patient are subject to section 5815.28 and Chapter 2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter.

The department of ~~mental health~~ mental health and addiction services may accept from a guardian or trustee of a patient a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the ward while the ward is a patient, with interest at four per cent per annum. A copy of the contract shall be filed in the probate court of the proper county and duly entered as a part of the records concerning the ward.

Sec. 5121.55. The cost for support of a client of 77087
state-operated community mental health services is an amount 77088
determined using guidelines the department of ~~mental health~~ mental 77089
health and addiction services shall issue. The guidelines shall be 77090
based on cost findings and rate-settings applicable to such 77091
services. 77092

Sec. 5122.01. As used in this chapter and Chapter 5119. of 77093
the Revised Code: 77094

(A) "Mental illness" means a substantial disorder of thought, 77095
mood, perception, orientation, or memory that grossly impairs 77096
judgment, behavior, capacity to recognize reality, or ability to 77097
meet the ordinary demands of life. 77098

(B) "Mentally ill person subject to hospitalization by court 77099
order" means a mentally ill person who, because of the person's 77100
illness: 77101

(1) Represents a substantial risk of physical harm to self as 77102
manifested by evidence of threats of, or attempts at, suicide or 77103
serious self-inflicted bodily harm; 77104

(2) Represents a substantial risk of physical harm to others 77105
as manifested by evidence of recent homicidal or other violent 77106
behavior, evidence of recent threats that place another in 77107
reasonable fear of violent behavior and serious physical harm, or 77108
other evidence of present dangerousness; 77109

(3) Represents a substantial and immediate risk of serious 77110
physical impairment or injury to self as manifested by evidence 77111
that the person is unable to provide for and is not providing for 77112
the person's basic physical needs because of the person's mental 77113
illness and that appropriate provision for those needs cannot be 77114
made immediately available in the community; or 77115

(4) Would benefit from treatment in a hospital for the 77116

person's mental illness and is in need of such treatment as 77117
manifested by evidence of behavior that creates a grave and 77118
imminent risk to substantial rights of others or the person. 77119

(C)(1) "Patient" means, subject to division (C)(2) of this 77120
section, a person who is admitted either voluntarily or 77121
involuntarily to a hospital or other place under section 2945.39, 77122
2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a 77123
finding of not guilty by reason of insanity or incompetence to 77124
stand trial or under this chapter, who is under observation or 77125
receiving treatment in such place. 77126

(2) "Patient" does not include a person admitted to a 77127
hospital or other place under section 2945.39, 2945.40, 2945.401, 77128
or 2945.402 of the Revised Code to the extent that the reference 77129
in this chapter to patient, or the context in which the reference 77130
occurs, is in conflict with any provision of sections 2945.37 to 77131
2945.402 of the Revised Code. 77132

(D) "Licensed physician" means a person licensed under the 77133
laws of this state to practice medicine or a medical officer of 77134
the government of the United States while in this state in the 77135
performance of the person's official duties. 77136

(E) "Psychiatrist" means a licensed physician who has 77137
satisfactorily completed a residency training program in 77138
psychiatry, as approved by the residency review committee of the 77139
American medical association, the committee on post-graduate 77140
education of the American osteopathic association, or the American 77141
osteopathic board of neurology and psychiatry, or who on July 1, 77142
1989, has been recognized as a psychiatrist by the Ohio state 77143
medical association or the Ohio osteopathic association on the 77144
basis of formal training and five or more years of medical 77145
practice limited to psychiatry. 77146

(F) "Hospital" means a hospital or inpatient unit licensed by 77147

the department of ~~mental health~~ mental health and addiction 77148
services under section ~~5119.20~~ 5119.33 of the Revised Code, and 77149
any institution, hospital, or other place established, controlled, 77150
or supervised by the department under Chapter 5119. of the Revised 77151
Code. 77152

(G) "Public hospital" means a facility that is tax-supported 77153
and under the jurisdiction of the department of ~~mental health~~ 77154
mental health and addiction services. 77155

(H) "Community mental health ~~agency~~ services provider" means 77156
an agency, association, corporation, individual, or program that 77157
provides community mental health services that are certified by 77158
the director of ~~mental health~~ mental health and addiction services 77159
under section ~~5119.611~~ 5119.36 of the Revised Code. 77160

(I) "Licensed clinical psychologist" means a person who holds 77161
a current valid psychologist license issued under section 4732.12 77162
or 4732.15 of the Revised Code, and in addition, meets either of 77163
the following criteria: 77164

(1) Meets the educational requirements set forth in division 77165
(B) of section 4732.10 of the Revised Code and has a minimum of 77166
two years' full-time professional experience, or the equivalent as 77167
determined by rule of the state board of psychology, at least one 77168
year of which shall be a predoctoral internship, in clinical 77169
psychological work in a public or private hospital or clinic or in 77170
private practice, diagnosing and treating problems of mental 77171
illness or mental retardation under the supervision of a 77172
psychologist who is licensed or who holds a diploma issued by the 77173
American board of professional psychology, or whose qualifications 77174
are substantially similar to those required for licensure by the 77175
state board of psychology when the supervision has occurred prior 77176
to enactment of laws governing the practice of psychology; 77177

(2) Meets the educational requirements set forth in division 77178

(B) of section 4732.15 of the Revised Code and has a minimum of 77179
four years' full-time professional experience, or the equivalent 77180
as determined by rule of the state board of psychology, in 77181
clinical psychological work in a public or private hospital or 77182
clinic or in private practice, diagnosing and treating problems of 77183
mental illness or mental retardation under supervision, as set 77184
forth in division (I)(1) of this section. 77185

(J) "Health officer" means any public health physician; 77186
public health nurse; or other person authorized by or designated 77187
by a city health district; a general health district; or a board 77188
of alcohol, drug addiction, and mental health services to perform 77189
the duties of a health officer under this chapter. 77190

(K) "Chief clinical officer" means the medical director of a 77191
hospital, or a community mental health ~~agency~~ services provider, 77192
or a board of alcohol, drug addiction, and mental health services, 77193
or, if there is no medical director, the licensed physician 77194
responsible for the treatment a hospital or community mental 77195
health ~~agency~~ services provider provides. The chief clinical 77196
officer may delegate to the attending physician responsible for a 77197
patient's care the duties imposed on the chief clinical officer by 77198
this chapter. Within a community mental health ~~agency~~ services 77199
provider, the chief clinical officer shall be designated by the 77200
governing body of the ~~agency~~ services provider and shall be a 77201
licensed physician or licensed clinical psychologist who 77202
supervises diagnostic and treatment services. A licensed physician 77203
or licensed clinical psychologist designated by the chief clinical 77204
officer may perform the duties and accept the responsibilities of 77205
the chief clinical officer in the chief clinical officer's 77206
absence. 77207

(L) "Working day" or "court day" means Monday, Tuesday, 77208
Wednesday, Thursday, and Friday, except when such day is a 77209
holiday. 77210

(M) "Indigent" means unable without deprivation of satisfaction of basic needs to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony.

(N) "Respondent" means the person whose detention, commitment, hospitalization, continued hospitalization or commitment, or discharge is being sought in any proceeding under this chapter.

(O) "Ohio protection and advocacy system" has the same meaning as in section 5123.60 of the Revised Code.

(P) "Independent expert evaluation" means an evaluation conducted by a licensed clinical psychologist, psychiatrist, or licensed physician who has been selected by the respondent or the respondent's counsel and who consents to conducting the evaluation.

(Q) "Court" means the probate division of the court of common pleas.

(R) "Expunge" means:

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;

(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;

(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;

(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.

(S) "Residence" means a person's physical presence in a

county with intent to remain there, except that: 77241

(1) If a person is receiving a mental health service at a 77242
facility that includes nighttime sleeping accommodations, 77243
residence means that county in which the person maintained the 77244
person's primary place of residence at the time the person entered 77245
the facility; 77246

(2) If a person is committed pursuant to section 2945.38, 77247
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 77248
residence means the county where the criminal charges were filed. 77249

When the residence of a person is disputed, the matter of 77250
residence shall be referred to the department of ~~mental health~~ 77251
mental health and addiction services for investigation and 77252
determination. Residence shall not be a basis for a board's 77253
denying services to any person present in the board's service 77254
district, and the board shall provide services for a person whose 77255
residence is in dispute while residence is being determined and 77256
for a person in an emergency situation. 77257

(T) "Admission" to a hospital or other place means that a 77258
patient is accepted for and stays at least one night at the 77259
hospital or other place. 77260

(U) "Prosecutor" means the prosecuting attorney, village 77261
solicitor, city director of law, or similar chief legal officer 77262
who prosecuted a criminal case in which a person was found not 77263
guilty by reason of insanity, who would have had the authority to 77264
prosecute a criminal case against a person if the person had not 77265
been found incompetent to stand trial, or who prosecuted a case in 77266
which a person was found guilty. 77267

(V) "Treatment plan" means a written statement of reasonable 77268
objectives and goals for an individual established by the 77269
treatment team, with specific criteria to evaluate progress 77270
towards achieving those objectives. The active participation of 77271

the patient in establishing the objectives and goals shall be 77272
documented. The treatment plan shall be based on patient needs and 77273
include services to be provided to the patient while the patient 77274
is hospitalized and after the patient is discharged. The treatment 77275
plan shall address services to be provided upon discharge, 77276
including but not limited to housing, financial, and vocational 77277
services. 77278

(W) "Community control sanction" has the same meaning as in 77279
section 2929.01 of the Revised Code. 77280

(X) "Post-release control sanction" has the same meaning as 77281
in section 2967.01 of the Revised Code. 77282

Sec. 5122.03. A patient admitted under section 5122.02 of the 77283
Revised Code who requests release in writing, or whose release is 77284
requested in writing by the patient's counsel, legal guardian, 77285
parent, spouse, or adult next of kin shall be released forthwith, 77286
except that when: 77287

(A) The patient was admitted on the patient's own application 77288
and the request for release is made by a person other than the 77289
patient, release may be conditional upon the agreement of the 77290
patient; or 77291

(B) The chief clinical officer of the hospital, within three 77292
court days from the receipt of the request for release, files or 77293
causes to be filed with the court of the county where the patient 77294
is hospitalized or of the county where the patient is a resident, 77295
an affidavit under section 5122.11 of the Revised Code. Release 77296
may be postponed until the hearing held under section 5122.141 of 77297
the Revised Code. A telephone communication within three court 77298
days from the receipt of the request for release from the chief 77299
clinical officer to the court, indicating that the required 77300
affidavit has been mailed, is sufficient compliance with the time 77301
limit for filing such affidavit. 77302

Unless the patient is released within three days from the receipt of the request by the chief clinical officer, the request shall serve as a request for an initial hearing under section 5122.141 of the Revised Code. If the court finds that the patient is a mentally ill person subject to hospitalization by court order, all provisions of this chapter with respect to involuntary hospitalization apply to such person.

Judicial proceedings for hospitalization shall not be commenced with respect to a voluntary patient except pursuant to this section.

Sections 5121.30 to 5121.56 of the Revised Code apply to persons received in a hospital operated by the department of ~~mental health~~ mental health and addiction services on a voluntary application.

The chief clinical officer of the hospital shall provide reasonable means and arrangements for informing patients of their rights to release as provided in this section and for assisting them in making and presenting requests for release or for a hearing under section 5122.141 of the Revised Code.

Before a patient is released from a public hospital, the chief clinical officer shall, when possible, notify the board of the patient's county of residence of the patient's pending release after the chief clinical officer has informed the patient that the board will be so notified.

Sec. 5122.10. Any psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer, or sheriff may take a person into custody, or the chief of the adult parole authority or a parole or probation officer with the approval of the chief of the authority may take a parolee, an offender under a community control sanction or a post-release control sanction, or an offender under transitional

control into custody and may immediately transport the parolee, 77334
offender on community control or post-release control, or offender 77335
under transitional control to a hospital or, notwithstanding 77336
section ~~5119.20~~ 5119.33 of the Revised Code, to a general hospital 77337
not licensed by the department of ~~mental health~~ mental health and
addiction services where the parolee, offender on community 77338
control or post-release control, or offender under transitional 77339
control may be held for the period prescribed in this section, if 77340
the psychiatrist, licensed clinical psychologist, licensed 77341
physician, health officer, parole officer, police officer, or 77342
sheriff has reason to believe that the person is a mentally ill 77343
person subject to hospitalization by court order under division 77344
(B) of section 5122.01 of the Revised Code, and represents a 77345
substantial risk of physical harm to self or others if allowed to 77346
remain at liberty pending examination. 77347
77348

A written statement shall be given to such hospital by the 77349
transporting psychiatrist, licensed clinical psychologist, 77350
licensed physician, health officer, parole officer, police 77351
officer, chief of the adult parole authority, parole or probation 77352
officer, or sheriff stating the circumstances under which such 77353
person was taken into custody and the reasons for the 77354
psychiatrist's, licensed clinical psychologist's, licensed 77355
physician's, health officer's, parole officer's, police officer's, 77356
chief of the adult parole authority's, parole or probation 77357
officer's, or sheriff's belief. This statement shall be made 77358
available to the respondent or the respondent's attorney upon 77359
request of either. 77360

Every reasonable and appropriate effort shall be made to take 77361
persons into custody in the least conspicuous manner possible. A 77362
person taking the respondent into custody pursuant to this section 77363
shall explain to the respondent: the name, and professional 77364
designation, ~~and agency~~ affiliation of the person taking the 77365

respondent into custody; that the custody-taking is not a criminal 77366
arrest; and that the person is being taken for examination by 77367
mental health professionals at a specified mental health facility 77368
identified by name. 77369

If a person taken into custody under this section is 77370
transported to a general hospital, the general hospital may admit 77371
the person, or provide care and treatment for the person, or both, 77372
notwithstanding section ~~5119.20~~ 5119.33 of the Revised Code, but 77373
by the end of twenty-four hours after arrival at the general 77374
hospital, the person shall be transferred to a hospital as defined 77375
in section 5122.01 of the Revised Code. 77376

A person transported or transferred to a hospital or 77377
community mental health ~~agency~~ services provider under this 77378
section shall be examined by the staff of the hospital or ~~agency~~ 77379
services provider within twenty-four hours after arrival at the 77380
hospital or ~~agency~~ services provider. If to conduct the 77381
examination requires that the person remain overnight, the 77382
hospital or ~~agency~~ services provider shall admit the person in an 77383
unclassified status until making a disposition under this section. 77384
After the examination, if the chief clinical officer of the 77385
hospital or ~~agency~~ services provider believes that the person is 77386
not a mentally ill person subject to hospitalization by court 77387
order, the chief clinical officer shall release or discharge the 77388
person immediately unless a court has issued a temporary order of 77389
detention applicable to the person under section 5122.11 of the 77390
Revised Code. After the examination, if the chief clinical officer 77391
believes that the person is a mentally ill person subject to 77392
hospitalization by court order, the chief clinical officer may 77393
detain the person for not more than three court days following the 77394
day of the examination and during such period admit the person as 77395
a voluntary patient under section 5122.02 of the Revised Code or 77396
file an affidavit under section 5122.11 of the Revised Code. If 77397

neither action is taken and a court has not otherwise issued a 77398
temporary order of detention applicable to the person under 77399
section 5122.11 of the Revised Code, the chief clinical officer 77400
shall discharge the person at the end of the three-day period 77401
unless the person has been sentenced to the department of 77402
rehabilitation and correction and has not been released from the 77403
person's sentence, in which case the person shall be returned to 77404
that department. 77405

Sec. 5122.11. Proceedings for the hospitalization of a person 77406
pursuant to sections 5122.11 to 5122.15 of the Revised Code shall 77407
be commenced by the filing of an affidavit in the manner and form 77408
prescribed by the department of ~~mental health~~ mental health and 77409
addiction services, by any person or persons with the court, 77410
either on reliable information or actual knowledge, whichever is 77411
determined to be proper by the court. This section does not apply 77412
to the hospitalization of a person pursuant to section 2945.39, 77413
2945.40, 2945.401, or 2945.402 of the Revised Code. 77414

The affidavit shall contain an allegation setting forth the 77415
specific category or categories under division (B) of section 77416
5122.01 of the Revised Code upon which the jurisdiction of the 77417
court is based and a statement of alleged facts sufficient to 77418
indicate probable cause to believe that the person is a mentally 77419
ill person subject to hospitalization by court order. The 77420
affidavit may be accompanied, or the court may require that the 77421
affidavit be accompanied, by a certificate of a psychiatrist, or a 77422
certificate signed by a licensed clinical psychologist and a 77423
certificate signed by a licensed physician stating that the person 77424
who issued the certificate has examined the person and is of the 77425
opinion that the person is a mentally ill person subject to 77426
hospitalization by court order, or shall be accompanied by a 77427
written statement by the applicant, under oath, that the person 77428
has refused to submit to an examination by a psychiatrist, or by a 77429

licensed clinical psychologist and licensed physician. 77430

Upon receipt of the affidavit, if a judge of the court or a 77431
referee who is an attorney at law appointed by the court has 77432
probable cause to believe that the person named in the affidavit 77433
is a mentally ill person subject to hospitalization by court 77434
order, the judge or referee may issue a temporary order of 77435
detention ordering any health or police officer or sheriff to take 77436
into custody and transport the person to a hospital or other place 77437
designated in section 5122.17 of the Revised Code, or may set the 77438
matter for further hearing. 77439

The person may be observed and treated until the hearing 77440
provided for in section 5122.141 of the Revised Code. If no such 77441
hearing is held, the person may be observed and treated until the 77442
hearing provided for in section 5122.15 of the Revised Code. 77443

Sec. 5122.12. After receipt of the affidavit required by 77444
section 5122.11 of the Revised Code, the court shall cause written 77445
notice by mail or otherwise of any hearing as the court directs to 77446
be given to the following persons: 77447

(A) The respondent; 77448

(B) The respondent's legal guardian, if any, the respondent's 77449
spouse, if any, and the respondent's parents, if the respondent is 77450
a minor, if these persons' addresses are known to the court or can 77451
be obtained through exercise of reasonable diligence; 77452

(C) The person who filed the affidavit; 77453

(D) Any one person designated by the respondent; but if the 77454
respondent does not make a selection, the notice shall be sent to 77455
the adult next of kin other than the person who filed the 77456
affidavit if that person's address is known to the court or can be 77457
obtained through exercise of reasonable diligence; 77458

(E) The respondent's counsel; 77459

(F) The director, chief clinical officer, or the respective 77460
designee of the hospital, board, ~~agency~~ community mental health 77461
services provider, or facility to which the person has been 77462
committed; 77463

(G) The board of alcohol, drug addiction, and mental health 77464
services serving the respondent's county of residence or ~~an agency~~ 77465
a services provider the board designates. 77466

Any person entitled to notice under this section, with the 77467
exception of the respondent, may waive the notice. 77468

A copy of the affidavit and temporary order of detention 77469
shall be served with the notice to the parties and to respondent's 77470
counsel, if counsel has been appointed or retained. 77471

Sec. 5122.13. Upon receipt of the affidavit required by 77472
section 5122.11 of the Revised Code, the court shall refer the 77473
affidavit to the board of alcohol, drug addiction, and mental 77474
health services or ~~an agency~~ community mental health services 77475
provider the board designates to assist the court in determining 77476
whether the respondent is subject to hospitalization and whether 77477
alternative services are available, unless the ~~agency~~ services 77478
provider or board has already performed such screening. The board 77479
or ~~agency~~ services provider shall review the allegations of the 77480
affidavit and other information relating to whether or not the 77481
person named in the affidavit or statement is a mentally ill 77482
person subject to hospitalization by court order, and the 77483
availability of appropriate treatment alternatives. 77484

The person who conducts the investigation shall promptly make 77485
a report to the court, in writing, in open court or in chambers, 77486
as directed by the court and a full record of the report shall be 77487
made by the court. The report is not admissible as evidence for 77488
the purpose of establishing whether or not the respondent is a 77489
mentally ill person subject to hospitalization by court order, but 77490

shall be considered by the court in its determination of an 77491
appropriate placement for any person after that person is found to 77492
be a mentally ill person subject to hospitalization. 77493

The court, prior to the hearing under section 5122.141 of the 77494
Revised Code, shall release a copy of the investigative report to 77495
the respondent's counsel. 77496

Nothing in this section precludes a judge or referee from 77497
issuing a temporary order of detention pursuant to section 5122.11 77498
of the Revised Code. 77499

Sec. 5122.15. (A) Full hearings shall be conducted in a 77500
manner consistent with this chapter and with due process of law. 77501
The hearings shall be conducted by a judge of the probate court or 77502
a referee designated by a judge of the probate court and may be 77503
conducted in or out of the county in which the respondent is held. 77504
Any referee designated under this division shall be an attorney. 77505

(1) With the consent of the respondent, the following shall 77506
be made available to counsel for the respondent: 77507

(a) All relevant documents, information, and evidence in the 77508
custody or control of the state or prosecutor; 77509

(b) All relevant documents, information, and evidence in the 77510
custody or control of the hospital in which the respondent 77511
currently is held, or in which the respondent has been held 77512
pursuant to this chapter; 77513

(c) All relevant documents, information, and evidence in the 77514
custody or control of any hospital, facility, or person not 77515
included in division (A)(1)(a) or (b) of this section. 77516

(2) The respondent has the right to attend the hearing and to 77517
be represented by counsel of the respondent's choice. The right to 77518
attend the hearing may be waived only by the respondent or counsel 77519
for the respondent after consultation with the respondent. 77520

(3) If the respondent is not represented by counsel, is 77521
absent from the hearing, and has not validly waived the right to 77522
counsel, the court shall appoint counsel immediately to represent 77523
the respondent at the hearing, reserving the right to tax costs of 77524
appointed counsel to the respondent, unless it is shown that the 77525
respondent is indigent. If the court appoints counsel, or if the 77526
court determines that the evidence relevant to the respondent's 77527
absence does not justify the absence, the court shall continue the 77528
case. 77529

(4) The respondent shall be informed that the respondent may 77530
retain counsel and have independent expert evaluation. If the 77531
respondent is unable to obtain an attorney, the respondent shall 77532
be represented by court-appointed counsel. If the respondent is 77533
indigent, court-appointed counsel and independent expert 77534
evaluation shall be provided as an expense under section 5122.43 77535
of the Revised Code. 77536

(5) The hearing shall be closed to the public, unless counsel 77537
for the respondent, with the permission of the respondent, 77538
requests that the hearing be open to the public. 77539

(6) If the hearing is closed to the public, the court, for 77540
good cause shown, may admit persons who have a legitimate interest 77541
in the proceedings. If the respondent, the respondent's counsel, 77542
or the designee of the director or of the chief clinical officer 77543
objects to the admission of any person, the court shall hear the 77544
objection and any opposing argument and shall rule upon the 77545
admission of the person to the hearing. 77546

(7) The affiant under section 5122.11 of the Revised Code 77547
shall be subject to subpoena by either party. 77548

(8) The court shall examine the sufficiency of all documents 77549
filed and shall inform the respondent, if present, and the 77550
respondent's counsel of the nature and content of the documents 77551

and the reason for which the respondent is being detained, or for 77552
which the respondent's placement is being sought. 77553

(9) The court shall receive only reliable, competent, and 77554
material evidence. 77555

(10) Unless proceedings are initiated pursuant to section 77556
5120.17 or 5139.08 of the Revised Code ~~or proceedings are~~ 77557
~~initiated regarding a resident of the service district of a board~~ 77558
~~of alcohol, drug addiction, and mental health services that elects~~ 77559
~~under division (C)(2) of section 5119.62 of the Revised Code not~~ 77560
~~to accept the amount allocated to it under that section, an~~ 77561
attorney that the board designates shall present the case 77562
demonstrating that the respondent is a mentally ill person subject 77563
to hospitalization by court order. The attorney shall offer 77564
evidence of the diagnosis, prognosis, record of treatment, if any, 77565
and less restrictive treatment plans, if any. In proceedings 77566
pursuant to section 5120.17 or 5139.08 of the Revised Code ~~and in~~ 77567
~~proceedings in which the respondent is a resident of a service~~ 77568
~~district of a board that elects under division (C)(2) of section~~ 77569
~~5119.62 of the Revised Code not to accept the amount allocated to~~ 77570
~~it under that section, the attorney general shall designate an~~ 77571
attorney who shall present the case demonstrating that the 77572
respondent is a mentally ill person subject to hospitalization by 77573
court order. The attorney shall offer evidence of the diagnosis, 77574
prognosis, record of treatment, if any, and less restrictive 77575
treatment plans, if any. 77576

(11) The respondent or the respondent's counsel has the right 77577
to subpoena witnesses and documents and to examine and 77578
cross-examine witnesses. 77579

(12) The respondent has the right, but shall not be 77580
compelled, to testify, and shall be so advised by the court. 77581

(13) On motion of the respondent or the respondent's counsel 77582

for good cause shown, or on the court's own motion, the court may 77583
order a continuance of the hearing. 77584

(14) If the respondent is represented by counsel and the 77585
respondent's counsel requests a transcript and record, or if the 77586
respondent is not represented by counsel, the court shall make and 77587
maintain a full transcript and record of the proceeding. If the 77588
respondent is indigent and the transcript and record is made, a 77589
copy shall be provided to the respondent upon request and be 77590
treated as an expense under section 5122.43 of the Revised Code. 77591

(15) To the extent not inconsistent with this chapter, the 77592
Rules of Civil Procedure are applicable. 77593

(B) Unless, upon completion of the hearing the court finds by 77594
clear and convincing evidence that the respondent is a mentally 77595
ill person subject to hospitalization by court order, it shall 77596
order the respondent's discharge immediately. 77597

(C) If, upon completion of the hearing, the court finds by 77598
clear and convincing evidence that the respondent is a mentally 77599
ill person subject to hospitalization by court order, the court 77600
shall order the respondent for a period not to exceed ninety days 77601
to any of the following: 77602

(1) A hospital operated by the department of ~~mental health~~ 77603
mental health and addiction services if the respondent is 77604
committed pursuant to section 5139.08 of the Revised Code; 77605

(2) A nonpublic hospital; 77606

(3) The veterans' administration or other agency of the 77607
United States government; 77608

(4) A board of alcohol, drug addiction, and mental health 77609
services or ~~agency~~ services provider the board designates; 77610

(5) Receive private psychiatric or psychological care and 77611
treatment; 77612

(6) Any other suitable facility or person consistent with the 77613
diagnosis, prognosis, and treatment needs of the respondent. 77614

(D) Any order made pursuant to division (C)(2), (3), (5), or 77615
(6) of this section shall be conditioned upon the receipt by the 77616
court of consent by the hospital, facility, agency, or person to 77617
accept the respondent. 77618

(E) In determining the place to which, or the person with 77619
whom, the respondent is to be committed, the court shall consider 77620
the diagnosis, prognosis, preferences of the respondent and the 77621
projected treatment plan for the respondent and shall order the 77622
implementation of the least restrictive alternative available and 77623
consistent with treatment goals. If the court determines that the 77624
least restrictive alternative available that is consistent with 77625
treatment goals is inpatient hospitalization, the court's order 77626
shall so state. 77627

(F) During such ninety-day period the hospital; facility; 77628
board of alcohol, drug addiction, and mental health services; 77629
~~agency~~ services provider the board designates; or person shall 77630
examine and treat the individual. If, at any time prior to the 77631
expiration of the ninety-day period, it is determined by the 77632
hospital, facility, board, ~~agency~~ services provider, or person 77633
that the respondent's treatment needs could be equally well met in 77634
an available and appropriate less restrictive environment, both of 77635
the following apply: 77636

(1) The respondent shall be released from the care of the 77637
hospital, ~~agency~~ services provider, facility, or person 77638
immediately and shall be referred to the court together with a 77639
report of the findings and recommendations of the hospital, ~~agency~~ 77640
services provider, facility, or person; and 77641

(2) The hospital, ~~agency~~ services provider, facility, or 77642
person shall notify the respondent's counsel or the attorney 77643

designated by a board of alcohol, drug addiction, and mental 77644
health services or, if the respondent was committed to a board or 77645
~~an agency~~ a services provider designated by the board, it shall 77646
place the respondent in the least restrictive environment 77647
available consistent with treatment goals and notify the court and 77648
the respondent's counsel of the placement. 77649

The court shall dismiss the case or order placement in the 77650
least restrictive environment. 77651

(G)(1) Except as provided in divisions (G)(2) and (3) of this 77652
section, any person who has been committed under this section, or 77653
for whom proceedings for hospitalization have been commenced 77654
pursuant to section 5122.11 of the Revised Code, may apply at any 77655
time for voluntary admission to the hospital, facility, ~~agency or~~ 77656
services provider that the board designates, or person to which 77657
the person was committed. Upon admission as a voluntary patient 77658
the chief clinical officer of the hospital, ~~agency services~~ 77659
provider, or other facility, or the person immediately shall 77660
notify the court, the patient's counsel, and the attorney 77661
designated by the board, if the attorney has entered the 77662
proceedings, in writing of that fact, and, upon receipt of the 77663
notice, the court shall dismiss the case. 77664

(2) A person who is found incompetent to stand trial or not 77665
guilty by reason of insanity and who is committed pursuant to 77666
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 77667
Code shall not voluntarily commit the person pursuant to this 77668
section until after the final termination of the commitment, as 77669
described in division (J) of section 2945.401 of the Revised Code. 77670

(H) If, at the end of the first ninety-day period or any 77671
subsequent period of continued commitment, there has been no 77672
disposition of the case, either by discharge or voluntary 77673
admission, the hospital, facility, board, ~~agency services~~ 77674
provider, or person shall discharge the patient immediately, 77675

unless at least ten days before the expiration of the period the 77676
attorney the board designates or the prosecutor files with the 77677
court an application for continued commitment. The application of 77678
the attorney or the prosecutor shall include a written report 77679
containing the diagnosis, prognosis, past treatment, a list of 77680
alternative treatment settings and plans, and identification of 77681
the treatment setting that is the least restrictive consistent 77682
with treatment needs. The attorney the board designates or the 77683
prosecutor shall file the written report at least three days prior 77684
to the full hearing. A copy of the application and written report 77685
shall be provided to the respondent's counsel immediately. 77686

The court shall hold a full hearing on applications for 77687
continued commitment at the expiration of the first ninety-day 77688
period and at least every two years after the expiration of the 77689
first ninety-day period. 77690

Hearings following any application for continued commitment 77691
are mandatory and may not be waived. 77692

Upon request of a person who is involuntarily committed under 77693
this section, or the person's counsel, that is made more than one 77694
hundred eighty days after the person's last full hearing, 77695
mandatory or requested, the court shall hold a full hearing on the 77696
person's continued commitment. Upon the application of a person 77697
involuntarily committed under this section, supported by an 77698
affidavit of a psychiatrist or licensed clinical psychologist, 77699
alleging that the person no longer is a mentally ill person 77700
subject to hospitalization by court order, the court for good 77701
cause shown may hold a full hearing on the person's continued 77702
commitment prior to the expiration of one hundred eighty days 77703
after the person's last full hearing. Section 5122.12 of the 77704
Revised Code applies to all hearings on continued commitment. 77705

If the court, after a hearing for continued commitment finds 77706
by clear and convincing evidence that the respondent is a mentally 77707

ill person subject to hospitalization by court order, the court 77708
may order continued commitment at places specified in division (C) 77709
of this section. 77710

(I) Unless the admission is pursuant to section 5120.17 or 77711
5139.08 of the Revised Code, the chief clinical officer of the 77712
hospital or ~~agency~~ services provider admitting a respondent 77713
pursuant to a judicial proceeding, within ten working days of the 77714
admission, shall make a report of the admission to the board of 77715
alcohol, drug addiction, and mental health services serving the 77716
respondent's county of residence. 77717

(J) A referee appointed by the court may make all orders that 77718
a judge may make under this section and sections 5122.11 and 77719
5122.141 of the Revised Code, except an order of contempt of 77720
court. The orders of a referee take effect immediately. Within 77721
fourteen days of the making of an order by a referee, a party may 77722
file written objections to the order with the court. The filed 77723
objections shall be considered a motion, shall be specific, and 77724
shall state their grounds with particularity. Within ten days of 77725
the filing of the objections, a judge of the court shall hold a 77726
hearing on the objections and may hear and consider any testimony 77727
or other evidence relating to the respondent's mental condition. 77728
At the conclusion of the hearing, the judge may ratify, rescind, 77729
or modify the referee's order. 77730

(K) An order of the court under division (C), (H), or (J) of 77731
this section is a final order. 77732

(L) Before a board, or ~~an agency~~ a services provider the 77733
board designates, may place an unconsenting respondent in an 77734
inpatient setting from a less restrictive placement, the board or 77735
~~agency~~ services provider shall do all of the following: 77736

(1) Determine that the respondent is in immediate need of 77737
treatment in an inpatient setting because the respondent 77738

represents a substantial risk of physical harm to the respondent 77739
or others if allowed to remain in a less restrictive setting; 77740

(2) On the day of placement in the inpatient setting or on 77741
the next court day, file with the court a motion for transfer to 77742
an inpatient setting or communicate to the court by telephone that 77743
the required motion has been mailed; 77744

(3) Ensure that every reasonable and appropriate effort is 77745
made to take the respondent to the inpatient setting in the least 77746
conspicuous manner possible; 77747

(4) Immediately notify the board's designated attorney and 77748
the respondent's attorney. 77749

At the respondent's request, the court shall hold a hearing 77750
on the motion and make a determination pursuant to division (E) of 77751
this section within five days of the placement. 77752

(M) Before a board, or ~~an agency~~ a services provider the 77753
board designates, may move a respondent from one residential 77754
placement to another, the board or ~~agency~~ services provider shall 77755
consult with the respondent about the placement. If the respondent 77756
objects to the placement, the proposed placement and the need for 77757
it shall be reviewed by a qualified mental health professional who 77758
otherwise is not involved in the treatment of the respondent. 77759

Sec. 5122.17. Pending ~~his~~ removal to a hospital, a person 77760
taken into custody or ordered to be hospitalized pursuant to this 77761
chapter may be detained for not more than forty-eight hours in a 77762
licensed rest or nursing home, a licensed or unlicensed hospital, 77763
a community mental health ~~agency~~ services provider, or a county 77764
home, but ~~he~~ the person shall not be detained in a nonmedical 77765
facility used for detention of persons charged with or convicted 77766
of penal offenses unless the court finds that a less restrictive 77767
alternative cannot be made available. 77768

Sec. 5122.18. Whenever a person has been involuntarily 77769
detained at or admitted to a hospital, community mental health 77770
~~agency~~ services provider, or other facility at the request of 77771
anyone other than the person's legal guardian, spouse, or next of 77772
kin under this chapter, the chief clinical officer of the 77773
hospital, ~~agency~~ services provider, or other facility in which the 77774
person is temporarily detained under section 5122.17 of the 77775
Revised Code shall immediately notify the person's legal guardian, 77776
spouse or next of kin, and counsel, if these persons can be 77777
ascertained through exercise of reasonable diligence. If a person 77778
voluntarily remains at or is admitted to a hospital, ~~agency~~ 77779
services provider, or other facility, such notification shall not 77780
be given without ~~his~~ the person's consent. The chief clinical 77781
officer of the hospital, ~~agency~~ services provider, or other 77782
facility shall inform a person voluntarily remaining at or 77783
admitted to a hospital, ~~agency~~ services provider, or other 77784
facility that ~~he~~ the person may authorize such notification. 77785

Sec. 5122.19. Every person transported to a hospital or 77786
community mental health ~~agency~~ services provider pursuant to 77787
sections 5122.11 to 5122.16 of the Revised Code, shall be examined 77788
by the staff of the hospital or ~~agency~~ services provider as soon 77789
as practicable after ~~his~~ arrival at the hospital or ~~agency~~ 77790
services provider. Such an examination shall be held within 77791
twenty-four hours after the time of arrival, and if the chief 77792
clinical officer fails after such an examination to certify that 77793
in ~~his~~ the chief clinical officer's opinion the person is a 77794
mentally ill person subject to hospitalization by court order, the 77795
person shall be immediately released. 77796

Sec. 5122.20. The director of ~~mental health~~ mental health and 77797
addiction services or the director's designee may transfer, or 77798

authorize the transfer of, an involuntary patient, or a consenting 77799
voluntary patient hospitalized pursuant to section 5122.02 or 77800
sections 5122.11 to 5122.15 of the Revised Code, from one public 77801
hospital to another, or to a hospital, community mental health 77802
~~agency services provider~~, or other facility offering treatment or 77803
other services for mental illness, if the medical director of the 77804
department of ~~mental health~~ mental health and addiction services 77805
determines that it would be consistent with the medical needs of 77806
the patient to do so. If such a transfer is made to a private 77807
facility, the transfer shall be conditioned upon the consent of 77808
the facility. 77809

Before an involuntary patient may be transferred to a more 77810
restrictive setting, the chief clinical officer shall file a 77811
motion with the court requesting the court to amend its order of 77812
placement issued under section 5122.15 of the Revised Code. At the 77813
patient's request, the court shall hold a hearing on the motion at 77814
which the patient has the same rights as at a full hearing under 77815
section 5122.15 of the Revised Code. The hearing shall be held 77816
within ten days after the date on which the respondent was 77817
transferred to the more restrictive setting or on which the motion 77818
was filed, whichever is earlier. On the motion of the respondent, 77819
the respondent's counsel, or the chief clinical officer, or on its 77820
own motion, and for good cause shown, the court may order a 77821
continuance of the hearing for up to ten days. 77822

Whenever an involuntary patient is transferred, written 77823
notice of the transfer shall be given to the patient's legal 77824
guardian, parents, spouse, and counsel, or, if none is known, to 77825
the patient's nearest known relative or friend. If the patient is 77826
a minor, the department, before making such a transfer, shall make 77827
a minute of the order for the transfer and the reason for it upon 77828
its record and shall send a certified copy at least seven days 77829
prior to the transfer to the person shown by its record to have 77830

had the care or custody of the minor immediately prior to the 77831
minor's commitment. Whenever a consenting voluntary patient is 77832
transferred, the notification shall be given only at the patient's 77833
request. The chief clinical officer shall advise a voluntary 77834
patient who is being transferred that the patient may decide if 77835
the notification shall be given. In all such transfers, due 77836
consideration shall be given to the wishes of the patient, and the 77837
relationship of the patient to the patient's family, legal 77838
guardian, or friends, so as to maintain the relationship and 77839
encourage visits beneficial to the patient. 77840

When a voluntary patient whose medical or psychological needs 77841
are found by the chief clinical officer to warrant a transfer 77842
refuses to be transferred to an alternate facility, the chief 77843
clinical officer may file an affidavit for a hearing under section 77844
5122.11 of the Revised Code. 77845

Sec. 5122.21. (A) The chief clinical officer shall as 77846
frequently as practicable, and at least once every thirty days, 77847
examine or cause to be examined every patient, and, whenever the 77848
chief clinical officer determines that the conditions justifying 77849
involuntary hospitalization or commitment no longer obtain, shall 77850
discharge the patient not under indictment or conviction for crime 77851
and immediately make a report of the discharge to the department 77852
of ~~mental health~~ mental health and addiction services. The chief 77853
clinical officer may discharge a patient who is under an 77854
indictment, a sentence of imprisonment, a community control 77855
sanction, or a post-release control sanction or on parole ten days 77856
after written notice of intent to discharge the patient has been 77857
given by personal service or certified mail, return receipt 77858
requested, to the court having criminal jurisdiction over the 77859
patient. Except when the patient was found not guilty by reason of 77860
insanity and the defendant's commitment is pursuant to section 77861
2945.40 of the Revised Code, the chief clinical officer has final 77862

authority to discharge a patient who is under an indictment, a 77863
sentence of imprisonment, a community control sanction, or a 77864
post-release control sanction or on parole. 77865

(B) After a finding pursuant to section 5122.15 of the 77866
Revised Code that a person is a mentally ill person subject to 77867
hospitalization by court order, the chief clinical officer of the 77868
hospital or ~~agency~~ community mental health services provider to 77869
which the person is ordered or to which the person is transferred 77870
under section 5122.20 of the Revised Code, may grant a discharge 77871
without the consent or authorization of any court. 77872

Upon discharge, the chief clinical officer shall notify the 77873
court that caused the judicial hospitalization of the discharge 77874
from the hospital. 77875

Sec. 5122.23. The chief clinical officer of a public hospital 77876
shall immediately report to the department of ~~mental health~~ mental 77877
health and addiction services and the board of alcohol, drug 77878
addiction, and mental health services serving the patient's county 77879
of residence the removal, death, escape, discharge, or trial visit 77880
of any patient hospitalized under section 5122.15 of the Revised 77881
Code, or the return of such an escaped or visiting patient to the 77882
department, the probate judge of the county from which such 77883
patient was hospitalized, and the probate judge of the county of 77884
residence of such patient. In case of death, the chief clinical 77885
officer also shall notify one or more of the nearest relatives of 77886
the deceased patient, if known to ~~him~~ the chief clinical officer, 77887
by letter, telegram, or telephone. If the place of residence of 77888
such relative is unknown to the chief clinical officer, 77889
immediately upon receiving notification the probate judge shall in 77890
the speediest manner possible notify such relatives, if known to 77891
~~him~~ the probate judge. 77892

The chief clinical officer of a public hospital, upon the request of the probate judge of the county from which a patient was hospitalized or the probate judge of the county of residence of such a patient, shall make a report to the judge of the condition of any patient under the care, treatment, custody, or control of the chief clinical officer.

Sec. 5122.25. Upon the request of a hospital, person, board, ~~agency~~ community mental health services provider, or facility who has custody of a patient hospitalized pursuant to section 5122.15 of the Revised Code, or on the order of the court, such patient may be called for a rehearing at such place within the county of ~~his~~ the patient's residence or the county where such patient is hospitalized as the court designates. The hearing shall be conducted pursuant to section 5122.15 of the Revised Code.

Sec. 5122.26. (A) If a patient is absent without leave, on a verbal or written order issued within five days of the time of the unauthorized absence by the department of ~~mental health~~ mental health and addiction services, the chief clinical officer of the hospital from which the patient is absent without leave, or the court of either the county from which the patient was committed or in which the patient is found, any health or police officer or sheriff may take the patient into custody and transport the patient to the hospital in which the patient was hospitalized or to a place that is designated in the order. The officer immediately shall report such fact to the ~~agency~~ entity that issued the order.

The chief clinical officer of a hospital may discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole and who has been absent without leave for more than thirty days but shall give written notice of the discharge to the

court with criminal jurisdiction over the patient. The chief 77924
clinical officer of a hospital may discharge any other patient who 77925
has been absent without leave for more than fourteen days. 77926

The chief clinical officer shall take all proper measures for 77927
the apprehension of an escaped patient. The expense of the return 77928
of an escaped patient shall be borne by the hospital where the 77929
patient is hospitalized. 77930

(B)(1) Subject to division (B)(2) of this section, no patient 77931
hospitalized under Chapter 5122. of the Revised Code whose absence 77932
without leave was caused or contributed to by the patient's mental 77933
illness shall be subject to a charge of escape. 77934

(2) Division (B)(1) of this section does not apply to any 77935
person who was hospitalized, institutionalized, or confined in a 77936
facility under an order made pursuant to or under authority of 77937
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 77938
2945.402 of the Revised Code and who escapes from the facility, 77939
from confinement in a vehicle for transportation to or from the 77940
facility, or from supervision by an employee of the facility that 77941
is incidental to hospitalization, institutionalization, or 77942
confinement in the facility and that occurs outside the facility, 77943
in violation of section 2921.34 of the Revised Code. 77944

Sec. 5122.27. The chief clinical officer of the hospital or 77945
the chief clinical officer's designee shall assure that all 77946
patients hospitalized or committed pursuant to this chapter shall: 77947

(A) Receive, within twenty days of their admission sufficient 77948
professional care to assure that an evaluation of current status, 77949
differential diagnosis, probable prognosis, and description of the 77950
current treatment plan is stated on the official chart; 77951

(B) Have a written treatment plan consistent with the 77952
evaluation, diagnosis, prognosis, and goals which shall be 77953

provided, upon request of the patient or patient's counsel, to the patient's counsel and to any private physician or licensed clinical psychologist designated by the patient or the patient's counsel or to the Ohio protection and advocacy system;

(C) Receive treatment consistent with the treatment plan. The department of ~~mental health~~ mental health and addiction services shall set standards for treatment provided to such patients, consistent wherever possible with standards set by the joint commission ~~on accreditation of healthcare organizations~~.

(D) Receive periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed ninety days;

(E) Be provided with adequate medical treatment for physical disease or injury;

(F) Receive humane care and treatment, including without limitation, the following:

(1) The least restrictive environment consistent with the treatment plan;

(2) The necessary facilities and personnel required by the treatment plan;

(3) A humane psychological and physical environment;

(4) The right to obtain current information concerning the patient's treatment program and expectations in terms that the patient can reasonably understand;

(5) Participation in programs designed to afford the patient substantial opportunity to acquire skills to facilitate return to the community or to terminate an involuntary commitment;

(6) The right to be free from unnecessary or excessive medication;

(7) Freedom from restraints or isolation unless it is stated in a written order by the chief clinical officer or the chief

clinical officer's designee, or the patient's individual physician 77984
or psychologist in a private or general hospital. 77985

If the chief clinical officer of the hospital is unable to 77986
provide the treatment required by divisions (C), (E), and (F) of 77987
this section for any patient hospitalized pursuant to Chapter 77988
5122. of the Revised Code, the chief clinical officer shall 77989
immediately notify the patient, the court, the Ohio protection and 77990
advocacy system, the director of ~~mental health~~ mental health and
addiction services, and the patient's counsel and legal guardian, 77991
if known. If within ten days after receipt of such notification by 77992
the director, the director is unable to effect a transfer of the 77993
patient, pursuant to section 5122.20 of the Revised Code, to a 77994
hospital, community mental health ~~agency~~ services provider, or 77995
other medical facility where treatment is available, or has not 77996
received an order of the court to the contrary, the involuntary 77997
commitment of any patient hospitalized pursuant to Chapter 5122. 77998
of the Revised Code and defined as a mentally ill person subject 77999
to hospitalization by court order under division (B)(4) of section 78000
5122.01 of the Revised Code shall automatically be terminated. 78001
78002

Sec. 5122.271. (A) Except as provided in divisions (C), (D), 78003
and (E) of this section, the chief clinical officer or, in a 78004
nonpublic hospital, the attending physician responsible for a 78005
patient's care shall provide all information, including expected 78006
physical and medical consequences, necessary to enable any patient 78007
of a hospital for the mentally ill to give a fully informed, 78008
intelligent, and knowing consent, the opportunity to consult with 78009
independent specialists and counsel, and the right to refuse 78010
consent for any of the following: 78011

(1) Surgery; 78012

(2) Convulsive therapy; 78013

(3) Major aversive interventions; 78014

(4) Sterilizations; 78015

(5) Any unusually hazardous treatment procedures; 78016

(6) Psycho-surgery. 78017

(B) No patient shall be subjected to any of the procedures 78018
listed in divisions (A)(4) to (6) of this section until both the 78019
patient's informed, intelligent, and knowing consent and the 78020
approval of the court have been obtained, except that court 78021
approval is not required for a legally competent and voluntary 78022
patient in a nonpublic hospital. 78023

(C) If, after providing the information required under 78024
division (A) of this section to the patient, the chief clinical 78025
officer or attending physician concludes that a patient is 78026
physically or mentally unable to receive the information required 78027
for surgery under division (A)(1) of this section, or has been 78028
adjudicated incompetent, the information may be provided to the 78029
patient's natural or court-appointed guardian, who may give an 78030
informed, intelligent, and knowing written consent. 78031

If a patient is physically or mentally unable to receive the 78032
information required for surgery under division (A)(1) of this 78033
section and has no guardian, the information, the recommendation 78034
of the chief clinical officer, and the concurring judgment of a 78035
licensed physician who is not a full-time employee of the state 78036
may be provided to the court in the county in which the hospital 78037
is located, which may approve the surgery. Before approving the 78038
surgery, the court shall notify the Ohio protection and advocacy 78039
system created by section 5123.60 of the Revised Code, and shall 78040
notify the patient of the rights to consult with counsel, to have 78041
counsel appointed by the court if the patient is indigent, and to 78042
contest the recommendation of the chief clinical officer. 78043

(D) If, in a medical emergency, and after providing the 78044
information required under division (A) of this section to the 78045

patient, it is the judgment of one licensed physician that delay 78046
in obtaining surgery would create a grave danger to the health of 78047
the patient, it may be administered without the consent of the 78048
patient or the patient's guardian if the necessary information is 78049
provided to the patient's spouse or next of kin to enable that 78050
person to give informed, intelligent, and knowing written consent. 78051
If no spouse or next of kin can reasonably be contacted, or if the 78052
spouse or next of kin is contacted, but refuses to consent, the 78053
surgery may be performed upon the written authorization of the 78054
chief clinical officer or, in a nonpublic hospital, upon the 78055
written authorization of the attending physician responsible for 78056
the patient's care, and after the approval of the court has been 78057
obtained. However, if delay in obtaining court approval would 78058
create a grave danger to the life of the patient, the chief 78059
clinical officer or, in a nonpublic hospital, the attending 78060
physician responsible for the patient's care may authorize 78061
surgery, in writing, without court approval. If the surgery is 78062
authorized without court approval, the chief clinical officer or 78063
the attending physician who made the authorization and the 78064
physician who performed the surgery shall each execute an 78065
affidavit describing the circumstances constituting the emergency 78066
and warranting the surgery and the circumstances warranting their 78067
not obtaining prior court approval. The affidavit shall be filed 78068
with the court with which the request for prior approval would 78069
have been filed within five court days after the surgery, and a 78070
copy of the affidavit shall be placed in the patient's file and be 78071
given to the guardian, spouse, or next of kin of the patient, to 78072
the hospital at which the surgery was performed, and to the Ohio 78073
protection and advocacy system as defined in section 5123.60 of 78074
the Revised Code. 78075

(E) Major aversive interventions shall not be used unless a 78076
patient continues to engage in behavior destructive to self or 78077
others after other forms of therapy have been attempted. Major 78078

aversive interventions may be applied if approved by the director 78079
of ~~mental health~~ mental health and addiction services. Major 78080
aversive interventions shall not be applied to a voluntary patient 78081
without the informed, intelligent, and knowing written consent of 78082
the patient or the patient's guardian. 78083

(F) Unless there is substantial risk of physical harm to self 78084
or others, or other than under division (D) of this section, this 78085
chapter does not authorize any form of compulsory medical, 78086
psychological, or psychiatric treatment of any patient who is 78087
being treated by spiritual means through prayer alone in 78088
accordance with a recognized religious method of healing without 78089
specific court authorization. 78090

(G) For purposes of this section, "convulsive therapy" does 78091
not include defibrillation. 78092

Sec. 5122.31. (A) All certificates, applications, records, 78093
and reports made for the purpose of this chapter and sections 78094
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 78095
Code, other than court journal entries or court docket entries, 78096
and directly or indirectly identifying a patient or former patient 78097
or person whose hospitalization has been sought under this 78098
chapter, shall be kept confidential and shall not be disclosed by 78099
any person except: 78100

(1) If the person identified, or the person's legal guardian, 78101
if any, or if the person is a minor, the person's parent or legal 78102
guardian, consents, and if the disclosure is in the best interests 78103
of the person, as may be determined by the court for judicial 78104
records and by the chief clinical officer for medical records; 78105

(2) When disclosure is provided for in this chapter, Chapters 78106
340. or 5119., Title XLVII, or section 5123.601 of the Revised 78107
Code; 78108

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health ~~agencies~~ services providers may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of ~~mental health~~ mental health and addiction services may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health ~~agencies~~ services providers and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department, and other institutions and facilities within the department, ~~hospitals licensed by the department under section 5119.20 of the Revised Code, and community mental health agencies~~ may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient or for the emergency treatment of an individual;

(8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health ~~agencies~~ services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other ~~agencies~~ services providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

~~(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.~~

~~(13)~~ That records pertaining to the patient's diagnosis, 78171
course of treatment, treatment needs, and prognosis shall be 78172
disclosed and released to the appropriate prosecuting attorney if 78173
the patient was committed pursuant to section 2945.38, 2945.39, 78174
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 78175
attorney designated by the board for proceedings pursuant to 78176
involuntary commitment under this chapter. 78177

~~(14)~~(13) That the department of ~~mental health~~ mental health 78178
and addiction services may exchange psychiatric hospitalization 78179
records, other mental health treatment records, and other 78180
pertinent information with the department of rehabilitation and 78181
correction and with the department of youth services to ensure 78182
continuity of care for inmates or offenders who are receiving 78183
mental health services in an institution of the department of 78184
rehabilitation and correction or the department of youth services 78185
and may exchange psychiatric hospitalization records, other mental 78186
health treatment records, and other pertinent information with 78187
boards of alcohol, drug addiction, and mental health services and 78188
community mental health services providers to ensure continuity of 78189
care for inmates or offenders who are receiving mental health 78190
services in an institution and are scheduled for release within 78191
six months. The department shall not disclose those records unless 78192
the inmate or offender is notified, receives the information, and 78193
does not object to the disclosure. The release of records under 78194
this division is limited to records regarding an inmate's or 78195
offender's medication history, physical health status and history, 78196
summary of course of treatment, summary of treatment needs, and a 78197
discharge summary, if any. 78198

~~(15)~~ That a ~~community mental health agency that ceases to~~ 78199
~~operate may transfer to either a community mental health agency~~ 78200
~~that assumes its caseload or to the board of alcohol, drug~~ 78201
~~addiction, and mental health services of the service district in~~ 78202

~~which the patient resided at the time services were most recently 78203
provided any treatment records that have not been transferred 78204
elsewhere at the patient's request. 78205~~

(B) Before records are disclosed pursuant to divisions 78206
(A)(3), (6), and (9) of this section, the custodian of the records 78207
shall attempt to obtain the patient's consent for the disclosure. 78208
No person shall reveal the contents of a medical record of a 78209
patient except as authorized by law. 78210

(C) The managing officer of a hospital who releases necessary 78211
medical information under division (A)(3) of this section to allow 78212
an insurance carrier or other third party payor to comply with 78213
section 5121.43 of the Revised Code shall neither be subject to 78214
criminal nor civil liability. 78215

Sec. 5122.311. (A) Notwithstanding any provision of the 78216
Revised Code to the contrary, if, on or after ~~the effective date~~ 78217
~~of this section~~ April 8, 2004, an individual is found by a court 78218
to be a mentally ill person subject to hospitalization by court 78219
order or becomes an involuntary patient other than one who is a 78220
patient only for purposes of observation, the probate judge who 78221
made the adjudication or the chief clinical officer of the 78222
hospital, ~~agency~~ community mental health services provider, or 78223
facility in which the person is an involuntary patient shall 78224
notify the bureau of criminal identification and investigation, on 78225
the form described in division (C) of this section, of the 78226
identity of the individual. The notification shall be transmitted 78227
by the judge or the chief clinical officer not later than seven 78228
days after the adjudication or commitment. 78229

(B) The bureau of criminal identification and investigation 78230
shall compile and maintain the notices it receives under division 78231
(A) of this section and shall use them for the purpose of 78232
conducting incompetency records checks pursuant to section 311.41 78233

of the Revised Code. The notices and the information they contain 78234
are confidential, except as provided in this division, and are not 78235
public records. 78236

(C) The attorney general, by rule adopted under Chapter 119. 78237
of the Revised Code, shall prescribe and make available to all 78238
probate judges and all chief clinical officers a form to be used 78239
by them for the purpose of making the notifications required by 78240
division (A) of this section. 78241

Sec. 5122.32. (A) As used in this section: 78242

(1) "Quality assurance committee" means a committee that is 78243
appointed in the central office of the department of ~~mental health~~ 78244
mental health and addiction services by the director of ~~mental~~ 78245
~~health~~ mental health and addiction services, a committee of a 78246
hospital or community setting program, ~~a committee established~~ 78247
~~pursuant to section 5119.47 of the Revised Code of the department~~ 78248
~~of mental health appointed by the managing officer of the hospital~~ 78249
~~or program~~, or a duly authorized subcommittee of a committee of 78250
that nature and that is designated to carry out quality assurance 78251
program activities. 78252

(2) "Quality assurance program" means a comprehensive program 78253
within the department of ~~mental health~~ mental health and addiction 78254
services to systematically review and improve the quality of 78255
medical and mental health services within the department and its 78256
hospitals and community setting programs, the safety and security 78257
of persons receiving medical and mental health services within the 78258
department and its hospitals and community setting programs, and 78259
the efficiency and effectiveness of the utilization of staff and 78260
resources in the delivery of medical and mental health services 78261
within the department and its hospitals and community setting 78262
programs. "Quality assurance program" includes the central office 78263
quality assurance committees, morbidity and mortality review 78264

committees, quality assurance programs of community setting 78265
programs, quality assurance committees of hospitals operated by 78266
the department of ~~mental health~~ mental health and addiction 78267
services, and the office of licensure and certification of the 78268
department. 78269

(3) "Quality assurance program activities" include collecting 78270
or compiling information and reports required by a quality 78271
assurance committee, receiving, reviewing, or implementing the 78272
recommendations made by a quality assurance committee, and 78273
credentialing, privileging, infection control, tissue review, peer 78274
review, utilization review including access to patient care 78275
records, patient care assessment records, and medical and mental 78276
health records, medical and mental health resource management, 78277
mortality and morbidity review, and identification and prevention 78278
of medical or mental health incidents and risks, whether performed 78279
by a quality assurance committee or by persons who are directed by 78280
a quality assurance committee. 78281

(4) "Quality assurance records" means the proceedings, 78282
discussion, records, findings, recommendations, evaluations, 78283
opinions, minutes, reports, and other documents or actions that 78284
emanate from quality assurance committees, quality assurance 78285
programs, or quality assurance program activities. "Quality 78286
assurance records" does not include aggregate statistical 78287
information that does not disclose the identity of persons 78288
receiving or providing medical or mental health services in 78289
department of ~~mental health institutions~~ mental health and 78290
addiction services hospitals or community setting programs . 78291

(B)(1) Except as provided in division (E) of this section, 78292
quality assurance records are confidential and are not public 78293
records under section 149.43 of the Revised Code, and shall be 78294
used only in the course of the proper functions of a quality 78295
assurance program. 78296

(2) Except as provided in division (E) of this section, no person who possesses or has access to quality assurance records and who knows that the records are quality assurance records shall willfully disclose the contents of the records to any person or entity.

(C)(1) Except as provided in division (E) of this section, no quality assurance record shall be subject to discovery ~~in~~, and is not admissible in evidence, in any judicial or administrative proceeding.

(2) Except as provided in division (E) of this section, no member of a quality assurance committee or a person who is performing a function that is part of a quality assurance program shall be permitted or required to testify in a judicial or administrative proceeding with respect to quality assurance records or with respect to any finding, recommendation, evaluation, opinion, or other action taken by the committee, member, or person.

(3) Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or admission in evidence in a judicial or administrative proceeding merely because they were presented to a quality assurance committee. No person testifying before a quality assurance committee or person who is a member of a quality assurance committee shall be prevented from testifying as to matters within the person's knowledge, but the witness cannot be asked about the witness' testimony before the quality assurance committee or about an opinion formed by the person as a result of the quality assurance committee proceedings.

(D)(1) A person who, without malice and in the reasonable belief that the information is warranted by the facts known to the person, provides information to a person engaged in quality assurance program activities is not liable for damages in a civil

action for injury, death, or loss to person or property to any person as a result of providing the information. 78329
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(2) A member of a quality assurance committee, a person engaged in quality assurance program activities, and an employee of the department of ~~mental health~~ mental health and addiction services shall not be liable in damages in a civil action for injury, death, or loss to person or property to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the quality assurance program. 78331
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(3) Nothing in this section shall relieve any institution or individual from liability arising from the treatment of a patient. 78338
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(E) Quality assurance records may be disclosed, and testimony may be provided concerning quality assurance records, only to the following persons or entities: 78340
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(1) Persons who are employed or retained by the department of ~~mental health~~ mental health and addiction services and who have authority to evaluate or implement the recommendations of a state-operated hospital, community setting program, or central office quality assurance committee; 78343
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(2) Public or private agencies or organizations if needed to perform a licensing or accreditation function related to department of ~~mental health~~ mental health and addiction services hospitals or community setting programs, or to perform monitoring of a hospital or program of that nature as required by law. 78348
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(F) A disclosure of quality assurance records pursuant to division (E) of this section does not otherwise waive the confidential and privileged status of the disclosed quality assurance records. 78353
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(G) Nothing in this section shall limit the access of the Ohio protection and advocacy system to records or personnel as required under section 5123.601 of the Revised Code. Nothing in 78357
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this section shall limit the admissibility of documentary or 78360
testimonial evidence in an action brought by the Ohio protection 78361
and advocacy system in its own name or on behalf of a client. 78362

Sec. 5122.33. The department of ~~mental health~~ mental health 78363
and addiction services may prescribe the form of applications, 78364
reports, records, and medical certificates provided for under this 78365
chapter, and the information required to be contained therein; 78366
require reports from the chief clinical officer of any public 78367
hospital relating to the admission, examination, diagnosis, 78368
release, or discharge of any patient; visit each such hospital 78369
regularly to review the admission procedures of all new patients 78370
admitted between visits; investigate by personal visit complaints 78371
made by any patient or by any person on behalf of a patient; and 78372
adopt such rules as are reasonably necessary to effectuate the 78373
provisions of this chapter. 78374

Sec. 5122.34. (A) Persons, including, but not limited to, 78375
boards of alcohol, drug addiction, and mental health services and 78376
community mental health ~~agencies~~ services providers, acting in 78377
good faith, either upon actual knowledge or information thought by 78378
them to be reliable, who procedurally or physically assist in the 78379
hospitalization or discharge, determination of appropriate 78380
placement, or in judicial proceedings of a person under this 78381
chapter, do not come within any criminal provisions, and are free 78382
from any liability to the person hospitalized or to any other 78383
person. 78384

(B) Regardless of whether any affirmative action has been 78385
taken under this chapter with respect to a mental health client or 78386
patient and except as otherwise provided in section 2305.51 of the 78387
Revised Code, no person shall be liable for any harm that results 78388
to any other person as a result of failing to disclose any 78389
confidential information about the mental health client or 78390

patient, or failing to otherwise attempt to protect such other 78391
person from harm by such client or patient. 78392

(C) This section applies to expert witnesses who testify at 78393
hearings under this chapter. 78394

(D) The immunity from liability conferred by this section is 78395
in addition to and not in limitation of any immunity conferred by 78396
any other section of the Revised Code or by judicial precedent. 78397

Sec. 5122.341. (A) As used in this section: 78398

(1) "Facility or ~~agency~~ provider" means, in the context of a 78399
person committed to the department of ~~mental health~~ mental health 78400
and addiction services under sections 2945.37 to 2945.402 of the 78401
Revised Code, any entity in which the department of ~~mental health~~ 78402
mental health and addiction services places such a person. 78403

(2) "Person committed to the department" means a person 78404
committed to the department of ~~mental health~~ mental health and 78405
addiction services under sections 2945.37 to 2945.402 of the 78406
Revised Code. 78407

(B) No member of a board of directors, or employee, of a 78408
facility or ~~agency~~ provider in which the department of ~~mental~~ 78409
~~health~~ mental health and addiction services places a person 78410
committed to the department is liable for injury or damages caused 78411
by any action or inaction taken within the scope of the board 78412
member's official duties or employee's employment relating to the 78413
commitment of, and services provided to, the person committed to 78414
the department, unless the action or inaction constitutes willful 78415
or wanton misconduct. A board member's or employee's action or 78416
inaction does not constitute willful or wanton misconduct if the 78417
board member or employee acted in good faith and reasonably under 78418
the circumstances and with the knowledge reasonably attributable 78419
to the board member or employee. 78420

The immunity from liability conferred by this section is in 78421
addition to and not in limitation of any immunity conferred by any 78422
other section of the Revised Code or by judicial precedent. 78423

Sec. 5122.39. (A) Mentally ill minors shall remain under the 78424
natural guardianship of their parents, notwithstanding 78425
hospitalization pursuant to this chapter, unless parental rights 78426
have been terminated pursuant to a court finding that the minor is 78427
neglected or dependent. Where a mentally ill minor is found to be 78428
dependent or neglected, the public children's services agency in 78429
the county of residence has final guardianship authority and 78430
responsibility. 78431

(B) In no case shall the guardianship of a mentally ill 78432
person be assigned to the chief medical officer or any staff 78433
member of a hospital, board, or ~~agency~~ provider from which the 78434
person is receiving mental health services. 78435

Sec. 5122.43. (A) Costs, fees, and expenses of all 78436
proceedings held under this chapter shall be paid as follows: 78437

(1) To police and health officers, other than sheriffs or 78438
their deputies, the same fees allowed to constables, to be paid 78439
upon the approval of the probate judge; 78440

(2) To sheriffs or their deputies, the same fees allowed for 78441
similar services in the court of common pleas; 78442

(3) To physicians or licensed clinical psychologists acting 78443
as expert witnesses and to other expert witnesses designated by 78444
the court, an amount determined by the court; 78445

(4) To other witnesses, the same fees and mileage as for 78446
attendance at the court of common pleas, to be paid upon the 78447
approval of the probate judge; 78448

(5) To a person, other than the sheriff or the sheriff's 78449

deputies, for taking a mentally ill person to a hospital or 78450
removing a mentally ill person from a hospital, the actual 78451
necessary expenses incurred, specifically itemized, and approved 78452
by the probate judge; 78453

(6) To assistants who convey mentally ill persons to the 78454
hospital when authorized by the probate judge, a fee set by the 78455
probate court, provided the assistants are not drawing a salary 78456
from the state or any political subdivision of the state, and 78457
their actual necessary expenses incurred, provided that the 78458
expenses are specifically itemized and approved by the probate 78459
judge; 78460

(7) To an attorney appointed by the probate division for an 78461
indigent who allegedly is a mentally ill person pursuant to any 78462
section of this chapter, the fees that are determined by the 78463
probate division. When those indigent persons are before the 78464
court, all filing and recording fees shall be waived. 78465

(8) To a referee who is appointed to conduct proceedings 78466
under this chapter that involve a respondent whose domicile is or, 78467
before the respondent's hospitalization, was not the county in 78468
which the proceedings are held, compensation as fixed by the 78469
probate division, but not more than the compensation paid for 78470
similar proceedings for respondents whose domicile is in the 78471
county in which the proceedings are held; 78472

(9) To a court reporter appointed to make a transcript of 78473
proceedings under this chapter, the compensation and fees allowed 78474
in other cases under section 2101.08 of the Revised Code. 78475

(B) A county shall pay for the costs, fees, and expenses 78476
described in division (A) of this section with money appropriated 78477
pursuant to section 2101.11 of the Revised Code. A county may seek 78478
reimbursement from the department of ~~mental health~~ mental health 78479
and addiction services by submitting a request and certification 78480

by the county auditor of the costs, fees, and expenses to the 78481
department within two months of the date the costs, fees, and 78482
expenses are incurred by the county. 78483

Each fiscal year, based on past allocations, historical 78484
utilization, and other factors the department considers 78485
appropriate, the department shall allocate for each county an 78486
amount for reimbursements under this section. The total of all the 78487
allocations shall equal the amount appropriated for the fiscal 78488
year to the department specifically for the purposes of this 78489
section. 78490

On receipt, the department shall review each request for 78491
reimbursement and prepare a voucher for the amount of the costs, 78492
fees, and expenses incurred by the county, provided that the total 78493
amount of money paid to all counties in each fiscal year shall not 78494
exceed the total amount of moneys specifically appropriated to the 78495
department for these purposes. 78496

The department's total reimbursement to each county shall be 78497
the lesser of the full amount requested or the amount allocated 78498
for the county under this division. In addition, the department 78499
shall distribute any surplus remaining from the money appropriated 78500
for the fiscal year to the department for the purposes of this 78501
section as follows to counties whose full requests exceed their 78502
allocations: 78503

(1) If the surplus is sufficient to reimburse such counties 78504
the full amount of their requests, each such county shall receive 78505
the full amount of its request; 78506

(2) If the surplus is insufficient, each such county shall 78507
receive a percentage of the surplus determined by dividing the 78508
difference between the county's full request and its allocation by 78509
the difference between the total of the full requests of all such 78510
counties and the total of the amounts allocated for all such 78511

counties. 78512

The department may adopt rules in accordance with Chapter 78513
119. of the Revised Code to implement the payment of costs, fees, 78514
and expenses under this section. 78515

Sec. 5122.44. As used in sections 5122.44 to 5122.47 of the 78516
Revised Code: 78517

(A) "Compilation" means a written list of the following 78518
information, as the department of ~~mental health~~ mental health and 78519
addiction services is able to reasonably ascertain, for every 78520
patient who was buried, entombed, or inurned prior to ~~the~~ 78521
~~effective date of this section~~ March 31, 2005, in a cemetery 78522
located on the grounds of or adjacent to the grounds of a public 78523
hospital: 78524

(1) Name; 78525

(2) Date of birth; 78526

(3) Date of death or burial; 78527

(4) Specific physical location of the burial, entombment, or 78528
inurnment, including the plot or grave site number if available. 78529

(B) "Patient" means an individual who died while admitted to 78530
a public hospital that was under the control of the department of 78531
~~mental health~~ mental health and addiction services. 78532

(C) "Record" has the same meaning as in section 149.011 of 78533
the Revised Code. 78534

(D) "State agency" means every organized body, office, or 78535
agency established by the laws of the state for the exercise of 78536
any function of state government. 78537

Sec. 5122.45. The department of ~~mental health~~ mental health 78538
and addiction services shall create a separate compilation for 78539

each cemetery located on the grounds of or adjacent to the grounds 78540
of a public hospital that is under the control of the department 78541
on ~~the effective date of this section~~ March 31, 2005. The 78542
compilation shall be created within a reasonable time not 78543
exceeding three years after ~~the effective date of this section~~ 78544
March 31, 2005. The department shall use its best efforts to 78545
create the most complete compilations possible using records in 78546
the department's possession and records obtained in accordance 78547
with section 5122.46 of the Revised Code. 78548

Sec. 5122.46. The Ohio historical society and each state 78549
agency shall, at the request of the department of ~~mental health~~ 78550
mental health and addiction services, provide the department 78551
access to records and information in the possession of the 78552
historical society or state agency for purposes of creating 78553
compilations. 78554

Sec. 5122.47. The department of ~~mental health~~ mental health 78555
and addiction services shall deposit a copy of each compilation 78556
with the Ohio historical society and the state library as soon as 78557
a compilation is completed. The department shall not disclose any 78558
record or information used to create a compilation except as 78559
provided in sections 149.43 and 5122.31 of the Revised Code. 78560

Sec. 5123.01. As used in this chapter: 78561

(A) "Chief medical officer" means the licensed physician 78562
appointed by the managing officer of an institution for the 78563
mentally retarded with the approval of the director of 78564
developmental disabilities to provide medical treatment for 78565
residents of the institution. 78566

(B) "Chief program director" means a person with special 78567
training and experience in the diagnosis and management of the 78568

mentally retarded, certified according to division (C) of this 78569
section in at least one of the designated fields, and appointed by 78570
the managing officer of an institution for the mentally retarded 78571
with the approval of the director to provide habilitation and care 78572
for residents of the institution. 78573

(C) "Comprehensive evaluation" means a study, including a 78574
sequence of observations and examinations, of a person leading to 78575
conclusions and recommendations formulated jointly, with 78576
dissenting opinions if any, by a group of persons with special 78577
training and experience in the diagnosis and management of persons 78578
with mental retardation or a developmental disability, which group 78579
shall include individuals who are professionally qualified in the 78580
fields of medicine, psychology, and social work, together with 78581
such other specialists as the individual case may require. 78582

(D) "Education" means the process of formal training and 78583
instruction to facilitate the intellectual and emotional 78584
development of residents. 78585

(E) "Habilitation" means the process by which the staff of 78586
the institution assists the resident in acquiring and maintaining 78587
those life skills that enable the resident to cope more 78588
effectively with the demands of the resident's own person and of 78589
the resident's environment and in raising the level of the 78590
resident's physical, mental, social, and vocational efficiency. 78591
Habilitation includes but is not limited to programs of formal, 78592
structured education and training. 78593

(F) "Health officer" means any public health physician, 78594
public health nurse, or other person authorized or designated by a 78595
city or general health district. 78596

(G) "Home and community-based services" means medicaid-funded 78597
home and community-based services specified in division ~~(B)~~(A)(1) 78598
of section ~~5111.87~~ 5166.20 of the Revised Code provided under the 78599

medicaid waiver components the department of developmental 78600
disabilities administers pursuant to section ~~5111.871~~ 5166.21 of 78601
the Revised Code. Except as provided in section 5123.0412 of the 78602
Revised Code, home and community-based services provided under the 78603
medicaid waiver component known as the transitions developmental 78604
disabilities waiver are to be considered to be home and 78605
community-based services for the purposes of this chapter, and 78606
Chapters 5124. and 5126. of the Revised Code, only to the extent, 78607
if any, provided by the contract required by section ~~5111.871~~ 78608
5166.21 of the Revised Code regarding the waiver. 78609

(H) "ICF/MR" has the same meaning as in section 5124.01 of 78610
the Revised Code. 78611

(I) "Indigent person" means a person who is unable, without 78612
substantial financial hardship, to provide for the payment of an 78613
attorney and for other necessary expenses of legal representation, 78614
including expert testimony. 78615

~~(I)~~(J) "Institution" means a public or private facility, or a 78616
part of a public or private facility, that is licensed by the 78617
appropriate state department and is equipped to provide 78618
residential habilitation, care, and treatment for the mentally 78619
retarded. 78620

~~(J)~~(K) "Licensed physician" means a person who holds a valid 78621
certificate issued under Chapter 4731. of the Revised Code 78622
authorizing the person to practice medicine and surgery or 78623
osteopathic medicine and surgery, or a medical officer of the 78624
government of the United States while in the performance of the 78625
officer's official duties. 78626

~~(K)~~(L) "Managing officer" means a person who is appointed by 78627
the director of developmental disabilities to be in executive 78628
control of an institution for the mentally retarded under the 78629
jurisdiction of the department. 78630

~~(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~ 78631
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(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires. 78633
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(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period. 78637
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(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist: 78641
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(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community; 78646
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(2) The person needs and is susceptible to significant habilitation in an institution. 78651
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(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation. 78653
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(Q) As used in this division, "substantial functional 78661

limitation," "developmental delay," and "established risk" have 78662
the meanings established pursuant to section 5123.011 of the 78663
Revised Code. 78664

"Developmental disability" means a severe, chronic disability 78665
that is characterized by all of the following: 78666

(1) It is attributable to a mental or physical impairment or 78667
a combination of mental and physical impairments, other than a 78668
mental or physical impairment solely caused by mental illness as 78669
defined in division (A) of section 5122.01 of the Revised Code. 78670

(2) It is manifested before age twenty-two. 78671

(3) It is likely to continue indefinitely. 78672

(4) It results in one of the following: 78673

(a) In the case of a person under three years of age, at 78674
least one developmental delay or an established risk; 78675

(b) In the case of a person at least three years of age but 78676
under six years of age, at least two developmental delays or an 78677
established risk; 78678

(c) In the case of a person six years of age or older, a 78679
substantial functional limitation in at least three of the 78680
following areas of major life activity, as appropriate for the 78681
person's age: self-care, receptive and expressive language, 78682
learning, mobility, self-direction, capacity for independent 78683
living, and, if the person is at least sixteen years of age, 78684
capacity for economic self-sufficiency. 78685

(5) It causes the person to need a combination and sequence 78686
of special, interdisciplinary, or other type of care, treatment, 78687
or provision of services for an extended period of time that is 78688
individually planned and coordinated for the person. 78689

(R) "Developmentally disabled person" means a person with a 78690
developmental disability. 78691

(S) "State institution" means an institution that is 78692
tax-supported and under the jurisdiction of the department. 78693

(T) "Residence" and "legal residence" have the same meaning 78694
as "legal settlement," which is acquired by residing in Ohio for a 78695
period of one year without receiving general assistance prior to 78696
July 17, 1995, under former Chapter 5113. of the Revised Code, 78697
financial assistance under Chapter 5115. of the Revised Code, or 78698
assistance from a private agency that maintains records of 78699
assistance given. A person having a legal settlement in the state 78700
shall be considered as having legal settlement in the assistance 78701
area in which the person resides. No adult person coming into this 78702
state and having a spouse or minor children residing in another 78703
state shall obtain a legal settlement in this state as long as the 78704
spouse or minor children are receiving public assistance, care, or 78705
support at the expense of the other state or its subdivisions. For 78706
the purpose of determining the legal settlement of a person who is 78707
living in a public or private institution or in a home subject to 78708
licensing by the department of job and family services, the 78709
department of ~~mental health~~ mental health and addiction services, 78710
or the department of developmental disabilities, the residence of 78711
the person shall be considered as though the person were residing 78712
in the county in which the person was living prior to the person's 78713
entrance into the institution or home. Settlement once acquired 78714
shall continue until a person has been continuously absent from 78715
Ohio for a period of one year or has acquired a legal residence in 78716
another state. A woman who marries a man with legal settlement in 78717
any county immediately acquires the settlement of her husband. The 78718
legal settlement of a minor is that of the parents, surviving 78719
parent, sole parent, parent who is designated the residential 78720
parent and legal custodian by a court, other adult having 78721
permanent custody awarded by a court, or guardian of the person of 78722
the minor, provided that: 78723

(1) A minor female who marries shall be considered to have 78724
the legal settlement of her husband and, in the case of death of 78725
her husband or divorce, she shall not thereby lose her legal 78726
settlement obtained by the marriage. 78727

(2) A minor male who marries, establishes a home, and who has 78728
resided in this state for one year without receiving general 78729
assistance prior to July 17, 1995, under former Chapter 5113. of 78730
the Revised Code, financial assistance under Chapter 5115. of the 78731
Revised Code, or assistance from a private agency that maintains 78732
records of assistance given shall be considered to have obtained a 78733
legal settlement in this state. 78734

(3) The legal settlement of a child under eighteen years of 78735
age who is in the care or custody of a public or private child 78736
caring agency shall not change if the legal settlement of the 78737
parent changes until after the child has been in the home of the 78738
parent for a period of one year. 78739

No person, adult or minor, may establish a legal settlement 78740
in this state for the purpose of gaining admission to any state 78741
institution. 78742

(U)(1) "Resident" means, subject to division ~~(R)~~(U)(2) of 78743
this section, a person who is admitted either voluntarily or 78744
involuntarily to an institution or other facility pursuant to 78745
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 78746
Code subsequent to a finding of not guilty by reason of insanity 78747
or incompetence to stand trial or under this chapter who is under 78748
observation or receiving habilitation and care in an institution. 78749

(2) "Resident" does not include a person admitted to an 78750
institution or other facility under section 2945.39, 2945.40, 78751
2945.401, or 2945.402 of the Revised Code to the extent that the 78752
reference in this chapter to resident, or the context in which the 78753
reference occurs, is in conflict with any provision of sections 78754

2945.37 to 2945.402 of the Revised Code. 78755

(V) "Respondent" means the person whose detention, 78756
commitment, or continued commitment is being sought in any 78757
proceeding under this chapter. 78758

(W) "Working day" and "court day" mean Monday, Tuesday, 78759
Wednesday, Thursday, and Friday, except when such day is a legal 78760
holiday. 78761

(X) "Prosecutor" means the prosecuting attorney, village 78762
solicitor, city director of law, or similar chief legal officer 78763
who prosecuted a criminal case in which a person was found not 78764
guilty by reason of insanity, who would have had the authority to 78765
prosecute a criminal case against a person if the person had not 78766
been found incompetent to stand trial, or who prosecuted a case in 78767
which a person was found guilty. 78768

(Y) "Court" means the probate division of the court of common 78769
pleas. 78770

(Z) "Supported living" and "residential services" have the 78771
same meanings as in section 5126.01 of the Revised Code. 78772

Sec. 5123.021. (A) As used in this section, "mentally 78773
retarded individual" and "specialized services" have the same 78774
meanings as in section ~~5111.202~~ 5165.03 of the Revised Code. 78775

(B)(1) Except as provided in division (B)(2) of this section 78776
and rules adopted under division (E)(3) of this section, for 78777
purposes of section ~~5111.202~~ 5165.03 of the Revised Code, the 78778
department of developmental disabilities shall determine in 78779
accordance with section 1919(e)(7) of the "Social Security Act," 78780
49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and regulations 78781
adopted under section 1919(f)(8)(A) of that act whether, because 78782
of the individual's physical and mental condition, a mentally 78783
retarded individual seeking admission to a nursing facility 78784

requires the level of services provided by a nursing facility and, 78785
if the individual requires that level of services, whether the 78786
individual requires specialized services for mental retardation. 78787

(2) A determination under this division is not required for 78788
any of the following: 78789

(a) An individual seeking readmission to a nursing facility 78790
after having been transferred from a nursing facility to a 78791
hospital for care; 78792

(b) An individual who meets all of the following conditions: 78793

(i) The individual is admitted to the nursing facility 78794
directly from a hospital after receiving inpatient care at the 78795
hospital; 78796

(ii) The individual requires nursing facility services for 78797
the condition for which the individual received care in the 78798
hospital; 78799

(iii) The individual's attending physician has certified, 78800
before admission to the nursing facility, that the individual is 78801
likely to require less than thirty days of nursing facility 78802
services. 78803

(c) An individual transferred from one nursing facility to 78804
another nursing facility, with or without an intervening hospital 78805
stay. 78806

(C) Except as provided in rules adopted under division (F)(3) 78807
of this section, the department of developmental disabilities 78808
shall review and determine, for each resident of a nursing 78809
facility who is mentally retarded, whether the resident, because 78810
of the resident's physical and mental condition, requires the 78811
level of services provided by a nursing facility and whether the 78812
resident requires specialized services for mental retardation. The 78813
review and determination shall be conducted in accordance with 78814

section 1919(e)(7) of the "Social Security Act" and the 78815
regulations adopted under section 1919(f)(8)(A) of the act. The 78816
review and determination shall be completed promptly after a 78817
nursing facility has notified the department that there has been a 78818
significant change in the resident's mental or physical condition. 78819

(D)(1) In the case of a nursing facility resident who has 78820
continuously resided in a nursing facility for at least thirty 78821
months before the date of a review and determination under 78822
division (C) of this section, if the resident is determined not to 78823
require the level of services provided by a nursing facility, but 78824
is determined to require specialized services for mental 78825
retardation, the department, in consultation with the resident's 78826
family or legal representative and care givers, shall do all of 78827
the following: 78828

(a) Inform the resident of the institutional and 78829
noninstitutional alternatives covered under the state plan for 78830
medical assistance; 78831

(b) Offer the resident the choice of remaining in the nursing 78832
facility or receiving covered services in an alternative 78833
institutional or noninstitutional setting; 78834

(c) Clarify the effect on eligibility for services under the 78835
state plan for medical assistance if the resident chooses to leave 78836
the facility, including its effect on readmission to the facility; 78837

(d) Provide for or arrange for the provision of specialized 78838
services for the resident's mental retardation in the setting 78839
chosen by the resident. 78840

(2) In the case of a nursing facility resident who has 78841
continuously resided in a nursing facility for less than thirty 78842
months before the date of the review and determination under 78843
division (C) of this section, if the resident is determined not to 78844
require the level of services provided by a nursing facility, but 78845

is determined to require specialized services for mental 78846
retardation, or if the resident is determined to require neither 78847
the level of services provided by a nursing facility nor 78848
specialized services for mental retardation, the department shall 78849
act in accordance with its alternative disposition plan approved 78850
by the United States department of health and human services under 78851
section 1919(e)(7)(E) of the "Social Security Act." 78852

(3) In the case of an individual who is determined under 78853
division (B) or (C) of this section to require both the level of 78854
services provided by a nursing facility and specialized services 78855
for mental retardation, the department of developmental 78856
disabilities shall provide or arrange for the provision of the 78857
specialized services needed by the individual or resident while 78858
residing in a nursing facility. 78859

(E) The department of developmental disabilities shall adopt 78860
rules in accordance with Chapter 119. of the Revised Code that do 78861
all of the following: 78862

(1) Establish criteria to be used in making the 78863
determinations required by divisions (B) and (C) of this section. 78864
The criteria shall not exceed the criteria established by 78865
regulations adopted by the United States department of health and 78866
human services under section 1919(f)(8)(A) of the "Social Security 78867
Act." 78868

(2) Specify information to be provided by the individual or 78869
nursing facility resident being assessed; 78870

(3) Specify any circumstances, in addition to circumstances 78871
listed in division (B) of this section, under which determinations 78872
under divisions (B) and (C) of this section are not required to be 78873
made. 78874

Sec. 5123.022. ~~It~~ (A) As used in this section: 78875

(1) "Community employment" means competitive employment that 78876
takes place in an integrated setting. 78877

(2) "Competitive employment" means full-time or part-time 78878
work in the competitive labor market in which payment is at or 78879
above the minimum wage but not less than the customary wage and 78880
level of benefits paid by the employer for the same or similar 78881
work performed by persons who are not disabled. 78882

(3) "Integrated setting" means a setting typically found in 78883
the community where individuals with developmental disabilities 78884
interact with individuals who do not have disabilities to the same 78885
extent that individuals in comparable positions who are not 78886
disabled interact with other individuals, including in employment 78887
settings in which employees interact with the community through 78888
technology. 78889

(B) It is hereby declared to be the policy of this state that 78890
employment services for individuals with developmental 78891
disabilities be directed at placement whenever possible of each 78892
individual in a position in the community in which the individual 78893
is integrated with the employer's other workers who are not 78894
developmentally disabled employment. The Every individual with a 78895
developmental disability is presumed capable of community 78896
employment unless proven otherwise through an individualized 78897
assessment process. 78898

The departments of developmental disabilities, education, 78899
medicaid, job and family services, and ~~mental health~~ mental health 78900
and addiction services; the rehabilitation services commission ; 78901
and each other state agency that provides employment services to 78902
individuals with developmental disabilities shall implement ~~this~~ 78903
the policy of this state and ensure that it is followed whenever 78904
employment services are provided to individuals with developmental 78905
disabilities. 78906

The department of developmental disabilities shall coordinate the actions taken by state agencies to comply with the state's policy. Agencies shall collaborate within their divisions and with each other to ensure that state programs, policies, procedures, and funding support competitive and integrated employment of individuals with developmental disabilities. State agencies shall share information with the department, and the department shall track progress toward full implementation of the policy. The department, in coordination with any task force established by the governor, shall compile data and annually submit to the governor a report on implementation of the policy.

The department and state agencies may adopt rules to implement the state's policy.

(C) The state's policy articulated in this section is intended to promote the right of each individual with a developmental disability to informed choice; however, nothing in this section requires any employer to give preference in hiring to an individual because the individual has a disability.

Sec. 5123.023. (A) The director of developmental disabilities may establish an employment first task force consisting of the departments of developmental disabilities, education, medicaid, job and family services, and mental health and addiction services; and the opportunities for Ohioans with disabilities agency. The purpose of the task force shall be to improve the coordination of the state's efforts to address the needs of individuals with developmental disabilities who seek community employment as defined in section 5123.022 of the Revised Code.

(B) The department of developmental disabilities may enter into interagency agreements with any of the government entities on the task force. The interagency agreements may specify either or

both of the following: 78938

(1) The roles and responsibilities of the government entities that are members of the task force, including any money to be contributed by those entities; 78939
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(2) The projects and activities of the task force. 78942

(C) There is hereby created in the state treasury the employment first taskforce fund. Any money received by the task force from its members shall be credited to the fund. The department of developmental disabilities shall use the fund to support the work of the task force. 78943
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(D) The task force shall cease to exist on January 1, 2020. Any money, assets, or employees of the department of developmental disabilities that on that date are dedicated to the work of the task force shall be reallocated by the department for employment services for individuals with developmental disabilities. 78948
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Sec. 5123.03. (A) The department of developmental disabilities shall do all of the following: 78953
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(1) Maintain, operate, manage, and govern all state institutions for the care, treatment, and training of the mentally retarded; 78955
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(2) Designate all such institutions by appropriate names; 78958

(3) Provide and designate facilities for the custody, care, and special treatment of persons of the following classes: 78959
78960

(a) Dangerous persons in state institutions for the mentally retarded who represent a serious threat to the safety of the other patients of the institution; 78961
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(b) Persons charged with crimes who are found incompetent to stand trial or not guilty by reason of insanity and who are also mentally retarded persons subject to institutionalization by court 78964
78965
78966

order. 78967

(4) Have control of all institutions maintained in part by 78968
the state for the care, treatment, and training of the mentally 78969
retarded; 78970

(5) Administer the laws relative to persons in such 78971
institutions in an efficient, economical, and humane manner; 78972

(6) Ascertain by actual examinations and inquiry whether 78973
institutionalizations are made according to law. 78974

(B) The department may do any of the following: 78975

(1) Subject to section 5139.08 of the Revised Code, receive 78976
from the department of youth services for observation, diagnosis, 78977
care, habilitation, or placement any children in the custody of 78978
the department of youth services; 78979

(2) Receive for observation any minor from a public 78980
institution other than an institution under the jurisdiction of 78981
the department of developmental disabilities, from a private 78982
charitable institution, or from a person having legal custody of 78983
such a minor, upon such terms as are proper; 78984

(3) Receive from the department of ~~mental health~~ mental 78985
health and addiction services any patient in the custody of the 78986
department who is transferred to the department of developmental 78987
disabilities upon such terms and conditions as may be agreed upon 78988
by the two departments. 78989

(C) In addition to the powers and duties expressly conferred 78990
by this section, the department may take any other action 78991
necessary for the full and efficient executive, administrative, 78992
and fiscal supervision of the state institutions described in this 78993
section. 78994

Sec. 5123.0412. (A) The department of developmental 78995
disabilities shall charge each county board of developmental 78996

disabilities an annual fee equal to one and one-quarter per cent 78997
of the total value of all medicaid paid claims for home and 78998
community-based services provided during the year to an individual 78999
eligible for services from the county board. However, the 79000
department shall not charge the fee for home and community-based 79001
services provided under the medicaid waiver component known as the 79002
transitions developmental disabilities waiver. No county board 79003
shall pass the cost of a fee charged to the county board under 79004
this section on to another provider of these services. 79005

(B) The fees collected under this section shall be deposited 79006
into the ODDD administration and oversight fund ~~and the ODJFS~~ 79007
~~administration and oversight fund, both of~~ which are ~~is~~ hereby 79008
created in the state treasury. ~~The portion of the fees to be~~ 79009
~~deposited into the ODDD administration and oversight fund and the~~ 79010
~~portion of the fees to be deposited into the ODJFS administration~~ 79011
~~and oversight fund shall be the portion specified in an~~ 79012
~~interagency agreement entered into under division (C) of this~~ 79013
~~section.~~ The department ~~of developmental disabilities~~ shall use 79014
the money in the ODDD administration and oversight fund ~~and the~~ 79015
~~department of job and family services shall use the money in the~~ 79016
~~ODJFS administration and oversight fund~~ for both of the following 79017
purposes: 79018

(1) Medicaid administrative costs, including administrative 79019
and oversight costs of medicaid case management services and home 79020
and community-based services. The administrative and oversight 79021
costs of medicaid case management services and home and 79022
community-based services shall include costs for staff, systems, 79023
and other resources the ~~departments need~~ department needs and 79024
~~dedicate~~ dedicates solely to the following duties associated with 79025
the services: 79026

(a) Eligibility determinations; 79027

(b) Training; 79028

(c) Fiscal management; 79029

(d) Claims processing; 79030

(e) Quality assurance oversight; 79031

(f) Other duties the ~~departments identify~~ department
identifies. 79032
79033

(2) Providing technical support to county boards' local 79034
administrative authority under section 5126.055 of the Revised 79035
Code for the services. 79036

~~(C) The departments of developmental disabilities and job and 79037
family services shall enter into an interagency agreement to do 79038
both of the following: 79039~~

~~(1) Specify which portion of the fees collected under this 79040
section is to be deposited into the ODDD administration and 79041
oversight fund and which portion is to be deposited into the ODJFS 79042
administration and oversight fund; 79043~~

~~(2) Provide for the departments to coordinate the staff whose 79044
costs are paid for with money in the ODDD administration and 79045
oversight fund and the ODJFS administration and oversight fund. 79046~~

~~(D) The departments department shall submit an annual report 79047
to the director of budget and management certifying how the 79048
~~departments~~ department spent the money in the ODDD administration 79049
and oversight fund ~~and the ODJFS administration and oversight fund~~ 79050
for the purposes specified in division (B) of this section. 79051~~

Sec. 5123.0417. (A) The director of developmental 79052
disabilities shall establish one or more programs for individuals 79053
under twenty-two years of age who have intensive behavioral needs, 79054
including such individuals with a primary diagnosis of autism 79055
spectrum disorder. The programs may include one or more medicaid 79056
waiver components that the director administers pursuant to 79057
section ~~5111.871~~ 5166.21 of the Revised Code. The programs may do 79058

one or more of the following: 79059

(1) Establish models that incorporate elements common to 79060
effective intervention programs and evidence-based practices in 79061
services for children with intensive behavioral needs; 79062

(2) Design a template for individualized education plans and 79063
individual service plans that provide consistent intervention 79064
programs and evidence-based practices for the care and treatment 79065
of children with intensive behavioral needs; 79066

(3) Disseminate best practice guidelines for use by families 79067
of children with intensive behavioral needs and professionals 79068
working with such families; 79069

(4) Develop a transition planning model for effectively 79070
mainstreaming school-age children with intensive behavioral needs 79071
to their public school district; 79072

(5) Contribute to the field of early and effective 79073
identification and intervention programs for children with 79074
intensive behavioral needs by providing financial support for 79075
scholarly research and publication of clinical findings. 79076

(B) The director of developmental disabilities shall 79077
collaborate with the medicaid director ~~of job and family services~~ 79078
and consult with the executive director of the Ohio center for 79079
autism and low incidence and university-based programs that 79080
specialize in services for individuals with developmental 79081
disabilities when establishing programs under this section. 79082

Sec. 5123.09. Subject to the rules of the department of 79083
developmental disabilities, each institution under the 79084
jurisdiction of the department shall be under the control of a 79085
managing officer to be known as a superintendent or by other 79086
appropriate title. The managing officer shall be appointed by the 79087
director of developmental disabilities and shall be in the 79088

unclassified service and serve at the pleasure of the director. 79089
Each managing officer shall be of good moral character and have 79090
skill, ability, and experience in the managing officer's 79091
profession. Appointment to the position of managing officer of an 79092
institution may be made from persons holding positions in the 79093
classified service in the department. 79094

The managing officer, under the director, shall have entire 79095
executive charge of the institution for which the managing officer 79096
is appointed, except as provided in section ~~5119.16~~ 5119.44 of the 79097
Revised Code. Subject to civil service rules and rules adopted by 79098
the department, the managing officer shall appoint the necessary 79099
employees, and the managing officer or the director may remove 79100
those employees for cause. A report of all appointments, 79101
resignations, and discharges shall be filed with the appropriate 79102
division at the close of each month. 79103

After conference with the managing officer of each 79104
institution, the director shall determine the number of employees 79105
to be appointed to the various institutions and clinics. 79106

Sec. 5123.171. As used in this section, "respite care" means 79107
appropriate, short-term, temporary care provided to a mentally 79108
retarded or developmentally disabled person to sustain the family 79109
structure or to meet planned or emergency needs of the family. 79110

The department of developmental disabilities shall provide 79111
respite care services to persons with mental retardation or a 79112
developmental disability for the purpose of promoting 79113
self-sufficiency and normalization, preventing or reducing 79114
inappropriate institutional care, and furthering the unity of the 79115
family by enabling the family to meet the special needs of a 79116
mentally retarded or developmentally disabled person. 79117

In order to be eligible for respite care services under this 79118
section, the mentally retarded or developmentally disabled person 79119

must be in need of habilitation services as defined in section 79120
5126.01 of the Revised Code. 79121

Respite care may be provided in a residential facility 79122
licensed under section 5123.19 of the Revised Code ~~including a~~ 79123
~~residential facility certified as an intermediate care facility~~ 79124
~~for the mentally retarded under Title XIX of the "Social Security~~ 79125
~~Act," 79 Stat. 344 (1965), 42 U.S.C. 1396, et seq., as amended}~~ 79126
ICF/MR, and a respite care home certified under section 5126.05 of 79127
the Revised Code. 79128

The department shall develop a system for locating vacant 79129
beds that are available for respite care and for making 79130
information on vacant beds available to users of respite care 79131
services. ~~Facilities certified as intermediate care facilities for~~ 79132
~~the mentally retarded~~ ICFs/MR shall report vacant beds to the 79133
department but shall not be required to accept respite care 79134
clients. 79135

The director of developmental disabilities shall adopt, and 79136
may amend or rescind, rules in accordance with Chapter 119. of the 79137
Revised Code for both of the following: 79138

(A) Certification by county boards of developmental 79139
disabilities of respite care homes; 79140

(B) Provision of respite care services authorized by this 79141
section. Rules adopted under this division shall establish all of 79142
the following: 79143

(1) A formula for distributing funds appropriated for respite 79144
care services; 79145

(2) Standards for supervision, training and quality control 79146
in the provision of respite care services; 79147

(3) Eligibility criteria for emergency respite care services. 79148

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 of 79149

the Revised Code: 79150

(1) "Independent living arrangement" means an arrangement in 79151
which a mentally retarded or developmentally disabled person 79152
resides in an individualized setting chosen by the person or the 79153
person's guardian, which is not dedicated principally to the 79154
provision of residential services for mentally retarded or 79155
developmentally disabled persons, and for which no financial 79156
support is received for rendering such service from any 79157
governmental agency by a provider of residential services. 79158

~~(2) "Intermediate care facility for the mentally retarded" 79159
has the same meaning as in section 1905(d) of the "Social Security 79160
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 79161~~

~~(3) "Licensee" means the person or government agency that has 79162
applied for a license to operate a residential facility and to 79163
which the license was issued under this section. 79164~~

~~(4)(3) "Political subdivision" means a municipal corporation, 79165
county, or township. 79166~~

~~(5)(4) "Related party" has the same meaning as in section 79167
5123.16 of the Revised Code except that "provider" as used in the 79168
definition of "related party" means a person or government entity 79169
that held or applied for a license to operate a residential 79170
facility, rather than a person or government entity certified to 79171
provide supported living. 79172~~

~~(6)(5)(a) Except as provided in division (A)(6)(5)(b) of this 79173
section, "residential facility" means a home or facility, 79174
including a facility certified as an intermediate care facility 79175
for the mentally retarded an ICF/MR, in which an individual with 79176
mental retardation or a developmental disability resides. 79177~~

(b) "Residential facility" does not mean any of the 79178
following: 79179

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides; 79180
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(ii) A respite care home certified under section 5126.05 of the Revised Code; 79183
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(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code; 79185
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(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living. 79187
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(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5103.03, ~~5119.20~~ 5119.33, or division (A)(9)(b) of section ~~5119.22~~ 5119.34 of the Revised Code. 79190
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(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered. 79196
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(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a 79208
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provision, the director may deny issuance of a license, refuse to 79211
renew a license, terminate a license, revoke a license, issue an 79212
order for the suspension of admissions to a facility, issue an 79213
order for the placement of a monitor at a facility, issue an order 79214
for the immediate removal of residents, or take any other action 79215
the director considers necessary consistent with the director's 79216
authority under this chapter regarding residential facilities. In 79217
the director's selection and administration of the sanction to be 79218
imposed, all of the following apply: 79219

(1) The director may deny, refuse to renew, or revoke a 79220
license, if the director determines that the applicant or licensee 79221
has demonstrated a pattern of serious noncompliance or that a 79222
violation creates a substantial risk to the health and safety of 79223
residents of a residential facility. 79224

(2) The director may terminate a license if more than twelve 79225
consecutive months have elapsed since the residential facility was 79226
last occupied by a resident or a notice required by division (K) 79227
of this section is not given. 79228

(3) The director may issue an order for the suspension of 79229
admissions to a facility for any violation that may result in 79230
sanctions under division (D)(1) of this section and for any other 79231
violation specified in rules adopted under division (H)(2) of this 79232
section. If the suspension of admissions is imposed for a 79233
violation that may result in sanctions under division (D)(1) of 79234
this section, the director may impose the suspension before 79235
providing an opportunity for an adjudication under Chapter 119. of 79236
the Revised Code. The director shall lift an order for the 79237
suspension of admissions when the director determines that the 79238
violation that formed the basis for the order has been corrected. 79239

(4) The director may order the placement of a monitor at a 79240
residential facility for any violation specified in rules adopted 79241
under division (H)(2) of this section. The director shall lift the 79242

order when the director determines that the violation that formed 79243
the basis for the order has been corrected. 79244

(5) If the director determines that two or more residential 79245
facilities owned or operated by the same person or government 79246
entity are not being operated in compliance with a provision of 79247
this chapter that applies to residential facilities or the rules 79248
adopted under such a provision, and the director's findings are 79249
based on the same or a substantially similar action, practice, 79250
circumstance, or incident that creates a substantial risk to the 79251
health and safety of the residents, the director shall conduct a 79252
survey as soon as practicable at each residential facility owned 79253
or operated by that person or government entity. The director may 79254
take any action authorized by this section with respect to any 79255
facility found to be operating in violation of a provision of this 79256
chapter that applies to residential facilities or the rules 79257
adopted under such a provision. 79258

(6) When the director initiates license revocation 79259
proceedings, no opportunity for submitting a plan of correction 79260
shall be given. The director shall notify the licensee by letter 79261
of the initiation of the proceedings. The letter shall list the 79262
deficiencies of the residential facility and inform the licensee 79263
that no plan of correction will be accepted. The director shall 79264
also send a copy of the letter to the county board of 79265
developmental disabilities. The county board shall send a copy of 79266
the letter to each of the following: 79267

(a) Each resident who receives services from the licensee; 79268

(b) The guardian of each resident who receives services from 79269
the licensee if the resident has a guardian; 79270

(c) The parent or guardian of each resident who receives 79271
services from the licensee if the resident is a minor. 79272

(7) Pursuant to rules which shall be adopted in accordance 79273

with Chapter 119. of the Revised Code, the director may order the 79274
immediate removal of residents from a residential facility 79275
whenever conditions at the facility present an immediate danger of 79276
physical or psychological harm to the residents. 79277

(8) In determining whether a residential facility is being 79278
operated in compliance with a provision of this chapter that 79279
applies to residential facilities or the rules adopted under such 79280
a provision, or whether conditions at a residential facility 79281
present an immediate danger of physical or psychological harm to 79282
the residents, the director may rely on information obtained by a 79283
county board of developmental disabilities or other governmental 79284
agencies. 79285

(9) In proceedings initiated to deny, refuse to renew, or 79286
revoke licenses, the director may deny, refuse to renew, or revoke 79287
a license regardless of whether some or all of the deficiencies 79288
that prompted the proceedings have been corrected at the time of 79289
the hearing. 79290

(E) The director shall establish a program under which public 79291
notification may be made when the director has initiated license 79292
revocation proceedings or has issued an order for the suspension 79293
of admissions, placement of a monitor, or removal of residents. 79294
The director shall adopt rules in accordance with Chapter 119. of 79295
the Revised Code to implement this division. The rules shall 79296
establish the procedures by which the public notification will be 79297
made and specify the circumstances for which the notification must 79298
be made. The rules shall require that public notification be made 79299
if the director has taken action against the facility in the 79300
eighteen-month period immediately preceding the director's latest 79301
action against the facility and the latest action is being taken 79302
for the same or a substantially similar violation of a provision 79303
of this chapter that applies to residential facilities or the 79304
rules adopted under such a provision. The rules shall specify a 79305

method for removing or amending the public notification if the 79306
director's action is found to have been unjustified or the 79307
violation at the residential facility has been corrected. 79308

(F)(1) Except as provided in division (F)(2) of this section, 79309
appeals from proceedings initiated to impose a sanction under 79310
division (D) of this section shall be conducted in accordance with 79311
Chapter 119. of the Revised Code. 79312

(2) Appeals from proceedings initiated to order the 79313
suspension of admissions to a facility shall be conducted in 79314
accordance with Chapter 119. of the Revised Code, unless the order 79315
was issued before providing an opportunity for an adjudication, in 79316
which case all of the following apply: 79317

(a) The licensee may request a hearing not later than ten 79318
days after receiving the notice specified in section 119.07 of the 79319
Revised Code. 79320

(b) If a timely request for a hearing that includes the 79321
licensee's current address is made, the hearing shall commence not 79322
later than thirty days after the department receives the request. 79323

(c) After commencing, the hearing shall continue 79324
uninterrupted, except for Saturdays, Sundays, and legal holidays, 79325
unless other interruptions are agreed to by the licensee and the 79326
director. 79327

(d) If the hearing is conducted by a hearing examiner, the 79328
hearing examiner shall file a report and recommendations not later 79329
than ten days after the last of the following: 79330

(i) The close of the hearing; 79331

(ii) If a transcript of the proceedings is ordered, the 79332
hearing examiner receives the transcript; 79333

(iii) If post-hearing briefs are timely filed, the hearing 79334
examiner receives the briefs. 79335

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities. The rules for residential facilities that are ~~intermediate care facilities for the mentally retarded~~ ICFs/MR may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing

licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;	79367 79368 79369
(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;	79370 79371 79372 79373
(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;	79374 79375 79376
(4) Procedures for surveying residential facilities;	79377
(5) Requirements for the training of residential facility personnel;	79378 79379
(6) Classifications for the various types of residential facilities;	79380 79381
(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;	79382 79383 79384 79385
(8) The maximum number of persons who may be served in a particular type of residential facility;	79386 79387
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	79388 79389
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	79390 79391
(11) Procedures for waiving any provision of any rule adopted under this section.	79392 79393
(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director	79394 79395 79396

or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the

director shall require each applicant to provide a copy of an 79429
approved plan for a proposed residential facility pursuant to 79430
section 5123.042 of the Revised Code. This division does not apply 79431
to renewal of a license or to an applicant for an initial or 79432
modified license who meets the requirements of section 5123.197 of 79433
the Revised Code. 79434

(K) A licensee shall notify the owner of the building in 79435
which the licensee's residential facility is located of any 79436
significant change in the identity of the licensee or management 79437
contractor before the effective date of the change if the licensee 79438
is not the owner of the building. 79439

Pursuant to rules which shall be adopted in accordance with 79440
Chapter 119. of the Revised Code, the director may require 79441
notification to the department of any significant change in the 79442
ownership of a residential facility or in the identity of the 79443
licensee or management contractor. If the director determines that 79444
a significant change of ownership is proposed, the director shall 79445
consider the proposed change to be an application for development 79446
by a new operator pursuant to section 5123.042 of the Revised Code 79447
and shall advise the applicant within sixty days of the 79448
notification that the current license shall continue in effect or 79449
a new license will be required pursuant to this section. If the 79450
director requires a new license, the director shall permit the 79451
facility to continue to operate under the current license until 79452
the new license is issued, unless the current license is revoked, 79453
refused to be renewed, or terminated in accordance with Chapter 79454
119. of the Revised Code. 79455

(L) A county board of developmental disabilities and any 79456
interested person may file complaints alleging violations of 79457
statute or department rule relating to residential facilities with 79458
the department. All complaints shall be in writing and shall state 79459
the facts constituting the basis of the allegation. The department 79460

shall not reveal the source of any complaint unless the 79461
complainant agrees in writing to waive the right to 79462
confidentiality or until so ordered by a court of competent 79463
jurisdiction. 79464

The department shall adopt rules in accordance with Chapter 79465
119. of the Revised Code establishing procedures for the receipt, 79466
referral, investigation, and disposition of complaints filed with 79467
the department under this division. 79468

(M) The department shall establish procedures for the 79469
notification of interested parties of the transfer or interim care 79470
of residents from residential facilities that are closing or are 79471
losing their license. 79472

(N) Before issuing a license under this section to a 79473
residential facility that will accommodate at any time more than 79474
one mentally retarded or developmentally disabled individual, the 79475
director shall, by first class mail, notify the following: 79476

(1) If the facility will be located in a municipal 79477
corporation, the clerk of the legislative authority of the 79478
municipal corporation; 79479

(2) If the facility will be located in unincorporated 79480
territory, the clerk of the appropriate board of county 79481
commissioners and the fiscal officer of the appropriate board of 79482
township trustees. 79483

The director shall not issue the license for ten days after 79484
mailing the notice, excluding Saturdays, Sundays, and legal 79485
holidays, in order to give the notified local officials time in 79486
which to comment on the proposed issuance. 79487

Any legislative authority of a municipal corporation, board 79488
of county commissioners, or board of township trustees that 79489
receives notice under this division of the proposed issuance of a 79490
license for a residential facility may comment on it in writing to 79491

the director within ten days after the director mailed the notice, 79492
excluding Saturdays, Sundays, and legal holidays. If the director 79493
receives written comments from any notified officials within the 79494
specified time, the director shall make written findings 79495
concerning the comments and the director's decision on the 79496
issuance of the license. If the director does not receive written 79497
comments from any notified local officials within the specified 79498
time, the director shall continue the process for issuance of the 79499
license. 79500

(O) Any person may operate a licensed residential facility 79501
that provides room and board, personal care, habilitation 79502
services, and supervision in a family setting for at least six but 79503
not more than eight persons with mental retardation or a 79504
developmental disability as a permitted use in any residential 79505
district or zone, including any single-family residential district 79506
or zone, of any political subdivision. These residential 79507
facilities may be required to comply with area, height, yard, and 79508
architectural compatibility requirements that are uniformly 79509
imposed upon all single-family residences within the district or 79510
zone. 79511

(P) Any person may operate a licensed residential facility 79512
that provides room and board, personal care, habilitation 79513
services, and supervision in a family setting for at least nine 79514
but not more than sixteen persons with mental retardation or a 79515
developmental disability as a permitted use in any multiple-family 79516
residential district or zone of any political subdivision, except 79517
that a political subdivision that has enacted a zoning ordinance 79518
or resolution establishing planned unit development districts may 79519
exclude these residential facilities from those districts, and a 79520
political subdivision that has enacted a zoning ordinance or 79521
resolution may regulate these residential facilities in 79522
multiple-family residential districts or zones as a conditionally 79523

permitted use or special exception, in either case, under 79524
reasonable and specific standards and conditions set out in the 79525
zoning ordinance or resolution to: 79526

(1) Require the architectural design and site layout of the 79527
residential facility and the location, nature, and height of any 79528
walls, screens, and fences to be compatible with adjoining land 79529
uses and the residential character of the neighborhood; 79530

(2) Require compliance with yard, parking, and sign 79531
regulation; 79532

(3) Limit excessive concentration of these residential 79533
facilities. 79534

(Q) This section does not prohibit a political subdivision 79535
from applying to residential facilities nondiscriminatory 79536
regulations requiring compliance with health, fire, and safety 79537
regulations and building standards and regulations. 79538

(R) Divisions (O) and (P) of this section are not applicable 79539
to municipal corporations that had in effect on June 15, 1977, an 79540
ordinance specifically permitting in residential zones licensed 79541
residential facilities by means of permitted uses, conditional 79542
uses, or special exception, so long as such ordinance remains in 79543
effect without any substantive modification. 79544

(S)(1) The director may issue an interim license to operate a 79545
residential facility to an applicant for a license under this 79546
section if either of the following is the case: 79547

(a) The director determines that an emergency exists 79548
requiring immediate placement of persons in a residential 79549
facility, that insufficient licensed beds are available, and that 79550
the residential facility is likely to receive a permanent license 79551
under this section within thirty days after issuance of the 79552
interim license. 79553

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility. 79554
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(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license. 79557
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(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days. 79562
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(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses. 79565
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(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986. 79568
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(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section. 79577
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The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the 79582
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facility from continuing to operate without a license. The court 79585
may grant the injunction on a showing that the person or 79586
governmental agency named in the petition is operating a 79587
residential facility without a license. The court may grant the 79588
injunction, regardless of whether the residential facility meets 79589
the requirements for receiving a license under this section. 79590

Sec. 5123.192. (A) A person or government agency operating, 79591
on ~~the effective date of this section~~ September 10, 2012, an 79592
~~intermediate care facility for the mentally retarded~~ ICF/MR 79593
pursuant to a nursing home license issued under Chapter 3721. of 79594
the Revised Code shall do both of the following as a condition of 79595
continuing to operate the ~~facility~~ ICF/MR on and after July 1, 79596
2013: 79597

(1) Not later than February 1, 2013, apply to the director of 79598
developmental disabilities for a residential facility license 79599
under section 5123.19 of the Revised Code for the ~~facility~~ ICF/MR; 79600
79601

(2) Not later than July 1, 2013, obtain the residential 79602
facility license for the ~~facility~~ ICF/MR. 79603

(B) The nursing home license of an ~~intermediate care facility~~ 79604
~~for the mentally retarded~~ ICF/MR shall cease to be valid at the 79605
earliest of the following: 79606

(1) The date that the ~~facility's~~ ICF/MR's nursing home 79607
license is revoked or voided under section 3721.07 of the Revised 79608
Code; 79609

(2) The date that a residential facility license is obtained 79610
for the ~~facility~~ ICF/MR under section 5123.19 of the Revised Code; 79611

(3) July 1, 2013. 79612

(C) Except for existing nursing home beds not certified as 79613
~~intermediate care facility for the mentally retarded~~ ICF/MR beds 79614

and relocated in accordance with a move authorized by a 79615
certificate of need under Chapter 3702. of the Revised Code, no 79616
bed that is part of an ~~intermediate care facility for the mentally~~ 79617
~~retarded~~ ICF/MR that is licensed as a nursing home on ~~the~~ 79618
~~effective date of this section~~ September 10, 2012, may be used as 79619
part of a nursing home on and after the earlier of the following: 79620

(1) The date that a residential facility license is obtained 79621
for the ~~facility~~ ICF/MR under section 5123.19 of the Revised Code; 79622

(2) July 1, 2013. 79623

Sec. 5123.197. Neither an applicant for an initial 79624
residential facility license under section 5123.19 of the Revised 79625
Code nor an applicant for a modification of an existing 79626
residential facility license under that section is required to 79627
obtain approval of a plan for the proposed new residential 79628
facility or modification to the existing residential facility 79629
pursuant to section 5123.042 of the Revised Code if all of the 79630
following apply: 79631

(A) The new residential facility or modification to the 79632
existing residential facility is to serve individuals who have 79633
diagnoses or special care needs for which a medicaid ~~reimbursement~~ 79634
payment rate is set pursuant to section ~~5111.258~~ 5124.153 of the 79635
Revised Code; 79636

(B) The ~~directors of job and family services~~ medicaid 79637
director and director of developmental disabilities determine that 79638
there is a need under the medicaid program for the proposed new 79639
residential facility or modification to the existing residential 79640
facility and that approving the application for the initial 79641
residential facility license or modification to the existing 79642
residential facility license is fiscally prudent for the medicaid 79643
program; 79644

(C) The director of budget and management notifies the 79645
~~directors of job and family services~~ medicaid director and 79646
director of developmental disabilities that the director of budget 79647
and management agrees with the directors' determination under 79648
division (B) of this section. 79649

Sec. 5123.198. (A) As used in this section, "date of the 79650
commitment" means the date that an individual specified in 79651
division (B) of this section begins to reside in a state-operated 79652
~~intermediate care facility for the mentally retarded~~ ICF/MR after 79653
being committed to the ~~facility~~ ICF/MR pursuant to sections 79654
5123.71 to 5123.76 of the Revised Code. 79655

(B) Except as provided in division (C) of this section, 79656
whenever a resident of a residential facility is committed to a 79657
state-operated ~~intermediate care facility for the mentally~~ 79658
~~retarded~~ ICF/MR pursuant to sections 5123.71 to 5123.76 of the 79659
Revised Code, the department of developmental disabilities, 79660
pursuant to an adjudication order issued in accordance with 79661
Chapter 119. of the Revised Code, shall reduce by one the number 79662
of residents for which the residential facility in which the 79663
resident resided is licensed. 79664

(C) The department shall not reduce under division (B) of 79665
this section the number of residents for which a residential 79666
facility is licensed if any of the following are the case: 79667

(1) The resident of the residential facility who is committed 79668
to a state-operated ~~intermediate care facility for the mentally~~ 79669
~~retarded~~ ICF/MR resided in the residential facility because of the 79670
closure, on or after June 26, 2003, of another state-operated 79671
~~intermediate care facility for the mentally retarded~~ ICF/MR; 79672

(2) The residential facility admits within ninety days of the 79673
date of the commitment an individual who resides on the date of 79674
the commitment in a state-operated ~~intermediate care facility for~~ 79675

~~the mentally retarded ICF/MR~~ or another residential facility; 79676

(3) The department fails to do either of the following within 79677
ninety days of the date of the commitment: 79678

(a) Identify an individual to whom all of the following 79679
applies: 79680

(i) Resides on the date of the commitment in a state-operated 79681
~~intermediate care facility for the mentally retarded ICF/MR~~ or 79682
another residential facility; 79683

(ii) Has indicated to the department an interest in 79684
relocating to the residential facility or has a parent or guardian 79685
who has indicated to the department an interest for the individual 79686
to relocate to the residential facility; 79687

(iii) The department determines the individual has needs that 79688
the residential facility can meet. 79689

(b) Provide the residential facility with information about 79690
the individual identified under division (C)(2)(a) of this section 79691
that the residential facility needs in order to determine whether 79692
the facility can meet the individual's needs. 79693

(4) If the department completes the actions specified in 79694
divisions (C)(3)(a) and (b) of this section not later than ninety 79695
days after the date of the commitment and except as provided in 79696
division (D) of this section, the residential facility does all of 79697
the following not later than ninety days after the date of the 79698
commitment: 79699

(a) Evaluates the information provided by the department; 79700

(b) Assesses the identified individual's needs; 79701

(c) Determines that the residential facility cannot meet the 79702
identified individual's needs. 79703

(5) If the department completes the actions specified in 79704
divisions (C)(3)(a) and (b) of this section not later than ninety 79705

days after the date of the commitment and the residential facility 79706
determines that the residential facility can meet the identified 79707
individual's needs, the individual, or a parent or guardian of the 79708
individual, refuses placement in the residential facility. 79709

(D) The department may reduce under division (B) of this 79710
section the number of residents for which a residential facility 79711
is licensed even though the residential facility completes the 79712
actions specified in division (C)(4) of this section not later 79713
than ninety days after the date of the commitment if all of the 79714
following are the case: 79715

(1) The department disagrees with the residential facility's 79716
determination that the residential facility cannot meet the 79717
identified individual's needs. 79718

(2) The department issues a written decision pursuant to the 79719
uniform procedures for admissions, transfers, and discharges 79720
established by rules adopted under division (H)(9) of section 79721
5123.19 of the Revised Code that the residential facility should 79722
admit the identified individual. 79723

(3) After the department issues the written decision 79724
specified in division (D)(2) of this section, the residential 79725
facility refuses to admit the identified individual. 79726

(E) A residential facility that admits, refuses to admit, 79727
transfers, or discharges a resident under this section shall 79728
comply with the uniform procedures for admissions, transfers, and 79729
discharges established by rules adopted under division (H)(9) of 79730
section 5123.19 of the Revised Code. 79731

~~(F) The department of developmental disabilities may notify 79732
the department of job and family services of any reduction under 79733
this section in the number of residents for which a residential 79734
facility that is an intermediate care facility for the mentally 79735
retarded is licensed. On receiving the notice, the department of 79736~~

~~job and family services may transfer to the department of 79737
developmental disabilities the savings in the nonfederal share of 79738
medicaid expenditures for each fiscal year after the year of the 79739
commitment to be used for costs of the resident's care in the 79740
state-operated intermediate care facility for the mentally 79741
retarded. In determining the amount saved, the department of job 79742
and family services shall consider medicaid payments for the 79743
remaining residents of the facility in which the resident resided.~~ 79744

Sec. 5123.38. (A) Except as provided in division (B) of this 79745
section, if an individual receiving supported living or home and 79746
community-based services funded by a county board of developmental 79747
disabilities is committed to a state-operated ~~intermediate care~~ 79748
~~facility for the mentally retarded~~ ICF/MR pursuant to sections 79749
5123.71 to 5123.76 of the Revised Code, the county board is 79750
responsible for the nonfederal share of medicaid expenditures for 79751
the individual's care in the state-operated ~~facility~~ ICF/MR. The 79752
department of developmental disabilities shall collect the amount 79753
of the nonfederal share from the county board by either 79754
withholding that amount from funds the department has otherwise 79755
allocated to the county board or submitting an invoice for payment 79756
of that amount to the county board. 79757

(B) Division (A) of this section does not apply under any of 79758
the following circumstances: 79759

(1) The county board, not later than ninety days after the 79760
date of the commitment of a person receiving supported living, 79761
commences funding of supported living for an individual who 79762
resides in a state-operated ~~intermediate care facility for the~~ 79763
~~mentally retarded~~ ICF/MR on the date of the commitment or another 79764
eligible individual designated by the department. 79765

(2) The county board, not later than ninety days after the 79766
date of the commitment of a person receiving home and 79767

community-based services, commences funding of home and 79768
community-based services for an individual who resides in a 79769
state-operated ~~intermediate care facility for the mentally~~ 79770
~~retarded~~ ICF/MR on the date of the commitment or another eligible 79771
individual designated by the department. 79772

(3) The director of developmental disabilities, after 79773
determining that circumstances warrant granting a waiver in an 79774
individual's case, grants the county board a waiver that exempts 79775
the county board from responsibility for the nonfederal share for 79776
that case. 79777

Sec. 5123.61. (A) As used in this section: 79778

(1) "Law enforcement agency" means the state highway patrol, 79779
the police department of a municipal corporation, or a county 79780
sheriff. 79781

(2) "Abuse" has the same meaning as in section 5123.50 of the 79782
Revised Code, except that it includes a misappropriation, as 79783
defined in that section. 79784

(3) "Neglect" has the same meaning as in section 5123.50 of 79785
the Revised Code. 79786

(B) The department of developmental disabilities shall 79787
establish a registry office for the purpose of maintaining reports 79788
of abuse, neglect, and other major unusual incidents made to the 79789
department under this section and reports received from county 79790
boards of developmental disabilities under section 5126.31 of the 79791
Revised Code. The department shall establish committees to review 79792
reports of abuse, neglect, and other major unusual incidents. 79793

(C)(1) Any person listed in division (C)(2) of this section, 79794
having reason to believe that a person with mental retardation or 79795
a developmental disability has suffered or faces a substantial 79796
risk of suffering any wound, injury, disability, or condition of 79797

such a nature as to reasonably indicate abuse or neglect of that 79798
person, shall immediately report or cause reports to be made of 79799
such information to the entity specified in this division. Except 79800
as provided in section 5120.173 of the Revised Code or as 79801
otherwise provided in this division, the person making the report 79802
shall make it to a law enforcement agency or to the county board 79803
of developmental disabilities. If the report concerns a resident 79804
of a facility operated by the department of developmental 79805
disabilities the report shall be made either to a law enforcement 79806
agency or to the department. If the report concerns any act or 79807
omission of an employee of a county board of developmental 79808
disabilities, the report immediately shall be made to the 79809
department and to the county board. 79810

(2) All of the following persons are required to make a 79811
report under division (C)(1) of this section: 79812

(a) Any physician, including a hospital intern or resident, 79813
any dentist, podiatrist, chiropractor, practitioner of a limited 79814
branch of medicine as specified in section 4731.15 of the Revised 79815
Code, hospital administrator or employee of a hospital, nurse 79816
licensed under Chapter 4723. of the Revised Code, employee of an 79817
ambulatory health facility as defined in section 5101.61 of the 79818
Revised Code, employee of a home health agency, employee of a 79819
residential facility licensed under section ~~5119.22~~ 5119.34 of the 79820
Revised Code that provides accommodations, supervision, and person 79821
care services for three to sixteen unrelated adults, or employee 79822
of a community mental health facility; 79823

(b) Any school teacher or school authority, social worker, 79824
psychologist, attorney, peace officer, coroner, or residents' 79825
rights advocate as defined in section 3721.10 of the Revised Code; 79826

(c) A superintendent, board member, or employee of a county 79827
board of developmental disabilities; an administrator, board 79828
member, or employee of a residential facility licensed under 79829

section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A member of the clergy who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3)(a) The reporting requirements of this division do not apply to employees of the Ohio protection and advocacy system.

(b) An attorney or physician is not required to make a report pursuant to division (C)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division

(C)(1) of this section, if both of the following apply: 79862

(i) The client or patient, at the time of the communication, 79863
is a person with mental retardation or a developmental disability. 79864

(ii) The attorney or physician knows or suspects, as a result 79865
of the communication or any observations made during that 79866
communication, that the client or patient has suffered or faces a 79867
substantial risk of suffering any wound, injury, disability, or 79868
condition of a nature that reasonably indicates abuse or neglect 79869
of the client or patient. 79870

(4) Any person who fails to make a report required under 79871
division (C) of this section and who is an MR/DD employee, as 79872
defined in section 5123.50 of the Revised Code, shall be eligible 79873
to be included in the registry regarding misappropriation, abuse, 79874
neglect, or other specified misconduct by MR/DD employees 79875
established under section 5123.52 of the Revised Code. 79876

(D) The reports required under division (C) of this section 79877
shall be made forthwith by telephone or in person and shall be 79878
followed by a written report. The reports shall contain the 79879
following: 79880

(1) The names and addresses of the person with mental 79881
retardation or a developmental disability and the person's 79882
custodian, if known; 79883

(2) The age of the person with mental retardation or a 79884
developmental disability; 79885

(3) Any other information that would assist in the 79886
investigation of the report. 79887

(E) When a physician performing services as a member of the 79888
staff of a hospital or similar institution has reason to believe 79889
that a person with mental retardation or a developmental 79890
disability has suffered injury, abuse, or physical neglect, the 79891

physician shall notify the person in charge of the institution or 79892
that person's designated delegate, who shall make the necessary 79893
reports. 79894

(F) Any person having reasonable cause to believe that a 79895
person with mental retardation or a developmental disability has 79896
suffered or faces a substantial risk of suffering abuse or neglect 79897
may report or cause a report to be made of that belief to the 79898
entity specified in this division. Except as provided in section 79899
5120.173 of the Revised Code or as otherwise provided in this 79900
division, the person making the report shall make it to a law 79901
enforcement agency or the county board of developmental 79902
disabilities. If the person is a resident of a facility operated 79903
by the department of developmental disabilities, the report shall 79904
be made to a law enforcement agency or to the department. If the 79905
report concerns any act or omission of an employee of a county 79906
board of developmental disabilities, the report immediately shall 79907
be made to the department and to the county board. 79908

(G)(1) Upon the receipt of a report concerning the possible 79909
abuse or neglect of a person with mental retardation or a 79910
developmental disability, the law enforcement agency shall inform 79911
the county board of developmental disabilities or, if the person 79912
is a resident of a facility operated by the department of 79913
developmental disabilities, the director of the department or the 79914
director's designee. 79915

(2) On receipt of a report under this section that includes 79916
an allegation of action or inaction that may constitute a crime 79917
under federal law or the law of this state, the department of 79918
developmental disabilities shall notify the law enforcement 79919
agency. 79920

(3) When a county board of developmental disabilities 79921
receives a report under this section that includes an allegation 79922
of action or inaction that may constitute a crime under federal 79923

law or the law of this state, the superintendent of the board or 79924
an individual the superintendent designates under division (H) of 79925
this section shall notify the law enforcement agency. The 79926
superintendent or individual shall notify the department of 79927
developmental disabilities when it receives any report under this 79928
section. 79929

(4) When a county board of developmental disabilities 79930
receives a report under this section and believes that the degree 79931
of risk to the person is such that the report is an emergency, the 79932
superintendent of the board or an employee of the board the 79933
superintendent designates shall attempt a face-to-face contact 79934
with the person with mental retardation or a developmental 79935
disability who allegedly is the victim within one hour of the 79936
board's receipt of the report. 79937

(H) The superintendent of the board may designate an 79938
individual to be responsible for notifying the law enforcement 79939
agency and the department when the county board receives a report 79940
under this section. 79941

(I) An adult with mental retardation or a developmental 79942
disability about whom a report is made may be removed from the 79943
adult's place of residence only by law enforcement officers who 79944
consider that the adult's immediate removal is essential to 79945
protect the adult from further injury or abuse or in accordance 79946
with the order of a court made pursuant to section 5126.33 of the 79947
Revised Code. 79948

(J) A law enforcement agency shall investigate each report of 79949
abuse or neglect it receives under this section. In addition, the 79950
department, in cooperation with law enforcement officials, shall 79951
investigate each report regarding a resident of a facility 79952
operated by the department to determine the circumstances 79953
surrounding the injury, the cause of the injury, and the person 79954
responsible. The investigation shall be in accordance with the 79955

memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the department shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code and the law enforcement agency shall make the written report of its findings to the county board.

(K) Any person or any hospital, institution, school, health department, or agency participating in the making of reports pursuant to this section, any person participating as a witness in an administrative or judicial proceeding resulting from the reports, or any person or governmental entity that discharges responsibilities under sections 5126.31 to 5126.33 of the Revised Code shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions except liability for perjury, unless the person or governmental entity has acted in bad faith or with malicious purpose.

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work

performance evaluation, reduce pay or benefits, terminate work 79988
privileges, or take any other action detrimental to an employee or 79989
retaliate against an employee as a result of the employee's having 79990
made a report under this section. This division does not preclude 79991
an employer or person with authority from taking action with 79992
regard to an employee who has made a report under this section if 79993
there is another reasonable basis for the action. 79994

(M) Reports made under this section are not public records as 79995
defined in section 149.43 of the Revised Code. Information 79996
contained in the reports on request shall be made available to the 79997
person who is the subject of the report, to the person's legal 79998
counsel, and to agencies authorized to receive information in the 79999
report by the department or by a county board of developmental 80000
disabilities. 80001

(N) Notwithstanding section 4731.22 of the Revised Code, the 80002
physician-patient privilege shall not be a ground for excluding 80003
evidence regarding the injuries or physical neglect of a person 80004
with mental retardation or a developmental disability or the cause 80005
thereof in any judicial proceeding resulting from a report 80006
submitted pursuant to this section. 80007

Sec. 5123.86. (A) Except as provided in divisions (C), (D), 80008
(E), and (F) of this section, the chief medical officer shall 80009
provide all information, including expected physical and medical 80010
consequences, necessary to enable any resident of an institution 80011
for the mentally retarded to give a fully informed, intelligent, 80012
and knowing consent if any of the following procedures are 80013
proposed: 80014

(1) Surgery; 80015

(2) Convulsive therapy; 80016

(3) Major aversive interventions; 80017

(4) Sterilization; 80018

(5) Experimental procedures; 80019

(6) Any unusual or hazardous treatment procedures. 80020

(B) No resident shall be subjected to any of the procedures 80021
listed in division (A)(4), (5), or (6) of this section without the 80022
resident's informed consent. 80023

(C) If a resident is physically or mentally unable to receive 80024
the information required for surgery under division (A)(1) of this 80025
section, or has been adjudicated incompetent, the information may 80026
be provided to the resident's natural or court-appointed guardian, 80027
including an agency providing guardianship services under contract 80028
with the department of developmental disabilities under sections 80029
5123.55 to 5123.59 of the Revised Code, who may give the informed, 80030
intelligent, and knowing written consent for surgery. Consent for 80031
surgery shall not be provided by a guardian who is an officer or 80032
employee of the department of ~~mental health~~ mental health and 80033
addiction services or the department of developmental 80034
disabilities. 80035

If a resident is physically or mentally unable to receive the 80036
information required for surgery under division (A)(1) of this 80037
section and has no guardian, then the information, the 80038
recommendation of the chief medical officer, and the concurring 80039
judgment of a licensed physician who is not a full-time employee 80040
of the state may be provided to the court in the county in which 80041
the institution is located, which may approve the surgery. Before 80042
approving the surgery, the court shall notify the Ohio protection 80043
and advocacy system created by section 5123.60 of the Revised 80044
Code, and shall notify the resident of the resident's rights to 80045
consult with counsel, to have counsel appointed by the court if 80046
the resident is indigent, and to contest the recommendation of the 80047
chief medical officer. 80048

(D) If, in the judgment of two licensed physicians, delay in 80049
obtaining consent for surgery would create a grave danger to the 80050
health of a resident, emergency surgery may be performed without 80051
the consent of the resident if the necessary information is 80052
provided to the resident's guardian, including an agency providing 80053
guardianship services under contract with the department of 80054
developmental disabilities under sections 5123.55 to 5123.59 of 80055
the Revised Code, or to the resident's spouse or next of kin to 80056
enable that person or agency to give an informed, intelligent, and 80057
knowing written consent. 80058

If the guardian, spouse, or next of kin cannot be contacted 80059
through exercise of reasonable diligence, or if the guardian, 80060
spouse, or next of kin is contacted, but refuses to consent, then 80061
the emergency surgery may be performed upon the written 80062
authorization of the chief medical officer and after court 80063
approval has been obtained. However, if delay in obtaining court 80064
approval would create a grave danger to the life of the resident, 80065
the chief medical officer may authorize surgery, in writing, 80066
without court approval. If the surgery is authorized without court 80067
approval, the chief medical officer who made the authorization and 80068
the physician who performed the surgery shall each execute an 80069
affidavit describing the circumstances constituting the emergency 80070
and warranting the surgery and the circumstances warranting their 80071
not obtaining prior court approval. The affidavit shall be filed 80072
with the court with which the request for prior approval would 80073
have been filed within five court days after the surgery, and a 80074
copy of the affidavit shall be placed in the resident's file and 80075
shall be given to the guardian, spouse, or next of kin of the 80076
resident, to the hospital at which the surgery was performed, and 80077
to the Ohio protection and advocacy system created by section 80078
5123.60 of the Revised Code. 80079

(E)(1) If it is the judgment of two licensed physicians, as 80080

described in division (E)(2) of this section, that a medical 80081
emergency exists and delay in obtaining convulsive therapy creates 80082
a grave danger to the life of a resident who is both mentally 80083
retarded and mentally ill, convulsive therapy may be administered 80084
without the consent of the resident if the resident is physically 80085
or mentally unable to receive the information required for 80086
convulsive therapy and if the necessary information is provided to 80087
the resident's natural or court-appointed guardian, including an 80088
agency providing guardianship services under contract with the 80089
department of developmental disabilities under sections 5123.55 to 80090
5123.59 of the Revised Code, or to the resident's spouse or next 80091
of kin to enable that person or agency to give an informed, 80092
intelligent, and knowing written consent. If neither the 80093
resident's guardian, spouse, nor next of kin can be contacted 80094
through exercise of reasonable diligence, or if the guardian, 80095
spouse, or next of kin is contacted, but refuses to consent, then 80096
convulsive therapy may be performed upon the written authorization 80097
of the chief medical officer and after court approval has been 80098
obtained. 80099

(2) The two licensed physicians referred to in division 80100
(E)(1) of this section shall not be associated with each other in 80101
the practice of medicine or surgery by means of a partnership or 80102
corporate arrangement, other business arrangement, or employment. 80103
At least one of the physicians shall be a psychiatrist as defined 80104
in division (E) of section 5122.01 of the Revised Code. 80105

(F) Major aversive interventions shall not be used unless a 80106
resident continues to engage in behavior destructive to self or 80107
others after other forms of therapy have been attempted. Major 80108
aversive interventions shall not be applied to a voluntary 80109
resident without the informed, intelligent, and knowing written 80110
consent of the resident or the resident's guardian, including an 80111
agency providing guardianship services under contract with the 80112

department of developmental disabilities under sections 5123.55 to 80113
5123.59 of the Revised Code. 80114

(G)(1) This chapter does not authorize any form of compulsory 80115
medical or psychiatric treatment of any resident who is being 80116
treated by spiritual means through prayer alone in accordance with 80117
a recognized religious method of healing. 80118

(2) For purposes of this section, "convulsive therapy" does 80119
not include defibrillation. 80120

Sec. 5124.01. As used in this chapter: 80121

(A) "Affiliated operator" means an operator affiliated with 80122
either of the following: 80123

(1) The exiting operator for whom the affiliated operator is 80124
to assume liability for the entire amount of the exiting 80125
operator's debt under the medicaid program or the portion of the 80126
debt that represents the franchise permit fee the exiting operator 80127
owes; 80128

(2) The entering operator involved in the change of operator 80129
with the exiting operator specified in division (A)(1) of this 80130
section. 80131

(B) "Allowable costs" means an ICF/MR's costs that the 80132
department of developmental disabilities determines are 80133
reasonable. Fines paid under section 5124.99 of the Revised Code 80134
are not allowable costs. 80135

(C) "Capital costs" means an ICF/MR's costs of ownership and 80136
costs of nonextensive renovation. 80137

(D) "Case-mix score" means the measure determined under 80138
section 5124.192 of the Revised Code of the relative direct-care 80139
resources needed to provide care and habilitation to an ICF/MR 80140
resident. 80141

(E) "Change of operator" means an entering operator becoming the operator of an ICF/MR in the place of the exiting operator. 80142
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(1) Actions that constitute a change of operator include the following: 80144
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(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship; 80146
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(b) A transfer of all the exiting operator's ownership interest in the operation of the ICF/MR to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the ICF/MR is also transferred; 80149
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(c) A lease of the ICF/MR to the entering operator or the exiting operator's termination of the exiting operator's lease; 80154
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(d) If the exiting operator is a partnership, dissolution of the partnership; 80156
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(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: 80158
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(i) The change in composition does not cause the partnership's dissolution under state law. 80160
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(ii) The partners agree that the change in composition does not constitute a change in operator. 80162
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(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation. 80164
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(2) The following, alone, do not constitute a change of operator: 80168
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(a) A contract for an entity to manage an ICF/MR as the operator's agent, subject to the operator's approval of daily 80170
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<u>operating and management decisions;</u>	80172
<u>(b) A change of ownership, lease, or termination of a lease</u>	80173
<u>of real property or personal property associated with an ICF/MR if</u>	80174
<u>an entering operator does not become the operator in place of an</u>	80175
<u>exiting operator;</u>	80176
<u>(c) If the operator is a corporation, a change of one or more</u>	80177
<u>members of the corporation's governing body or transfer of</u>	80178
<u>ownership of one or more shares of the corporation's stock, if the</u>	80179
<u>same corporation continues to be the operator.</u>	80180
<u>(F) "Cost center" means the following:</u>	80181
<u>(1) Capital costs;</u>	80182
<u>(2) Direct care costs;</u>	80183
<u>(3) Indirect care costs;</u>	80184
<u>(4) Other protected costs.</u>	80185
<u>(G) "Costs of nonextensive renovations" means the actual</u>	80186
<u>expense incurred by an ICF/MR for depreciation or amortization and</u>	80187
<u>interest on renovations that are not extensive renovations.</u>	80188
<u>(H)(1) "Costs of ownership" means the actual expenses</u>	80189
<u>incurred by an ICF/MR for all of the following:</u>	80190
<u>(a) Subject to division (H)(2) of this section, depreciation</u>	80191
<u>and interest on any capital assets that cost five hundred dollars</u>	80192
<u>or more per item, including the following:</u>	80193
<u>(i) Buildings;</u>	80194
<u>(ii) Building improvements that are not approved as</u>	80195
<u>nonextensive renovations under section 5124.17 of the Revised</u>	80196
<u>Code;</u>	80197
<u>(iii) Equipment;</u>	80198
<u>(iv) Extensive renovations;</u>	80199

<u>(v) Transportation equipment.</u>	80200
<u>(b) Amortization and interest on land improvements and leasehold improvements;</u>	80201 80202
<u>(c) Amortization of financing costs;</u>	80203
<u>(d) Except as provided in division (Z) of this section, lease and rent of land, building, and equipment.</u>	80204 80205
<u>(2) The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with an ICF/MR provider's practice.</u>	80206 80207 80208
<u>(I)(1) "Date of licensure" means the following:</u>	80209
<u>(a) In the case of an ICF/MR that was originally licensed as a nursing home under Chapter 3721. of the Revised Code, the date that it was originally so licensed, regardless that it was subsequently licensed as a residential facility under section 5123.19 of the Revised Code;</u>	80210 80211 80212 80213 80214
<u>(b) In the case of an ICF/MR that was originally licensed as a residential facility under section 5123.19 of the Revised Code, the date it was originally so licensed;</u>	80215 80216 80217
<u>(c) In the case of an ICF/MR that was not required by law to be licensed as a nursing home or residential facility when it was originally operated as a residential facility, the date it first was operated as a residential facility, regardless of the date the ICF/MR was first licensed as a nursing home or residential facility.</u>	80218 80219 80220 80221 80222 80223
<u>(2) If, after an ICF/MR's original date of licensure, more residential facility beds are added to the ICF/MR or all or part of the ICF/MR undergoes an extensive renovation, the ICF/MR has a different date of licensure for the additional beds or extensively renovated portion of the ICF/MR. This does not apply, however, to additional beds when both of the following apply:</u>	80224 80225 80226 80227 80228 80229

(a) The additional beds are located in a part of the ICF/MR that was constructed at the same time as the continuing beds already located in that part of the ICF/MR; 80230
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(b) The part of the ICF/MR in which the additional beds are located was constructed as part of the ICF/MR at a time when the ICF/MR was not required by law to be licensed as a nursing home or residential facility. 80233
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(3) The definition of "date of licensure" in this section applies in determinations of ICFs/MR's medicaid payment rates but does not apply in determinations of ICFs/MR's franchise permit fees under sections 5168.60 to 5168.71 of the Revised Code. 80237
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(J) "Desk-reviewed" means that an ICF/MR's costs as reported on a cost report filed under section 5124.10 or 5124.101 of the Revised Code have been subjected to a desk review under section 5124.108 of the Revised Code and preliminarily determined to be allowable costs. 80241
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(K) "Developmental center" means a residential facility that is maintained and operated by the department of developmental disabilities. 80246
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(L) "Direct care costs" means all of the following costs incurred by an ICF/MR: 80249
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(1) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the ICF/MR; 80251
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(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified intellectual disability professionals, program directors, social services staff, activities staff, off-site day programming, psychologists, psychology assistants, social workers, counselors, 80253
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<u>and other persons holding degrees qualifying them to provide</u>	80261
<u>therapy;</u>	80262
<u>(3) Costs of purchased nursing services;</u>	80263
<u>(4) Costs of training and staff development, employee</u>	80264
<u>benefits, payroll taxes, and workers' compensation premiums or</u>	80265
<u>costs for self-insurance claims and related costs as specified in</u>	80266
<u>rules adopted under section 5124.03 of the Revised Code, for</u>	80267
<u>personnel listed in divisions (L)(1), (2), and (3) of this</u>	80268
<u>section;</u>	80269
<u>(5) Costs of quality assurance;</u>	80270
<u>(6) Costs of consulting and management fees related to direct</u>	80271
<u>care;</u>	80272
<u>(7) Allocated direct care home office costs;</u>	80273
<u>(8) Costs of other direct-care resources that are specified</u>	80274
<u>as direct care costs in rules adopted under section 5124.03 of the</u>	80275
<u>Revised Code.</u>	80276
<u>(M) "Downsized ICF/MR" means an ICF/MR that permanently</u>	80277
<u>reduced its medicaid-certified capacity pursuant to a plan</u>	80278
<u>approved by the department of developmental disabilities under</u>	80279
<u>section 5123.042 of the Revised Code.</u>	80280
<u>(N) "Effective date of a change of operator" means the day</u>	80281
<u>the entering operator becomes the operator of the ICF/MR.</u>	80282
<u>(O) "Effective date of a facility closure" means the last day</u>	80283
<u>that the last of the residents of the ICF/MR resides in the</u>	80284
<u>ICF/MR.</u>	80285
<u>(P) "Effective date of an involuntary termination" means the</u>	80286
<u>date the department of medicaid terminates the operator's provider</u>	80287
<u>agreement for the ICF/MR or the last day that such a provider</u>	80288
<u>agreement is in effect when the department cancels or refuses to</u>	80289
<u>revalidate it.</u>	80290

(Q) "Effective date of a voluntary termination" means the day 80291
the ICF/MR ceases to accept medicaid recipients. 80292

(R) "Entering operator" means the person or government entity 80293
that will become the operator of an ICF/MR when a change of 80294
operator occurs or following an involuntary termination. 80295

(S) "Exiting operator" means any of the following: 80296

(1) An operator that will cease to be the operator of an 80297
ICF/MR on the effective date of a change of operator; 80298

(2) An operator that will cease to be the operator of an 80299
ICF/MR on the effective date of a facility closure; 80300

(3) An operator of an ICF/MR that is undergoing or has 80301
undergone a voluntary termination; 80302

(4) An operator of an ICF/MR that is undergoing or has 80303
undergone an involuntary termination. 80304

(T)(1) "Extensive renovation" means the following: 80305

(a) An ICF/MR's betterment, improvement, or restoration to 80306
which both of the following apply: 80307

(i) It was started before July 1, 1993; 80308

(ii) It meets the definition of "extensive renovation" 80309
established in rules that were adopted by the director of job and 80310
family services and in effect on December 22, 1992. 80311

(b) An ICF/MR's betterment, improvement, or restoration to 80312
which all of the following apply: 80313

(i) It was started on or after July 1, 1993; 80314

(ii) Except as provided in division (T)(2) of this section, 80315
it costs more than sixty-five per cent and not more than 80316
eighty-five per cent of the cost of constructing a new bed; 80317

(iii) It extends the useful life of the assets for at least 80318
ten years. 80319

(2) The department of developmental disabilities may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds. 80320
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(3) For the purpose of division (T)(1)(b)(ii) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the extensive renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics. 80325
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(U)(1) Subject to divisions (U)(2) and (3) of this section, "facility closure" means either of the following: 80333
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(a) Discontinuance of the use of the building, or part of the building, that houses the facility as an ICF/MR that results in the relocation of all of the facility's residents; 80335
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(b) Conversion of the building, or part of the building, that houses an ICF/MR to a different use with any necessary license or other approval needed for that use being obtained and one or more of the facility's residents remaining in the facility to receive services under the new use. 80338
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(2) A facility closure occurs regardless of any of the following: 80343
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(a) The operator completely or partially replacing the ICF/MR by constructing a new ICF/MR or transferring the ICF/MR's license to another ICF/MR; 80345
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(b) The ICF/MR's residents relocating to another of the operator's ICFs/MR; 80348
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(c) Any action the department of health takes regarding the ICF/MR's medicaid certification that may result in the transfer of part of the ICF/MR's survey findings to another of the operator's ICFs/MR; 80350
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(d) Any action the department of developmental disabilities takes regarding the ICF/MR's license under section 5123.19 of the Revised Code. 80354
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(3) A facility closure does not occur if all of the ICF/MR's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the ICF/MR not later than thirty days after the evacuation occurs. 80357
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(V) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code. 80361
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(W) "Franchise permit fee" means the fee imposed by sections 5168.60 to 5168.71 of the Revised Code. 80363
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(X) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code. 80365
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(Y) "ICF/MR services" means ICF/IID services as defined in 42 C.F.R. 440.150. 80367
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(Z)(1) "Indirect care costs" means all reasonable costs incurred by an ICF/MR other than capital costs, direct care costs, and other protected costs. "Indirect care costs" includes costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repair expenses, help-wanted advertising, informational advertising, start-up 80369
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costs, organizational expenses, other interest, property 80381
insurance, employee training and staff development, employee 80382
benefits, payroll taxes, and workers' compensation premiums or 80383
costs for self-insurance claims and related costs, as specified in 80384
rules adopted under section 5124.03 of the Revised Code, for 80385
personnel listed in this division. Notwithstanding division (H) of 80386
this section, "indirect care costs" also means the cost of 80387
equipment, including vehicles, acquired by operating lease 80388
executed before December 1, 1992, if the costs are reported as 80389
administrative and general costs on the ICF/MR's cost report for 80390
the cost reporting period ending December 31, 1992. 80391

(2) For the purpose of division (Z)(1) of this section, an 80392
operating lease shall be construed in accordance with generally 80393
accepted accounting principles. 80394

(AA) "Inpatient days" means both of the following: 80395

(1) All days during which a resident, regardless of payment 80396
source, occupies a bed in an ICF/MR that is included in the 80397
ICF/MR's medicaid-certified capacity; 80398

(2) All days for which payment is made under section 5124.34 80399
of the Revised Code. 80400

(BB) "Intermediate care facility for the mentally retarded" 80401
and "ICF/MR" mean an intermediate care facility for the mentally 80402
retarded as defined in the "Social Security Act," section 1905(d), 80403
42 U.S.C. 1396d(d). 80404

(CC) "Involuntary termination" means the department of 80405
medicaid's termination of, cancellation of, or refusal to 80406
revalidate the operator's provider agreement for the ICF/MR when 80407
such action is not taken at the operator's request. 80408

(DD) "Low resource utilization resident" means a medicaid 80409
recipient residing in an ICF/MR who is placed in the typical 80410
adaptive needs and nonsignificant behaviors classification 80411

pursuant to the resident assessment instrument and grouper methodology established in rules authorized by sections 5124.191 and 5124.192 of the Revised Code. 80412
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(EE) "Maintenance and repair expenses" means, except as provided in division (UU)(2)(b) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes the costs of ordinary repairs such as painting and wallpapering. 80415
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(FF) "Medicaid-certified capacity" means the number of an ICF/MR's beds that are certified for participation in medicaid as ICF/IID beds. 80422
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(GG) "Medicaid days" means both of the following: 80425

(1) All days during which a resident who is a medicaid recipient eligible for ICF/MR services occupies a bed in an ICF/MR that is included in the ICF/MR's medicaid-certified capacity; 80426
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(2) All days for which payment is made under section 5124.34 of the Revised Code. 80429
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(HH)(1) "New ICF/MR" means an ICF/MR for which the provider obtains an initial provider agreement following the director of health's medicaid certification of the ICF/MR, including such an ICF/MR that replaces one or more ICFs/MR for which a provider previously held a provider agreement. 80431
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(2) "New ICF/MR" does not mean either of the following: 80436

(a) An ICF/MR for which the entering operator seeks a provider agreement pursuant to section 5124.511 or 5124.512 or (pursuant to section 5124.515) section 5124.07 of the Revised Code; 80437
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(b) A downsized ICF/MR or partially converted ICF/MR. 80441

<u>(II) "Nursing home" has the same meaning as in section</u>	80442
<u>3721.01 of the Revised Code.</u>	80443
<u>(JJ) "Operator" means the person or government entity</u>	80444
<u>responsible for the daily operating and management decisions for</u>	80445
<u>an ICF/MR.</u>	80446
<u>(KK) "Other protected costs" means costs incurred by an</u>	80447
<u>ICF/MR for medical supplies; real estate, franchise, and property</u>	80448
<u>taxes; natural gas, fuel oil, water, electricity, sewage, and</u>	80449
<u>refuse and hazardous medical waste collection; allocated other</u>	80450
<u>protected home office costs; and any additional costs defined as</u>	80451
<u>other protected costs in rules adopted under section 5124.03 of</u>	80452
<u>the Revised Code.</u>	80453
<u>(LL)(1) "Owner" means any person or government entity that</u>	80454
<u>has at least five per cent ownership or interest, either directly,</u>	80455
<u>indirectly, or in any combination, in any of the following</u>	80456
<u>regarding an ICF/MR:</u>	80457
<u>(a) The land on which the ICF/MR is located;</u>	80458
<u>(b) The structure in which the ICF/MR is located;</u>	80459
<u>(c) Any mortgage, contract for deed, or other obligation</u>	80460
<u>secured in whole or in part by the land or structure on or in</u>	80461
<u>which the ICF/MR is located;</u>	80462
<u>(d) Any lease or sublease of the land or structure on or in</u>	80463
<u>which the ICF/MR is located.</u>	80464
<u>(2) "Owner" does not mean a holder of a debenture or bond</u>	80465
<u>related to an ICF/MR and purchased at public issue or a regulated</u>	80466
<u>lender that has made a loan related to the ICF/MR unless the</u>	80467
<u>holder or lender operates the ICF/MR directly or through a</u>	80468
<u>subsidiary.</u>	80469
<u>(MM) "Partially converted ICF/MR" means an ICF/MR that</u>	80470
<u>converted some, but not all, of its beds to providing home and</u>	80471

community-based services under the individual options waiver 80472
pursuant to section 5124.60 of the Revised Code. 80473

(NN)(1) Except as provided in divisions (NN)(2) and (3) of 80474
this section, "per diem" means an ICF/MR's desk-reviewed, actual, 80475
allowable costs in a given cost center in a cost reporting period, 80476
divided by the facility's inpatient days for that cost reporting 80477
period. 80478

(2) When determining capital costs for the purpose of section 80479
5124.17 of the Revised Code, "per diem" means an ICF/MR's actual, 80480
allowable capital costs in a cost-reporting period divided by the 80481
greater of the facility's inpatient days for that period or the 80482
number of inpatient days the ICF/MR would have had during that 80483
period if its occupancy rate had been ninety-five per cent. 80484

(3) When determining indirect care costs for the purpose of 80485
section 5124.21 of the Revised Code, "per diem" means an ICF/MR's 80486
actual, allowable indirect care costs in a cost-reporting period 80487
divided by the greater of the ICF/MR's inpatient days for that 80488
period or the number of inpatient days the ICF/MR would have had 80489
during that period if its occupancy rate had been eighty-five per 80490
cent. 80491

(OO) "Provider" means an operator with a valid provider 80492
agreement. 80493

(PP) "Provider agreement" means a provider agreement, as 80494
defined in section 5164.01 of the Revised Code, that is between 80495
the department of medicaid and the operator of an ICF/MR for the 80496
provision of ICF/MR services under the medicaid program. 80497

(OO) "Purchased nursing services" means services that are 80498
provided in an ICF/MR by registered nurses, licensed practical 80499
nurses, or nurse aides who are not employees of the ICF/MR. 80500

(RR) "Reasonable" means that a cost is an actual cost that is 80501
appropriate and helpful to develop and maintain the operation of 80502

resident care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider. 80503
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(SS) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, a provider. 80507
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(1) An individual who is a relative of an owner is a related party. 80511
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(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property. 80513
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(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization. 80522
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(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met: 80525
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(a) The supplier is a separate bona fide organization. 80528

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes. 80529
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(c) The types of goods or services are commonly obtained by other ICFs/MR from outside organizations and are not a basic element of resident care ordinarily furnished directly to residents by the ICFs/MR. 80533
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(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier. 80537
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(TT) "Relative of owner" means an individual who is related to an owner of an ICF/MR by one of the following relationships: 80541
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(1) Spouse; 80543

(2) Natural parent, child, or sibling; 80544

(3) Adopted parent, child, or sibling; 80545

(4) Stepparent, stepchild, stepbrother, or stepsister; 80546

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; 80547
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(6) Grandparent or grandchild; 80549

(7) Foster caregiver, foster child, foster brother, or foster sister. 80550
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(UU)(1) "Renovation" means the following: 80552

(a) An ICF/MR's betterment, improvement, or restoration to which both of the following apply: 80553
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(i) It was started before July 1, 1993; 80555

(ii) It meets the definition of "renovation" established in rules that were adopted by the director of job and family services and in effect on December 22, 1992. 80556
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(b) An ICF/MR's betterment, improvement, or restoration to which both of the following apply: 80559
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<u>(i) It was started on or after July 1, 1993;</u>	80561
<u>(ii) It betters, improves, or restores the ICF/MR beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed.</u>	80562 80563 80564
<u>(2) A renovation started on or after July 1, 1993, may include both of the following:</u>	80565 80566
<u>(a) A betterment, improvement, restoration, or replacement of assets that are affixed to a building and have a useful life of at least five years;</u>	80567 80568 80569
<u>(b) Costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project.</u>	80570 80571 80572
<u>(3) "Renovation" does not mean construction of additional space for beds that will be added to an ICF/MR's licensed capacity or medicaid-certified capacity.</u>	80573 80574 80575
<u>(VV) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code.</u>	80576 80577
<u>(WW) "Sponsor" means an adult relative, friend, or guardian of an ICF/MR resident who has an interest or responsibility in the resident's welfare.</u>	80578 80579 80580
<u>(XX) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396, et seq.</u>	80581 80582
<u>(YY) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395, et seq.</u>	80583 80584
<u>(ZZ) "Voluntary termination" means an operator's voluntary election to terminate the participation of an ICF/MR in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.</u>	80585 80586 80587 80588 80589

~~Sec. 5111.226 5124.02.~~ Subject, if needed, to the approval of 80590
the United States secretary of health and human services, the The 80591
department of ~~job and family services~~ medicaid shall enter into a 80592
contract with the department of developmental disabilities under 80593
section ~~5111.91~~ 5162.35 of the Revised Code that provides for the 80594
department of developmental disabilities to assume the powers and 80595
duties of the department of ~~job and family services~~ medicaid with 80596
regard to the medicaid program's coverage of ICF/MR services 80597
~~provided by intermediate care facilities for the mentally~~ 80598
~~retarded.~~ The contract shall include a schedule for the assumption 80599
of the powers and duties. Except as otherwise authorized by the 80600
United States secretary of health and human services, no provision 80601
of the contract may violate a federal law or regulation governing 80602
the medicaid program. ~~Once the contract goes into effect, all~~ 80603
~~references to the department of job and family services, and all~~ 80604
~~references to the director of job and family services, with regard~~ 80605
~~to intermediate care facilities for the mentally retarded that are~~ 80606
~~in law enacted by the general assembly shall be deemed to be~~ 80607
~~references to the department of developmental disabilities and~~ 80608
~~director of developmental disabilities, respectively, to the~~ 80609
~~extent necessary to implement the terms of the contract.~~ 80610

Sec. 5124.03. To the extent authorized by rules authorized by 80612
section 5162.021 of the Revised Code, the director of 80613
developmental disabilities shall adopt rules in accordance with 80614
Chapter 119. of the Revised Code as necessary to implement this 80615
chapter. 80616

Sec. 5124.05. The medicaid program shall cover ICF/MR 80617
services when all of the following apply: 80618

(A) The ICF/MR services are provided to a medicaid recipient 80619

eligible for the services. 80620

(B) The ICF/MR services are provided by an ICF/MR for which the provider has a valid provider agreement. 80621
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(C) Federal financial participation is available for the ICF/MR services. 80623
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Sec. 5124.06. (A) Subject to section 5124.072 of the Revised Code, an ICF/MR operator is eligible to enter into a provider agreement for an ICF/MR if all of the following apply: 80625
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(1) The ICF/MR is certified by the director of health for participation in medicaid; 80628
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(2) The ICF/MR is licensed by the director of developmental disabilities as a residential facility; 80630
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(3) Subject to division (B) of this section, the operator and ICF/MR comply with all applicable state and federal statutes and rules. 80632
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(B) A state rule that requires an ICF/MR operator to have received approval of a plan for the proposed ICF/MR pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible to receive medicaid payments for ICF/MR services the ICF/MR provides does not apply if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the ICF/MR without obtaining approval of such a plan. 80635
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Sec. 5124.07. (A) Except as provided in section 5124.072 of the Revised Code, the department of medicaid shall enter into a provider agreement with an ICF/MR operator who applies, and is eligible, for the provider agreement. 80644
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(B) A provider agreement shall require the department of 80648

developmental disabilities, pursuant to its agreement with the 80649
department of medicaid under section 5124.02 of the Revised Code, 80650
to make medicaid payments to the provider in accordance with this 80651
chapter for ICF/MR services the ICF/MR provides to its residents 80652
who are medicaid recipients eligible for ICF/MR services. 80653

(C) A provider agreement shall require the provider to do all 80654
of the following: 80655

(1) Maintain eligibility for the provider agreement as 80656
provided in section 5124.06 of the Revised Code; 80657

(2) Keep records relating to a cost reporting period for the 80658
greater of seven years after the cost report is filed or, if the 80659
department of developmental disabilities issues an audit report in 80660
accordance with section 5124.109 of the Revised Code, six years 80661
after all appeal rights relating to the audit report are 80662
exhausted; 80663

(3) File reports as the department of developmental 80664
disabilities requires; 80665

(4) Open all records relating to the costs of the ICF/MR's 80666
services for inspection and audit by the department of 80667
developmental disabilities; 80668

(5) Open its premises for inspection by the department of 80669
developmental disabilities, department of health, and any other 80670
state or local authority having authority to inspect; 80671

(6) Supply to the department of developmental disabilities 80672
such information as it requires concerning the ICF/MR's services 80673
to residents who are, or are eligible to be, medicaid recipients; 80674

(7) Comply with section 5124.08 of the Revised Code. 80675

(D) A provider agreement may contain other provisions that 80676
are consistent with law and considered necessary by the department 80677
of medicaid or the department of developmental disabilities. 80678

Sec. 5124.071. An ICF/MR operator may enter into provider agreements for more than one ICF/MR. 80679
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Sec. 5124.072. The department of medicaid, in accordance with rules adopted under section 5165.02 of the Revised Code, may elect not to enter into, not to revalidate, or to terminate an ICF/MR provider agreement when the department determines that such an agreement would not be in the best interests of medicaid recipients or the state. The department shall not revalidate an ICF/MR provider agreement if the provider fails to maintain eligibility for the provider agreement as provided in section 5124.06 of the Revised Code. 80681
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Sec. 5124.08. (A) Every provider agreement with an ICF/MR provider shall do both of the following: 80690
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(1) Except as provided by division (B) of this section, include any part of the ICF/MR that meets federal and state standards for medicaid certification; 80692
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(2) Prohibit the provider from doing either of the following: 80695

(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin; 80696
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(b) Subject to division (D) of this section, failing or refusing to do either of the following: 80698
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(i) Admit as a resident of the ICF/MR an individual because the individual is, or may (as a resident of the ICF/MR) become, a medicaid recipient if less than eighty per cent of the ICF/MR's residents are medicaid recipients; 80700
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(ii) Retain as a resident of the ICF/MR an individual because the individual is, or may (as a resident of the ICF/MR) become, a medicaid recipient. 80704
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(B) Unless otherwise required by federal law, an ICF/MR bed is not required to be included in a provider agreement if the bed is designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5166.20 of the Revised Code. 80707
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(C) For the purpose of division (A)(2)(b)(ii) of this section, a medicaid recipient who is a resident of an ICF/MR shall be considered a resident of the ICF/MR during any hospital stays totaling less than twenty-five days during any twelve-month period. A medicaid recipient identified by the department of developmental disabilities or its designee as requiring the level of care of an ICF/MR shall not be subject to a maximum period of absences during which the recipient is considered to be an ICF/MR resident if prior authorization of the department for visits with relatives and friends and participation in therapeutic programs is obtained in accordance with rules adopted under section 5124.03 of the Revised Code. 80712
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(D) Nothing in this section shall bar a provider from doing any of the following: 80724
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(1) If the provider is a religious organization operating a religious or denominational ICF/MR, giving preference to persons of the same religion or denomination; 80726
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(2) Giving preference to persons with whom the provider has contracted to provide continuing care; 80729
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(3) Retaining residents who have resided in the provider's ICF/MR for not less than one year as private pay residents and who subsequently become medicaid recipients but refusing to admit as a resident an individual who is, or may (as a resident of the ICF/MR) become, a medicaid recipient, if all of the following apply: 80731
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(a) The provider does not refuse to retain a resident who has 80737

resided in the provider's ICF/MR for not less than one year as a private pay resident because the resident becomes a medicaid recipient, except as necessary to comply with division (D)(3)(b) of this section. 80738
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(b) The number of medicaid recipients retained under division (D)(3) of this section does not at any time exceed ten per cent of all the ICF/MR's residents. 80742
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(c) On July 1, 1980, all the ICF/MR's residents were private pay residents. 80745
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(E) No provider shall violate the provider agreement obligations imposed by this section. 80747
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Sec. 5124.081. An ICF/MR resident has a cause of action against the provider of the ICF/MR for breach of the provider agreement obligations or other duties imposed by section 5124.08 of the Revised Code. The action may be commenced by the resident, or on the resident's behalf by the resident's sponsor, by the filing of a civil action in the court of common pleas of the county in which the ICF/MR is located or in the court of common pleas of Franklin county. 80749
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If a court of common pleas finds that a provider has breached a provider agreement obligation or other duty imposed by section 5124.08 of the Revised Code, the court may do one or more of the following: 80757
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(A) Enjoin the provider from engaging in the practice; 80761

(B) Order such affirmative relief as may be necessary; 80762

(C) Award to a resident and a sponsor that brings the action on behalf of a resident actual damages, costs, and reasonable attorney's fees. 80763
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Sec. 5124.10. (A) Except as provided in division (D) of this 80766

section and division (E)(2) of section 5124.101 of the Revised Code, each ICF/MR provider shall file with the department of developmental disabilities an annual cost report for each of the provider's ICFs/MR for which the provider has a valid provider agreement. The cost report for a year shall cover the calendar year or portion of the calendar year during which the ICF/MR participated in the medicaid program. Except as provided in division (E) of this section, the cost report is due not later than ninety days after the end of the calendar year, or portion of the calendar year, that the cost report covers.

(B)(1) If an ICF/MR undergoes a change of provider that the department determines, in accordance with rules adopted under section 5124.03 of the Revised Code, is not an arms length transaction, the new provider shall file the ICF/MR's cost report in accordance with division (A) of this section and the cost report shall cover the portion of the calendar year during which the new provider operated the ICF/MR and the portion of the calendar year during which the previous provider operated the ICF/MR.

(2) If an ICF/MR undergoes a change of provider that the department determines, in accordance with rules adopted under section 5124.03 of the Revised Code, is an arms length transaction, the new provider shall file with the department a cost report for the ICF/MR not later than, except as provided in division (E) of this section, ninety days after the end of the ICF/MR's first three full calendar months of operation under the new provider. The cost report shall cover the period that begins with the ICF/MR's first day of operation under the new provider and ends on the first day of the month immediately following the first three full months of operation under the new provider.

(C) If the medicaid payment rate for a new ICF/MR was most

recently determined in accordance with section 5124.151 of the 80798
Revised Code, the provider shall file with the department a cost 80799
report for the new ICF/MR not later than, except as provided in 80800
division (E) of this section, ninety days after the end of the new 80801
ICF/MR's first three full calendar months of operation. The cost 80802
report shall cover the period that begins with the ICF/MR's first 80803
day of operation and ends on the first day of the month 80804
immediately following the first three full months of operation. 80805

(D) An ICF/MR provider is not required to file a cost report 80806
for an ICF/MR for a calendar year in accordance with division (A) 80807
of this section if the provider files a cost report for the ICF/MR 80808
under division (B)(2) or (C) of this section and that cost report 80809
covers a period that begins after the first day of October of that 80810
calendar year. The provider shall file a cost report for the 80811
ICF/MR in accordance with division (A) of this section for the 80812
immediately following calendar year. 80813

(E) The department may grant to a provider a fourteen-day 80814
extension to file a cost report under this section or section 80815
5124.101 of the Revised Code if the provider provides the 80816
department a written request for the extension and the department 80817
determines that there is good cause for the extension. 80818

Sec. 5124.101. (A) The provider of an ICF/MR that becomes a 80819
downsized ICF/MR or partially converted ICF/MR may file with the 80820
department of developmental disabilities a cost report covering 80821
the period specified in division (B) of this section if the ICF/MR 80822
has both of the following on the day it becomes a downsized ICF/MR 80823
or partially converted ICF/MR: 80824

(1) A medicaid-certified capacity that is at least ten per 80825
cent less than its medicaid-certified capacity on the day 80826
immediately preceding the day it becomes a downsized ICF/MR or 80827
partially converted ICF/MR; 80828

(2) At least five fewer beds certified as ICF/MR beds than it has on the day immediately preceding the day it becomes a downsized ICF/MR or partially converted ICF/MR. 80829
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(B) A cost report filed under division (A) of this section shall cover the period that begins with the day that the ICF/MR becomes a downsized ICF/MR or partially converted ICF/MR and ends on the first day of the month immediately following the first three full months of operation as a downsized ICF/MR or partially converted ICF/MR. 80832
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(C) The department shall refuse to accept a cost report filed under division (A) of this section if either of the following apply: 80838
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(1) Except as provided in division (E) of section 5124.10 of the Revised Code, the provider fails to file the cost report with the department not later than ninety days after the last day of the period the cost report covers; 80841
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(2) The cost report is incomplete or inadequate. 80845

(D) If the department accepts a cost report filed under division (A) of this section, the department shall determine the ICF/MR's medicaid payment rate in accordance with this chapter using that cost report. The provider shall be paid that rate for ICF/MR services the ICF/MR provides during the period that begins and ends as follows: 80846
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(1) The period begins on the following: 80852

(a) The day that the ICF/MR becomes a downsized ICF/MR or partially converted ICF/MR if that day is the first day of a month; 80853
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(b) The first day of the month immediately following the month that the ICF/MR becomes a downsized ICF/MR or partially converted ICF/MR if division (D)(1)(a) of this section does not 80856
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apply. 80859

(2) The period ends on the first day of the fiscal year for 80860
which the ICF/MR begins to be paid a rate determined using a cost 80861
report that division (E) of this section requires be filed in 80862
accordance with division (A) of section 5124.10 of the Revised 80863
Code. 80864

(E)(1) If the department accepts a cost report filed under 80865
division (A) of this section for an ICF/MR that becomes a 80866
downsized ICF/MR or partially converted ICF/MR on or before the 80867
first day of October of a calendar year, the provider also shall 80868
file a cost report for the ICF/MR in accordance with division (A) 80869
of section 5124.10 of the Revised Code for the portion of that 80870
calendar year that the ICF/MR operated as a downsized ICF/MR or 80871
partially converted ICF/MR. 80872

(2) If the department accepts a cost report filed under 80873
division (A) of this section for an ICF/MR that becomes a 80874
downsized ICF/MR or partially converted ICF/MR after the first day 80875
of October of a calendar year, the provider is not required to 80876
file a cost report for that calendar year in accordance with 80877
division (A) of section 5124.10 of the Revised Code. The provider 80878
shall file a cost report for the ICF/MR in accordance with 80879
division (A) of section 5124.10 of the Revised Code for the 80880
immediately following calendar year. 80881

Sec. 5124.102. No ICF/MR provider shall report fines paid 80882
under section 5124.99 of the Revised Code in a cost report filed 80883
under section 5124.10, 5124.101, or 5124.522 of the Revised Code. 80884

Sec. 5124.103. Cost reports shall be completed using the form 80885
prescribed under section 5124.104 of the Revised Code and in 80886
accordance with the guidelines established under that section. 80887

Sec. 5124.104. The department of developmental disabilities shall do all of the following: 80888
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(A) Prescribe the form to be used for completing a cost report and a uniform chart of accounts for the purpose of reporting costs on the form; 80890
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(B) Distribute a paper copy of the form, or computer software for electronic submission of the form, to each provider at least sixty days before the date the cost report is due; 80893
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(C) Establish guidelines for completing the form. 80896

Sec. 5124.105. The department of developmental disabilities shall develop an addendum to the cost report form that an ICF/MR provider may use to set forth costs that the provider believes the department may dispute. The department may consider such costs in determining an ICF/MR's medicaid payment rate. If the department does not consider such costs in determining an ICF/MR's medicaid payment rate, the provider may seek reconsideration of the determination in accordance with section 5124.38 of the Revised Code. If the department subsequently includes such costs in an ICF/MR's medicaid payment rate, the department shall pay the provider interest at a reasonable rate established in rules adopted under section 5124.03 of the Revised Code for the period that the rate excluded the costs. 80897
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Sec. 5124.106. If an ICF/MR provider required by section 5124.10 of the Revised Code to file a cost report for the ICF/MR fails to file the cost report by the date it is due or the date, if any, to which the due date is extended pursuant to division (E) of that section, or files an incomplete or inadequate report for the ICF/MR under that section, the department of developmental disabilities shall provide immediate written notice to the provider that the provider agreement for the ICF/MR will be 80910
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terminated in thirty days unless the provider submits a complete 80918
and adequate cost report for the ICF/MR within thirty days. During 80919
the thirty-day termination period or any additional time allowed 80920
for an appeal of the proposed termination of a provider agreement, 80921
the provider shall be paid the ICF/MR's then current per medicaid 80922
day payment rate, minus the dollar amount by which ICFs/MR's per 80923
medicaid day payment rates are reduced during fiscal year 2013 in 80924
accordance with division (A)(2) of section 5111.26 of the Revised 80925
Code (renumbered as section 5165.10 of the Revised Code by H.B. 59 80926
of the 130th general assembly) as that section existed on the day 80927
immediately preceding the effective date of this section. On the 80928
first day of each July, the department shall adjust the amount of 80929
the reduction in effect during the previous twelve months to 80930
reflect the rate of inflation during the preceding twelve months, 80931
as shown in the consumer price index for all items for all urban 80932
consumers for the north central region, published by the United 80933
States bureau of labor statistics. 80934

Sec. 5124.107. (A) Except as provided in division (B) of this 80935
section and not later than three years after an ICF/MR provider 80936
files a cost report with the department of developmental 80937
disabilities under section 5124.10 or 5124.101 of the Revised 80938
Code, the provider may amend the cost report if the provider 80939
discovers a material error in the cost report or additional 80940
information to be included in the cost report. The department 80941
shall review the amended cost report for accuracy and notify the 80942
provider of its determination. 80943

(B) An ICF/MR provider may not amend a cost report if the 80944
department has notified the provider that an audit of the cost 80945
report or a cost report of the provider for a subsequent cost 80946
reporting period is to be conducted under section 5124.109 of the 80947
Revised Code. The provider may, however, provide the department 80948

information that affects the costs included in the cost report. 80949
Such information may not be provided after the adjudication of the 80950
final settlement of the cost report. 80951

Sec. 5124.108. The department of developmental disabilities 80952
shall conduct a desk review of all cost reports it receives under 80953
sections 5124.10, 5124.101, and 5124.522 of the Revised Code. 80954
Based on the desk review, the department shall make a preliminary 80955
determination of whether the reported costs are allowable costs. 80956
The department shall notify each ICF/MR provider of whether any of 80957
the reported costs are preliminarily determined not to be 80958
allowable costs, the medicaid payment rate determined under this 80959
chapter as a result of the determination regarding allowable 80960
costs, and the reasons for the determination and resulting rate. 80961
The department shall allow the provider to verify the calculation 80962
and submit additional information. 80963

Sec. 5124.109. (A) The department of developmental 80964
disabilities may conduct an audit, as defined in rules adopted 80965
under section 5124.03 of the Revised Code, of any cost report 80966
filed under section 5124.10, 5124.101, or 5124.522 of the Revised 80967
Code. The decision whether to conduct an audit and the scope of 80968
the audit, which may be a desk or field audit, may be determined 80969
based on prior performance of the provider, a risk analysis, or 80970
other evidence that gives the department reason to believe that 80971
the provider has reported costs improperly. A desk or field audit 80972
may be performed annually, but is required whenever a provider 80973
does not pass the risk analysis tolerance factors. 80974

(B) Audits shall be conducted by auditors under contract with 80975
the department, auditors working for firms under contract with the 80976
department, or auditors employed by the department. 80977

The department may establish a contract for the auditing of 80978

ICFs/MR by outside firms. Each contract entered into by bidding shall be effective for one to two years. 80979
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(C) The department shall notify a provider of the findings of an audit of a cost report by issuing an audit report. The department shall issue the audit report not later than three years after the earlier of the following: 80981
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(1) The date the cost report is filed; 80985

(2) The date a desk or field audit of the cost report or a cost report for a subsequent cost reporting period is completed. 80986
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(D) The department shall prepare a written summary of any audit disallowance that is made after the effective date of the rate that is based on the cost. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5124.41 of the Revised Code. 80988
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(E)(1) The department shall establish an audit manual and program for field audits conducted under this section. Each auditor conducting a field audit under this section shall follow the audit manual and program, regardless of whether the auditor is under contract with the department, works for a firm under contract with the department, or is employed by the department. The manual and program shall do both of the following: 80996
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(a) Require each field audit to be conducted by an auditor to whom all of the following apply: 81003
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(i) During the period of the auditor's contract, firm's contract, or auditor's employment with the department, the auditor or firm does not have and is not committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of ICFs/MR in this state. 81005
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(ii) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm. 81010
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(iii) The auditor is otherwise independent as determined by the standards of independence included in the government auditing standards produced by the United States government accountability office. 81012
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(b) Require each auditor conducting a field audit to do all of the following: 81016
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(i) Comply with applicable rules prescribed pursuant to Title XIX; 81018
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(ii) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants; 81020
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(iii) Include a written summary as to whether the costs included in the cost report examined during the audit are allowable and are presented in accordance with state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care; 81023
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(iv) Complete the audit within the time period specified by the department; 81029
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(v) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's ICF/MR is entitled. 81031
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(2) For the purpose of division (E)(1)(a)(i) of this section, employment of a member of an auditor's family by an ICF/MR that 81038
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the auditor does not audit does not constitute a direct or 81040
indirect financial interest in the ownership, financing, or 81041
operation of the ICF/MR. 81042

Sec. ~~5111.224~~ 5124.15. (A) Except as otherwise provided by 81043
sections ~~5111.20~~ 5165.151 to ~~5111.331~~ 5165.155 of the Revised Code 81044
and ~~by~~ division (B) of this section, the ~~payments~~ total per 81045
medicaid day payment rate that the department of ~~job and family~~ 81046
~~services~~ developmental disabilities shall ~~agree to make pay~~ to the 81047
an ICF/MR provider ~~of an intermediate care facility for the~~ 81048
~~mentally retarded pursuant to a provider agreement for ICF/MR~~ 81049
services the provider's ICF/MR provides during a fiscal year shall 81050
equal the sum of all of the following: 81051

(1) The per medicaid day payment rate for capital costs 81052
determined for the ICF/MR under section 5124.17 of the Revised 81053
Code; 81054

(2) The per medicaid day payment rate for direct care costs 81055
determined for the ~~facility~~ ICF/MR under section ~~5111.23~~ 5124.19 81056
of the Revised Code; 81057

~~(2)~~(3) The per medicaid day payment rate for indirect care 81058
costs determined for the ICF/MR under section 5124.21 of the 81059
Revised Code; 81060

(4) The per medicaid day payment rate for other protected 81061
costs determined for the ~~facility~~ ICF/MR under section ~~5111.235~~ 81062
5124.23 of the Revised Code; 81063

~~(3)~~ The rate for indirect care costs determined for the 81064
facility under section 5111.241 of the Revised Code; 81065

~~(4)~~ The rate for capital costs determined for the facility 81066
under section 5111.251 of the Revised Code. 81067

(B) The department shall adjust the total rate otherwise 81068
determined under division (A) of this section as directed by the 81069

general assembly through the enactment of law governing medicaid 81070
payments to ICF/MR providers ~~of intermediate care facilities for~~ 81071
~~the mentally retarded.~~ 81072

(C) In addition to paying an ICF/MR provider the total rate 81073
determined for the provider's ICF/MR under divisions (A) and (B) 81074
of this section for a fiscal year, the department, in accordance 81075
with section 5124.25 of the Revised Code, may pay the provider a 81076
rate add-on for pediatric ventilator-dependent outlier ICF/MR 81077
services if the rate add-on is to be paid under that section and 81078
the department approves the provider's application for the rate 81079
add-on. The rate add-on is not to be part of the ICF/MR's total 81080
rate. 81081

Sec. 5111.255 5124.151. (A) ~~The department of job and family~~ 81082
~~services shall establish initial rates for an intermediate care~~ 81083
~~facility for the mentally retarded with a first date of licensure~~ 81084
~~that is on or after January 1, 1993, including a facility that~~ 81085
~~replaces one or more existing facilities, or for an intermediate~~ 81086
~~care facility for the mentally retarded with a first date of~~ 81087
~~licensure before that date that was initially certified for the~~ 81088
~~medicaid program on or after that date, total per medicaid day~~ 81089
~~payment rate determined under section 5124.15 of the Revised Code~~ 81090
~~shall not be the initial rate for ICF/MR services provided by a~~ 81091
~~new ICF/MR. Instead, the initial total per medicaid day payment~~ 81092
~~rate for ICF/MR services provided by a new ICF/MR shall be~~ 81093
~~determined in the following manner:~~ 81094

(1) The initial rate for capital costs shall be determined 81095
under section 5124.17 of the Revised Code using the greater of the 81096
new ICF/MR's actual inpatient days or an imputed occupancy rate of 81097
eighty per cent. 81098

(2) The initial rate for direct care costs shall be 81099
determined as follows: 81100

(a) If there are no cost or resident assessment data for the 81101
new ICF/MR as necessary to ~~calculate~~ determine a rate under 81102
section ~~5111.23~~ 5124.19 of the Revised Code, the rate shall be 81103
determined as follows: 81104

(i) Determine the median cost per case-mix unit ~~calculated~~ 81105
determined under division (B)~~(1)~~ of ~~that~~ section 5124.19 of the 81106
Revised Code for the ~~relevant~~ new ICF/MR's peer group for the 81107
calendar year preceding the fiscal year in which the rate will be 81108
paid, ~~multiplied;~~ 81109

(ii) Multiply the amount determined under division 81110
(A)(2)(a)(i) of this section by the median annual average case-mix 81111
score for the new ICF/MR's peer group for that period ~~and;~~ 81112

(iii) Adjust the product determined under division 81113
(A)(2)(a)(ii) of this section by the rate of inflation estimated 81114
under division ~~(B)(3)(D)~~ of ~~that~~ section 5124.19 of the Revised 81115
Code. ~~This rate shall be recalculated to reflect the facility's~~ 81116
~~actual quarterly average case mix score, in accordance with that~~ 81117
~~section, after it submits its first quarterly assessment data that~~ 81118
~~qualifies for use in calculating a case mix score in accordance~~ 81119
~~with rules authorized by division (E) of section 5111.232 of the~~ 81120
~~Revised Code. If the facility's first two quarterly submissions do~~ 81121
~~not contain assessment data that qualifies for use in calculating~~ 81122
~~a case mix score, the department shall continue to calculate the~~ 81123
~~rate using the median annual case mix score for the peer group in~~ 81124
~~lieu of an assigned quarterly case mix score. The department shall~~ 81125
~~assign a case mix score or, if necessary, a cost per case mix unit~~ 81126
~~under division (D) of section 5111.232 of the Revised Code for any~~ 81127
~~subsequent submissions that do not contain assessment data that~~ 81128
~~qualifies for use in calculating a case mix score.~~ 81129

(b) If the ~~facility~~ new ICF/MR is a replacement facility 81130
ICF/MR and the ~~facility~~ ICF/MR or ~~facilities~~ ICFs/MR that are 81131
being replaced are in operation immediately before the ~~replacement~~ 81132

~~facility~~ new ICF/MR opens, the rate shall be the same as the rate 81133
for the replaced ~~facility~~ ICF/MR or ~~facilities~~ ICFs/MR, 81134
proportionate to the number of ICF/MR beds in each replaced 81135
~~facility~~ ICF/MR. ~~If one or more of the replaced facilities is~~ 81136

(c) If the new ICF/MR is a replacement ICF/MR and the ICF/MR 81137
or ICFs/MR that are being replaced are not in operation 81138
immediately before the ~~replacement facility~~ new ICF/MR opens, ~~its~~ 81139
~~proportion~~ the rate shall be determined under division 81140
(A)~~(1)~~(2)(a) of this section. 81141

~~(2)~~(3) The initial rate for indirect care costs shall be the 81142
maximum rate for the new ICF/MR's peer group as determined for the 81143
fiscal year in accordance with division (C) of section 5124.21 of 81144
the Revised Code. 81145

(4) The initial rate for other protected costs shall be one 81146
hundred fifteen per cent of the median rate for ~~intermediate care~~ 81147
~~facilities for the mentally retarded~~ calculated ICFs/MR determined 81148
for the fiscal year under section ~~5111.235~~ 5124.23 of the Revised 81149
Code. 81150

~~(3) The rate for indirect care costs shall be the applicable~~ 81151
~~maximum rate for the facility's peer group as specified in~~ 81152
~~division (B) of section 5111.241 of the Revised Code.~~ 81153

~~(4) The rate for capital costs shall be determined under~~ 81154
~~section 5111.251 of the Revised Code using the greater of actual~~ 81155
~~inpatient days or an imputed occupancy rate of eighty per cent.~~ 81156

(B) If a new ICF/MR's initial rate for direct care costs is 81157
determined under division (A)(2)(a) of this section, the 81158
department shall redetermine the rate in accordance with section 81159
5124.19 of the Revised Code to reflect the new ICF/MR's actual 81160
quarterly case-mix score, after the provider, in accordance with 81161
section 5124.191 of the Revised Code, submits the first quarterly 81162
resident assessment data for the ICF/MR that qualifies for use in 81163

determining a case-mix score. If the first two quarterly 81164
submissions for the ICF/MR do not contain resident assessment data 81165
that qualifies for use in determining a case-mix score, the 81166
department shall continue to determine the ICF/MR's rate using the 81167
median annual case-mix score for the peer group in lieu of an 81168
assigned quarterly case-mix score. The department shall assign a 81169
case-mix score or, if necessary, a cost per case-mix unit under 81170
division (B) of section 5124.192 of the Revised Code for any 81171
subsequent submissions that do not contain resident assessment 81172
data that qualifies for use in determining a case-mix score. 81173

(C) The department shall adjust ~~the rates established~~ a new 81174
ICF/MR's initial total per medicaid day payment rate determined 81175
under ~~division (A)~~ of this section at both of the following times: 81176
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(1) Effective the first day of July, to reflect new rate 81178
~~calculations~~ determinations for all ~~facilities~~ ICFs/MR under 81179
~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter; 81180

(2) Following the provider's submission of the ~~facility's~~ 81181
ICF/MR's cost report under division ~~(A)~~(1)~~(b)~~(C) of section 81182
~~5111.26~~ 5124.10 of the Revised Code. 81183

The department shall pay the rate adjusted based on the cost 81184
report beginning the first day of the calendar quarter that begins 81185
more than ninety days after the department receives the cost 81186
report. 81187

Sec. 5124.152. The total per medicaid day payment rate 81188
determined under section 5124.15 of the Revised Code shall not be 81189
paid for ICF/MR services provided on or after July 1, 2014, to low 81190
resource utilization residents. Instead, the total per medicaid 81191
day payment rate for such ICF/MR services shall be a flat rate set 81192
in rules adopted under section 5124.03 of the Revised Code. 81193

Sec. 5124.153. (A) The total per medicaid day payment rate 81194
determined under section 5124.15 of the Revised Code shall not be 81195
paid for ICF/MR services provided by an ICF/MR, or discrete unit 81196
of an ICF/MR, designated by the department of developmental 81197
disabilities as an outlier ICF/MR or unit. Instead, the provider 81198
of a designated outlier ICF/MR or unit shall be paid each fiscal 81199
year a total per medicaid day payment rate that the department 81200
shall prospectively determine in accordance with a methodology 81201
established in rules authorized by this section. 81202

(B) The department may designate an ICF/MR, or discrete unit 81203
of an ICF/MR, as an outlier ICF/MR or unit if the ICF/MR or unit 81204
serves residents who have either of the following: 81205

(1) Diagnoses or special care needs that require direct care 81206
resources that are not measured adequately by the resident 81207
assessment instrument specified in rules authorized by section 81208
5124.191 of the Revised Code; 81209

(2) Diagnoses or special care needs that are specified in 81210
rules authorized by this section as otherwise qualifying for 81211
consideration under this section. 81212

(C) Notwithstanding any other provision of this chapter, the 81213
costs incurred by a designated outlier ICF/MR or unit shall not be 81214
considered in establishing medicaid payment rates for other 81215
ICFs/MR or units. 81216

(D) The director of developmental disabilities shall adopt 81217
rules under section 5124.03 of the Revised Code as necessary to 81218
implement this section. 81219

(1)(a) The rules shall do both of the following: 81220

(i) Specify the criteria and procedures the department will 81221
apply when designating an ICF/MR, or discrete unit of an ICF/MR, 81222
as an outlier ICF/MR or unit; 81223

(ii) Establish a methodology for prospectively determining the total per medicaid day payment rate that will be paid each fiscal year for ICF/MR services provided by a designated outlier ICF/MR or unit. 81224
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(b) The rules adopted under division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/MR and units shall do both of the following: 81228
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(i) Provide for consideration of whether all of the allowable costs of an ICF/MR, or discrete unit of an ICF/MR, would be paid by the rate determined under section 5124.15 of the Revised Code; 81231
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(ii) Specify the minimum number of ICF/MR beds that an ICF/MR, or discrete unit of an ICF/MR, must have to be designated an outlier ICF/MR or unit. 81234
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(c) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/MR and units shall not limit the designation to ICFs/MR, or discrete units of ICFs/MR, located in large cities. 81237
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(d) The rules authorized by division (D)(1)(a)(ii) of this section regarding the methodology for prospectively determining the rates of designated outlier ICFs/MR and units shall provide for the methodology to consider the historical costs of providing ICF/MR services to the residents of designated outlier ICFs/MR and units. 81241
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(2)(a) The rules may do both of the following: 81247

(i) Include for designation as an outlier ICF/MR or unit, an ICF/MR, or discrete unit of an ICF/MR, that serves residents who have complex medical conditions or severe behavioral problems; 81248
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(ii) Require that a designated outlier ICF/MR or unit receive authorization from the department before admitting or retaining a resident. 81251
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(b) If the director adopts rules authorized by division 81254
(D)(2)(a)(ii) of this section regarding the authorization of a 81255
designated outlier ICF/MR or unit to admit or retain a resident, 81256
the rules shall specify the criteria and procedures the department 81257
will apply when granting the authorization. 81258

Sec. 5124.154. (A) To the extent, if any, provided for in 81259
rules authorized by this section, the total per medicaid day 81260
payment rate determined under section 5124.15 of the Revised Code 81261
shall not be paid for ICF/MR services that an ICF/MR not 81262
designated as an outlier ICF/MR or unit provides to a resident who 81263
meets the criteria for admission to a designated outlier ICF/MR or 81264
unit, as specified in rules authorized by section 5124.153 of the 81265
Revised Code. Instead, the provider of an ICF/MR providing ICF/MR 81266
services to such a resident shall be paid each fiscal year a total 81267
per medicaid day payment rate that the department shall 81268
prospectively determine in accordance with a methodology 81269
established in rules authorized by this section. 81270

(B) The director of developmental disabilities may adopt 81271
rules under section 5124.03 of the Revised Code to implement this 81272
section. The rules may require that an ICF/MR receive 81273
authorization from the department before admitting or retaining a 81274
resident who meets the criteria for admission to a designated 81275
outlier ICF/MR or unit. If the director adopts such rules, the 81276
rules shall specify the criteria and procedures the department 81277
will apply when granting the authorization. 81278

Sec. ~~5111.291~~ 5124.155. ~~Notwithstanding sections 5111.20 to~~ 81279
~~5111.331 of the Revised Code~~ The department of developmental 81280
disabilities is not required to pay the total per medicaid day 81281
payment rates determined under section 5124.15 of the Revised Code 81282
for ICF/MR services provided by developmental centers. Instead, 81283
the department of job and family services may compute determine 81284

the ~~rate~~ medicaid payment rates for ~~intermediate care facilities~~ 81285
~~for the mentally retarded operated by the department of~~ 81286
~~developmental disabilities or the department of mental health~~ 81287
centers according to the reasonable cost principles of Title 81288
XVIII. 81289

Sec. ~~5111.251~~ 5124.17. (A) ~~The~~ For each fiscal year, the 81290
department of ~~job and family services~~ developmental disabilities 81291
shall ~~pay a provider for~~ prospectively determine each of the 81292
~~provider's eligible intermediate care facilities for the mentally~~ 81293
~~retarded for its reasonable capital costs, a~~ ICF/MR's per resident 81294
~~per medicaid day payment rate established prospectively each~~ 81295
fiscal year for each intermediate care facility for the mentally 81296
retarded for reasonable capital costs. Except as otherwise 81297
provided in ~~sections 5111.20 to 5111.331 of the Revised Code~~ this 81298
chapter, the an ICF/MR's rate shall be based on the ~~facility's~~ 81299
ICF/MR's capital costs for the calendar year preceding the fiscal 81300
year in which the rate will be paid. ~~The~~ Subject to section 81301
5124.28, an ICF/MR's rate shall equal the sum of the following: 81302

(1) ~~The facility's~~ ICF/MR's desk-reviewed, actual, allowable, 81304
per diem ~~cost~~ costs of ownership for the immediately preceding 81305
cost reporting period, limited as provided in divisions (B) and 81306
(C) and (F) of this section; 81307

(2) ~~Any efficiency incentive determined under division (B) of~~ 81308
~~this section;~~ 81309

~~(3) Any amounts for~~ The ICF/MR's per medicaid day payment for 81310
the ICF/MR's per diem capitalized costs of nonextensive 81311
renovations determined under division (D)(1) of this section if 81312
the ICF/MR qualifies for a payment for such costs as specified in 81313
division (D)(2) of this section; 81314

~~(4) Any amounts for return on equity determined under~~ 81315

~~division (H) of this section (3) The ICF/MR's per medicaid day efficiency incentive payment determined under division (E) of this section.~~ 81316
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~~Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated by the director of job and family services in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department of job and family services. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.331 of the Revised Code is used to reimburse the government agency.~~ 81319
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~~(B) The department of job and family services shall pay to a provider for each of the provider's eligible intermediate care facilities for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a provider for a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve month~~ 81334
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~~period beginning on the first day of July of the calendar year 81348
preceding the calendar year that precedes the fiscal year for 81349
which the efficiency incentive is determined and ending on the 81350
thirtieth day of the following June, using the consumer price 81351
index for shelter costs for all urban consumers for the north 81352
central region, as published by the United States bureau of labor 81353
statistics. 81354~~

~~(C) Cost The costs of ownership payments per diem payment 81355
rates for intermediate care facilities for the mentally retarded 81356
ICFs/MR with more than eight beds shall not exceed the following 81357
limits: 81358~~

~~(1) For ~~facilities~~ ICFs/MR with dates of licensure prior to 81359
January 1, 1958, not exceeding two dollars and fifty cents ~~per 81360
patient day;~~ 81361~~

~~(2) For ~~facilities~~ ICFs/MR with dates of licensure after 81362
December 31, 1957, but prior to January 1, 1968, not exceeding: 81363~~

~~(a) Three dollars and fifty cents ~~per patient day~~ if the cost 81364
of construction was three thousand five hundred dollars or more 81365
per bed; 81366~~

~~(b) Two dollars and fifty cents ~~per patient day~~ if the cost 81367
of construction was less than three thousand five hundred dollars 81368
per bed. 81369~~

~~(3) For ~~facilities~~ ICFs/MR with dates of licensure after 81370
December 31, 1967, but prior to January 1, 1976, not exceeding: 81371~~

~~(a) Four dollars and fifty cents ~~per patient day~~ if the cost 81372
of construction was five thousand one hundred fifty dollars or 81373
more per bed; 81374~~

~~(b) Three dollars and fifty cents ~~per patient day~~ if the cost 81375
of construction was less than five thousand one hundred fifty 81376
dollars per bed, but exceeds three thousand five hundred dollars 81377~~

per bed;	81378
(c) Two dollars and fifty cents per patient day if the cost	81379
of construction was three thousand five hundred dollars or less	81380
per bed.	81381
(4) For facilities <u>ICFs/MR</u> with dates of licensure after	81382
December 31, 1975, but prior to January 1, 1979, not exceeding:	81383
(a) Five dollars and fifty cents per patient day if the cost	81384
of construction was six thousand eight hundred dollars or more per	81385
bed;	81386
(b) Four dollars and fifty cents per patient day if the cost	81387
of construction was less than six thousand eight hundred dollars	81388
per bed but exceeds five thousand one hundred fifty dollars per	81389
bed;	81390
(c) Three dollars and fifty cents per patient day if the cost	81391
of construction was five thousand one hundred fifty dollars or	81392
less per bed, but exceeds three thousand five hundred dollars per	81393
bed;	81394
(d) Two dollars and fifty cents per patient day if the cost	81395
of construction was three thousand five hundred dollars or less	81396
per bed.	81397
(5) For facilities <u>ICFs/MR</u> with dates of licensure after	81398
December 31, 1978, but prior to January 1, 1980, not exceeding:	81399
(a) Six dollars per patient day if the cost of construction	81400
was seven thousand six hundred twenty-five dollars or more per	81401
bed;	81402
(b) Five dollars and fifty cents per patient day if the cost	81403
of construction was less than seven thousand six hundred	81404
twenty-five dollars per bed but exceeds six thousand eight hundred	81405
dollars per bed;	81406
(c) Four dollars and fifty cents per patient day if the cost	81407

of construction was six thousand eight hundred dollars or less per 81408
bed but exceeds five thousand one hundred fifty dollars per bed; 81409

(d) Three dollars and fifty cents ~~per patient day~~ if the cost 81410
of construction was five thousand one hundred fifty dollars or 81411
less but exceeds three thousand five hundred dollars per bed; 81412

(e) Two dollars and fifty cents ~~per patient day~~ if the cost 81413
of construction was three thousand five hundred dollars or less 81414
per bed. 81415

(6) For ~~facilities~~ ICFs/MR with dates of licensure after 81416
December 31, 1979, but prior to January 1, 1981, not exceeding: 81417

(a) Twelve dollars ~~per patient day~~ if the beds were 81418
originally licensed as residential facility beds by the department 81419
of developmental disabilities; 81420

(b) Six dollars ~~per patient day~~ if the beds were originally 81421
licensed as nursing home beds by the department of health. 81422

(7) For ~~facilities~~ ICFs/MR with dates of licensure after 81423
December 31, 1980, but prior to January 1, 1982, not exceeding: 81424

(a) Twelve dollars ~~per patient day~~ if the beds were 81425
originally licensed as residential facility beds by the department 81426
of developmental disabilities; 81427

(b) Six dollars and forty-five cents ~~per patient day~~ if the 81428
beds were originally licensed as nursing home beds by the 81429
department of health. 81430

(8) For ~~facilities~~ ICFs/MR with dates of licensure after 81431
December 31, 1981, but prior to January 1, 1983, not exceeding: 81432

(a) Twelve dollars ~~per patient day~~ if the beds were 81433
originally licensed as residential facility beds by the department 81434
of developmental disabilities; 81435

(b) Six dollars and seventy-nine cents ~~per patient day~~ if the 81436
beds were originally licensed as nursing home beds by the 81437

department of health. 81438

(9) For ~~facilities~~ ICFs/MR with dates of licensure after 81439
December 31, 1982, but prior to January 1, 1984, not exceeding: 81440

(a) Twelve dollars ~~per patient day~~ if the beds were 81441
originally licensed as residential facility beds by the department 81442
of developmental disabilities; 81443

(b) Seven dollars and nine cents ~~per patient day~~ if the beds 81444
were originally licensed as nursing home beds by the department of 81445
health. 81446

(10) For ~~facilities~~ ICFs/MR with dates of licensure after 81447
December 31, 1983, but prior to January 1, 1985, not exceeding: 81448

(a) Twelve dollars and twenty-four cents ~~per patient day~~ if 81449
the beds were originally licensed as residential facility beds by 81450
the department of developmental disabilities; 81451

(b) Seven dollars and twenty-three cents ~~per patient day~~ if 81452
the beds were originally licensed as nursing home beds by the 81453
department of health. 81454

(11) For ~~facilities~~ ICFs/MR with dates of licensure after 81455
December 31, 1984, but prior to January 1, 1986, not exceeding: 81456

(a) Twelve dollars and fifty-three cents ~~per patient day~~ if 81457
the beds were originally licensed as residential facility beds by 81458
the department of developmental disabilities; 81459

(b) Seven dollars and forty cents ~~per patient day~~ if the beds 81460
were originally licensed as nursing home beds by the department of 81461
health. 81462

(12) For ~~facilities~~ ICFs/MR with dates of licensure after 81463
December 31, 1985, but prior to January 1, 1987, not exceeding: 81464

(a) Twelve dollars and seventy cents ~~per patient day~~ if the 81465
beds were originally licensed as residential facility beds by the 81466
department of developmental disabilities; 81467

(b) Seven dollars and fifty cents ~~per patient day~~ if the beds 81468
were originally licensed as nursing home beds by the department of 81469
health. 81470

(13) For ~~facilities~~ ICFs/MR with dates of licensure after 81471
December 31, 1986, but prior to January 1, 1988, not exceeding: 81472

(a) Twelve dollars and ninety-nine cents ~~per patient day~~ if 81473
the beds were originally licensed as residential facility beds by 81474
the department of developmental disabilities; 81475

(b) Seven dollars and sixty-seven cents ~~per patient day~~ if 81476
the beds were originally licensed as nursing home beds by the 81477
department of health. 81478

(14) For ~~facilities~~ ICFs/MR with dates of licensure after 81479
December 31, 1987, but prior to January 1, 1989, not exceeding 81480
thirteen dollars and twenty-six cents ~~per patient day~~; 81481

(15) For ~~facilities~~ ICFs/MR with dates of licensure after 81482
December 31, 1988, but prior to January 1, 1990, not exceeding 81483
thirteen dollars and forty-six cents ~~per patient day~~; 81484

(16) For ~~facilities~~ ICFs/MR with dates of licensure after 81485
December 31, 1989, but prior to January 1, 1991, not exceeding 81486
thirteen dollars and sixty cents ~~per patient day~~; 81487

(17) For ~~facilities~~ ICFs/MR with dates of licensure after 81488
December 31, 1990, but prior to January 1, 1992, not exceeding 81489
thirteen dollars and forty-nine cents ~~per patient day~~; 81490

(18) For ~~facilities~~ ICFs/MR with dates of licensure after 81491
December 31, 1991, but prior to January 1, 1993, not exceeding 81492
thirteen dollars and sixty-seven cents ~~per patient day~~; 81493

(19) For ~~facilities~~ ICFs/MR with dates of licensure after 81494
December 31, 1992, not exceeding fourteen dollars and twenty-eight 81495
cents ~~per patient day~~. 81496

(C)(1) The costs of ownership per diem payment rate for an 81497

ICF/MR with eight or fewer beds shall not exceed the following 81498
limits: 81499

(a) Eighteen dollars and thirty cents as adjusted for 81500
inflation pursuant to division (C)(2) of this section if any of 81501
the following apply to the ICF/MR: 81502

(i) The ICF/MR has a date of licensure, or was granted 81503
project authorization by the department of developmental 81504
disabilities, before July 1, 1993. 81505

(ii) The ICF/MR has a date of licensure, or was granted 81506
project authorization by the department, on or after July 1, 1993, 81507
and the provider demonstrates that the provider made substantial 81508
commitments of funds for the ICF/MR before that date. 81509

(iii) The ICF/MR has a date of licensure, or was granted 81510
project authorization by the department, on or after July 1, 1993, 81511
the provider made no substantial commitment of funds for the 81512
ICF/MR before that date, and the department of job and family 81513
services or department of developmental disabilities gave prior 81514
approval for the ICF/MR's construction. 81515

(b) If division (C)(1)(a) of this section does not apply to 81516
the ICF/MR, the amount that would apply to the ICF/MR under 81517
division (B) of this section if it had more than eight beds. 81518

(2) The eighteen-dollar and thirty-cent payment rate 81519
specified in division (C)(1)(a) of this section shall be increased 81520
as follows: 81521

(a) For the period beginning June 30, 1990, and ending July 81522
1, 1993, by the change in the "Dodge building cost indexes, 81523
northeastern and north central states," published by Marshall and 81524
Swift; 81525

(b) For each fiscal year thereafter, in accordance with 81526
division (F) of this section. 81527

(D)~~(1)~~ Beginning January 1, 1981, regardless of the original date of licensure, the ~~department of job and family services shall~~ pay a payment rate for the per diem capitalized costs of nonextensive renovations ~~to intermediate care facilities for the mentally retarded~~ made after January 1, 1981, to a qualifying ICF/MR, shall not exceeding exceed six dollars per ~~patient~~ medicaid day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment rate shall be further adjusted in accordance with division (F) of this section. The payment provided for in this division is the only payment that shall be made for ~~the an ICF/MR's~~ capitalized costs of a nonextensive ~~renovation of an intermediate care facility for the mentally retarded~~ renovations. ~~Nonextensive renovation costs~~ Costs of nonextensive renovations shall not be included in ~~cost~~ costs of ownership, and ~~a nonextensive renovation~~ shall not affect the date of licensure for purposes of division (B) or (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made nonextensive renovations ends before the depreciation expense for the ~~renovation~~ costs of nonextensive renovations has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

~~For a nonextensive renovation to qualify~~ (2) An ICF/MR qualifies for a payment under this division, both for costs of nonextensive renovations if all of the following conditions must be met apply:

~~(1)~~(a) The ICF/MR has eight or fewer beds.

(b) At least five years have elapsed since the ICF/MR's date of licensure or date of an extensive renovation of the portion of

the ~~facility~~ ICF/MR that is proposed to be nonextensively 81560
renovated, ~~except that this condition does not apply if unless~~ the 81561
nonextensive renovation is necessary to meet the requirements of 81562
federal, state, or local statutes, ordinances, rules, or policies. 81563

~~(2)(c) The provider has obtained prior approval from the~~ 81564
~~department of job and family services. The provider shall submit~~ 81565
of the ICF/MR does both of the following: 81566

(i) Submits to the department a plan that describes in detail 81567
the changes in capital assets to be accomplished by means of the 81568
nonextensive renovation and the timetable for completing the 81569
project. ~~The time for completion of the project, which shall be no~~ 81570
not more than eighteen months after the nonextensive renovation 81571
begins; 81572

(ii) Obtains prior approval from the department for the 81573
nonextensive renovation. The 81574

(3) The director of ~~job and family services~~ developmental 81575
disabilities shall adopt rules under section ~~5111.02~~ 5124.03 of 81576
the Revised Code that specify criteria and procedures for prior 81577
approval of nonextensive renovation projects. No provider shall 81578
separate a project with the intent to evade the characterization 81579
of the project as a renovation or as an extensive renovation. No 81580
provider shall increase the scope of a project after it is 81581
approved by the department ~~of job and family services~~ unless the 81582
increase in scope is approved by the department. 81583

(E)(1) Subject to division (E)(2) of this section, an 81584
ICF/MR's per medicaid day efficiency incentive payment rate shall 81585
equal the following percentage of the difference between the 81586
ICF/MR's desk-reviewed, actual, allowable per diem costs of 81587
ownership and the applicable limit on costs of ownership payment 81588
rates established by division (B) of this section: 81589

(a) In the case of an ICF/MR with more than eight beds, 81590

twenty-five per cent; 81591

(b) In the case of an ICF/MR with eight or fewer beds, fifty per cent. 81592
81593

(2) The efficiency incentive payment rate for an ICF/MR with eight or fewer beds shall not exceed three dollars per medicaid day, adjusted annually in accordance with division (F) of this section. For the purpose of determining an ICF/MR's efficiency incentive payment rate, both of the following apply: 81594
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(a) Depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership; 81599
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(b) The applicable limit under division (B) of this section shall apply both to ICFs/MR with more than eight beds and ICFs/MR with eight or fewer beds. 81601
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(F) The amounts specified in divisions (B), (C) and, (D), and (E) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation rate for the twelve-month period beginning on the first day of July of the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics. 81604
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~~(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen dollar and thirty cent amount shall be~~ 81613
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~~increased by the change in the "Dodge building cost indexes, 81622
northeastern and north central states," published by Marshall and 81623
Swift, during the period beginning June 30, 1990, and ending July 81624
1, 1993, and by the change in the consumer price index for shelter 81625
costs for all urban consumers for the north central region, as 81626
published by the United States bureau of labor statistics, 81627
annually thereafter. 81628~~

~~(2) For facilities with eight or fewer beds that have dates 81629
of licensure or have been granted project authorization by the 81630
department of developmental disabilities on or after July 1, 1993, 81631
for which substantial commitments of funds were not made before 81632
that date, cost of ownership payments shall not exceed the 81633
applicable amount calculated under division (F)(1) of this 81634
section, if the department of job and family services gives prior 81635
approval for construction of the facility. If the department does 81636
not give prior approval, cost of ownership payments shall not 81637
exceed the amount specified in division (C) of this section. 81638~~

~~(3)(G) Notwithstanding divisions (C) and (D) and (F)(1) and 81639
(2) of this section, the total payment rate for cost costs of 81640
ownership, cost of ownership efficiency incentive, and capitalized 81641
costs of nonextensive renovations, and the efficiency incentive 81642
for an intermediate care facility for the mentally retarded ICF/MR 81643
with eight or fewer beds shall not exceed the sum of the 81644
limitations specified in divisions (C) and (D) of this section. 81645~~

~~(G) Notwithstanding any provision of this section or section 81646
5111.241 of the Revised Code, the director of job and family 81647
services may adopt rules under section 5111.02 of the Revised Code 81648
that provide for a calculation of a combined maximum payment limit 81649
for indirect care costs and cost of ownership for intermediate 81650
care facilities for the mentally retarded with eight or fewer 81651
beds. 81652~~

~~(H) The department of job and family services shall pay a 81653~~

~~provider for each of the provider's eligible proprietary 81654
intermediate care facilities for the mentally retarded a return on 81655
the facility's net equity computed at the rate of one and one half 81656
times the average of interest rates on special issues of public 81657
debt obligations issued to the federal hospital insurance trust 81658
fund for the cost reporting period. No facility's return on net 81659
equity paid under this division shall exceed one dollar per 81660
patient day. 81661~~

~~In calculating the rate for return on net equity, the 81662
department shall use the greater of the facility's inpatient days 81663
during the applicable cost reporting period or the number of 81664
inpatient days the facility would have had during that period if 81665
its occupancy rate had been ninety five per cent. (1) For the 81666
purpose of determining ICFs/MR's medicaid payment rates for 81667
capital costs: 81668~~

~~(a) Buildings shall be depreciated using the straight line 81669
method over forty years or over a different period approved by the 81670
department. 81671~~

~~(b) Components and equipment shall be depreciated using the 81672
straight line method over a period designated by the director of 81673
developmental disabilities in rules adopted under section 5124.03 81674
of the Revised Code, consistent with the guidelines of the 81675
American hospital association, or over a different period approved 81676
by the department. 81677~~

~~(2) Any rules authorized by division (H)(1) of this section 81678
that specify useful lives of buildings, components, or equipment 81679
apply only to assets acquired on or after July 1, 1993. 81680
Depreciation for costs paid or reimbursed by any government agency 81681
shall not be included in costs of ownership or costs of 81682
nonextensive renovations unless that part of the payment under 81683
this chapter is used to reimburse the government agency. 81684~~

(I)(1) Except as provided in division (I)(2) of this section, 81685
if a provider leases or transfers an interest in ~~a facility~~ an 81686
ICF/MR to another provider who is a related party, the related 81687
party's allowable ~~cost~~ costs of ownership shall include the lesser 81688
of the following: 81689

(a) The annual lease expense or actual cost of ownership, 81690
whichever is applicable; 81691

(b) The reasonable cost to the lessor or provider making the 81692
transfer. 81693

(2) If a provider leases or transfers an interest in ~~a~~ 81694
~~facility~~ an ICF/MR to another provider who is a related party, 81695
regardless of the date of the lease or transfer, the related 81696
party's allowable cost of ownership shall include the annual lease 81697
expense or actual cost of ownership, whichever is applicable, 81698
subject to the limitations specified in divisions (B) to (H) of 81699
this section, if all of the following conditions are met: 81700

(a) The related party is a relative of owner; 81701

(b) In the case of a lease, if the lessor retains any 81702
ownership interest, it is, except as provided in division 81703
(I)(2)(d)(ii) of this section, in only the real property and any 81704
improvements on the real property; 81705

(c) In the case of a transfer, the provider making the 81706
transfer retains, except as provided in division (I)(2)(d)(iv) of 81707
this section, no ownership interest in the ~~facility~~ ICF/MR; 81708

(d) The department ~~of job and family services~~ determines that 81709
the lease or transfer is an arm's length transaction pursuant to 81710
rules adopted under section ~~5111.02~~ 5124.03 of the Revised Code. 81711
The rules shall provide that a lease or transfer is an arm's 81712
length transaction if all of the following, as applicable, apply: 81713

(i) In the case of a lease, once the lease goes into effect, 81714

the lessor has no direct or indirect interest in the lessee or, 81715
except as provided in division (I)(2)(b) of this section, the 81716
~~facility~~ ICF/MR itself, including interest as an owner, officer, 81717
director, employee, independent contractor, or consultant, but 81718
excluding interest as a lessor. 81719

(ii) In the case of a lease, the lessor does not reacquire an 81720
interest in the ~~facility~~ ICF/MR except through the exercise of a 81721
lessor's rights in the event of a default. If the lessor 81722
reacquires an interest in the ~~facility~~ ICF/MR in this manner, the 81723
department shall treat the ~~facility~~ ICF/MR as if the lease never 81724
occurred when the department ~~calculates~~ determines its 81725
~~reimbursement rates~~ payment rate for capital costs. 81726

(iii) In the case of a transfer, once the transfer goes into 81727
effect, the provider that made the transfer has no direct or 81728
indirect interest in the provider that acquires the ~~facility~~ 81729
ICF/MR or the ~~facility~~ ICF/MR itself, including interest as an 81730
owner, officer, director, employee, independent contractor, or 81731
consultant, but excluding interest as a creditor. 81732

(iv) In the case of a transfer, the provider that made the 81733
transfer does not reacquire an interest in the ~~facility~~ ICF/MR 81734
except through the exercise of a creditor's rights in the event of 81735
a default. If the provider reacquires an interest in the ~~facility~~ 81736
ICF/MR in this manner, the department shall treat the ~~facility~~ 81737
ICF/MR as if the transfer never occurred when the department 81738
~~calculates~~ determines its ~~reimbursement rates~~ payment rate for 81739
capital costs. 81740

(v) The lease or transfer satisfies any other criteria 81741
specified in the rules. 81742

(e) Except in the case of hardship caused by a catastrophic 81743
event, as determined by the department, or in the case of a lessor 81744
or provider making the transfer who is at least sixty-five years 81745

of age, not less than twenty years have elapsed since, for the 81746
same facility ICF/MR, allowable cost of ownership was determined 81747
most recently under this division. 81748

~~Sec. 5111.23 5124.19.~~ (A)(1) The department of ~~job and family~~ 81749
~~services developmental disabilities~~ shall ~~pay a provider for~~ 81750
~~prospectively determine~~ each ~~of the provider's eligible~~ 81751
~~intermediate care facilities for the mentally retarded a ICF/MR's~~ 81752
~~per resident per medicaid day payment rate~~ for direct care costs 81753
~~established prospectively for each facility. The department shall~~ 81754
~~establish each facility's rate for direct care costs quarterly as~~ 81755
~~follows:~~ 81756

(a) Multiply the lesser of the following by the ICF/MR's 81757
case-mix score determined or assigned under section 5124.192 of 81758
the Revised Code for the calendar quarter that preceded the 81759
immediately preceding calendar quarter: 81760

(i) The ICF/MR's cost per case-mix unit for the calendar year 81761
immediately preceding the fiscal year in which the rate will be 81762
paid, as determined under division (B) of this section; 81763

(ii) The maximum cost per case-mix unit for the ICF/MR's peer 81764
group for the fiscal year in which the rate will be paid, as set 81765
under division (C) of this section; 81766

(b) Adjust the product determined under division (A)(1)(a) of 81767
this section by the inflation rate estimated under division (D)(1) 81768
of this section and modified under division (D)(2) of this 81769
section. 81770

(2) Except as otherwise directed by law enacted by the 81771
general assembly, the department shall prospectively determine 81772
each ICF/MR's rate for direct care costs for each quarter of every 81773
fiscal year. 81774

~~(B) Each facility's rate for direct care costs shall be based~~ 81775

~~on the facility's cost per case mix unit, subject to the maximum 81776
costs per case mix unit established under division (B)(2) of this 81777
section, from the calendar year preceding the fiscal year in which 81778
the rate is paid. To determine the rate, the department shall do 81779
all of the following: 81780~~

~~(1) Determine each facility's an ICF/MR's cost per case-mix 81781
unit for the calendar year immediately preceding the fiscal year 81782
in which the rate will be paid by dividing, the facility's 81783
department shall divide the ICF/MR's desk-reviewed, actual, 81784
allowable, per diem direct care costs for that calendar year by 81785
its annual average case-mix score determined under section 81786
5111.232 5124.192 of the Revised Code for the same calendar year. 81787~~

~~(2)(a) Set (C)(1) For each fiscal year for which a rate will 81788
be paid, the department shall set the maximum cost per case-mix 81789
unit for each peer group of intermediate care facilities for the 81790
mentally retarded ICFs/MR with more than eight beds specified in 81791
rules adopted under division (F) of this section at a percentage 81792
above the cost per case-mix unit of determined under division (B) 81793
of this section for the facility ICF/MR in the peer group that has 81794
the peer group's median number of medicaid day days for the 81795
calendar year immediately preceding the fiscal year in which the 81796
rate will be paid, as calculated under division (B)(1) of this 81797
section, that is. The percentage shall be no less than the 81798
percentage ealculated under division (E)(2) of this section above 81799
the cost per case-mix unit determined under division (B) of this 81800
section for the ICF/MR that has the median number of medicaid days 81801
for calendar year 1992 for all ICFs/MR with more than eight beds 81802
that would result in payment of all desk-reviewed, actual, 81803
allowable direct care costs for eighty and one-half per cent of 81804
the medicaid days for such ICFs/MR for calendar year 1992. 81805~~

~~(b) Set (2) For each fiscal year for which a rate will be 81806
paid, the department shall set the maximum cost per case-mix unit 81807~~

for each peer group of ~~intermediate care facilities for the~~ 81808
~~mentally retarded ICFs/MR with eight or fewer beds specified in~~ 81809
~~rules adopted under division (F) of this section at a percentage~~ 81810
above the cost per case-mix unit of determined under division (B) 81811
of this section for the facility ICF/MR in the peer group that has 81812
the peer group's median number of medicaid day days for the 81813
calendar year immediately preceding the fiscal year in which the 81814
rate will be paid, ~~as calculated under division (B)(1) of this~~ 81815
~~section, that is. The percentage shall be no less than the~~ 81816
~~percentage calculated under division (E)(3) of this section above~~ 81817
the cost per case-mix unit determined under division (B) of this 81818
section for the ICF/MR that has the median number of medicaid days 81819
for calendar year 1992 for all ICFs/MR with eight or fewer beds 81820
that would result in payment of all desk-reviewed, actual, 81821
allowable direct care costs for eighty and one-half per cent of 81822
the medicaid days for such ICFs/MR for calendar year 1992. 81823

~~(e)(3)~~ In calculating determining the maximum cost per 81824
case-mix unit under divisions ~~(B)(2)(a)(C)(1)~~ and ~~(b)(2)~~ of this 81825
section for each peer group, the department shall exclude from its 81826
~~calculations~~ determinations the cost per case-mix unit of any 81827
~~facility ICF/MR~~ in the peer group that participated in the 81828
medicaid program under the same ~~operator~~ provider for less than 81829
twelve months during the calendar year immediately preceding the 81830
fiscal year in which the rate will be paid. 81831

~~(3) Estimate~~ (4) The department shall not reset a peer 81832
group's maximum cost per case-mix unit for a fiscal year under 81833
division (C)(1) or (2) of this section based on additional 81834
information that it receives after it sets the maximum for that 81835
fiscal year. The department shall reset a peer group's maximum 81836
cost per case-mix unit for a fiscal year only if it made an error 81837
in setting the maximum for that fiscal year based on information 81838
available to the department at the time it originally sets the 81839

maximum for that fiscal year. 81840

~~(D)(1) The department shall estimate the rate of inflation 81841
for the eighteen-month period beginning on the first day of July 81842
of the calendar year preceding the fiscal year in which ~~the~~ a rate 81843
will be paid and ending on the thirty-first day of December of the 81844
fiscal year in which the rate will be paid, using the ~~index~~ 81845
~~specified in division (C) of this section. If the estimated~~ 81846
~~inflation rate for the eighteen month period is different from the~~ 81847
~~actual inflation rate for that period, as measured using the same~~ 81848
~~index, the difference shall be added to or subtracted from the~~ 81849
~~inflation rate estimated under division (B)(3) of this section for~~ 81850
~~the following fiscal year.~~ 81851~~

~~(4) The department shall not recalculate a maximum cost per 81852
case mix unit under division (B)(2) of this section or a 81853
percentage under division (E) of this section based on additional 81854
information that it receives after the maximum costs per case mix 81855
unit or percentages are set. The department shall recalculate a 81856
maximum cost per case mix units or percentage only if it made an 81857
error in computing the maximum cost per case mix unit or 81858
percentage based on information available at the time of the 81859
original calculation. 81860~~

~~(C) The department shall use the following index for the 81861
purpose of division (B)(3) of this section: 81862~~

~~(1) The (a) Subject to division (D)(1)(b) of this section, 81863
the employment cost index for total compensation, health services 81864
component, published by the United States bureau of labor 81865
statistics; 81866~~

~~(2)(b) If the United States bureau of labor statistics ceases 81867
to publish the index specified in division ~~(C)~~(D)(1)(a) of this 81868
section, the index that is subsequently published by the bureau 81869
and covers ~~nursing facilities~~ the staff costs of ICFs/MR. 81870~~

~~(D) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:~~ 81871
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~~(1) Multiply the lesser of the following by the facility's average case mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:~~ 81874
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81877

~~(a) The facility's cost per case mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;~~ 81878
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~~(b) The maximum cost per case mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;~~ 81881
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81883

~~(2) Adjust the product determined under division (D)(1) of this section by the inflation rate estimated under division (B)(3) of this section.~~ 81884
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~~(E)(1) The department shall calculate the percentage above the median cost per case mix unit determined under division (B)(1) of this section for the facility that has the median medicaid day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk reviewed, actual, allowable direct care costs for eighty and one half per cent of the medicaid days for such facilities for calendar year 1992.~~ 81887
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~~(2) The department shall calculate the percentage above the median cost per case mix unit determined under division (B)(1) of this section for the facility that has the median medicaid day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk reviewed, actual, allowable direct care costs for eighty and one half per cent of the medicaid days for such~~ 81895
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~~facilities for calendar year 1992.~~ 81902

~~(F)(2) If the estimated inflation rate for the eighteen-month period specified in division (D)(1) of this section is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (D)(1) of this section for the following fiscal year.~~ 81903
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~~(E) The director of job and family services developmental disabilities shall adopt rules under section 5111.02 5124.03 of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded ICFs/MR with more than eight beds and intermediate care facilities for the mentally retarded peer groups of ICFs/MR with eight or fewer beds, based on findings of significant per diem direct care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem direct care cost differences due to other factors which may include case-mix.~~ 81909
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~~(G) The department, in accordance with division (D) of section 5111.232 of the Revised Code and rules adopted under division (F) of that section, may assign case mix scores or costs per case mix unit if a provider fails to submit assessment data necessary to calculate an intermediate care facility for the mentally retarded's case mix score in accordance with that section.~~ 81919
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Sec. 5124.191. Each calendar quarter, each ICF/MR provider shall compile complete assessment data for each resident of each of the provider's ICFs/MR, regardless of payment source, who is in the ICF/MR, or on hospital or therapeutic leave from the ICF/MR, on the last day of the quarter. A resident assessment instrument specified in rules adopted under section 5124.03 of the Revised Code shall be used to compile the resident assessment data. Each 81926
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provider shall submit the resident assessment data to the 81933
department of developmental disabilities not later than fifteen 81934
days after the end of the calendar quarter for which the data is 81935
compiled. The resident assessment data shall be submitted to the 81936
department through the medium or media specified in rules adopted 81937
under section 5124.03 of the Revised Code. 81938

Sec. 5124.192. (A) Except as provided in division (B) of this 81939
section, the department of developmental disabilities shall do 81940
both of the following: 81941

(1) For each calendar quarter, determine a case-mix score for 81942
each ICF/MR using the resident assessment data submitted to the 81943
department under section 5124.191 of the Revised Code and the 81944
grouper methodology prescribed in rules authorized by this 81945
section; 81946

(2) After the end of each calendar year and in accordance 81947
with rules authorized by this section, determine an annual average 81948
case-mix score for each ICF/MR using the ICF/MR's quarterly 81949
case-mix scores for that calendar year. 81950

(B)(1) Subject to division (B)(2) of this section, the 81951
department, for one or more months of a calendar quarter, may 81952
assign to an ICF/MR a case-mix score that is five per cent less 81953
than the ICF/MR's case-mix score for the immediately preceding 81954
calendar quarter if any of the following apply: 81955

(a) The provider does not timely submit complete and accurate 81956
resident assessment data necessary to determine the ICF/MR's 81957
case-mix score for the calendar quarter; 81958

(b) The ICF/MR was subject to an exception review under 81959
section 5124.193 of the Revised Code for the immediately preceding 81960
calendar quarter; 81961

(c) The ICF/MR was assigned a case-mix score for the 81962

immediately preceding calendar quarter. 81963

(2) Before assigning a case-mix score to an ICF/MR due to the 81964
submission of incorrect resident assessment data, the department 81965
shall permit the provider to correct the data. The department may 81966
assign the case-mix score if the provider fails to submit the 81967
corrected resident assessment data not later than eighty days 81968
after the end of the calendar quarter to which the data pertains 81969
or later due date specified in rules authorized by this section. 81970

(3) If, for more than six months during a calendar year, a 81971
provider is paid a rate determined for an ICF/MR using a case-mix 81972
score assigned to the ICF/MR under division (B)(1) of this 81973
section, the department may assign the ICF/MR a cost per case-mix 81974
unit that is five per cent less than the ICF/MR's actual or 81975
assigned cost per case-mix unit for the immediately preceding 81976
calendar year. The department may use the assigned cost per 81977
case-mix unit, instead of determining the ICF/MR's actual cost per 81978
case-mix unit in accordance with section 5124.19 of the Revised 81979
Code, to establish the ICF/MR's rate for direct care costs for the 81980
fiscal year immediately following the calendar year for which the 81981
cost per case-mix unit is assigned. 81982

(4) The department shall take action under division (B)(1), 81983
(2), or (3) of this section only in accordance with rules 81984
authorized by this section. The department shall not take an 81985
action that affects medicaid payment rates for prior payment 81986
periods except in accordance with sections 5124.41 and 5124.42 of 81987
the Revised Code. 81988

(C) The director of developmental disabilities shall adopt 81989
rules under section 5124.03 of the Revised Code as necessary to 81990
implement this section. 81991

(1) The rules shall do all of the following: 81992

(a) Prescribe a grouper methodology to be used when 81993

<u>determining the case-mix scores for ICFs/MR;</u>	81994
<u>(b) Specify the process for determining the annual average case-mix scores for ICFs/MR;</u>	81995
<u>(c) Establish procedures under which resident assessment data is to be reviewed for accuracy and providers are to be notified of any data that requires correction;</u>	81997
<u>(d) Establish procedures for providers to correct resident assessment data and, if necessary, specify a due date for corrections that is later than the due date specified in division (B)(2) of this section.</u>	81998
<u>(e) Specify when and how the department will assign a case-mix score or cost per case-mix unit to an ICF/MR under division (B) of this section if information necessary to calculate the ICF/MR's case-mix score is not provided or corrected in accordance with the procedures established by the rules.</u>	81999
<u>(2) Notwithstanding any other provision of this chapter, the rules may provide for excluding case-mix scores assigned to an ICF/MR under division (B) of this section from the determination of the ICF/MR's annual average case-mix score and the maximum cost per case-mix unit for the ICF/MR's peer group.</u>	82000
<u>Sec. 5124.193. (A) The department of developmental disabilities may, pursuant to rules authorized by this section, conduct an exception review of resident assessment data submitted by an ICF/MR provider under section 5124.191 of the Revised Code. The department may conduct an exception review based on the findings of a medicaid certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.</u>	82001
<u>Exception reviews shall be conducted at the ICF/MR by appropriate health professionals under contract with or employed</u>	82002
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by the department. The professionals may review resident 82024
assessment forms and supporting documentation, conduct interviews, 82025
and observe residents to identify any patterns or trends of 82026
inaccurate resident assessments and resulting inaccurate case-mix 82027
scores. 82028

(B) If an exception review is conducted before the effective 82029
date of an ICF/MR's rate for direct care costs that is based on 82030
the resident assessment data being reviewed and the review results 82031
in findings that exceed tolerance levels specified in the rules 82032
authorized by this section, the department, in accordance with the 82033
rules authorized by this section, may use the findings to 82034
redetermine individual resident case-mix scores, the ICF/MR's 82035
case-mix score for the quarter, and the ICF/MR's annual average 82036
case-mix score. The department may use the ICF/MR's redetermined 82037
quarterly and annual average case-mix scores to determine the 82038
ICF/MR's rate for direct care costs for the appropriate calendar 82039
quarter or quarters. 82040

(C) The department shall prepare a written summary of any 82041
exception review finding that is made after the effective date of 82042
an ICF/MR's rate for direct care costs that is based on the 82043
resident assessment data that was reviewed. Where the provider is 82044
pursuing judicial or administrative remedies in good faith 82045
regarding the finding, the department shall not withhold from the 82046
provider's current payments any amounts the department claims to 82047
be due from the provider pursuant to section 5124.41 of the 82048
Revised Code. 82049

(D)(1) The director of developmental disabilities shall adopt 82050
rules under section 5124.03 of the Revised Code as necessary to 82051
implement this section. The rules shall establish an exception 82052
review program that does all of the following: 82053

(a) Requires each exception review to comply with Title XIX; 82054

(b) Requires a written summary for each exception review that states whether resident assessment forms have been completed accurately; 82055
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(c) Prohibits each health professional who conducts an exception review from doing either of the following: 82058
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(i) During the period of the professional's contract or employment with the department, having or being committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of ICFs/MR in this state; 82060
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(ii) Reviewing any provider that has been a client of the professional. 82064
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(2) For the purposes of division (D)(1)(c)(i) of this section, employment of a member of a health professional's family by an ICF/MR that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the ICF/MR. 82066
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Sec. ~~5111.233~~ 5124.194. The costs of day programming shall be 82071
part of the direct care costs of an ~~intermediate care facility for~~ 82072
~~the mentally retarded~~ ICF/MR as off-site day programming if the 82073
area in which the day programming is provided is not certified by 82074
the director of health as an ~~intermediate care facility for the~~ 82075
~~mentally retarded~~ ICF/MR under Title XIX and regardless of either 82076
of the following: 82077

(A) Whether or not the area in which the day programming is 82078
provided is less than two hundred feet away from the ~~intermediate~~ 82079
~~care facility for the mentally retarded~~ ICF/MR; 82080

(B) Whether or not the day programming is provided by an 82081
individual who, or organization that, is a related party to the 82082
provider of the ~~intermediate care facility for the mentally~~ 82083
~~retarded~~ ICF/MR. 82084

~~Sec. 5111.241~~ 5124.21. (A) ~~The~~ For each fiscal year, the 82085
~~department of job and family services developmental disabilities~~ 82086
~~shall pay a provider for prospectively determine each of the~~ 82087
~~provider's eligible intermediate care facilities for the mentally~~ 82088
~~retarded a ICF/MR's per resident per medicaid day payment rate for~~ 82089
~~indirect care costs established prospectively each fiscal year for~~ 82090
~~each facility. The Subject to section 5124.28 of the Revised Code,~~ 82091
~~an ICF/MR's rate for each intermediate care facility for the~~ 82092
~~mentally retarded shall be the sum of the following, but shall not~~ 82093
~~exceed lesser of the individual rate determined under division (B)~~ 82094
~~of this section and the maximum rate established determined for~~ 82095
~~the facility's ICF/MR's peer group under division (B)(C) of this~~ 82096
~~section.~~ 82097

(B) An ICF/MR's individual rate is the sum of the following: 82098

(1) ~~The facility's ICF/MR's~~ desk-reviewed, actual, allowable, 82099
per diem indirect care costs from the calendar year immediately 82100
preceding the fiscal year in which the rate will be paid, adjusted 82101
for the inflation rate estimated under division ~~(C)~~(D)(1) of this 82102
section; 82103

(2) An efficiency incentive in the following amount: 82104

~~(a) For fiscal years ending in even numbered calendar years:~~ 82105

~~(i) In the case of intermediate care facilities for the~~ 82106
~~mentally retarded with~~ If the ICF/MR has more than eight beds, the 82107
following: 82108

(i) For fiscal year 2014, seven and one-tenth per cent of the 82109
maximum rate established for the ~~facility's ICF/MR's~~ peer group 82110
under division ~~(B)~~(C) of this section; 82111

~~(ii) In the case of intermediate care facilities for the~~ 82112
~~mentally retarded with~~ For fiscal years 2015 and 2016 and each 82113
fiscal year thereafter ending in an even-numbered calendar year, 82114

three and fifty-five hundredths per cent of the maximum rate 82115
established for the ICF/MR's peer group under division (C) of this 82116
section; 82117

(iii) For fiscal year 2017 and each fiscal year thereafter 82118
ending in an odd-numbered calendar year, the amount calculated for 82119
the immediately preceding fiscal year under division (B)(2)(a)(ii) 82120
of this section. 82121

(b) If the ICF/MR has eight or fewer beds, the following: 82122

(i) For each fiscal year ending in an even-numbered calendar 82123
year, seven per cent of the maximum rate established for the 82124
facility's ICF/MR's peer group under division ~~(B)~~(C) of this 82125
section; 82126

~~(b)(ii)~~ For each fiscal years year ending in an odd-numbered 82127
calendar years year, the amount calculated for the immediately 82128
preceding fiscal year under division ~~(A)~~(B)(2)(a)(b)(i) of this 82129
section. 82130

~~(B)(C)(1)~~ The maximum rate for indirect care costs for each 82131
peer group of ~~intermediate care facilities for the mentally~~ 82132
~~retarded~~ ICFs/MR with more than eight beds ~~specified in rules~~ 82133
~~adopted under division (D) of this section~~ shall be determined as 82134
follows: 82135

(a) For each fiscal years year ending in an even-numbered 82136
calendar years year, the maximum rate for each such peer group 82137
shall be the rate that is no less than twelve and four-tenths per 82138
cent above the median desk-reviewed, actual, allowable, per diem 82139
indirect care cost for all ~~intermediate care facilities for the~~ 82140
~~mentally retarded with more than eight beds~~ ICFs/MR in the peer 82141
group, ~~(excluding facilities~~ ICFs/MR in the peer group whose 82142
indirect care costs for that period are more than three standard 82143
deviations from the mean desk-reviewed, actual, allowable, per 82144
diem indirect care cost for all ~~intermediate care facilities for~~ 82145

~~the mentally retarded ICFs/MR with more than eight beds,~~ for the 82146
calendar year immediately preceding the fiscal year in which the 82147
rate will be paid, adjusted by the inflation rate estimated under 82148
division ~~(C)~~(D)(1) of this section. 82149

(b) For each fiscal ~~years~~ year ending in an odd-numbered 82150
calendar ~~years~~ year, the maximum rate for each such peer group is 82151
the peer group's maximum rate for the previous fiscal year, 82152
adjusted for the inflation rate estimated under division ~~(C)~~(D)(2) 82153
of this section. 82154

(2) The maximum rate for indirect care costs for each peer 82155
group of ~~intermediate care facilities for the mentally retarded~~ 82156
ICFs/MR with eight or fewer beds ~~specified in rules adopted under~~ 82157
~~division (D) of this section~~ shall be determined as follows: 82158

(a) For each fiscal ~~years~~ year ending in an even-numbered 82159
calendar ~~years~~ year, the maximum rate for each such peer group 82160
shall be the rate that is no less than ten and three-tenths per 82161
cent above the median desk-reviewed, actual, allowable, per diem 82162
indirect care cost for all ~~intermediate care facilities for the~~ 82163
~~mentally retarded with eight or fewer beds~~ ICFs/MR in the peer 82164
group, ~~(excluding facilities ICFs/MR in the peer group whose~~ 82165
indirect care costs are more than three standard deviations from 82166
the mean desk-reviewed, actual, allowable, per diem indirect care 82167
cost for all ~~intermediate care facilities for the mentally~~ 82168
~~retarded ICFs/MR with eight or fewer beds,~~ for the calendar year 82169
immediately preceding the fiscal year in which the rate will be 82170
paid, adjusted by the inflation rate estimated under division 82171
~~(C)~~(D)(1) of this section. 82172

(b) For each fiscal ~~years that end~~ year ending in an 82173
odd-numbered calendar ~~years~~ year, the maximum rate for each such 82174
peer group is the peer group's maximum rate for the previous 82175
fiscal year, adjusted for the inflation rate estimated under 82176
division ~~(C)~~(D)(2) of this section. 82177

(3) The department shall not ~~recalculate~~ redetermine a maximum rate for indirect care costs under division ~~(B)~~(C)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall ~~recalculate~~ redetermine the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available to the department at the time of the original calculation.

~~(C)~~(D)(1) When adjusting rates for inflation under divisions ~~(A)~~(B)(1), ~~(B)~~(C)(1)(a), and ~~(B)~~(C)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year immediately preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid. To estimate the rate of inflation, the department shall use the following:

(a) ~~The~~ Subject to division (D)(1)(b) of this section, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division ~~(C)~~(D)(1)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(2) When adjusting rates for inflation under divisions ~~(B)~~(C)(1)(b) and ~~(B)~~(C)(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year immediately preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid. To estimate the rate of inflation, the department shall use the following:

(a) ~~The~~ Subject to division (D)(2)(b) of this section, the 82210
consumer price index for all items for all urban consumers for the 82211
north central region, published by the United States bureau of 82212
labor statistics; 82213

(b) If the United States bureau of labor statistics ceases to 82214
publish the index specified in division ~~(C)~~(D)(2)(a) of this 82215
section, a comparable index that the bureau publishes and the 82216
department determines is appropriate. 82217

(3) If an inflation rate estimated under division ~~(C)~~(D)(1) 82218
or (2) of this section is different from the actual inflation rate 82219
for the relevant time period, as measured using the same index, 82220
the difference shall be added to or subtracted from the inflation 82221
rate estimated pursuant to this division for the following fiscal 82222
year. 82223

~~(D)~~(E) The director of ~~job and family services~~ developmental 82224
disabilities shall adopt rules under section ~~5111.02~~ 5124.03 of 82225
the Revised Code that specify peer groups of ~~intermediate care~~ 82226
~~facilities for the mentally retarded~~ ICFs/MR with more than eight 82227
beds, and peer groups of ~~intermediate care facilities for the~~ 82228
~~mentally retarded~~ ICFs/MR with eight or fewer beds, based on 82229
findings of significant per diem indirect care cost differences 82230
due to geography and ~~facility~~ bed-size. The rules also may specify 82231
peer groups based on findings of significant per diem indirect 82232
care cost differences due to other factors, including case-mix. 82233

Sec. ~~5111.235~~ 5124.23. (A) ~~The~~ For each fiscal year, the 82234
department of ~~job and family services~~ developmental disabilities 82235
shall ~~pay a provider for~~ prospectively determine each of the 82236
~~provider's eligible intermediate care facilities for the mentally~~ 82237
~~retarded~~ a ICF/MR's per resident per medicaid day payment rate for 82238
other protected costs ~~established prospectively each fiscal year~~ 82239
~~for each facility. The~~ An ICF/MR's rate for each facility shall be 82240

the ~~facility's~~ ICF/MR's desk-reviewed, actual, allowable, per diem 82241
other protected costs from the calendar year immediately preceding 82242
the fiscal year in which the rate will be paid, all adjusted for 82243
the estimated inflation rate for the eighteen-month period 82244
beginning on the first day of July of the calendar year 82245
immediately preceding the fiscal year in which the rate will be 82246
paid and ending on the thirty-first day of December of that fiscal 82247
year. The department shall estimate inflation using the index 82248
specified in division (B) of this section. If the estimated 82249
inflation rate for the eighteen-month period is different from the 82250
actual inflation rate for that period, the difference shall be 82251
added to or subtracted from the inflation rate estimated for the 82252
following year. 82253

(B) The department shall use the following index for the 82254
purpose of division (A) of this section: 82255

(1) The Subject to division (B)(2) of this section, the 82256
consumer price index for all urban consumers for nonprescription 82257
drugs and medical supplies, as published by the United States 82258
bureau of labor statistics; 82259

(2) If the United States bureau of labor statistics ceases to 82260
publish the index specified in division (B)(1) of this section, 82261
the index that is subsequently published by the bureau and covers 82262
nonprescription drugs and medical supplies. 82263

Sec. 5124.25. (A) Subject to division (D) of this section, 82264
the department of developmental disabilities may pay a medicaid 82265
rate add-on to an ICF/MR provider for outlier ICF/MR services the 82266
ICF/MR provides to qualifying ventilator-dependent residents on or 82267
after July 1, 2014, if the provider applies to the department of 82268
developmental disabilities to receive the rate add-on and the 82269
department approves the application. The department of 82270
developmental disabilities may approve a provider's application if 82271

all of the following apply: 82272

(1) The provider submits to the department of developmental disabilities a best practices protocol for providing outlier ICF/MR services under this section and the department of developmental disabilities determines that the protocol is acceptable; 82273
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(2) The provider executes with the department of medicaid an addendum to its provider agreement for the ICF/MR regarding the outlier ICF/MR services; 82278
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(3) The provider and ICF/MR meet all other eligibility requirements for the rate add-on established in rules authorized by this section. 82281
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(B) An ICF/MR that has been approved by the department of developmental disabilities to provider outlier ICF/MR services under this section shall provide the services in accordance with both of the following: 82284
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(1) The best practices protocol the department of developmental disabilities determined is acceptable; 82288
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(2) Requirements regarding the services established in rules authorized by this section. 82290
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(C) To qualify to receive outlier ICF/MR services from an ICF/MR under this section, a resident of the ICF/MR must be a medicaid recipient, be under twenty-two years of age, be dependent on a ventilator, and meet all other eligibility requirements established in rules authorized by this section. 82292
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(D) The department of developmental disabilities shall negotiate the amount of the medicaid payment rate add-on, if any, to be paid under this section, or the method by which that amount is to be determined, with the department of medicaid. The department of developmental disabilities shall not pay the rate 82297
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add-on unless the department has approved the amount of the rate 82302
add-on or method by which the amount is to be determined. 82303

Sec. 5124.28. Notwithstanding any provision of section 82304
5124.17 or 5124.21 of the Revised Code, the director of 82305
developmental disabilities may adopt rules under section 5124.03 82306
of the Revised Code that provide for the determination of a 82307
combined maximum payment limit for indirect care costs and costs 82308
of ownership for ICFs/MR with eight or fewer beds. 82309

~~Sec. 5111.263~~ 5124.29. Except as otherwise provided in 82310
section ~~5111.264~~ 5124.30 of the Revised Code, the department of 82311
~~job and family services~~ developmental disabilities, in determining 82312
whether an ~~intermediate care facility for the mentally retarded's~~ 82313
ICF/MR's direct care costs and indirect care costs are allowable, 82314
shall place no limit on specific categories of reasonable costs 82315
other than compensation of owners, compensation of relatives of 82316
owners, and compensation of administrators. 82317

Compensation cost limits for owners and relatives of owners 82318
shall be based on compensation costs for individuals who hold 82319
comparable positions but who are not owners or relatives of 82320
owners, as reported on ~~facility~~ ICFs/MR's cost reports. As used in 82321
this section, "comparable position" means the position that is 82322
held by the owner or the owner's relative, if that position is 82323
listed separately on the cost report form, or if the position is 82324
not listed separately, the group of positions that is listed on 82325
the cost report form and that includes the position held by the 82326
owner or the owner's relative. In the case of an owner or owner's 82327
relative who serves the ~~facility~~ ICFs/MR in a capacity such as 82328
corporate officer, proprietor, or partner for which no comparable 82329
position or group of positions is listed on the cost report form, 82330
the compensation cost limit shall be based on civil service 82331
equivalents and shall be specified in rules adopted under section 82332

5111.02 5124.03 of the Revised Code. 82333

Compensation cost limits for administrators shall be based on 82334
compensation costs for administrators who are not owners or 82335
relatives of owners, as reported on ~~facility~~ ICFs/MR's cost 82336
reports. Compensation cost limits for administrators of four or 82337
more ~~intermediate care facilities for the mentally retarded~~ 82338
ICFs/MR shall be the same as the limits for administrators of 82339
~~intermediate care facilities for the mentally retarded~~ ICFs/MR 82340
with one hundred fifty or more beds. 82341

Sec. 5124.30. Except as provided in section 5124.17 of the 82342
Revised Code, the costs of goods, services, and facilities, 82343
furnished to an ICF/MR provider by a related party are includable 82344
in the allowable costs of the provider at the reasonable cost to 82345
the related party. 82346

Sec. 5124.31. The department of developmental disabilities 82347
shall adjust medicaid payment rates determined under this chapter 82348
to account for reasonable additional costs that must be incurred 82349
by ICFs/MR to comply with requirements of federal or state 82350
statutes, rules, or policies enacted or amended after January 1, 82351
1992, or with orders issued by state or local fire authorities. 82352

Sec. 5124.32. The department of developmental disabilities 82353
shall not reduce an ICF/MR's medicaid payment rate determined 82354
under this chapter on the basis that the provider charges a lower 82355
rate to any resident who is not eligible for medicaid. 82356

Sec. 5124.33. No medicaid payment shall be made to an ICF/MR 82357
provider for the day a medicaid recipient is discharged from the 82358
ICF/MR. 82359

Sec. 5111.33 5124.34. ~~Reimbursement to a~~ (A) The department 82360

~~of developmental disabilities shall pay an ICF/MR provider of an 82361
intermediate care facility for the mentally retarded under 82362
sections 5111.20 to 5111.331 of the Revised Code shall include 82363
payments to the provider, at a rate equal to the percentage one 82364
hundred per cent of the per resident total per medicaid day rates 82365
that the department of job and family services has established 82366
payment rate determined for the provider's facility ICF/MR under 82367
sections 5111.20 to 5111.331 of the Revised Code for the fiscal 82368
year for which the cost of services is reimbursed, this chapter to 82369
reserve a bed for a resident who is a medicaid recipient during a 82370
temporary absence under conditions prescribed by the department, 82371
to include hospitalization for an acute condition, visits with 82372
relatives and friends, and participation in therapeutic programs 82373
outside the facility, when the if all of the following apply: 82374~~

~~(1) The recipient is temporarily absent from the ICF/MR for a 82375
reason that makes the absence qualified for payments under this 82376
section as specified in rules authorized by this section; 82377~~

~~(2) The resident's plan of care provides for such the absence 82378
and federal; 82379~~

~~(3) Federal financial participation in the payments is 82380
available for the payments. The 82381~~

~~(B) The maximum period during which medicaid payments may be 82382
made to reserve a bed shall not exceed the maximum period 82383
specified under in federal regulations, and shall not be more than 82384
thirty days during any calendar year for hospital stays, visits 82385
with relatives and friends, and participation in therapeutic 82386
programs. 82387~~

~~Recipients programs. However, a resident shall not be subject 82388
to a maximum period during which payments may be made to reserve a 82389
bed in an intermediate care facility for the mentally retarded if 82390
prior authorization of the department is obtained for hospital 82391~~

stays, visits with relatives and friends, and participation in 82392
therapeutic programs. The 82393

(C)(1) The director of ~~job and family services~~ developmental 82394
disabilities shall adopt rules under section ~~5111.02~~ 5124.03 of 82395
the Revised Code establishing as necessary to implement this 82396
section, including rules that do the following: 82397

(a) Specify the reasons for which a temporary absence from an 82398
ICF/MR makes the absence qualify for payments under this section; 82399

(b) Establish conditions under which prior authorization may 82400
be obtained for the purpose of division (B) of this section. 82401

(2) The rules authorized by division (C)(1)(a) of this 82402
section shall include the following as reasons for which a 82403
temporary absence from an ICF/MR qualifies for payments under this 82404
section: 82405

(a) Hospitalization for acute conditions; 82406

(b) Visits with relatives and friends; 82407

(c) Participation in therapeutic programs outside the ICF/MR. 82408

Sec. 5124.35. Medicaid payments may be made for ICF/MR 82409
services provided not later than thirty days after the effective 82410
date of an involuntary termination of the ICF/MR that provides the 82411
services if the services are provided to a medicaid recipient who 82412
is eligible for the services and resided in the ICF/MR before the 82413
effective date of the involuntary termination. 82414

Sec. 5124.37. The department of developmental disabilities 82415
shall make its best efforts each year to determine ICFs/MR's 82416
medicaid payment rates under this chapter in time to pay the rates 82417
by August fifteenth of each fiscal year. If the department is 82418
unable to calculate the rates so that they can be paid by that 82419
date, the department shall pay each provider the rate calculated 82420

for the provider's ICFs/MR under those sections at the end of the 82421
previous fiscal year. If the department also is unable to 82422
calculate the rates to make the payments due by the fifteenth day 82423
of September and the fifteenth day of October, the department 82424
shall pay the previous fiscal year's rate to make those payments. 82425
The department may increase by five per cent the previous fiscal 82426
year's rate paid for any ICF/MR pursuant to this section at the 82427
request of the provider. The department shall use rates calculated 82428
for the current fiscal year to make the payments due by the 82429
fifteenth day of November. 82430

If an ICF/MR's medicaid payment rate paid under this section 82431
is lower than the rate calculated for it for the current fiscal 82432
year, the department shall pay the provider the difference between 82433
the two rates for the number of days for which the provider is 82434
paid the lower rate. If an ICF/MR's medicaid payment rate paid 82435
under this section is higher than the rate calculated for it for 82436
the current fiscal year, the provider shall refund to the 82437
department the difference between the two rates for the number of 82438
days for which the provider is paid the higher rate. 82439

Sec. 5124.38. (A) The director of developmental disabilities 82440
shall establish a process under which an ICF/MR provider, or a 82441
group or association of ICF/MR providers, may seek reconsideration 82442
of medicaid payment rates established under this chapter, 82443
including a rate for direct care costs redetermined before the 82444
effective date of the rate as a result of an exception review 82445
conducted under section 5124.193 of the Revised Code. Except as 82446
provided in divisions (B) to (D) of this section, the only issue 82447
that a provider, group, or association may raise in the rate 82448
reconsideration is whether the rate was calculated in accordance 82449
with this chapter and the rules adopted under section 5124.03 of 82450
the Revised Code. The provider, group, or association may submit 82451

written arguments or other materials that support its position. 82452
The provider, group, or association and department shall take 82453
actions regarding the rate reconsideration within time frames 82454
specified in rules authorized by this section. 82455

If the department determines, as a result of the rate 82456
reconsideration, that the rate established for one or more ICFs/MR 82457
is less than the rate to which the ICF/MR is entitled, the 82458
department shall increase the rate. If the department has paid the 82459
incorrect rate for a period of time, the department shall pay the 82460
provider of the ICF/MR the difference between the amount the 82461
provider was paid for that period for the ICF/MR and the amount 82462
the provider should have been paid for the ICF/MR. 82463

(B)(1) The department, through the rate reconsideration 82464
process, may increase during a fiscal year the medicaid payment 82465
rate determined for an ICF/MR under this chapter if the provider 82466
demonstrates that the ICF/MR's actual, allowable costs have 82467
increased because of any of the following extreme circumstances: 82468

(a) A natural disaster; 82469

(b) A nonextensive renovation approved under division (D) of 82470
section 5124.17 of the Revised Code; 82471

(c) If the ICF/MR has an appropriate claims management 82472
program, an increase in the ICF/MR's workers' compensation 82473
experience rating of greater than five per cent; 82474

(d) If the ICF/MR is an inner-city ICF/MR, increased security 82475
costs; 82476

(e) A change of ownership that results from bankruptcy, 82477
foreclosure, or findings by the department of health of violations 82478
of medicaid certification requirements; 82479

(f) Other extreme circumstances specified in rules authorized 82480
by this section. 82481

(2) An ICF/MR may qualify for a rate increase under this division only if its per diem, actual, allowable costs have increased to a level that exceeds its total rate. An increase under this division is subject to any rate limitations or maximum rates established by this chapter for specific cost centers. Any rate increase granted under this division shall take effect on the first day of the first month after the department receives the request. 82482
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(C) The department, through the rate reconsideration process, may increase an ICF/MR's rate as determined under this chapter if the department, in the department's sole discretion, determines that the rate as determined under those sections works an extreme hardship on the ICF/MR. 82490
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(D) When beds certified for the medicaid program are added to an existing ICF/MR or replaced at the same site, the department, through the rate reconsideration process, shall increase the ICF/MR's rate for capital costs proportionately, as limited by any applicable limitation under section 5124.17 of the Revised Code, to account for the costs of the beds that are added or replaced. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under this division after June 30, 1993, shall remain in effect until the effective date of a rate for capital costs determined under section 5124.17 of the Revised Code that includes costs incurred for a full calendar year for the bed addition or bed replacement. The ICF/MR shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under this division, if the ICF/MR is operated by the same provider, the provider shall subtract from 82495
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the interest costs it reports on its cost report an amount equal 82514
to the difference between the following: 82515

(1) The actual, allowable interest costs for the loan during 82516
the calendar year for which the costs are being reported; 82517

(2) The actual, allowable interest costs attributable to the 82518
loan that were used to calculate the rates paid to the provider 82519
for the ICF/MR during the same calendar year. 82520

(E) The department's decision at the conclusion of the 82521
reconsideration process is not subject to any administrative 82522
proceedings under Chapter 119. or any other provision of the 82523
Revised Code. 82524

(F) The director of developmental disabilities shall adopt 82525
rules under section 5124.03 of the Revised Code as necessary to 82526
implement this section. 82527

Sec. 5124.40. If an ICF/MR provider properly amends a cost 82528
report for an ICF/MR under section 5124.107 of the Revised Code 82529
and the amended report shows that the provider received a lower 82530
medicaid payment rate under the original cost report than the 82531
provider was entitled to receive, the department of developmental 82532
disabilities shall adjust the provider's rate for the ICF/MR 82533
prospectively to reflect the corrected information. The department 82534
shall pay the adjusted rate beginning two months after the first 82535
day of the month after the provider files the amended cost report. 82536

If the department finds, from an exception review of resident 82537
assessment data conducted pursuant to section 5124.193 of the 82538
Revised Code after the effective date of an ICF/MR's rate for 82539
direct care costs that is based on the resident assessment data, 82540
that inaccurate resident assessment data resulted in the provider 82541
receiving a lower rate for the ICF/MR than the provider was 82542
entitled to receive, the department prospectively shall adjust the 82543

provider's rate for the ICF/MR accordingly. The department shall 82544
make payments to the provider using the adjusted rate for the 82545
remainder of the calendar quarter for which the resident 82546
assessment data is used to determine the rate, beginning one month 82547
after the first day of the month after the exception review is 82548
completed. 82549

Sec. 5124.41. (A) The department of developmental 82550
disabilities shall redetermine a provider's medicaid payment rate 82551
for an ICF/MR using revised information if any of the following 82552
results in a determination that the provider received a higher 82553
medicaid payment rate for the ICF/MR than the provider was 82554
entitled to receive: 82555

(1) The provider properly amends a cost report for the ICF/MR 82556
under section 5124.107 of the Revised Code; 82557

(2) The department makes a finding based on an audit under 82558
section 5124.109 of the Revised Code; 82559

(3) The department makes a finding based on an exception 82560
review of resident assessment data conducted under section 82561
5124.193 of the Revised Code after the effective date of the 82562
ICF/MR's rate for direct care costs that is based on the resident 82563
assessment data. 82564

(B) The department shall apply the redetermined rate to the 82565
periods when the provider received the incorrect rate to determine 82566
the amount of the overpayment. The provider shall refund the 82567
amount of the overpayment. The department may charge the provider 82568
the following amount of interest from the time the overpayment was 82569
made: 82570

(1) If the overpayment resulted from costs reported for 82571
calendar year 1993, the interest shall be not greater than one and 82572
one-half times the current average bank prime rate. 82573

(2) If the overpayment resulted from costs reported for a subsequent calendar year: 82574
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(a) The interest shall be not greater than two times the current average bank prime rate if the overpayment was not more than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to determine a rate. 82576
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(b) The interest shall be not greater than two and one-half times the current average bank prime rate if the overpayment was more than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to determine a rate. 82581
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Sec. 5124.42. In addition to the other penalties authorized by this chapter, the department of developmental disabilities may impose the following penalties on an ICF/MR provider: 82586
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(A) If the provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, a fine of not more than the greater of the following: 82589
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(1) One thousand dollars per audit; 82593

(2) Twenty-five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to determine a rate. 82594
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(B) If an exiting operator or owner fails to provide notice of a facility closure or voluntary termination as required by section 5124.50 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5124.51 of the Revised Code, a fine of not more than the current average bank prime rate plus 82598
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four per cent of the last two monthly payments. 82604

Sec. 5124.43. For the purposes of sections 5124.41 and 82605
5124.42 of the Revised Code, the department of developmental 82606
disabilities shall determine the current average bank prime rate 82607
using statistical release H.15, "selected interest rates," a 82608
weekly publication of the federal reserve board, or any successor 82609
publication. If statistical release H.15, or its successor, ceases 82610
to contain the bank prime rate information or ceases to be 82611
published, the department shall request a written statement of the 82612
average bank prime rate from the federal reserve bank of Cleveland 82613
or the federal reserve board. 82614

Sec. 5124.44. (A) Except as provided in division (B) of this 82615
section, the department of developmental disabilities shall deduct 82616
the following from the next available medicaid payment the 82617
department makes to an ICF/MR provider who continues to 82618
participate in medicaid: 82619

(1) Any amount the provider is required to refund, and any 82620
interest charged, under section 5124.41 of the Revised Code; 82621

(2) The amount of any penalty imposed on the provider under 82622
section 5124.42 of the Revised Code. 82623

(B) The department and an ICF/MR provider may enter into an 82624
agreement under which a deduction required by division (A) of this 82625
section is taken in installments from payments the department 82626
makes to the provider. 82627

Sec. 5124.45. The department of developmental disabilities 82628
shall transmit to the treasurer of state for deposit in the 82629
general revenue fund amounts collected from the following: 82630

(A) Refunds required by, and interest charged under, section 82631
5124.41 of the Revised Code; 82632

(B) Amounts collected from penalties imposed under section 5124.42 of the Revised Code. 82633
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Sec. 5124.46. All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code: 82635
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(A) Any audit disallowance that the department of developmental disabilities makes as the result of an audit under section 5124.109 of the Revised Code; 82638
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(B) Any adverse finding that results from an exception review of resident assessment data conducted for an ICF/MR under section 5124.193 of the Revised Code after the effective date of the ICF/MR's medicaid payment rate for direct care costs that is based on the resident assessment data; 82641
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(C) Any medicaid payment deemed an overpayment under section 5124.523 of the Revised Code; 82646
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(D) Any penalty the department imposes under section 5124.42 of the Revised Code or section 5124.523 of the Revised Code. 82648
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Sec. 5124.50. An exiting operator or owner of an ICF/MR participating in the medicaid program shall provide the department of developmental disabilities and department of medicaid written notice of a facility closure or voluntary termination not less than ninety days before the effective date of the facility closure or voluntary termination. The written notice shall be provided to the department of developmental disabilities and department of medicaid in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code. 82650
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The written notice shall include all of the following: 82659

(A) The name of the exiting operator and, if any, the exiting operator's authorized agent; 82660
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(B) The name of the ICF/MR that is the subject of the written notice; 82662
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(C) The exiting operator's medicaid provider agreement number for the ICF/MR that is the subject of the written notice; 82664
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(D) The effective date of the facility closure or voluntary termination; 82666
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(E) The signature of the exiting operator's or owner's representative. 82668
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Sec. 5124.51. (A) An exiting operator or owner and entering operator shall provide the department of developmental disabilities and department of medicaid written notice of a change of operator if the ICF/MR participates in the medicaid program and the entering operator seeks to continue the ICF/MR's participation. The written notice shall be provided to the department of developmental disabilities and department of medicaid in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code. The written notice shall be provided to the department of developmental disabilities and department of medicaid not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department of developmental disabilities and department of medicaid not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents. 82670
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The written notice shall include all of the following: 82688

(1) The name of the exiting operator and, if any, the exiting operator's authorized agent; 82689
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(2) The name of the ICF/MR that is the subject of the change 82691

<u>of operator;</u>	82692
<u>(3) The exiting operator's seven-digit medicaid legacy number</u>	82693
<u>and ten-digit national provider identifier number for the ICF/MR</u>	82694
<u>that is the subject of the change of operator;</u>	82695
<u>(4) The name of the entering operator;</u>	82696
<u>(5) The effective date of the change of operator;</u>	82697
<u>(6) The manner in which the entering operator becomes the</u>	82698
<u>ICF/MR's operator, including through sale, lease, merger, or other</u>	82699
<u>action;</u>	82700
<u>(7) If the manner in which the entering operator becomes the</u>	82701
<u>ICF/MR's operator involves more than one step, a description of</u>	82702
<u>each step;</u>	82703
<u>(8) Written authorization from the exiting operator or owner</u>	82704
<u>and entering operator for the department of medicaid to process a</u>	82705
<u>provider agreement for the entering operator;</u>	82706
<u>(9) The names and addresses of the persons to whom the</u>	82707
<u>department of developmental disabilities and department of</u>	82708
<u>medicaid should send initial correspondence regarding the change</u>	82709
<u>of operator;</u>	82710
<u>(10) The signature of the exiting operator's or owner's</u>	82711
<u>representative.</u>	82712
<u>(B) An exiting operator or owner and entering operator</u>	82713
<u>immediately shall provide the department of developmental</u>	82714
<u>disabilities and department of medicaid notice of any changes to</u>	82715
<u>information included in a written notice of a change of operator</u>	82716
<u>that occur after that notice is provided to the department of</u>	82717
<u>developmental disabilities and department of medicaid. The notice</u>	82718
<u>of the changes shall be provided to the department of</u>	82719
<u>developmental disabilities and department of medicaid in</u>	82720
<u>accordance with the method specified in rules authorized by</u>	82721

section 5124.53 of the Revised Code. 82722

Sec. 5124.511. The department of medicaid may enter into a 82723
provider agreement with an entering operator that goes into effect 82724
at 12:01 a.m. on the effective date of the change of operator if 82725
all of the following requirements are met: 82726

(A) The department receives a properly completed written 82727
notice required by section 5124.51 of the Revised Code on or 82728
before the date required by that section. 82729

(B) The department receives both of the following in 82730
accordance with the method specified in rules authorized by 82731
section 5124.53 of the Revised Code and not later than ten days 82732
after the effective date of the change of operator: 82733

(1) From the entering operator, a completed application for a 82734
provider agreement and all other forms and documents specified in 82735
rules authorized by section 5124.53 of the Revised Code; 82736

(2) From the exiting operator or owner, all forms and 82737
documents specified in rules authorized by section 5124.53 of the 82738
Revised Code. 82739

(C) The entering operator is eligible to enter into a 82740
provider agreement for the ICF/MR as provided in section 5124.06 82741
of the Revised Code. 82742

Sec. 5124.512. (A) The department of medicaid may enter into 82743
a provider agreement with an entering operator that goes into 82744
effect at 12:01 a.m. on the date determined under division (B) of 82745
this section if all of the following are the case: 82746

(1) The department receives a properly completed written 82747
notice required by section 5124.51 of the Revised Code. 82748

(2) The department receives, from the entering operator and 82749
in accordance with the method specified in rules authorized by 82750

section 5124.53 of the Revised Code, a completed application for a provider agreement and all other forms and documents specified in rules adopted under that section. 82751
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(3) The department receives, from the exiting operator or owner and in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code, all forms and documents specified in rules adopted under that section. 82754
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(4) One or more of the following apply: 82758

(a) The requirement of division (A)(1) of this section is met after the time required by section 5124.51 of the Revised Code; 82759
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(b) The requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator; 82761
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(c) The requirement of division (A)(3) of this section is met more than ten days after the effective date of the change of operator. 82764
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(5) The entering operator is eligible to enter into a provider agreement for the ICF/MR as provided in section 5124.06 of the Revised Code. 82767
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(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows: 82770
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(1) The effective date shall give the department sufficient time to process the change of operator and give the department sufficient time to assure no duplicate payments are made and make the withholding required by section 5124.521 of the Revised Code. 82773
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(2) The effective date shall be not earlier than the latest of the following: 82777
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(a) The effective date of the change of operator; 82779

(b) The date that the entering operator complies with section 82780

<u>5124.51 of the Revised Code and division (A)(2) of this section;</u>	82781
<u>(c) The date that the exiting operator or owner complies with</u>	82782
<u>section 5124.51 of the Revised Code and division (A)(3) of this</u>	82783
<u>section.</u>	82784
<u>(3) The effective date shall be not later than the following</u>	82785
<u>after the later of the dates specified in division (B)(2) of this</u>	82786
<u>section:</u>	82787
<u>(a) Forty-five days if the change of operator does not entail</u>	82788
<u>the relocation of residents;</u>	82789
<u>(b) Ninety days if the change of operator entails the</u>	82790
<u>relocation of residents.</u>	82791
<u>Sec. 5124.513. A provider that enters into a provider</u>	82792
<u>agreement with the department of medicaid under section 5124.511</u>	82793
<u>or 5124.512 of the Revised Code shall do all of the following:</u>	82794
<u>(A) Comply with all applicable federal statutes and</u>	82795
<u>regulations;</u>	82796
<u>(B) Comply with section 5124.07 of the Revised Code and all</u>	82797
<u>other applicable state statutes and rules;</u>	82798
<u>(C) Comply with all the terms and conditions of the exiting</u>	82799
<u>operator's provider agreement, including all of the following:</u>	82800
<u>(1) Any plan of correction;</u>	82801
<u>(2) Compliance with health and safety standards;</u>	82802
<u>(3) Compliance with the ownership and financial interest</u>	82803
<u>disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	82804
<u>(4) Compliance with the civil rights requirements of 45</u>	82805
<u>C.F.R. parts 80, 84, and 90;</u>	82806
<u>(5) Compliance with additional requirements imposed by the</u>	82807
<u>department;</u>	82808

(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies. 82809
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Sec. 5124.514. In the case of a change of operator, the exiting operator shall be considered to be the operator of the ICF/MR for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under section 5124.511 or 5124.512 of the Revised Code. 82813
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Sec. 5124.515. The department of medicaid may enter into a provider agreement as provided in section 5124.07 of the Revised Code, rather than section 5124.511 or 5124.512 of the Revised Code, with an entering operator if the entering operator does not agree to a provider agreement that satisfies the requirements of division (C) of section 5124.513 of the Revised Code. The department may not enter into the provider agreement unless the department of health certifies the ICF/MR under Title XIX. The effective date of the provider agreement shall not precede any of the following: 82819
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(A) The date that the department of health certifies the ICF/MR; 82829
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(B) The effective date of the change of operator; 82831

(C) The date the requirement of section 5124.51 of the Revised Code is satisfied. 82832
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Sec. 5124.516. The director of developmental disabilities may adopt rules under section 5124.03 of the Revised Code governing adjustments to the medicaid reimbursement rate for an ICF/MR that undergoes a change of operator. No rate adjustment resulting from 82834
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a change of operator shall be effective before the effective date 82838
of the entering operator's provider agreement. This is the case 82839
regardless of whether the provider agreement is entered into under 82840
section 5124.511, section 5124.512, or, pursuant to section 82841
5124.515, section 5124.07 of the Revised Code. 82842

Sec. 5124.517. The department of developmental disabilities' 82843
determination that a change of operator has or has not occurred 82844
for purposes of licensure under section 5123.19 of the Revised 82845
Code shall not affect either of the following: 82846

(A) A determination by the department of developmental 82847
disabilities or department of medicaid of whether or when a change 82848
of operator occurs; 82849

(B) The department of medicaid's determination of the 82850
effective date of an entering operator's provider agreement under 82851
section 5124.511, section 5124.512, or, pursuant to section 82852
5124.515, section 5124.07 of the Revised Code. 82853

Sec. 5124.52. (A) On receipt of a written notice under 82854
section 5124.50 of the Revised Code of a facility closure or 82855
voluntary termination, on receipt of a written notice under 82856
section 5124.51 of the Revised Code of a change of operator, or on 82857
the effective date of an involuntary termination, the department 82858
of developmental disabilities shall estimate the amount of any 82859
overpayments made under the medicaid program to the exiting 82860
operator, including overpayments the exiting operator disputes, 82861
and other actual and potential debts the exiting operator owes or 82862
may owe to the department and United States centers for medicare 82863
and medicaid services under the medicaid program, including a 82864
franchise permit fee. 82865

(B) In estimating the exiting operator's other actual and 82866
potential debts to the department and the United States centers 82867

for medicare and medicaid services under the medicaid program, the 82868
department shall use a debt estimation methodology the director of 82869
developmental disabilities shall establish in rules authorized by 82870
section 5124.53 of the Revised Code. The methodology shall provide 82871
for estimating all of the following that the department determines 82872
are applicable: 82873

(1) Refunds due the department under section 5124.41 of the 82874
Revised Code; 82875

(2) Interest owed to the department and United States centers 82876
for medicare and medicaid services; 82877

(3) Final civil monetary and other penalties for which all 82878
right of appeal has been exhausted; 82879

(4) Money owed the department and United States centers for 82880
medicare and medicaid services from any outstanding final fiscal 82881
audit, including a final fiscal audit for the last fiscal year or 82882
portion thereof in which the exiting operator participated in the 82883
medicaid program; 82884

(5) Other amounts the department determines are applicable. 82885

(C) The department shall provide the exiting operator written 82886
notice of the department's estimate under division (A) of this 82887
section not later than thirty days after the department receives 82888
the notice under section 5124.50 of the Revised Code of the 82889
facility closure or voluntary termination; the department receives 82890
the notice under section 5124.51 of the Revised Code of the change 82891
of operator; or the effective date of the involuntary termination. 82892
The department's written notice shall include the basis for the 82893
estimate. 82894

Sec. 5124.521. (A) Except as provided in divisions (B), (C), 82895
and (D) of this section, the department of developmental 82896
disabilities may withhold from payment due an exiting operator 82897

under the medicaid program the total amount specified in the 82898
notice provided under division (C) of section 5124.52 of the 82899
Revised Code that the exiting operator owes or may owe to the 82900
department and United States centers for medicare and medicaid 82901
services under the medicaid program. 82902

(B) In the case of a change of operator and subject to 82903
division (E) of this section, the following shall apply regarding 82904
a withholding under division (A) of this section if the exiting 82905
operator or entering operator or an affiliated operator executes a 82906
successor liability agreement meeting the requirements of division 82907
(F) of this section: 82908

(1) If the exiting operator, entering operator, or affiliated 82909
operator assumes liability for the total, actual amount of debt 82910
the exiting operator owes the department and the United States 82911
centers for medicare and medicaid services under the medicaid 82912
program as determined under section 5124.525 of the Revised Code, 82913
the department shall not make the withholding. 82914

(2) If the exiting operator, entering operator, or affiliated 82915
operator assumes liability for only the portion of the amount 82916
specified in division (B)(1) of this section that represents the 82917
franchise permit fee the exiting operator owes, the department 82918
shall withhold not more than the difference between the total 82919
amount specified in the notice provided under division (C) of 82920
section 5124.52 of the Revised Code and the amount for which the 82921
exiting operator, entering operator, or affiliated operator 82922
assumes liability. 82923

(C) In the case of a voluntary termination or facility 82924
closure and subject to division (E) of this section, the following 82925
shall apply regarding a withholding under division (A) of this 82926
section if the exiting operator or an affiliated operator executes 82927
a successor liability agreement meeting the requirements of 82928

division (F) of this section: 82929

(1) If the exiting operator or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code, the department shall not make the withholding. 82930
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(2) If the exiting operator or affiliated operator assumes liability for only the portion of the amount specified in division (C)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5124.52 of the Revised Code and the amount for which the exiting operator or affiliated operator assumes liability. 82936
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(D) In the case of an involuntary termination and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator, the entering operator, or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section and the department approves the successor liability agreement: 82944
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(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code, the department shall not make the withholding. 82951
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(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (D)(1) of this section that represents the 82957
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franchise permit fee the exiting operator owes, the department 82960
shall withhold not more than the difference between the total 82961
amount specified in the notice provided under division (C) of 82962
section 5124.52 of the Revised Code and the amount for which the 82963
exiting operator, entering operator, or affiliated operator 82964
assumes liability. 82965

(E) For an exiting operator or affiliated operator to be 82966
eligible to enter into a successor liability agreement under 82967
division (B), (C), or (D) of this section, both of the following 82968
must apply: 82969

(1) The exiting operator or affiliated operator must have one 82970
or more valid provider agreements, other than the provider 82971
agreement for the ICF/MR that is the subject of the involuntary 82972
termination, voluntary termination, facility closure, or change of 82973
operator; 82974

(2) During the twelve-month period preceding either the 82975
effective date of the involuntary termination or the month in 82976
which the department receives the notice of the voluntary 82977
termination or facility closure under section 5124.50 of the 82978
Revised Code or the notice of the change of operator under section 82979
5124.51 of the Revised Code, the average monthly medicaid payment 82980
made to the exiting operator or affiliated operator pursuant to 82981
the exiting operator's or affiliated operator's one or more 82982
provider agreements, other than the provider agreement for the 82983
ICF/MR that is the subject of the involuntary termination, 82984
voluntary termination, facility closure, or change of operator, 82985
must equal at least ninety per cent of the sum of the following: 82986

(a) The average monthly medicaid payment made to the exiting 82987
operator pursuant to the exiting operator's provider agreement for 82988
the ICF/MR that is the subject of the involuntary termination, 82989
voluntary termination, facility closure, or change of operator; 82990

<u>(b) Whichever of the following apply:</u>	82991
<u>(i) If the exiting operator or affiliated operator has assumed liability under one or more other successor liability agreements, the total amount for which the exiting operator or affiliated operator has assumed liability under the other successor liability agreements;</u>	82992 82993 82994 82995 82996
<u>(ii) If the exiting operator or affiliated operator has not assumed liability under any other successor liability agreements, zero.</u>	82997 82998 82999
<u>(F) A successor liability agreement executed under this section must comply with all of the following:</u>	83000 83001
<u>(1) It must provide for the operator who executes the successor liability agreement to assume liability for either of the following as specified in the agreement:</u>	83002 83003 83004
<u>(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code;</u>	83005 83006 83007 83008
<u>(b) The portion of the amount specified in division (F)(1)(a) of this section that represents the franchise permit fee the exiting operator owes.</u>	83009 83010 83011
<u>(2) It may not require the operator who executes the successor liability agreement to furnish a surety bond.</u>	83012 83013
<u>(3) It must provide that the department, after determining under section 5124.525 of the Revised Code the actual amount of debt the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, may deduct the lesser of the following from medicaid payments made to the operator who executes the successor liability agreement:</u>	83014 83015 83016 83017 83018 83019 83020

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code; 83021
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(b) The amount for which the operator who executes the successor liability agreement assumes liability under the agreement. 83025
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(4) It must provide that the deductions authorized by division (F)(3) of this section are to be made for a number of months, not to exceed six, agreed to by the operator who executes the successor liability agreement and the department or, if the operator who executes the successor liability agreement and department cannot agree on a number of months that is less than six, a greater number of months determined by the attorney general pursuant to a claims collection process authorized by statute of this state. 83028
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(5) It must provide that, if the attorney general determines the number of months for which the deductions authorized by division (F)(3) of this section are to be made, the operator who executes the successor liability agreement shall pay, in addition to the amount collected pursuant to the attorney general's claims collection process, the part of the amount so collected that, if not for division (H) of this section, would be required by section 109.081 of the Revised Code to be paid into the attorney general claims fund. 83037
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(G) Execution of a successor liability agreement does not waive an exiting operator's right to contest the amount specified in the notice the department provides the exiting operator under division (C) of section 5124.52 of the Revised Code. 83046
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(H) Notwithstanding section 109.081 of the Revised Code, the entire amount that the attorney general, whether by employees or 83050
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agents of the attorney general or by special counsel appointed 83052
pursuant to section 109.08 of the Revised Code, collects under a 83053
successor liability agreement, other than the additional amount 83054
the operator who executes the agreement is required by division 83055
(F)(5) of this section to pay, shall be paid to the department of 83056
developmental disabilities for deposit into the appropriate fund. 83057
The additional amount that the operator is required to pay shall 83058
be paid into the state treasury to the credit of the attorney 83059
general claims fund created under section 109.081 of the Revised 83060
Code. 83061

Sec. 5124.522. (A) Except as provided in division (B) of this 83062
section, an exiting operator shall file with the department of 83063
developmental disabilities a cost report not later than ninety 83064
days after the last day the exiting operator's provider agreement 83065
is in effect. The cost report shall cover the period that begins 83066
with the day after the last day covered by the operator's most 83067
recent previous cost report filed under section 5124.10 or 83068
5124.101 of the Revised Code and ends on the last day the exiting 83069
operator's provider agreement is in effect. The cost report shall 83070
include, as applicable, all of the following: 83071

(1) The sale price of the ICF/MR; 83072

(2) A final depreciation schedule that shows which assets are 83073
transferred to the buyer and which assets are not transferred to 83074
the buyer; 83075

(3) Any other information the department requires. 83076

(B) The department, at its sole discretion, may waive the 83077
requirement that an exiting operator file a cost report in 83078
accordance with division (A) of this section. 83079

Sec. 5124.523. If an exiting operator required by section 83080
5124.522 of the Revised Code to file a cost report with the 83081

department of developmental disabilities fails to file the cost report in accordance with that section, all payments under the medicaid program for the period the cost report is required to cover are deemed overpayments until the date the department receives the properly completed cost report. The department may impose on the exiting operator a penalty of one hundred dollars for each calendar day the properly completed cost report is late. 83082
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Sec. 5124.524. The department of developmental disabilities may not provide an exiting operator final payment under the medicaid program until the department receives all properly completed cost reports the exiting operator is required to file under sections 5124.10 and 5124.522 of the Revised Code. 83089
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Sec. 5124.525. The department of developmental disabilities shall determine the actual amount of debt an exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue an initial debt summary report on this matter not later than sixty days after the date the exiting operator files the properly completed cost report required by section 5124.522 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, sixty days after the date the department waives the cost report requirement. The initial debt summary report becomes the final debt summary report thirty-one days after the department issues the initial debt summary report unless the exiting operator, or an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, requests a review before that date. 83094
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The exiting operator, and an affiliated operator who executes 83112
a successor liability agreement under section 5124.521 of the 83113
Revised Code, may request a review to contest any of the 83114
department's findings included in the initial debt summary report. 83115
The request for the review must be submitted to the department not 83116
later than thirty days after the date the department issues the 83117
initial debt summary report. The department shall conduct the 83118
review on receipt of a timely request and issue a revised debt 83119
summary report. If the department has withheld money from payment 83120
due the exiting operator under division (A) of section 5124.521 of 83121
the Revised Code, the department shall issue the revised debt 83122
summary report not later than ninety days after the date the 83123
department receives the timely request for the review unless the 83124
department and exiting operator or affiliated operator agree to a 83125
later date. The exiting operator or affiliated operator may submit 83126
information to the department explaining what the operator 83127
contests before and during the review, including documentation of 83128
the amount of any debt the department owes the operator. The 83129
exiting operator or affiliated operator may submit additional 83130
information to the department not later than thirty days after the 83131
department issues the revised debt summary report. The revised 83132
debt summary report becomes the final debt summary report 83133
thirty-one days after the department issues the revised debt 83134
summary report unless the exiting operator or affiliated operator 83135
timely submits additional information to the department. If the 83136
exiting operator or affiliated operator timely submits additional 83137
information to the department, the department shall consider the 83138
additional information and issue a final debt summary report not 83139
later than sixty days after the department issues the revised debt 83140
summary report unless the department and exiting operator or 83141
affiliated operator agree to a later date. 83142

Each debt summary report the department issues under this 83143
section shall include the department's findings and the amount of 83144

debt the department determines the exiting operator owes the 83145
department and United States centers for medicare and medicaid 83146
services under the medicaid program. The department shall explain 83147
its findings and determination in each debt summary report. 83148

The exiting operator, and an affiliated operator who executes 83149
a successor liability agreement under section 5124.521 of the 83150
Revised Code, may request, in accordance with Chapter 119. of the 83151
Revised Code, an adjudication regarding a finding in a final debt 83152
summary report that pertains to an audit or alleged overpayment 83153
made under the medicaid program to the exiting operator. The 83154
adjudication shall be consolidated with any other uncompleted 83155
adjudication that concerns a matter addressed in the final debt 83156
summary report. 83157

Sec. 5124.526. The department of developmental disabilities 83158
shall release the actual amount withheld under division (A) of 83159
section 5124.521 of the Revised Code, less any amount the exiting 83160
operator owes the department and United States centers for 83161
medicare and medicaid services under the medicaid program, as 83162
follows: 83163

(A) Unless the department issues the initial debt summary 83164
report required by section 5124.525 of the Revised Code not later 83165
than sixty days after the date the exiting operator files the 83166
properly completed cost report required by section 5124.522 of the 83167
Revised Code, sixty-one days after the date the exiting operator 83168
files the properly completed cost report; 83169

(B) If the department issues the initial debt summary report 83170
required by section 5124.525 of the Revised Code not later than 83171
sixty days after the date the exiting operator files a properly 83172
completed cost report required by section 5124.522 of the Revised 83173
Code, not later than the following: 83174

(1) Thirty days after the deadline for requesting an 83175

adjudication under section 5124.525 of the Revised Code regarding 83176
the final debt summary report if the exiting operator, and an 83177
affiliated operator who executes a successor liability agreement 83178
under section 5124.521 of the Revised Code, fail to request the 83179
adjudication on or before the deadline; 83180

(2) Thirty days after the completion of an adjudication of 83181
the final debt summary report if the exiting operator, or an 83182
affiliated operator who executes a successor liability agreement 83183
under section 5124.521 of the Revised Code, requests the 83184
adjudication on or before the deadline for requesting the 83185
adjudication. 83186

(C) Unless the department issues the initial debt summary 83187
report required by section 5124.525 of the Revised Code not later 83188
than sixty days after the date the department waives the cost 83189
report requirement of section 5124.522 of the Revised Code, 83190
sixty-one days after the date the department waives the cost 83191
report requirement; 83192

(D) If the department issues the initial debt summary report 83193
required by section 5124.525 of the Revised Code not later than 83194
sixty days after the date the department waives the cost report 83195
requirement of section 5124.522 of the Revised Code, not later 83196
than the following: 83197

(1) Thirty days after the deadline for requesting an 83198
adjudication under section 5124.525 of the Revised Code regarding 83199
the final debt summary report if the exiting operator, and an 83200
affiliated operator who executes a successor liability agreement 83201
under section 5124.521 of the Revised Code, fail to request the 83202
adjudication on or before the deadline; 83203

(2) Thirty days after the completion of an adjudication of 83204
the final debt summary report if the exiting operator, or an 83205
affiliated operator who executes a successor liability agreement 83206

under section 5124.521 of the Revised Code, requests the 83207
adjudication on or before the deadline for requesting the 83208
adjudication. 83209

Sec. 5124.527. The department of developmental disabilities, 83210
at its sole discretion, may release the amount withheld under 83211
division (A) of section 5124.521 of the Revised Code if the 83212
exiting operator submits to the department written notice of a 83213
postponement of a change of operator, facility closure, or 83214
voluntary termination and the transactions leading to the change 83215
of operator, facility closure, or voluntary termination are 83216
postponed for at least thirty days but less than ninety days after 83217
the date originally proposed for the change of operator, facility 83218
closure, or voluntary termination as reported in the written 83219
notice required by section 5124.50 or 5124.51 of the Revised Code. 83220
The department shall release the amount withheld if the exiting 83221
operator submits to the department written notice of a 83222
cancellation or postponement of a change of operator, facility 83223
closure, or voluntary termination and the transactions leading to 83224
the change of operator, facility closure, or voluntary termination 83225
are canceled or postponed for more than ninety days after the date 83226
originally proposed for the change of operator, facility closure, 83227
or voluntary termination as reported in the written notice 83228
required by section 5124.50 or 5124.51 of the Revised Code. A 83229
written notice shall be provided to the department in accordance 83230
with the method specified in rules authorized by section 5124.53 83231
of the Revised Code. 83232

After the department receives a written notice regarding a 83233
cancellation or postponement of a facility closure or voluntary 83234
termination, the exiting operator or owner shall provide new 83235
written notice to the department under section 5124.50 of the 83236
Revised Code regarding any transactions leading to a facility 83237
closure or voluntary termination at a future time. After the 83238

department receives a written notice regarding a cancellation or 83239
postponement of a change of operator, the exiting operator or 83240
owner and entering operator shall provide new written notice to 83241
the department under section 5124.51 of the Revised Code regarding 83242
any transactions leading to a change of operator at a future time. 83243

Sec. 5124.528. (A) All amounts withheld under section 83244
5124.521 of the Revised Code from payment due an exiting operator 83245
under the medicaid program shall be deposited into the medicaid 83246
payment withholding fund created by the controlling board pursuant 83247
to section 131.35 of the Revised Code. Money in the fund shall be 83248
used as follows: 83249

(1) To pay an exiting operator when a withholding is released 83250
to the exiting operator under section 5124.526 or 5124.527 of the 83251
Revised Code; 83252

(2) To pay the department of medicaid or department of 83253
developmental disabilities, and United States centers for medicare 83254
and medicaid services, the amount an exiting operator owes the 83255
department of medicaid or department of developmental disabilities 83256
and United States centers under the medicaid program. 83257

(B) Amounts paid from the medicaid payment withholding fund 83258
pursuant to division (A)(2) of this section shall be deposited 83259
into the appropriate fund. 83260

Sec. 5124.53. The director of developmental disabilities 83261
shall adopt rules under section 5124.03 of the Revised Code to 83262
implement sections 5124.50 to 5124.53 of the Revised Code. The 83263
rules shall specify all of the following: 83264

(A) The method by which written notices to the department 83265
required by sections 5124.50 to 5124.53 of the Revised Code are to 83266
be provided; 83267

(B) The forms and documents that are to be provided to the 83268

department under sections 5124.511 and 5124.512 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

~~Sec. 5111.874 5124.60. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code:~~

~~"Home and community based services" has the same meaning as in section 5123.01 of the Revised Code.~~

~~"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid covered intermediate care facility for the mentally retarded services.~~

~~"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a residential facility under section 5123.19 of the Revised Code.~~

~~"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.~~

~~(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 5124.63 and 5111.878 5124.64 of the Revised~~

Code, the operator of an ~~intermediate care facility for the~~ 83299
~~mentally retarded~~ ICF/MR may convert some or all of the beds in 83300
the ~~facility~~ ICF/MR from providing ICF/MR services to providing 83301
home and community-based services if all of the following 83302
requirements are met: 83303

(1) The operator provides the directors of health and 83304
developmental disabilities at least ninety days' notice of the 83305
operator's intent to make the conversion. 83306

(2) The operator complies with the requirements of sections 83307
~~5111.65~~ 5124.50 to ~~5111.689~~ 5124.53 of the Revised Code regarding 83308
a voluntary termination ~~as defined in section 5111.65 of the~~ 83309
~~Revised Code~~ if those requirements are applicable. 83310

(3) If the operator intends to convert all of the ~~facility's~~ 83311
ICF/MR's beds, the operator notifies each of the ~~facility's~~ 83312
ICF/MR's residents that the ~~facility~~ ICF/MR is to cease providing 83313
ICF/MR services and inform each resident that the resident may do 83314
either of the following: 83315

(a) Continue to receive ICF/MR services by transferring to 83316
another ~~facility~~ ICF/MR that is an ~~intermediate care facility for~~ 83317
~~the mentally retarded~~ willing and able to accept the resident if 83318
the resident continues to qualify for ICF/MR services; 83319

(b) Begin to receive home and community-based services 83320
instead of ICF/MR services from any provider of home and 83321
community-based services that is willing and able to provide the 83322
services to the resident if the resident is eligible for the 83323
services and a slot for the services is available to the resident. 83324

(4) If the operator intends to convert some but not all of 83325
the ~~facility's~~ ICF/MR's beds, the operator notifies each of the 83326
~~facility's~~ ICF/MR's residents that the ~~facility~~ ICF/MR is to 83327
convert some of its beds from providing ICF/MR services to 83328
providing home and community-based services and inform each 83329

resident that the resident may do either of the following: 83330

(a) Continue to receive ICF/MR services from any ~~provider of~~ 83331
~~services~~ ICF/MR that is willing and able to provide the services 83332
to the resident if the resident continues to qualify for ICF/MR 83333
services; 83334

(b) Begin to receive home and community-based services 83335
instead of ICF/MR services from any provider of home and 83336
community-based services that is willing and able to provide the 83337
services to the resident if the resident is eligible for the 83338
services and a slot for the services is available to the resident. 83339

(5) The operator meets the requirements for providing home 83340
and community-based services, including the following: 83341

(a) Such requirements applicable to a residential facility if 83342
the operator maintains the facility's license as a residential 83343
facility; 83344

(b) Such requirements applicable to a facility that is not 83345
licensed as a residential facility if the operator surrenders the 83346
facility's license as a residential facility under section 5123.19 83347
of the Revised Code. 83348

(6) The director of developmental disabilities approves the 83349
conversion. 83350

~~(C)~~(B) A decision by the director of developmental 83351
disabilities to approve or refuse to approve a proposed conversion 83352
of beds is final. In making a decision, the director shall 83353
consider all of the following: 83354

(1) The fiscal impact on the ~~facility~~ ICF/MR if some but not 83355
all of the beds are converted; 83356

(2) The fiscal impact on the ~~medical assistance~~ medicaid 83357
program; 83358

(3) The availability of home and community-based services. 83359

~~(D)~~(C) The notice provided to the directors under division 83360
~~(B)~~(A)(1) of this section shall specify whether some or all of the 83361
~~facility's~~ ICF/MR's beds are to be converted. If some but not all 83362
of the beds are to be converted, the notice shall specify how many 83363
of the ~~facility's~~ ICF/MR's beds are to be converted and how many 83364
of the beds are to continue to provide ICF/MR services. The notice 83365
to the director of developmental disabilities shall specify 83366
whether the operator wishes to surrender the ~~facility's~~ ICF/MR's 83367
license as a residential facility under section 5123.19 of the 83368
Revised Code. 83369

~~(E)~~(D)(1) If the director of developmental disabilities 83370
approves a conversion under division ~~(C)~~(B) of this section, the 83371
director of health shall do the following: 83372

(a) Terminate the ICF/MR's medicaid certification ~~of the~~ 83373
~~intermediate care facility for the mentally retarded~~ if the notice 83374
specifies that all of the ~~facility's~~ ICF/MR's beds are to be 83375
converted; 83376

(b) Reduce the ~~facility's certified~~ ICF/MR's 83377
medicaid-certified capacity by the number of beds being converted 83378
if the notice specifies that some but not all of the beds are to 83379
be converted. 83380

(2) The director of health shall notify the medicaid director 83381
~~of job and family services~~ of the termination or reduction. On 83382
receipt of the ~~director of health's~~ notice, the medicaid director 83383
~~of job and family services~~ shall do the following: 83384

(a) Terminate the operator's medicaid provider agreement that 83385
authorizes the operator to provide ICF/MR services at the ~~facility~~ 83386
ICF/MR if the ~~facility's~~ ICF/MR's certification was terminated; 83387
83388

(b) Amend the operator's medicaid provider agreement to 83389
reflect the ~~facility's~~ ICF/MR's reduced ~~certified~~ 83390

~~medicaid-certified~~ capacity if the ~~facility's certified~~ ICF/MR's
medicaid-certified capacity is reduced. 83391
83392

(3) In the case of action taken under division ~~(E)~~(D)(2)(a) 83393
of this section, the operator is not entitled to notice or a 83394
hearing under Chapter 119. of the Revised Code before the medicaid 83395
~~director of job and family services~~ terminates the medicaid 83396
provider agreement. 83397

Sec. ~~5111.875~~ 5124.61. (A) For the purpose of increasing the 83398
number of slots available for home and community-based services 83399
and subject to sections ~~5111.877~~ 5124.63 and ~~5111.878~~ 5124.64 of 83400
the Revised Code, a person who acquires, through a request for 83401
proposals issued by the director of developmental disabilities, a 83402
~~residential facility that is an intermediate care facility for the~~ 83403
~~mentally retarded and~~ an ICF/MR for which ~~the~~ a residential 83404
facility license ~~as a residential facility~~ was previously 83405
surrendered or revoked may convert some or all of the ~~facility's~~ 83406
ICF/MR's beds from providing ICF/MR services to providing home and 83407
community-based services if all of the following requirements are 83408
met: 83409

(1) The person provides the directors of health, ~~job and~~ 83410
~~family services,~~ and developmental disabilities and medicaid 83411
director at least ninety days' notice of the person's intent to 83412
make the conversion. 83413

(2) The person complies with the requirements of sections 83414
~~5111.65~~ 5124.50 to ~~5111.689~~ 5124.53 of the Revised Code regarding 83415
a voluntary termination ~~as defined in section 5111.65 of the~~ 83416
~~Revised Code~~ if those requirements are applicable. 83417

(3) If the person intends to convert all of the ~~facility's~~ 83418
ICF/MR's beds, the person notifies each of the ~~facility's~~ ICF/MR's 83419
residents that the ~~facility~~ ICF/MR is to cease providing ICF/MR 83420
services and informs each resident that the resident may do either 83421

of the following: 83422

(a) Continue to receive ICF/MR services by transferring to 83423
another ~~facility that is an intermediate care facility for the~~ 83424
~~mentally retarded~~ ICF/MR willing and able to accept the resident 83425
if the resident continues to qualify for ICF/MR services; 83426

(b) Begin to receive home and community-based services 83427
instead of ICF/MR services from any provider of home and 83428
community-based services that is willing and able to provide the 83429
services to the resident if the resident is eligible for the 83430
services and a slot for the services is available to the resident. 83431

(4) If the person intends to convert some but not all of the 83432
~~facility's~~ ICF/MR's beds, the person notifies each of the 83433
~~facility's~~ ICF/MR's residents that the ~~facility~~ ICF/MR is to 83434
convert some of its beds from providing ICF/MR services to 83435
providing home and community-based services and inform each 83436
resident that the resident may do either of the following: 83437

(a) Continue to receive ICF/MR services from any ~~provider of~~ 83438
~~ICF/MR services~~ that is willing and able to provide the services 83439
to the resident if the resident continues to qualify for ICF/MR 83440
services; 83441

(b) Begin to receive home and community-based services 83442
instead of ICF/MR services from any provider of home and 83443
community-based services that is willing and able to provide the 83444
services to the resident if the resident is eligible for the 83445
services and a slot for the services is available to the resident. 83446

(5) The person meets the requirements for providing home and 83447
community-based services at a residential facility. 83448

(B) The notice provided to the directors under division 83449
(A)(1) of this section shall specify whether some or all of the 83450
~~facility's~~ ICF/MR's beds are to be converted. If some but not all 83451
of the beds are to be converted, the notice shall specify how many 83452

of the ~~facility's~~ ICF/MR's beds are to be converted and how many 83453
of the beds are to continue to provide ICF/MR services. 83454

(C) On receipt of a notice under division (A)(1) of this 83455
section, the director of health shall do the following: 83456

(1) Terminate the ICF/MR's medicaid certification ~~of the~~ 83457
~~intermediate care facility for the mentally retarded~~ if the notice 83458
specifies that all of the facility's beds are to be converted; 83459

(2) Reduce the ~~facility's certified~~ ICF/MR's 83460
medicaid-certified capacity by the number of beds being converted 83461
if the notice specifies that some but not all of the beds are to 83462
be converted. 83463

(D) The director of health shall notify the medicaid director 83464
~~of job and family services~~ of the termination or reduction under 83465
division (C) of this section. On receipt of the director of 83466
health's notice, the medicaid director ~~of job and family services~~ 83467
shall do the following: 83468

(1) Terminate the person's medicaid provider agreement that 83469
authorizes the person to provide ICF/MR services at the ~~facility~~ 83470
ICF/MR if the ~~facility's~~ ICF/MR's medicaid certification was 83471
terminated; 83472

(2) Amend the person's medicaid provider agreement to reflect 83473
the ~~facility's~~ ICF/MR's reduced ~~certified~~ medicaid-certified 83474
capacity if the ~~facility's certified~~ ICF/MR's medicaid-certified 83475
capacity is reduced. 83476

The person is not entitled to notice or a hearing under 83477
Chapter 119. of the Revised Code before the medicaid director ~~of~~ 83478
~~job and family services~~ terminates or amends the medicaid provider 83479
agreement. 83480

Sec. ~~5111.876~~ 5124.62. Subject to section ~~5111.877~~ 5124.63 of 83481
the Revised Code, the director of developmental disabilities may 83482

request that the medicaid director ~~of job and family services~~ seek 83483
the approval of the United States secretary of health and human 83484
services to increase the number of slots available for home and 83485
community-based services by a number not exceeding the number of 83486
beds that were part of the licensed capacity of a residential 83487
facility that had its license revoked or surrendered under section 83488
5123.19 of the Revised Code if the residential facility was an 83489
~~intermediate care facility for the mentally retarded~~ ICF/MR at the 83490
time of the license revocation or surrender. The revocation or 83491
surrender may have occurred before, or may occur on or after, June 83492
24, 2008. The request may include beds the director of 83493
developmental disabilities removed from such a residential 83494
facility's licensed capacity before transferring ownership or 83495
operation of the residential facility pursuant to a request for 83496
proposals. 83497

Sec. ~~5111.877~~ 5124.63. The medicaid director ~~of job and~~ 83498
~~family services~~ may seek approval from the United States secretary 83499
of health and human services for not more than a total of five 83500
hundred slots for home and community-based services for the 83501
purposes of sections ~~5111.874~~ 5124.60, ~~5111.875~~ 5124.61, and 83502
~~5111.876~~ 5124.62 of the Revised Code. 83503

Sec. ~~5111.878~~ 5124.64. Not more than a total of five hundred 83504
beds may be converted from providing ICF/MR services to providing 83505
home and community-based services under sections ~~5111.874~~ 5124.60 83506
and ~~5111.875~~ 5124.61 of the Revised Code. 83507

Sec. ~~5111.879~~ 5124.65. No person or government entity may 83508
reconvert a bed to be used for ICF/MR services if the bed was 83509
converted to use for home and community-based services under 83510
section ~~5111.874~~ 5124.60 or ~~5111.875~~ 5124.61 of the Revised Code. 83511
This prohibition applies regardless of either of the following: 83512

(A) The bed is part of the licensed capacity of a residential facility. 83513
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(B) The bed has been sold, leased, or otherwise transferred to another person or government entity. 83515
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Sec. 5124.99. Whoever violates section 5124.102 or division (E) of section 5124.08 of the Revised Code shall be fined not less than five hundred dollars nor more than one thousand dollars for the first offense and not less than one thousand dollars nor more than five thousand dollars for each subsequent offense. 83517
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Fines paid under this section shall be deposited in the state treasury to the credit of the general revenue fund. 83522
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Sec. 5126.01. As used in this chapter: 83524

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code. 83525
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(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills. 83531
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(2) "Adult services" includes all of the following: 83538

(a) Adult day habilitation services; 83539

(b) Adult day care; 83540

(c) Prevocational services; 83541

(d) Sheltered employment;	83542
(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;	83543 83544 83545 83546 83547 83548 83549
(f) Community employment services and supported employment services.	83550 83551
(B)(1) "Adult day habilitation services" means adult services that do the following:	83552 83553
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	83554 83555 83556 83557 83558 83559 83560 83561
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	83562 83563 83564 83565
(2) "Adult day habilitation services" includes all of the following:	83566 83567
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;	83568 83569 83570 83571

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services; 83572
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(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community; 83576
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(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports; 83583
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(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected; 83586
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(f) Transportation necessary to access adult day habilitation services; 83591
83592

(g) Habilitation management, as described in section 5126.14 of the Revised Code. 83593
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(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services. 83595
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83597

(C) "Appointing authority" means the following: 83598

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners; 83599
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83601

(2) In the case of a member of a county board appointed by, 83602
or to be appointed by, a senior probate judge, the senior probate 83603
judge. 83604

(D) "Community employment," "competitive employment," and 83605
"integrated setting" have the same meanings as in section 5123.022 83606
of the Revised Code. 83607

(E) "Community employment services" or "supported employment 83608
services" means job training and other services related to 83609
employment outside a sheltered workshop. "Community employment 83610
services" or "supported employment services" include all of the 83611
following: 83612

(1) Job training resulting in the attainment of ~~competitive~~ 83613
~~work~~ community employment, supported work in a typical work 83614
environment, or self-employment; 83615

(2) Supervised work experience through an employer paid to 83616
provide the supervised work experience; 83617

(3) Ongoing ~~work in a competitive work environment at a wage~~ 83618
~~commensurate with workers without disabilities~~ community 83619
employment; 83620

(4) Ongoing supervision by an employer paid to provide the 83621
supervision. 83622

~~(E)~~(F) As used in this division, "substantial functional 83623
limitation," "developmental delay," and "established risk" have 83624
the meanings established pursuant to section 5123.011 of the 83625
Revised Code. 83626

"Developmental disability" means a severe, chronic disability 83627
that is characterized by all of the following: 83628

(1) It is attributable to a mental or physical impairment or 83629
a combination of mental and physical impairments, other than a 83630
mental or physical impairment solely caused by mental illness as 83631

defined in division (A) of section 5122.01 of the Revised Code; 83632

(2) It is manifested before age twenty-two; 83633

(3) It is likely to continue indefinitely; 83634

(4) It results in one of the following: 83635

(a) In the case of a person under age three, at least one 83636
developmental delay or an established risk; 83637

(b) In the case of a person at least age three but under age 83638
six, at least two developmental delays or an established risk; 83639

(c) In the case of a person age six or older, a substantial 83640
functional limitation in at least three of the following areas of 83641
major life activity, as appropriate for the person's age: 83642
self-care, receptive and expressive language, learning, mobility, 83643
self-direction, capacity for independent living, and, if the 83644
person is at least age sixteen, capacity for economic 83645
self-sufficiency. 83646

(5) It causes the person to need a combination and sequence 83647
of special, interdisciplinary, or other type of care, treatment, 83648
or provision of services for an extended period of time that is 83649
individually planned and coordinated for the person. 83650

~~(F)~~(G) "Early childhood services" means a planned program of 83651
habilitation designed to meet the needs of individuals with mental 83652
retardation or other developmental disabilities who have not 83653
attained compulsory school age. 83654

~~(G)~~(H)(1) "Environmental modifications" means the physical 83655
adaptations to an individual's home, specified in the individual's 83656
service plan, that are necessary to ensure the individual's 83657
health, safety, and welfare or that enable the individual to 83658
function with greater independence in the home, and without which 83659
the individual would require institutionalization. 83660

(2) "Environmental modifications" includes such adaptations 83661

as installation of ramps and grab-bars, widening of doorways, 83662
modification of bathroom facilities, and installation of 83663
specialized electric and plumbing systems necessary to accommodate 83664
the individual's medical equipment and supplies. 83665

(3) "Environmental modifications" does not include physical 83666
adaptations or improvements to the home that are of general 83667
utility or not of direct medical or remedial benefit to the 83668
individual, including such adaptations or improvements as 83669
carpeting, roof repair, and central air conditioning. 83670

~~(H)~~(I) "Family support services" means the services provided 83671
under a family support services program operated under section 83672
5126.11 of the Revised Code. 83673

~~(I)~~(J) "Habilitation" means the process by which the staff of 83674
the facility or agency assists an individual with mental 83675
retardation or other developmental disability in acquiring and 83676
maintaining those life skills that enable the individual to cope 83677
more effectively with the demands of the individual's own person 83678
and environment, and in raising the level of the individual's 83679
personal, physical, mental, social, and vocational efficiency. 83680
Habilitation includes, but is not limited to, programs of formal, 83681
structured education and training. 83682

~~(J)~~(K) "Home and community-based services" ~~means~~ 83683
~~medicaid funded home and community based services specified in~~ 83684
~~division (B)(1) of section 5111.87 of the Revised Code and~~ 83685
~~provided under the medicaid waiver components the department of~~ 83686
~~developmental disabilities administers pursuant to~~ has the same 83687
meaning as in section ~~5111.87~~ 5123.01 of the Revised Code. 83688
~~However, home and community based services provided under the~~ 83689
~~medicaid waiver component known as the transitions developmental~~ 83690
~~disabilities waiver are to be considered to be home and~~ 83691
~~community based services for the purposes of this chapter only to~~ 83692
~~the extent, if any, provided by the contract required by section~~ 83693

~~5111.871 of the Revised Code regarding the waiver.~~ 83694

~~(K)(L) "ICF/MR" has the same meaning as in section 5124.01 of
the Revised Code.~~ 83695
83696

(M) "Immediate family" means parents, grandparents, brothers, 83697
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 83698
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 83699
daughters-in-law. 83700

~~(L) "Medicaid" has the same meaning as in section 5111.01 of
the Revised Code.~~ 83701
83702

~~(M)(N)~~ (N) "Medicaid case management services" means case 83703
management services provided to an individual with mental 83704
retardation or other developmental disability that the state 83705
medicaid plan requires. 83706

~~(N)(O)~~ (O) "Mental retardation" means a mental impairment 83707
manifested during the developmental period characterized by 83708
significantly subaverage general intellectual functioning existing 83709
concurrently with deficiencies in the effectiveness or degree with 83710
which an individual meets the standards of personal independence 83711
and social responsibility expected of the individual's age and 83712
cultural group. 83713

~~(O)(P)~~ (P) "Residential services" means services to individuals 83714
with mental retardation or other developmental disabilities to 83715
provide housing, food, clothing, habilitation, staff support, and 83716
related support services necessary for the health, safety, and 83717
welfare of the individuals and the advancement of their quality of 83718
life. "Residential services" includes program management, as 83719
described in section 5126.14 of the Revised Code. 83720

~~(P)(Q)~~ (Q) "Resources" means available capital and other assets, 83721
including moneys received from the federal, state, and local 83722
governments, private grants, and donations; appropriately 83723
qualified personnel; and appropriate capital facilities and 83724

equipment. 83725

~~(Q)~~(R) "Senior probate judge" means the current probate judge 83726
of a county who has served as probate judge of that county longer 83727
than any of the other current probate judges of that county. If a 83728
county has only one probate judge, "senior probate judge" means 83729
that probate judge. 83730

~~(R)~~(S) "Service and support administration" means the duties 83731
performed by a service and support administrator pursuant to 83732
section 5126.15 of the Revised Code. 83733

~~(S)~~(T)(1) "Specialized medical, adaptive, and assistive 83734
equipment, supplies, and supports" means equipment, supplies, and 83735
supports that enable an individual to increase the ability to 83736
perform activities of daily living or to perceive, control, or 83737
communicate within the environment. 83738

(2) "Specialized medical, adaptive, and assistive equipment, 83739
supplies, and supports" includes the following: 83740

(a) Eating utensils, adaptive feeding dishes, plate guards, 83741
mylatex straps, hand splints, reaches, feeder seats, adjustable 83742
pointer sticks, interpreter services, telecommunication devices 83743
for the deaf, computerized communications boards, other 83744
communication devices, support animals, veterinary care for 83745
support animals, adaptive beds, supine boards, prone boards, 83746
wedges, sand bags, sidelayers, bolsters, adaptive electrical 83747
switches, hand-held shower heads, air conditioners, humidifiers, 83748
emergency response systems, folding shopping carts, vehicle lifts, 83749
vehicle hand controls, other adaptations of vehicles for 83750
accessibility, and repair of the equipment received. 83751

(b) Nondisposable items not covered by medicaid that are 83752
intended to assist an individual in activities of daily living or 83753
instrumental activities of daily living. 83754

~~(T)~~(U) "Supportive home services" means a range of services 83755

to families of individuals with mental retardation or other 83756
developmental disabilities to develop and maintain increased 83757
acceptance and understanding of such persons, increased ability of 83758
family members to teach the person, better coordination between 83759
school and home, skills in performing specific therapeutic and 83760
management techniques, and ability to cope with specific 83761
situations. 83762

~~(U)~~(V)(1) "Supported living" means services provided for as 83763
long as twenty-four hours a day to an individual with mental 83764
retardation or other developmental disability through any public 83765
or private resources, including moneys from the individual, that 83766
enhance the individual's reputation in community life and advance 83767
the individual's quality of life by doing the following: 83768

(a) Providing the support necessary to enable an individual 83769
to live in a residence of the individual's choice, with any number 83770
of individuals who are not disabled, or with not more than three 83771
individuals with mental retardation and developmental disabilities 83772
unless the individuals are related by blood or marriage; 83773

(b) Encouraging the individual's participation in the 83774
community; 83775

(c) Promoting the individual's rights and autonomy; 83776

(d) Assisting the individual in acquiring, retaining, and 83777
improving the skills and competence necessary to live successfully 83778
in the individual's residence. 83779

(2) "Supported living" includes the provision of all of the 83780
following: 83781

(a) Housing, food, clothing, habilitation, staff support, 83782
professional services, and any related support services necessary 83783
to ensure the health, safety, and welfare of the individual 83784
receiving the services; 83785

(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.026. Except as otherwise provided in this section and section 5126.0218 of the Revised Code, a member of a county board of developmental disabilities may be reappointed to the county board. Prior to making a reappointment, the appointing authority shall ascertain, through written communication with the board, that the member being considered for reappointment meets the requirements of sections 5126.022 and 5126.0218 of the Revised Code.

A member who has served during each of three consecutive terms shall not be reappointed for a subsequent term until two years after ceasing to be a member of the county board, except that a member who has served for ten years or less within three consecutive terms may be reappointed for a subsequent term before becoming ineligible for reappointment for two years.

If, however, a county board experiences extenuating circumstances that would severely restrict the board from being able to fill a pending vacancy of a board member who will become ineligible for service on the board after serving three consecutive terms, the appointing authority may request a waiver

from the director of developmental disabilities to allow that 83816
member to serve an additional four-year term subsequent to serving 83817
three consecutive four-year terms. The director shall determine if 83818
the extenuating circumstances associated with the board warrant 83819
the granting of such a waiver. 83820

Sec. 5126.05. (A) Subject to the rules established by the 83821
director of developmental disabilities pursuant to Chapter 119. of 83822
the Revised Code for programs and services offered pursuant to 83823
this chapter, and subject to the rules established by the state 83824
board of education pursuant to Chapter 119. of the Revised Code 83825
for programs and services offered pursuant to Chapter 3323. of the 83826
Revised Code, the county board of developmental disabilities 83827
shall: 83828

(1) Administer and operate facilities, programs, and services 83829
as provided by this chapter and Chapter 3323. of the Revised Code 83830
and establish policies for their administration and operation; 83831

(2) Coordinate, monitor, and evaluate existing services and 83832
facilities available to individuals with mental retardation and 83833
developmental disabilities; 83834

(3) Provide early childhood services, supportive home 83835
services, and adult services, according to the plan and priorities 83836
developed under section 5126.04 of the Revised Code; 83837

(4) Provide or contract for special education services 83838
pursuant to Chapters 3317. and 3323. of the Revised Code and 83839
ensure that related services, as defined in section 3323.01 of the 83840
Revised Code, are available according to the plan and priorities 83841
developed under section 5126.04 of the Revised Code; 83842

(5) Adopt a budget, authorize expenditures for the purposes 83843
specified in this chapter and do so in accordance with section 83844
319.16 of the Revised Code, approve attendance of board members 83845

and employees at professional meetings and approve expenditures 83846
for attendance, and exercise such powers and duties as are 83847
prescribed by the director; 83848

(6) Submit annual reports of its work and expenditures, 83849
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 83850
the director, the superintendent of public instruction, and the 83851
board of county commissioners at the close of the fiscal year and 83852
at such other times as may reasonably be requested; 83853

(7) Authorize all positions of employment, establish 83854
compensation, including but not limited to salary schedules and 83855
fringe benefits for all board employees, approve contracts of 83856
employment for management employees that are for a term of more 83857
than one year, employ legal counsel under section 309.10 of the 83858
Revised Code, and contract for employee benefits; 83859

(8) Provide service and support administration in accordance 83860
with section 5126.15 of the Revised Code; 83861

(9) Certify respite care homes pursuant to rules adopted 83862
under section 5123.171 of the Revised Code by the director of 83863
developmental disabilities; 83864

(10) Implement an employment first policy that clearly 83865
identifies community employment as the desired outcome for every 83866
individual of working age who receives services from the board; 83867

(11) Set benchmarks for improving community employment 83868
outcomes; 83869

(12) Establish a list of services, from least to most 83870
integrated, that improve community employment outcomes. 83871

(B) To the extent that rules adopted under this section apply 83872
to the identification and placement of children with disabilities 83873
under Chapter 3323. of the Revised Code, they shall be consistent 83874
with the standards and procedures established under sections 83875

3323.03 to 3323.05 of the Revised Code. 83876

(C) Any county board may enter into contracts with other such 83877
boards and with public or private, nonprofit, or profit-making 83878
agencies or organizations of the same or another county, to 83879
provide the facilities, programs, and services authorized or 83880
required, upon such terms as may be agreeable, and in accordance 83881
with this chapter and Chapter 3323. of the Revised Code and rules 83882
adopted thereunder and in accordance with sections 307.86 and 83883
5126.071 of the Revised Code. 83884

(D) A county board may combine transportation for children 83885
and adults enrolled in programs and services offered under Chapter 83886
5126. of the Revised Code with transportation for children 83887
enrolled in classes funded under ~~section~~ sections 3317.0213 and 83888
3317.20 ~~or units approved under section 3317.05~~ of the Revised 83889
Code. 83890

(E) A county board may purchase all necessary insurance 83891
policies, may purchase equipment and supplies through the 83892
department of administrative services or from other sources, and 83893
may enter into agreements with public agencies or nonprofit 83894
organizations for cooperative purchasing arrangements. 83895

(F) A county board may receive by gift, grant, devise, or 83896
bequest any moneys, lands, or property for the benefit of the 83897
purposes for which the board is established and hold, apply, and 83898
dispose of the moneys, lands, and property according to the terms 83899
of the gift, grant, devise, or bequest. All money received by 83900
gift, grant, bequest, or disposition of lands or property received 83901
by gift, grant, devise, or bequest shall be deposited in the 83902
county treasury to the credit of such board and shall be available 83903
for use by the board for purposes determined or stated by the 83904
donor or grantor, but may not be used for personal expenses of the 83905
board members. Any interest or earnings accruing from such gift, 83906
grant, devise, or bequest shall be treated in the same manner and 83907

subject to the same provisions as such gift, grant, devise, or 83908
bequest. 83909

(G) The board of county commissioners shall levy taxes and 83910
make appropriations sufficient to enable the county board of 83911
developmental disabilities to perform its functions and duties, 83912
and may utilize any available local, state, and federal funds for 83913
such purpose. 83914

Sec. 5126.051. (A) To the extent that resources are 83915
available, a county board of developmental disabilities shall 83916
provide for or arrange residential services and supported living 83917
for individuals with mental retardation and developmental 83918
disabilities. 83919

A county board may acquire, convey, lease, or sell property 83920
for residential services and supported living and enter into loan 83921
agreements, including mortgages, for the acquisition of such 83922
property. A county board is not required to comply with provisions 83923
of Chapter 307. of the Revised Code providing for competitive 83924
bidding or sheriff sales in the acquisition, lease, conveyance, or 83925
sale of property under this division, but the acquisition, lease, 83926
conveyance, or sale must be at fair market value determined by 83927
appraisal of one or more disinterested persons appointed by the 83928
board. 83929

Any action taken by a county board under this division that 83930
will incur debt on the part of the county shall be taken in 83931
accordance with Chapter 133. of the Revised Code. A county board 83932
shall not incur any debt on the part of the county without the 83933
prior approval of the board of county commissioners. 83934

(B)(1) To the extent that resources are available, ~~in~~ 83935
~~addition to sheltered employment and work activities provided as a~~ 83936
county board shall provide or arrange for the provision of adult 83937
services pursuant to division (A)(3) of section 5126.05 of the 83938

Revised Code, ~~a county board of developmental disabilities may~~ 83939
~~provide or arrange for~~ including job training, vocational 83940
evaluation, and community employment services to ~~mentally retarded~~ 83941
~~and developmentally disabled~~ individuals who are age eighteen and 83942
older and not enrolled in a program or service under Chapter 3323. 83943
of the Revised Code or age sixteen or seventeen and eligible for 83944
adult services under rules adopted by the director of 83945
developmental disabilities under Chapter 119. of the Revised Code. 83946
These services shall be provided in accordance with the 83947
individual's individual service or habilitation plan and shall 83948
include support services specified in the plan. 83949

(2) A county board may, in cooperation with the ~~Ohio~~ 83950
rehabilitation services commission, seek federal funds for job 83951
training and community employment services. 83952

(3) A county board may contract with any agency, board, or 83953
other entity that is accredited by the commission on accreditation 83954
of rehabilitation facilities to provide services. A county board 83955
that is accredited by the commission on accreditation of 83956
rehabilitation facilities may provide services for which it is 83957
certified by the commission. 83958

(C) To the extent that resources are available, a county 83959
board may provide services to an individual with mental 83960
retardation or other developmental disability in addition to those 83961
provided pursuant to this section, section 5126.05 of the Revised 83962
Code, or any other section of this chapter. The services shall be 83963
provided in accordance with the individual's habilitation or 83964
service plan and may be provided in collaboration with other 83965
entities of state or local government. 83966

Sec. 5126.054. (A) Each county board of developmental 83967
disabilities shall, by resolution, develop a three-calendar year 83968
plan that includes the following three components: 83969

- (1) An assessment component that includes all of the following: 83970
83971
- (a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an ~~intermediate care facility for the mentally retarded~~ ICF/MR, may seek home and community-based services, and are given priority on a waiting list established for the services pursuant to section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services; 83972
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- (b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay; 83980
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- (c) Any other applicable information or conditions that the department of developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code. 83984
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- (2) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the waiting list priority given to them under section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive; 83988
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83993
- (3) A component that provides for the implementation of medicaid case management services and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component: 83994
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83999
- (a) If the department of developmental disabilities or 84000

department of ~~job and family services~~ medicaid requires, an 84001
agreement to pay the nonfederal share of medicaid expenditures 84002
that the county board is required by sections 5126.059 and 84003
5126.0510 of the Revised Code to pay; 84004

(b) How the services are to be phased in over the period the 84005
plan covers, including how the county board will serve individuals 84006
who have priority on a waiting list established under section 84007
5126.042 of the Revised Code; 84008

(c) Any agreement or commitment regarding the county board's 84009
funding of home and community-based services that the county board 84010
has with the department at the time the county board develops the 84011
component; 84012

(d) Assurances adequate to the department that the county 84013
board will comply with all of the following requirements: 84014

(i) To provide the types of home and community-based services 84015
specified in the preliminary implementation component required by 84016
division (A)(2) of this section to at least the number of 84017
individuals specified in that component; 84018

(ii) To use any additional funds the county board receives 84019
for the services to improve the county board's resource 84020
capabilities for supporting such services available in the county 84021
at the time the component is developed and to expand the services 84022
to accommodate the unmet need for those services in the county; 84023

(iii) To employ or contract with a business manager or enter 84024
into an agreement with another county board of developmental 84025
disabilities that employs or contracts with a business manager to 84026
have the business manager serve both county boards. No 84027
superintendent of a county board may serve as the county board's 84028
business manager. 84029

(iv) To employ or contract with a medicaid services manager 84030
or enter into an agreement with another county board of 84031

developmental disabilities that employs or contracts with a 84032
medicaid services manager to have the medicaid services manager 84033
serve both county boards. No superintendent of a county board may 84034
serve as the county board's medicaid services manager. 84035

(e) Programmatic and financial accountability measures and 84036
projected outcomes expected from the implementation of the plan; 84037

(f) Any other applicable information or conditions that the 84038
department requires as a condition of approving the component 84039
under section 5123.046 of the Revised Code. 84040

(B) A county board whose plan developed under division (A) of 84041
this section is approved by the department under section 5123.046 84042
of the Revised Code shall update and renew the plan in accordance 84043
with a schedule the department shall develop. 84044

Sec. 5126.055. (A) Except as provided in section 5126.056 of 84045
the Revised Code, a county board of developmental disabilities has 84046
medicaid local administrative authority to, and shall, do all of 84047
the following for an individual with mental retardation or other 84048
developmental disability who resides in the county that the county 84049
board serves and seeks or receives home and community-based 84050
services: 84051

(1) Perform assessments and evaluations of the individual. As 84052
part of the assessment and evaluation process, the county board 84053
shall do all of the following: 84054

(a) Make a recommendation to the department of developmental 84055
disabilities on whether the department should approve or deny the 84056
individual's application for the services, including on the basis 84057
of whether the individual needs the level of care an ~~intermediate~~ 84058
~~care facility for the mentally retarded~~ ICF/MR provides; 84059

(b) If the individual's application is denied because of the 84060
county board's recommendation and the individual ~~requests a~~ 84061

~~hearing under appeals pursuant to section 5101.35~~ 5160.31 of the 84062
Revised Code, present, with the department of developmental 84063
disabilities or department of ~~job and family services~~ medicaid, 84064
whichever denies the application, the reasons for the 84065
recommendation and denial at the hearing; 84066

(c) If the individual's application is approved, recommend to 84067
the departments of developmental disabilities and ~~job and family~~ 84068
~~services~~ medicaid the services that should be included in the 84069
individual's individualized service plan and, if either department 84070
approves, reduces, denies, or terminates a service included in the 84071
individual's individualized service plan under section ~~5111.871~~ 84072
5166.20 of the Revised Code because of the county board's 84073
recommendation, present, with the department that made the 84074
approval, reduction, denial, or termination, the reasons for the 84075
recommendation and approval, reduction, denial, or termination at 84076
a hearing held pursuant to an appeal made under section ~~5101.35~~ 84077
5160.31 of the Revised Code. 84078

(2) Perform any duties assigned to the county board in rules 84079
adopted under section 5126.046 of the Revised Code regarding the 84080
individual's right to choose a qualified and willing provider of 84081
the services and, at a hearing held pursuant to an appeal made 84082
under section ~~5101.35~~ 5160.31 of the Revised Code, present 84083
evidence of the process for appropriate assistance in choosing 84084
providers; 84085

(3) If the county board is certified under section 5123.161 84086
of the Revised Code to provide the services and agrees to provide 84087
the services to the individual and the individual chooses the 84088
county board to provide the services, furnish, in accordance with 84089
the county board's medicaid provider agreement and for the 84090
authorized reimbursement rate, the services the individual 84091
requires; 84092

(4) Monitor the services provided to the individual and 84093

ensure the individual's health, safety, and welfare. The 84094
monitoring shall include quality assurance activities. If the 84095
county board provides the services, the department of 84096
developmental disabilities shall also monitor the services. 84097

(5) Develop, with the individual and the provider of the 84098
individual's services, an effective individualized service plan 84099
that includes coordination of services, recommend that the 84100
departments of developmental disabilities and ~~job and family~~ 84101
~~services~~ medicaid approve the plan, and implement the plan unless 84102
either department disapproves it. The individualized service plan 84103
shall include a summary page, agreed to by the county board, 84104
provider, and individual receiving services, that clearly outlines 84105
the amount, duration, and scope of services to be provided under 84106
the plan. 84107

(6) Have an investigative agent conduct investigations under 84108
section 5126.313 of the Revised Code that concern the individual; 84109

(7) Have a service and support administrator perform the 84110
duties under division (B)(9) of section 5126.15 of the Revised 84111
Code that concern the individual. 84112

(B) A county board shall perform its medicaid local 84113
administrative authority under this section in accordance with all 84114
of the following: 84115

(1) The county board's plan that the department of 84116
developmental disabilities approves under section 5123.046 of the 84117
Revised Code; 84118

(2) All applicable federal and state laws; 84119

(3) All applicable policies of the departments of 84120
developmental disabilities and ~~job and family services~~ medicaid 84121
and the United States department of health and human services; 84122

(4) The department of ~~job and family services'~~ medicaid's 84123

supervision under its authority ~~under section 5111.01 of the~~ 84124
~~Revised Code to act~~ as the single state medicaid agency; 84125

(5) The department of developmental disabilities' oversight. 84126

(C) The departments of developmental disabilities and ~~job and~~ 84127
~~family services~~ medicaid shall communicate with and provide 84128
training to county boards regarding medicaid local administrative 84129
authority granted by this section. The communication and training 84130
shall include issues regarding audit protocols and other standards 84131
established by the United States department of health and human 84132
services that the departments determine appropriate for 84133
communication and training. County boards shall participate in the 84134
training. The departments shall assess the county board's 84135
compliance against uniform standards that the departments shall 84136
establish. 84137

(D) A county board may not delegate its medicaid local 84138
administrative authority granted under this section but may 84139
contract with a person or government entity, including a council 84140
of governments, for assistance with its medicaid local 84141
administrative authority. A county board that enters into such a 84142
contract shall notify the director of developmental disabilities. 84143
The notice shall include the tasks and responsibilities that the 84144
contract gives to the person or government entity. The person or 84145
government entity shall comply in full with all requirements to 84146
which the county board is subject regarding the person or 84147
government entity's tasks and responsibilities under the contract. 84148
The county board remains ultimately responsible for the tasks and 84149
responsibilities. 84150

(E) A county board that has medicaid local administrative 84151
authority under this section shall, through the departments of 84152
developmental disabilities and ~~job and family services~~ medicaid, 84153
reply to, and cooperate in arranging compliance with, a program or 84154
fiscal audit or program violation exception that a state or 84155

federal audit or review discovers. The department of ~~job and family services~~ medicaid shall timely notify the department of developmental disabilities and the county board of any adverse findings. After receiving the notice, the county board, in conjunction with the department of developmental disabilities, shall cooperate fully with the department of ~~job and family services~~ medicaid and timely prepare and send to the department a written plan of correction or response to the adverse findings. The county board is liable for any adverse findings that result from an action it takes or fails to take in its implementation of medicaid local administrative authority.

(F) If the department of developmental disabilities or department of ~~job and family services~~ medicaid determines that a county board's implementation of its medicaid local administrative authority under this section is deficient, the department that makes the determination shall require that county board do the following:

(1) If the deficiency affects the health, safety, or welfare of an individual with mental retardation or other developmental disability, correct the deficiency within twenty-four hours;

(2) If the deficiency does not affect the health, safety, or welfare of an individual with mental retardation or other developmental disability, receive technical assistance from the department or submit a plan of correction to the department that is acceptable to the department within sixty days and correct the deficiency within the time required by the plan of correction.

Sec. 5126.131. (A)(1) Each regional council established under section 5126.13 of the Revised Code shall file with the department of developmental disabilities an annual cost report detailing the regional council's income and expenditures.

(2) Each county board of developmental disabilities shall

file with the department an annual cost report detailing the 84187
board's income and expenditures. 84188

(B)(1)(a) Unless the department establishes a later date for 84189
all regional council cost reports, each council shall file its 84190
cost report not later than the last day of April. At the written 84191
request of a regional council, the department may grant a 84192
fourteen-day extension for filing the cost report. 84193

(b) Unless the department establishes a later date for all 84194
county board cost reports, each board shall file its cost report 84195
not later than the last day of May. At the written request of a 84196
board, the department may grant a fourteen-day extension for 84197
filing the board's cost report. 84198

(2) The cost report shall contain information on the previous 84199
calendar year's income and expenditures. Once filed by a regional 84200
council or board, no changes may be made to the cost report, 84201
including the submission of additional documentation, except as 84202
otherwise provided in this section. 84203

(C) Each cost report filed under this section by a regional 84204
council or board shall be audited by the department or an entity 84205
designated by the department. The department or designated entity 84206
shall notify the regional council or board of the date on which 84207
the audit is to begin. The department may permit a regional 84208
council or board to submit changes to the cost report before the 84209
audit begins. 84210

If the department or designated entity determines that a 84211
filed cost report is not auditable, it shall provide written 84212
notification to the regional council or board of the cost report's 84213
deficiencies and may request additional documentation. If the 84214
department or designated entity requests additional documentation, 84215
the regional council or board shall be given sixty days after the 84216
request is made to provide the additional documentation. After 84217

sixty days, the department or designated entity shall determine 84218
whether the cost report is auditable with any additional 84219
documentation provided and shall notify the regional council or 84220
board of its determination. The determination of the department or 84221
designated entity is final. 84222

(D) The department or designated entity shall certify its 84223
audit as complete and file a copy of the certified audit in the 84224
office of the clerk of the governing body, executive officer of 84225
the governing body, and chief fiscal officer of the audited 84226
regional council or board. Changes may not be made to a cost 84227
report once the department or designated entity files the 84228
certified audit. The cost report is not a public record under 84229
section 149.43 of the Revised Code until copies of the cost report 84230
are filed pursuant to this section. 84231

(E) The department may withhold any funds that it distributes 84232
to a regional council or board as subsidy payments if either of 84233
the following is the case: 84234

(1) The cost report is not timely filed by the regional 84235
council or board with the department in accordance with division 84236
(B) of this section. 84237

(2) The cost report is determined not auditable under 84238
division (C) of this section after the department or designated 84239
entity gives the regional council or board sixty days to provide 84240
additional documentation. 84241

(F) Cost reports shall be retained by regional councils and 84242
boards for seven years. The department shall provide annual 84243
training to regional council and board employees regarding cost 84244
reports required by this section. 84245

(G) The department, in accordance with Chapter 119. of the 84246
Revised Code, may adopt any rules necessary to implement this 84247
section. 84248

Sec. 5126.24. (A) As used in this section: 84249

(1) "License" means an educator license issued by the state 84250
board of education under section 3319.22 of the Revised Code or a 84251
certificate issued by the department of developmental 84252
disabilities. 84253

(2) "Teacher" means a person employed by a county board of 84254
developmental disabilities in a position that requires a license. 84255

(3) "Nonteaching employee" means a person employed by a 84256
county board of developmental disabilities in a position that does 84257
not require a license. 84258

(4) "Years of service" includes all service described in 84259
division (A) of section ~~3317.13~~ 3317.14 of the Revised Code. 84260

(B) Subject to rules established by the director of 84261
developmental disabilities pursuant to Chapter 119. of the Revised 84262
Code, each county board of developmental disabilities shall 84263
annually adopt separate salary schedules for teachers and 84264
nonteaching employees. 84265

(C) The teachers' salary schedule shall provide for 84266
increments based on training and years of service. The board may 84267
establish its own service requirements ~~provided no teacher~~ 84268
~~receives less than the salary the teacher would be paid under~~ 84269
~~section 3317.13 of the Revised Code if the teacher were employed~~ 84270
~~by a school district board of education and provided full credit~~ 84271
for a minimum of five years of actual teaching and military 84272
experience as defined in division (A) of such section is given to 84273
each teacher. 84274

Each teacher who has completed training that would qualify 84275
the teacher for a higher salary bracket pursuant to this section 84276
shall file by the fifteenth day of September with the fiscal 84277
officer of the board, satisfactory evidence of the completion of 84278

such additional training. The fiscal officer shall then 84279
immediately place the teacher, pursuant to this section, in the 84280
proper salary bracket in accordance with training and years of 84281
service. ~~No teacher shall be paid less than the salary to which~~ 84282
~~the teacher would be entitled under section 3317.13 of the Revised~~ 84283
~~Code if the teacher were employed by a school district board of~~ 84284
~~education.~~ 84285

The superintendent of each county board, on or before the 84286
fifteenth day of October of each year, shall certify to the state 84287
board of education the name of each teacher employed, on an annual 84288
salary, in each special education program operated pursuant to 84289
section 3323.09 of the Revised Code during the first full school 84290
week of October. The superintendent further shall certify, for 84291
each teacher, the number of years of training completed at a 84292
recognized college, the degrees earned from a college recognized 84293
by the state board, the type of license held, the number of months 84294
employed by the board, the annual salary, and other information 84295
that the state board may request. 84296

(D) The nonteaching employees' salary schedule established by 84297
the board shall be based on training, experience, and 84298
qualifications with initial salaries no less than salaries in 84299
effect on July 1, 1985. Each board shall prepare and may amend 84300
from time to time, specifications descriptive of duties, 84301
responsibilities, requirements, and desirable qualifications of 84302
the classifications of employees required to perform the duties 84303
specified in the salary schedule. All nonteaching employees shall 84304
be notified of the position classification to which they are 84305
assigned and the salary for the classification. The compensation 84306
of all nonteaching employees working for a particular board shall 84307
be uniform for like positions except as compensation would be 84308
affected by salary increments based upon length of service. 84309

On the fifteenth day of October of each year the nonteaching 84310

employees' salary schedule and list of job classifications and 84311
salaries in effect on that date shall be filed by each board with 84312
the superintendent of public instruction. If such salary schedule 84313
and classification plan is not filed, the superintendent of public 84314
instruction shall order the board to file such schedule and list 84315
forthwith. If this condition is not corrected within ten days 84316
after receipt of the order from the superintendent, no money shall 84317
be distributed to the board under Chapter 3317. of the Revised 84318
Code until the superintendent has satisfactory evidence of the 84319
board's full compliance with such order. 84320

Sec. 5139.03. The department of youth services shall control 84321
and manage all state institutions or facilities established or 84322
created for the training or rehabilitation of delinquent children 84323
committed to the department, except where the control and 84324
management of an institution or facility is vested by law in 84325
another agency. The department shall employ, in addition to other 84326
personnel authorized under Chapter 5139. of the Revised Code, 84327
sufficient personnel to maintain food service and buildings and 84328
grounds operations. 84329

The department of youth services shall, insofar as 84330
practicable, purchase foods and other commodities incident to food 84331
service operations from the department of ~~mental health~~ mental 84332
health and addiction services. The department of youth services 84333
may enter into agreements with the department of ~~mental health~~ 84334
mental health and addiction services providing for assistance and 84335
consultation in the construction of, or major modifications to, 84336
capital facilities of the department of youth services. 84337

The directors of ~~mental health~~ mental health and addiction 84338
services and of youth services shall enter into written agreements 84339
to implement this section. Such directors may, from time to time, 84340
amend any agreements entered into under this section for the 84341

purposes of making more efficient use of personnel, taking 84342
advantage of economies in quantity purchasing, or for any other 84343
purpose which is mutually advantageous to both the department of 84344
youth services and the department of ~~mental health~~ mental health 84345
and addiction services. 84346

The department of youth services may transfer any of its 84347
excess or surplus supplies to a community corrections facility. 84348
These supplies shall remain the property of the department for a 84349
period of five years from the date of the transfer. After the 84350
five-year period, the supplies shall become the property of the 84351
facility. 84352

Sec. 5139.04. The department of youth services shall do all 84353
of the following: 84354

(A) Support service districts through a central 84355
administrative office that shall have as its administrative head a 84356
deputy director who shall be appointed by the director of the 84357
department. When a vacancy occurs in the office of that deputy 84358
director, an assistant deputy director shall act as that deputy 84359
director until the vacancy is filled. The position of deputy 84360
director and assistant deputy director described in this division 84361
shall be in the unclassified civil service of the state. 84362

(B) Receive custody of all children committed to it under 84363
Chapter 2152. of the Revised Code, cause a study to be made of 84364
those children, and issue any orders, as it considers best suited 84365
to the needs of any of those children and the interest of the 84366
public, for the treatment of each of those children; 84367

(C) Obtain personnel necessary for the performance of its 84368
duties; 84369

(D) Adopt rules that regulate its organization and operation, 84370
that implement sections 5139.34 and 5139.41 to 5139.43 of the 84371

Revised Code, and that pertain to the administration of other	84372
sections of this chapter;	84373
(E) Submit reports of its operations to the governor and the	84374
general assembly by the thirty-first day of January of each	84375
odd-numbered year;	84376
(F) Conduct a program of research in diagnosis, training, and	84377
treatment of delinquent children to evaluate the effectiveness of	84378
the department's services and to develop more adequate methods;	84379
(G) Develop a standard form for the disposition investigation	84380
report that a juvenile court is required pursuant to section	84381
2152.18 of the Revised Code to complete and provide to the	84382
department when the court commits a child to the legal custody of	84383
the department;	84384
(H) <u>Allow the state public defender the access authorized</u>	84385
<u>under division (I) of section 120.06 of the Revised Code in order</u>	84386
<u>to fulfill the department's constitutional obligation to provide</u>	84387
<u>juveniles who have been committed to the department's care access</u>	84388
<u>to the courts.</u>	84389
(I) Do all other acts necessary or desirable to carry out	84390
this chapter.	84391
Sec. 5139.08. The department of youth services may enter into	84392
an agreement with the director of rehabilitation and correction	84393
pursuant to which the department of youth services, in accordance	84394
with division (C)(2) of section 5139.06 and section 5120.162 of	84395
the Revised Code, may transfer to a correctional medical center	84396
established by the department of rehabilitation and correction,	84397
children who are within its custody for diagnosis or treatment of	84398
an illness, physical condition, or other medical problem. The	84399
department of youth services may enter into any other agreements	84400
with the director of job and family services, the director of	84401

~~mental health~~ mental health and addiction services, the director 84402
of developmental disabilities, the director of rehabilitation and 84403
correction, with the courts having probation officers or other 84404
public officials, and with private agencies or institutions for 84405
separate care or special treatment of children subject to the 84406
control of the department of youth services. The department of 84407
youth services may, upon the request of a juvenile court not 84408
having a regular probation officer, provide probation services for 84409
such court. 84410

Upon request by the department of youth services, any public 84411
agency or group care facility established or administered by the 84412
state for the care and treatment of children and youth shall, 84413
consistent with its functions, accept and care for any child whose 84414
custody is vested in the department in the same manner as it would 84415
be required to do if custody had been vested by a court in such 84416
agency or group care facility. If the department has reasonable 84417
grounds to believe that any child or youth whose custody is vested 84418
in it is mentally ill or mentally retarded, the department may 84419
file an affidavit under section 5122.11 or 5123.76 of the Revised 84420
Code. The department's affidavit for admission of a child or youth 84421
to such institution shall be filed with the probate court of the 84422
county from which the child was committed to the department. Such 84423
court may request the probate court of the county in which the 84424
child is held to conduct the hearing on the application, in which 84425
case the court making such request shall bear the expenses of the 84426
proceeding. If the department files such an affidavit, the child 84427
or youth may be kept in such institution until a final decision on 84428
the affidavit is made by the appropriate court. 84429

Sec. 5139.34. (A) Funds may be appropriated to the department 84430
of youth services for the purpose of granting state subsidies to 84431
counties. A county or the juvenile court that serves a county 84432
shall use state subsidies granted to the county pursuant to this 84433

section only in accordance with divisions (B)(2)(a) and (3)(a) of 84434
section 5139.43 of the Revised Code and the rules pertaining to 84435
the state subsidy funds that the department adopts pursuant to 84436
division (D) of section 5139.04 of the Revised Code. The 84437
department shall not grant financial assistance pursuant to this 84438
section for the provision of care and services for children in a 84439
placement facility unless the facility has been certified, 84440
licensed, or approved by a state or national agency with 84441
certification, licensure, or approval authority, including, but 84442
not limited to, the department of job and family services, 84443
department of education, department of ~~mental health~~ mental health 84444
and addiction services, department of developmental disabilities, 84445
or American correctional association. For the purposes of this 84446
section, placement facilities do not include a state institution 84447
or a county or district children's home. 84448

The department also shall not grant financial assistance 84449
pursuant to this section for the provision of care and services 84450
for children, including, but not limited to, care and services in 84451
a detention facility, in another facility, or in out-of-home 84452
placement, unless the minimum standards applicable to the care and 84453
services that the department prescribes in rules adopted pursuant 84454
to division (D) of section 5139.04 of the Revised Code have been 84455
satisfied. 84456

(B) The department of youth services shall apply the 84457
following formula to determine the amount of the annual grant that 84458
each county is to receive pursuant to division (A) of this 84459
section, subject to the appropriation for this purpose to the 84460
department made by the general assembly: 84461

(1) Each county shall receive a basic annual grant of fifty 84462
thousand dollars. 84463

(2) The sum of the basic annual grants provided under 84464
division (B)(1) of this section shall be subtracted from the total 84465

amount of funds appropriated to the department of youth services 84466
for the purpose of making grants pursuant to division (A) of this 84467
section to determine the remaining portion of the funds 84468
appropriated. The remaining portion of the funds appropriated 84469
shall be distributed on a per capita basis to each county that has 84470
a population of more than twenty-five thousand for that portion of 84471
the population of the county that exceeds twenty-five thousand. 84472

(C)(1) Prior to a county's receipt of an annual grant 84473
pursuant to this section, the juvenile court that serves the 84474
county shall prepare, submit, and file in accordance with division 84475
(B)(3)(a) of section 5139.43 of the Revised Code an annual grant 84476
agreement and application for funding that is for the combined 84477
purposes of, and that satisfies the requirements of, this section 84478
and section 5139.43 of the Revised Code. In addition to the 84479
subject matters described in division (B)(3)(a) of section 5139.43 84480
of the Revised Code or in the rules that the department adopts to 84481
implement that division, the annual grant agreement and 84482
application for funding shall address fiscal accountability and 84483
performance matters pertaining to the programs, care, and services 84484
that are specified in the agreement and application and for which 84485
state subsidy funds granted pursuant to this section will be used. 84486

(2) The county treasurer of each county that receives an 84487
annual grant pursuant to this section shall deposit the state 84488
subsidy funds so received into the county's felony delinquent care 84489
and custody fund created pursuant to division (B)(1) of section 84490
5139.43 of the Revised Code. Subject to exceptions prescribed in 84491
section 5139.43 of the Revised Code that may apply to the 84492
disbursement, the department shall disburse the state subsidy 84493
funds to which a county is entitled in a lump sum payment that 84494
shall be made in July of each calendar year. 84495

(3) Upon an order of the juvenile court that serves a county 84496
and subject to appropriation by the board of county commissioners 84497

of that county, a county treasurer shall disburse from the 84498
county's felony delinquent care and custody fund the state subsidy 84499
funds granted to the county pursuant to this section for use only 84500
in accordance with this section, the applicable provisions of 84501
section 5139.43 of the Revised Code, and the county's approved 84502
annual grant agreement and application for funding. 84503

(4) The moneys in a county's felony delinquent care and 84504
custody fund that represent state subsidy funds granted pursuant 84505
to this section are subject to appropriation by the board of 84506
county commissioners of the county; shall be disbursed by the 84507
county treasurer as required by division (C)(3) of this section; 84508
shall be used in the manners referred to in division (C)(3) of 84509
this section; shall not revert to the county general fund at the 84510
end of any fiscal year; shall carry over in the felony delinquent 84511
care and custody fund from the end of any fiscal year to the next 84512
fiscal year; shall be in addition to, and shall not be used to 84513
reduce, any usual annual increase in county funding that the 84514
juvenile court is eligible to receive or the current level of 84515
county funding of the juvenile court and of any programs, care, or 84516
services for alleged or adjudicated delinquent children, unruly 84517
children, or juvenile traffic offenders or for children who are at 84518
risk of becoming delinquent children, unruly children, or juvenile 84519
traffic offenders; and shall not be used to pay for the care and 84520
custody of felony ~~delinquents~~ delinquents who are in the care and 84521
custody of an institution pursuant to a commitment, recommitment, 84522
or revocation of a release on parole by the juvenile court of that 84523
county or who are in the care and custody of a community 84524
corrections facility pursuant to a placement by the department 84525
with the consent of the juvenile court as described in division 84526
(E) of section 5139.36 of the Revised Code. 84527

(5) As a condition of the continued receipt of state subsidy 84528
funds pursuant to this section, each county and the juvenile court 84529

that serves each county that receives an annual grant pursuant to 84530
this section shall comply with divisions (B)(3)(b), (c), and (d) 84531
of section 5139.43 of the Revised Code. 84532

Sec. 5145.162. (A) There is hereby created the office of 84533
enterprise development advisory council of directors for prison 84534
labor-consisting board to advise and assist the department of 84535
rehabilitation and correction with the creation of training 84536
programs and jobs for inmates and releasees through partnerships 84537
with private sector businesses. The board shall consist of at 84538
least five appointed members and the executive director of the 84539
office of the correctional institution inspection committee, who 84540
shall serve as an ex officio member. Each member shall have 84541
experience in labor relations, marketing, business management, or 84542
business. The members and chairperson shall be appointed by the 84543
governor director of the department of rehabilitation and 84544
correction. Within thirty days after April 9, 1981, the governor 84545
shall make the initial appointments to the council of directors. 84546
Of the initial appointments made to the council of directors, two 84547
shall be for a term ending one year after April 9, 1981, two shall 84548
be for a term ending two years after that date, and one shall be 84549
for a term ending three years after that date. After the 84550
expiration of the initial terms, the terms of office for the 84551
members shall be for three years, each term ending on the same day 84552
of the same month of the year as did the term that it succeeds. 84553
Each member shall hold office from the date of appointment until 84554
the end of the term for which the member was appointed. Any 84555
vacancy on the advisory council shall be filled by the governor. 84556
Any member appointed to fill a vacancy occurring prior to the 84557
expiration of the term for which the member's predecessor was 84558
appointed shall hold office for the remainder of the predecessor's 84559
term. Any member shall continue in office subsequent to the 84560
expiration date of the member's term until a successor takes 84561

~~office, or until a period of sixty days has elapsed, whichever
occurs first.~~ 84562
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(B) ~~Each member of the advisory council, while engaged in the
performance of the business of the advisory council, board shall
receive no compensation but may be reimbursed for expenses
actually and necessarily incurred in the performance of official
duties of the board. Members of the board who are state employees
shall be reimbursed for expenses pursuant to travel rules
promulgated by the office of budget and management.~~ 84564
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(C) ~~The advisory council board shall adopt procedures for the
conduct of the board's meetings. The board shall meet within two
weeks after the initial members have been appointed at a time and
place determined by the governor. At its first meeting, the
advisory council shall elect a chairperson and shall adopt rules
for its procedures. The advisory council shall elect a new
chairperson annually at its January meeting. The advisory council
shall meet at least once every January and at least once every two
months thereafter quarter, and otherwise shall meet at the call of
the chairperson or upon the written request of at least a quorum
of the members. Three director of the department of rehabilitation
and correction. Sixty per cent of the members constitutes shall
constitute a quorum, and no action. No transaction of the board's
business shall be taken without the concurrence of a quorum of the
members. The board may have committees with persons who are not
members of the board but whose experience and expertise is
relevant and useful to the work of the committee.~~ 84571
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(D) ~~The advisory council board shall advise and assist the
department of rehabilitation and correction when the department
adopts rules pursuant to division (B) of section 5145.03 of the
Revised Code, establishes prices for goods, products, services, or
labor produced or supplied by prisoners, and otherwise establishes
and administers the program for employment of prisoners~~ 84588
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~~established by the department pursuant to division (A) of section 84594
5145.16 of the Revised Code. The department shall consider the 84595
advice and assistance of the advisory council that is provided 84596
pursuant to this section, and shall cooperate with the advisory 84597
council. The advisory council may recommend have the following 84598
duties: 84599~~

(1) Solicit business proposals offering job training, 84600
apprenticeship, education programs, and employment opportunities 84601
for inmates and releasees; 84602

(2) Provide information and input to the office of enterprise 84603
development to support the job training and employment program of 84604
inmates and releasees and any additional, related duties as 84605
requested by the director of the department of rehabilitation and 84606
correction; 84607

(3) Recommend to the ~~general assembly~~ office of enterprise 84608
development any ~~further~~ legislation, administrative rule, or 84609
department policy change that ~~it~~ the board believes is necessary 84610
to implement the department's program of ~~employment of prisoners;~~ 84611

(4) Promote public awareness of the office of enterprise 84612
development and the office's employment program; 84613

(5) Familiarize itself and the public with avenues to access 84614
the office of enterprise development on employment program 84615
concerns; 84616

(6) Advocate for the needs and concerns of the office of 84617
enterprise development in local communities, counties, and the 84618
state; 84619

(7) Play an active role in the office of enterprise 84620
development's efforts to reduce recidivism in the state by doing 84621
all of the following: 84622

(a) Providing input and making recommendations for the 84623

office's consideration in monitoring employment program compliance 84624
and effectiveness; 84625

(b) Making suggestions on the appropriate priorities for the 84626
office's grant award criteria; 84627

(c) Being a liaison between the office and constituents of 84628
the board's members; 84629

(d) Working to develop constituent groups interested in 84630
employment program issues; 84631

(8) Aid in the employment program development process by 84632
playing a leadership role in professional associations by 84633
discussing employment program issues. 84634

(E) The department of rehabilitation and correction shall 84635
initially screen each proposal obtained under division (D)(1) of 84636
this section to ensure that the proposal is a viable venture to 84637
pursue. If the department determines that a proposal is a viable 84638
venture to pursue, the department shall submit the proposal to the 84639
board for objective review against established guidelines. The 84640
board shall determine whether to recommend the implementation of 84641
the program to the department. 84642

Sec. 5145.18. Any printing or binding performed in a state 84643
correctional institution may be performed for the use of the 84644
institution, the departments of ~~mental health~~ mental health and 84645
addiction services, developmental disabilities, and rehabilitation 84646
and correction, the department of public safety in connection with 84647
the registration of motor vehicles, and for any other purpose 84648
authorized by division (B) of section 5145.03 and by sections 84649
5145.16 and 5145.161 of the Revised Code. 84650

Sec. 5153.16. (A) Except as provided in section 2151.422 of 84651
the Revised Code, in accordance with rules adopted under section 84652
5153.166 of the Revised Code, and on behalf of children in the 84653

county whom the public children services agency considers to be in 84654
need of public care or protective services, the public children 84655
services agency shall do all of the following: 84656

(1) Make an investigation concerning any child alleged to be 84657
an abused, neglected, or dependent child; 84658

(2) Enter into agreements with the parent, guardian, or other 84659
person having legal custody of any child, or with the department 84660
of job and family services, department of ~~mental health~~ mental 84661
health and addiction services, department of developmental 84662
disabilities, other department, any certified organization within 84663
or outside the county, or any agency or institution outside the 84664
state, having legal custody of any child, with respect to the 84665
custody, care, or placement of any child, or with respect to any 84666
matter, in the interests of the child, provided the permanent 84667
custody of a child shall not be transferred by a parent to the 84668
public children services agency without the consent of the 84669
juvenile court; 84670

(3) Accept custody of children committed to the public 84671
children services agency by a court exercising juvenile 84672
jurisdiction; 84673

(4) Provide such care as the public children services agency 84674
considers to be in the best interests of any child adjudicated to 84675
be an abused, neglected, or dependent child the agency finds to be 84676
in need of public care or service; 84677

(5) Provide social services to any unmarried girl adjudicated 84678
to be an abused, neglected, or dependent child who is pregnant 84679
with or has been delivered of a child; 84680

(6) Make available to the bureau for children with medical 84681
handicaps of the department of health at its request any 84682
information concerning a crippled child found to be in need of 84683
treatment under sections 3701.021 to 3701.028 of the Revised Code 84684

who is receiving services from the public children services 84685
agency; 84686

(7) Provide temporary emergency care for any child considered 84687
by the public children services agency to be in need of such care, 84688
without agreement or commitment; 84689

(8) Find certified foster homes, within or outside the 84690
county, for the care of children, including handicapped children 84691
from other counties attending special schools in the county; 84692

(9) Subject to the approval of the board of county 84693
commissioners and the state department of job and family services, 84694
establish and operate a training school or enter into an agreement 84695
with any municipal corporation or other political subdivision of 84696
the county respecting the operation, acquisition, or maintenance 84697
of any children's home, training school, or other institution for 84698
the care of children maintained by such municipal corporation or 84699
political subdivision; 84700

(10) Acquire and operate a county children's home, establish, 84701
maintain, and operate a receiving home for the temporary care of 84702
children, or procure certified foster homes for this purpose; 84703

(11) Enter into an agreement with the trustees of any 84704
district children's home, respecting the operation of the district 84705
children's home in cooperation with the other county boards in the 84706
district; 84707

(12) Cooperate with, make its services available to, and act 84708
as the agent of persons, courts, the department of job and family 84709
services, the department of health, and other organizations within 84710
and outside the state, in matters relating to the welfare of 84711
children, except that the public children services agency shall 84712
not be required to provide supervision of or other services 84713
related to the exercise of parenting time rights granted pursuant 84714
to section 3109.051 or 3109.12 of the Revised Code or 84715

companionship or visitation rights granted pursuant to section 84716
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 84717
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 84718
a common pleas court, pursuant to division (E)(6) of section 84719
3113.31 of the Revised Code, requires the provision of supervision 84720
or other services related to the exercise of the parenting time 84721
rights or companionship or visitation rights; 84722

(13) Make investigations at the request of any superintendent 84723
of schools in the county or the principal of any school concerning 84724
the application of any child adjudicated to be an abused, 84725
neglected, or dependent child for release from school, where such 84726
service is not provided through a school attendance department; 84727

(14) Administer funds provided under Title IV-E of the 84728
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 84729
amended, in accordance with rules adopted under section 5101.141 84730
of the Revised Code; 84731

(15) In addition to administering Title IV-E adoption 84732
assistance funds, enter into agreements to make adoption 84733
assistance payments under section 5153.163 of the Revised Code; 84734

(16) Implement a system of safety and risk assessment, in 84735
accordance with rules adopted by the director of job and family 84736
services, to assist the public children services agency in 84737
determining the risk of abuse or neglect to a child; 84738

(17) Enter into a plan of cooperation with the board of 84739
county commissioners under section 307.983 of the Revised Code and 84740
comply with each fiscal agreement the board enters into under 84741
section 307.98 of the Revised Code that include family services 84742
duties of public children services agencies and contracts the 84743
board enters into under sections 307.981 and 307.982 of the 84744
Revised Code that affect the public children services agency; 84745

(18) Make reasonable efforts to prevent the removal of an 84746

alleged or adjudicated abused, neglected, or dependent child from 84747
the child's home, eliminate the continued removal of the child 84748
from the child's home, or make it possible for the child to return 84749
home safely, except that reasonable efforts of that nature are not 84750
required when a court has made a determination under division 84751
(A)(2) of section 2151.419 of the Revised Code; 84752

(19) Make reasonable efforts to place the child in a timely 84753
manner in accordance with the permanency plan approved under 84754
division (E) of section 2151.417 of the Revised Code and to 84755
complete whatever steps are necessary to finalize the permanent 84756
placement of the child; 84757

(20) Administer a Title IV-A program identified under 84758
division (A)(4)(c) or ~~(f)~~(g) of section 5101.80 of the Revised 84759
Code that the department of job and family services provides for 84760
the public children services agency to administer under the 84761
department's supervision pursuant to section 5101.801 of the 84762
Revised Code; 84763

(21) Administer the kinship permanency incentive program 84764
created under section 5101.802 of the Revised Code under the 84765
supervision of the director of job and family services; 84766

(22) Provide independent living services pursuant to sections 84767
2151.81 to 2151.84 of the Revised Code; 84768

(23) File a missing child report with a local law enforcement 84769
agency upon becoming aware that a child in the custody of the 84770
public children services agency is or may be missing. 84771

(B) The public children services agency shall use the system 84772
implemented pursuant to division (A)(16) of this section in 84773
connection with an investigation undertaken pursuant to division 84774
(F)(1) of section 2151.421 of the Revised Code to assess both of 84775
the following: 84776

(1) The ongoing safety of the child; 84777

(2) The appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case. 84778
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(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following: 84781
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(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code; 84787
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(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties: 84791
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(i) County departments of job and family services; 84794

(ii) Boards of alcohol, drug addiction, and mental health services; 84795
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(iii) County boards of developmental disabilities; 84797

(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code; 84798
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(v) Private and government providers of services; 84800

(vi) Managed care organizations and prepaid health plans. 84801

(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules. 84802
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(c) Only a county children services board appointed under 84807

section 5153.03 of the Revised Code that is a public children 84808
services agency may contract under division (C)(2)(a) of this 84809
section. If an entity specified in division (B) or (C) of section 84810
5153.02 of the Revised Code is the public children services agency 84811
for a county, the board of county commissioners may enter into 84812
contracts pursuant to section 307.982 of the Revised Code 84813
regarding the agency's duties. 84814

Sec. 5160.01. As used in this chapter: 84815

(A) "Dual eligible individual" has the same meaning as in the 84816
"Social Security Act," section 1915(h)(2)(B), 42 U.S.C. 84817
1396n(h)(2)(B). A dual eligible individual is a medicare-medicaid 84818
enrollee (MME). 84819

(B) "Exchange" has the same meaning as in 45 C.F.R. 155.20. 84820

(C) "Federal financial participation" means the federal 84821
government's share of expenditures made by an entity in 84822
implementing a medical assistance program. 84823

(D) "Medical assistance program" means all of the following: 84824

(1) The medicaid program; 84825

(2) The children's health insurance program; 84826

(3) The refugee medical assistance program; 84827

(4) Any other program that provides medical assistance and 84828
state statutes authorize the department of medicaid to administer. 84829

(E) "Medical assistance recipient" means a recipient of a 84830
medical assistance program. To the extent appropriate in the 84831
context, "medical assistance recipient" includes an individual 84832
applying for a medical assistance program, a former medical 84833
assistance recipient, or both. 84834

(F) "Medicaid managed care organization" has the same meaning 84835
as in section 5167.01 of the Revised Code. 84836

(G) "Refugee medical assistance program" means the program 84837
that the department of medicaid administers pursuant to section 84838
5160.50 of the Revised Code. 84839

Sec. 5160.011. References to the department or director of 84840
public welfare, department or director of human services, 84841
department or director of job and family services, office of 84842
medical assistance, or medical assistance director in any statute, 84843
rule, contract, grant, or other document is deemed to refer to the 84844
department of medicaid or medicaid director, as the case may be, 84845
to the extent the reference is about a duty or authority of the 84846
department of medicaid or medicaid director regarding a medical 84847
assistance program. 84848

Sec. 5160.02. The medicaid director shall adopt rules as 84849
necessary to implement this chapter. 84850

Sec. 5160.021. (A) When the medicaid director is authorized 84851
by a statute to adopt a rule, the director shall adopt the rule in 84852
accordance with the following: 84853

(1) Chapter 119. of the Revised Code if either of the 84854
following applies: 84855

(a) The statute authorizing the rule requires that the rule 84856
be adopted in accordance with Chapter 119. of the Revised Code. 84857

(b) Unless division (A)(2)(b) of this section applies, the 84858
statute authorizing the rule does not specify the procedure for 84859
the rule's adoption. 84860

(2) Section 111.15 of the Revised Code, excluding divisions 84861
(D) and (E) of that section, if either of the following applies: 84862

(a) The statute authorizing the rule requires that the rule 84863
be adopted in accordance with section 111.15 of the Revised Code 84864
and, by the terms of division (D) of that section, division (D) of 84865

that section does not apply to the rule. 84866

(b) The statute authorizing the rule does not specify the 84867
procedure for the rule's adoption and the rule concerns the 84868
day-to-day staff procedures and operations of the department of 84869
medicaid or financial and operational matters between the 84870
department and a person or government entity receiving a grant 84871
from the department. 84872

(3) Section 111.15 of the Revised Code, including divisions 84873
(D) and (E) of that section, if the statute authorizing the rule 84874
requires that the rule be adopted in accordance with that section 84875
and the rule is not exempt from the application of division (D) of 84876
that section. 84877

(B) Except as otherwise required by a statute, the adoption 84878
of a rule in accordance with Chapter 119. of the Revised Code does 84879
not make the department of medicaid subject to the notice, 84880
hearing, or other requirements of sections 119.06 to 119.13 of the 84881
Revised Code. 84882

Sec. 5160.03. The medicaid director is the executive head of 84883
the department of medicaid. All duties conferred on the department 84884
by law or order of the director are under the director's control 84885
and shall be performed in accordance with rules the director 84886
adopts. 84887

Sec. 5160.04. The medicaid director shall appoint one 84888
assistant director for the department of medicaid. The assistant 84889
director shall exercise powers, and perform duties, as ordered by 84890
the medicaid director. The assistant director shall act as the 84891
medicaid director in the medicaid director's absence or disability 84892
and when the position of medicaid director is vacant. 84893

Sec. 5160.05. The medicaid director may appoint such 84894

employees as are necessary for the efficient operation of the 84895
department of medicaid. The director may prescribe the title and 84896
duties of the employees. 84897

Sec. 5160.051. If the medicaid director determines that a 84898
position with the department of medicaid can best be filled in 84899
accordance with division (A)(2) of section 124.30 of the Revised 84900
Code or without regard to a residency requirement established by a 84901
rule adopted by the director of administrative services, the 84902
medicaid director shall provide the director of administrative 84903
services certification of the determination. 84904

Sec. 5160.052. The department of medicaid shall collaborate 84905
with the superintendent of the bureau of criminal identification 84906
and investigation to develop procedures and formats necessary to 84907
produce the notices described in division (C) of section 109.5721 84908
of the Revised Code in a format that is acceptable for use by the 84909
department. The medicaid director may adopt rules under section 84910
5160.02 of the Revised Code necessary for such collaboration. Any 84911
such rules shall be adopted in accordance with section 111.15 of 84912
the Revised Code as if they were internal management rules. 84913

The medicaid director may adopt rules under section 5160.02 84914
of the Revised Code necessary for utilizing the information 84915
received pursuant to section 109.5721 of the Revised Code. The 84916
rules shall be adopted in accordance with Chapter 119. of the 84917
Revised Code. 84918

Sec. 5160.06. The medicaid director may require any of the 84919
employees of the department of medicaid who may be charged with 84920
custody or control of any public money or property or who is 84921
required to give bond, to give a bond, properly conditioned, in a 84922
sum to be fixed by the director which when approved by the 84923

director, shall be filed in the office of the secretary of state. 84924
The cost of such bonds, when approved by the director, shall be 84925
paid from funds available for the department. The bonds required 84926
or authorized by this section may, in the discretion of the 84927
director, be individual, schedule, or blanket bonds. 84928

Sec. 5160.10. The medicaid director may expend funds 84929
appropriated or available to the department of medicaid from 84930
persons and government entities. For purposes of this section, the 84931
director may enter into contracts or agreements with persons and 84932
government entities and make grants to persons and government 84933
entities. To the extent permitted by federal law, the director may 84934
advance funds to a grantee when necessary for the grantee to 84935
perform duties under the grant as specified by the director. 84936

The director may adopt rules under section 5160.02 of the 84937
Revised Code as necessary to define terms and adopt procedures and 84938
other provisions necessary to implement this section. 84939

Sec. 5160.11. The state health care grants fund is hereby 84940
created in the state treasury. Money the department of medicaid 84941
receives from private foundations in support of pilot projects 84942
that promote exemplary programs that enhance programs the 84943
department administers shall be credited to the fund. The 84944
department may expend the money on such projects, may use the 84945
money, to the extent allowable, to match federal financial 84946
participation in support of such projects, and shall comply with 84947
requirements the foundations have stipulated in their agreements 84948
with the department as to the purposes for which the money may be 84949
expended. 84950

Sec. 5160.12. (A) As used in this section, "entity" includes 84951
an agency, board, commission, or department of the state or a 84952

political subdivision of the state; a private, nonprofit entity; a 84953
school district; a private school; or a public or private 84954
institution of higher education. 84955

(B) This section does not apply to contracts entered into 84956
under section 5162.32 or 5162.35 of the Revised Code. 84957

(C) At the request of any public entity having authority to 84958
implement a program administered by the department of medicaid or 84959
any private entity under contract with a public entity to 84960
implement a program administered by the department, the department 84961
may seek to obtain federal financial participation for costs 84962
incurred by the entity. Federal financial participation may be 84963
sought from programs operated pursuant to Title XIX of the "Social 84964
Security Act," 42 U.S.C. 1396, et seq., and any other statute or 84965
regulation under which federal financial participation may be 84966
available, except that federal financial participation may be 84967
sought only for expenditures made with funds for which federal 84968
financial participation is available under federal law. 84969

(D) All funds collected by the department pursuant to 84970
division (C) of this section shall be distributed to the entities 84971
that incurred the costs. 84972

(E) In distributing federal financial participation pursuant 84973
to this section, the department may either enter into an agreement 84974
with the entity that is to receive the funds or distribute the 84975
funds in accordance with rules authorized by division (H) of this 84976
section. If the department decides to enter into an agreement to 84977
distribute the funds, the agreement may include terms that do any 84978
of the following: 84979

(1) Provide for the whole or partial reimbursement of any 84980
cost incurred by the entity in implementing the program; 84981

(2) In the event that federal financial participation is 84982

disallowed or otherwise unavailable for any expenditure, require 84983
the department or the entity, whichever party caused the 84984
disallowance or unavailability of federal financial participation, 84985
to assume responsibility for the expenditures; 84986

(3) Require the entity to certify to the department the 84987
availability of sufficient unencumbered funds to match the federal 84988
financial participation the entity receives under this section; 84989

(4) Establish the length of the agreement, which may be for a 84990
fixed or a continuing period of time; 84991

(5) Establish any other requirements determined by the 84992
department to be necessary for the efficient administration of the 84993
agreement. 84994

(F) An entity that receives federal financial participation 84995
pursuant to this section for a program aiding children and their 84996
families shall establish a process for collaborative planning with 84997
the department for the use of the funds to improve and expand the 84998
program. 84999

(G) Federal financial participation received pursuant to this 85000
section shall not be included in any calculation made under 85001
section 5101.16 or 5101.161 of the Revised Code. 85002

(H) The medicaid director may adopt rules under section 85003
5160.02 of the Revised Code as necessary to implement this 85004
section, including rules for the distribution of federal financial 85005
participation pursuant to this section. The rules shall be adopted 85006
in accordance with Chapter 119. of the Revised Code. 85007

Sec. 5160.13. The department of medicaid may enter into 85008
contracts with private entities to maximize federal revenue 85009
without the expenditure of state money. In selecting private 85010
entities with which to contract, the department shall engage in a 85011
request for proposals process. The department, subject to the 85012

approval of the controlling board, may also directly enter into 85013
contracts with public entities providing revenue maximization 85014
services. 85015

Sec. 5160.16. The department of medicaid may appoint and 85016
commission any competent person to serve as a special agent, 85017
investigator, or representative to perform a designated duty for 85018
and on behalf of the department. Specific credentials shall be 85019
given by the department to each person so designated, and each 85020
credential shall state the following: 85021

(A) The person's name; 85022

(B) The agency with which the person is connected; 85023

(C) The purpose of the appointment; 85024

(D) The date the appointment expires, if appropriate; 85025

(E) Such information as the department considers proper. 85026

Sec. 5160.20. (A) The department of medicaid may conduct any 85027
audits or investigations that are necessary in the performance of 85028
the department's duties, and to that end, the department has the 85029
same power as a judge of a county court to administer oaths and to 85030
enforce the attendance and testimony of witnesses and the 85031
production of books or papers. 85032

The department shall keep a record of the department's audits 85033
and investigations stating the time, place, charges, or subject; 85034
witnesses summoned and examined; and the department's conclusions. 85035

Witnesses shall be paid the fees and mileage provided for 85036
under section 119.094 of the Revised Code. 85037

(B) Any judge of any division of the court of common pleas, 85038
on application of the department, may compel the attendance of 85039
witnesses, the production of books or papers, and the giving of 85040

testimony before the department, by a judgment for contempt or 85041
otherwise, in the same manner as in cases before those courts. 85042

(C) Until an audit report is formally released by the 85043
department, the audit report or any working paper or other 85044
document or record prepared by the department and related to the 85045
audit that is the subject of the audit report is not a public 85046
record under section 149.43 of the Revised Code. 85047

(D) The medicaid director may adopt rules under section 85048
5160.02 of the Revised Code as necessary to implement this 85049
section. The rules shall be adopted in accordance with section 85050
111.15 of the Revised Code as if they were internal management 85051
rules. 85052

Sec. 5160.21. On the request of the medicaid director, the 85053
auditor of state may conduct an audit of any medical assistance 85054
recipient. If the auditor decides to conduct an audit under this 85055
section, the auditor shall enter into an interagency agreement 85056
with the department of medicaid that specifies that the auditor 85057
agrees to comply with section 5160.45 of the Revised Code with 85058
respect to any information the auditor receives pursuant to the 85059
audit. 85060

Sec. 5160.22. (A) The auditor of state and attorney general, 85061
or their designees, may examine any records, whether in computer 85062
or printed format, in the possession of the medicaid director or 85063
any county director of job and family services, regarding medical 85064
assistance programs. The auditor of state and attorney general 85065
shall do both of the following regarding the records: 85066

(1) Provide safeguards that restrict access to the records to 85067
purposes directly connected with an audit or investigation, 85068
prosecution, or criminal or civil proceeding conducted in 85069
connection with the administration of the programs; 85070

(2) Comply, and ensure that their designees comply, with section 5160.45 of the Revised Code and rules of the medicaid director restricting the disclosure of information regarding medical assistance recipients. 85071
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(B) Any person who fails to comply with the restriction specified in division (A) of this section is disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency. 85075
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Sec. 5160.23. The auditor of state is responsible for the costs the auditor incurs in carrying out the auditor's duties under sections 5160.21 and 5160.22 of the Revised Code. 85080
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Sec. 5160.30. (A) Except as provided in divisions (B) and (C) of this section, the department of medicaid may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for medical assistance programs. 85083
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(B) The department may enter into agreements with one or more agencies of the federal government, the state, other states, and local governments of this or other states to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of the department with respect to medical assistance programs. 85088
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(C) If federal law requires a face-to-face interview to complete an eligibility determination for a medical assistance program, the department shall not conduct the face-to-face interview. 85094
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(D) Subject to division (C) of this section, if the department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative 85098
85099
85100

activities for a medical assistance program, both of the following 85101
apply: 85102

(1) An individual may apply for the medical assistance 85103
program to the department or an agency authorized by an agreement 85104
entered into under division (B) of this section to accept the 85105
individual's application; 85106

(2) The department is subject to federal statutes and 85107
regulations and state statutes and rules that require, permit, or 85108
prohibit an action regarding accepting applications, determining 85109
or redetermining eligibility, and performing related 85110
administrative activities for the medical assistance program. 85111

Sec. 5160.31. (A) A medical assistance recipient may appeal a 85112
decision regarding the recipient's eligibility for a medical 85113
assistance program or services available to the recipient under a 85114
medical assistance program. 85115

(B) Regarding appeals authorized by this section, the 85116
department of medicaid shall do one or more of the following: 85117

(1) Administer an appeals process similar to the appeals 85118
process established under section 5101.35 of the Revised Code; 85119

(2) Contract with the department of job and family services 85120
pursuant to section 5162.35 of the Revised Code to provide for the 85121
department of job and family services to hear the appeals in 85122
accordance with section 5101.35 of the Revised Code; 85123

(3) Delegate authority to hear appeals to an exchange or 85124
exchange appeals entity. 85125

(C) If a medical assistance recipient files an appeal as 85126
authorized by this section, the department of medicaid may do 85127
either or both of the following: 85128

(1) Take corrective action regarding the matter being 85129
appealed before a hearing decision regarding the matter is issued; 85130

(2) If a hearing decision, administrative appeal decision, or court ruling is against the recipient, take action in favor of the recipient despite the contrary decision or ruling, unless, in the case of a court's ruling, the ruling prohibits the department from taking the action. 85131
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Sec. ~~5101.571~~ 5160.35. As used in sections ~~5101.571~~ 5160.35 to ~~5101.591~~ 5160.43 of the Revised Code: 85136
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(A) "Information" means all of the following: 85138

(1) An individual's name, address, date of birth, and social security number; 85139
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(2) The group or plan number, or other identifier, assigned by a third party to a policy held by an individual or a plan in which the individual participates and the nature of the coverage; 85141
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(3) Any other data the medicaid director ~~of job and family services~~ specifies in rules ~~adopted under~~ authorized by section ~~5101.591~~ 5160.43 of the Revised Code. 85144
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~~(B) "Medical assistance" means medical items or services provided under any of the following:~~ 85147
85148

~~(1) Medicaid, as defined in section 5111.01 of the Revised Code;~~ 85149
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~~(2) The children's health insurance program part I, part II, and part III established under sections 5101.50, 5101.51, and 5101.52 of the Revised Code.~~ 85151
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~~(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency.~~ 85154
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~~(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code.~~ 85157
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85159

~~(E)~~(C)(1) Subject to division ~~(E)~~(C)(2) of this section, and 85160
except as provided in division ~~(E)~~(C)(3) of this section, "third 85161
party" means all of the following: 85162

(a) A person authorized to engage in the business of sickness 85163
and accident insurance under Title XXXIX of the Revised Code; 85164

(b) A person or governmental entity providing coverage for 85165
medical services or items to individuals on a self-insurance 85166
basis; 85167

(c) A health insuring corporation as defined in section 85168
1751.01 of the Revised Code; 85169

(d) A group health plan as defined in 29 U.S.C. 1167; 85170

(e) A service benefit plan as referenced in 42 U.S.C. 85171
1396a(a)(25); 85172

(f) A managed care organization; 85173

(g) A pharmacy benefit manager; 85174

(h) A third party administrator; 85175

(i) Any other person or governmental entity that is, by law, 85176
contract, or agreement, responsible for the payment or processing 85177
of a claim for a medical item or service for a public medical 85178
assistance recipient ~~or participant~~. 85179

(2) Except when otherwise provided by the "Social Security 85180
Act," section 1862(b), 42 U.S.C. 1395y(b), a person or 85181
governmental entity listed in division ~~(E)~~(C)(1) of this section 85182
is a third party even if the person or governmental entity limits 85183
or excludes payments for a medical item or service in the case of 85184
a public assistance recipient. 85185

(3) "Third party" does not include the program for medically 85186
handicapped children established under section 3701.023 of the 85187
Revised Code. 85188

Sec. 5160.36. Enrollment in a medical assistance program 85189
gives a right of subrogation to the department of medicaid for any 85190
workers' compensation benefits payable to a person who is subject 85191
to a support order, as defined in section 3119.01 of the Revised 85192
Code, on behalf of the medical assistance recipient, to the extent 85193
of any payments made under the medical assistance program on the 85194
recipient's behalf. If the department, in consultation with a 85195
child support enforcement agency and the administrator of the 85196
bureau of workers' compensation, determines that a person 85197
responsible for support payments to a medical assistance recipient 85198
is receiving workers' compensation, the department shall notify 85199
the administrator of the amount of the benefit to be paid to the 85200
department. 85201

~~Sec. 5101.58~~ 5160.37. (A) ~~The acceptance of public~~ A medical 85202
assistance recipient's enrollment in a medical assistance program 85203
gives an automatic right of recovery to the department of ~~job and~~ 85204
~~family services~~ medicaid and a county department of job and family 85205
services against the liability of a third party for the cost of 85206
medical assistance paid on behalf of the ~~public assistance~~ 85207
recipient ~~or participant~~. When an action or claim is brought 85208
against a third party by a ~~public~~ medical assistance recipient ~~or~~ 85209
~~participant~~, any payment, settlement or compromise of the action 85210
or claim, or any court award or judgment, is subject to the 85211
recovery right of the department of ~~job and family services~~ 85212
medicaid or county department of ~~job and family services~~. Except 85213
in the case of a medical assistance recipient ~~or participant~~ who 85214
receives medical assistance through a medicaid managed care 85215
organization, the department's or county department's claim shall 85216
not exceed the amount of medical assistance paid by a the 85217
department or county department on behalf of the recipient ~~or~~ 85218
~~participant~~. A payment, settlement, compromise, judgment, or award 85219

that excludes the cost of medical assistance paid for by a the 85220
department or county department shall not preclude a department 85221
from enforcing its rights under this section. 85222

(B) In the case of a medical assistance recipient ~~or~~ 85223
~~participant~~ who receives medical assistance through a medicaid 85224
managed care organization, the amount of the department's or 85225
county department's claim shall be the amount the medicaid managed 85226
care organization pays for medical assistance rendered to the 85227
recipient ~~or participant~~, even if that amount is more than the 85228
amount a the department or county department pays to the medicaid 85229
managed care organization for the recipient's ~~or participant's~~ 85230
medical assistance. 85231

(C) A medical assistance recipient ~~or participant~~, and the 85232
recipient's ~~or participant's~~ attorney, if any, shall cooperate 85233
with the departments. In furtherance of this requirement, the 85234
medical assistance recipient ~~or participant~~, or the recipient's ~~or~~ 85235
~~participant's~~ attorney, if any, shall, not later than thirty days 85236
after initiating informal recovery activity or filing a legal 85237
recovery action against a third party, provide written notice of 85238
the activity or action to the department of ~~job and family~~ 85239
~~services when~~ medicaid or county department if it has paid for 85240
medical assistance under ~~medicaid has been paid~~ a medical 85241
assistance program. 85242

(D) The written notice that must be given under division (C) 85243
of this section shall disclose the identity and address of any 85244
third party against whom the medical assistance recipient ~~or~~ 85245
~~participant~~ has or may have a right of recovery. 85246

(E) No settlement, compromise, judgment, or award or any 85247
recovery in any action or claim by a medical assistance recipient 85248
~~or participant~~ where the ~~departments have~~ department or county 85249
department has a right of recovery shall be made final without 85250
first giving the ~~appropriate departments~~ department or county 85251

department written notice as described in division (C) of this 85252
section and a reasonable opportunity to perfect ~~their~~ its rights 85253
of recovery. If the ~~departments are~~ department or county 85254
department is not given the appropriate written notice, the 85255
medical assistance recipient ~~or participant~~ and, if there is one, 85256
the recipient's ~~or participant's~~ attorney, are liable to reimburse 85257
the ~~departments~~ department or county department for the recovery 85258
received to the extent of medical assistance payments made by the 85259
~~departments~~ department or county department. 85260

(F) The ~~departments~~ department or county department shall be 85261
permitted to enforce ~~their~~ its recovery rights against the third 85262
party even though ~~they~~ it accepted prior payments in discharge of 85263
~~their~~ its rights under this section if, at the time the 85264
~~departments~~ department or county department received such 85265
payments, ~~they were~~ it was not aware that additional medical 85266
expenses had been incurred but had not yet been paid by the 85267
~~departments~~ department or county department. The third party 85268
becomes liable to the department ~~of job and family services~~ or 85269
county department ~~of job and family services~~ as soon as the third 85270
party is notified in writing of the valid claims for recovery 85271
under this section. 85272

(G)(1) Subject to division (G)(2) of this section, the right 85273
of recovery of ~~a~~ the department or county department does not 85274
apply to that portion of any judgment, award, settlement, or 85275
compromise of a claim, to the extent of attorneys' fees, costs, or 85276
other expenses incurred by a medical assistance recipient ~~or~~ 85277
~~participant~~ in securing the judgment, award, settlement, or 85278
compromise, or to the extent of medical, surgical, and hospital 85279
expenses paid by such recipient ~~or participant~~ from the 85280
recipient's ~~or participant's~~ own resources. 85281

(2) Reasonable attorneys' fees, not to exceed one-third of 85282
the total judgment, award, settlement, or compromise, plus costs 85283

and other expenses incurred by the medical assistance recipient ~~or~~ 85284
~~participant~~ in securing the judgment, award, settlement, or 85285
compromise, shall first be deducted from the total judgment, 85286
award, settlement, or compromise. After fees, costs, and other 85287
expenses are deducted from the total judgment, award, settlement, 85288
or compromise, the department of ~~job and family services~~ medicaid 85289
or ~~appropriate~~ county department of ~~job and family services~~ shall 85290
receive no less than one-half of the remaining amount, or the 85291
actual amount of medical assistance paid, whichever is less. 85292

(H) A right of recovery created by this section may be 85293
enforced separately or jointly by the department of ~~job and family~~ 85294
~~services~~ medicaid or the ~~appropriate~~ county department of ~~job and~~ 85295
~~family services~~. To enforce ~~their~~ its recovery rights, the 85296
~~departments~~ department or county department may do any of the 85297
following: 85298

(1) Intervene or join in any action or proceeding brought by 85299
the medical assistance recipient ~~or participant~~ or on the 85300
recipient's ~~or participant's~~ behalf against any third party who 85301
may be liable for the cost of medical assistance paid; 85302

(2) Institute and pursue legal proceedings against any third 85303
party who may be liable for the cost of medical assistance paid; 85304

(3) Initiate legal proceedings in conjunction with any 85305
injured, diseased, or disabled medical assistance recipient ~~or~~ 85306
~~participant~~ or the recipient's ~~or participant's~~ attorney or 85307
representative. 85308

(I) A medical assistance recipient ~~or participant~~ shall not 85309
assess attorney fees, costs, or other expenses against the 85310
department of ~~job and family services~~ medicaid or a county 85311
department of ~~job and family services~~ when the department or 85312
county department enforces its right of recovery created by this 85313
section. 85314

(J) The right of recovery given to the department under this 85315
section ~~does not include rights to support from any other person~~ 85316
~~assigned to the state under sections 5107.20 and 5115.07 of the~~ 85317
~~Revised Code, but~~ includes payments made by a third party under 85318
contract with a person having a duty to support. 85319

(K) The department of medicaid may assign to a medical 85320
assistance provider the right of recovery given to the department 85321
under this section with respect to any claim for which the 85322
department has notified the provider that the department intends 85323
to recoup the department's prior payment for the claim. 85324

Sec. 5160.371. In addition to the requirement of division (C) 85325
of section 5160.37 of the Revised Code to cooperate with the 85326
department of medicaid and county department of job and family 85327
services, a medical assistance recipient and the recipient's 85328
attorney, if any, shall cooperate with each medical provider of 85329
the recipient. Cooperation with a medical provider shall consist 85330
of disclosing to the provider all information the recipient and 85331
attorney, if any, possess that would assist the provider in 85332
determining each third party that is responsible for the payment 85333
or processing of a claim for medical assistance provided to the 85334
recipient. If disclosure is not made in accordance with this 85335
section, the recipient and the recipient's attorney, if any, are 85336
liable to reimburse the department or county department for the 85337
amount that would have been paid by a third party had the third 85338
party been disclosed to the provider by the recipient or the 85339
recipient's attorney. 85340

Sec. ~~5101.59~~ 5160.38. (A) The application for, or acceptance 85341
of enrollment in, public a medical assistance program constitutes 85342
an automatic assignment of ~~certain~~ rights specified in division 85343
(B) of this section to the department of ~~job and family services~~ 85344
medicaid. This assignment includes the rights of the ~~applicant,~~ 85345

medical assistance recipient, ~~or participant~~ and also the rights 85346
of any other member of the assistance group for whom the 85347
~~applicant, recipient, or participant~~ can legally make an 85348
assignment. 85349

(B) Pursuant to this section, ~~the applicant, a medical~~ 85350
assistance recipient, ~~or participant~~ assigns to the department any 85351
rights to medical support available to the ~~applicant, recipient,~~ 85352
~~or participant~~ or for other members of the recipient's assistance 85353
group under an order of a court or administrative agency, and any 85354
rights to payments by a liable third party for the cost of medical 85355
assistance paid on behalf of a ~~public assistance~~ the recipient or 85356
participant or other members of the assistance group. The 85357
recipient ~~or participant~~ shall cooperate with the department in 85358
obtaining such payments. 85359

Medicare benefits shall not be assigned pursuant to this 85360
section. Benefits assigned to the department by operation of this 85361
section are directly reimbursable to the department by liable 85362
third parties. 85363

(C) Refusal by ~~the applicant~~ a medical assistance, recipient, 85364
~~or participant~~ to cooperate in obtaining medical assistance paid 85365
for self or any other member of the recipient's assistance group 85366
renders the ~~applicant, recipient, or participant~~ ineligible for 85367
~~public~~ a medical assistance program, unless cooperation is waived 85368
by the department. Eligibility shall continue for any individual 85369
who cannot legally assign the individual's own rights and who 85370
would have been eligible for ~~public~~ a medical assistance program 85371
but for the refusal to assign the individual's rights or to 85372
cooperate as required by this section by another person legally 85373
able to assign the individual's rights. 85374

(D) If ~~the applicant, a medical assistance~~ recipient, ~~or~~ 85375
~~participant~~ or any member of the recipient's assistance group 85376
becomes ineligible for ~~public~~ a medical assistance program, the 85377

department shall restore to the ~~applicant, recipient, participant,~~ 85378
or ~~member of the~~ assistance group member any future rights to 85379
benefits assigned under this section. 85380

~~(E) The rights of assignment given to the department under 85381
this section do not include rights to support assigned under 85382
section 5107.20 or 5115.07 of the Revised Code. 85383~~

Sec. ~~5101.572~~ 5160.39. (A) A third party shall cooperate with 85384
the department of ~~job and family services~~ medicaid in identifying 85385
individuals for the purpose of establishing third party liability 85386
~~pursuant to Title XIX of the Social Security Act, as amended~~ 85387
regarding medical assistance programs. 85388

(B) In furtherance of the requirement in division (A) of this 85389
section and to allow the department to determine any period that 85390
the individual or the individual's spouse or dependent may have 85391
been covered by the third party and the nature of the coverage, a 85392
third party shall provide, as the department so chooses, 85393
information or access to information, or both, in the third 85394
party's electronic data system on the department's request and in 85395
accordance with division (C) of this section. 85396

(C)(1) If the department chooses to receive information 85397
directly, the third party shall provide the information under all 85398
of the following circumstances: 85399

(a) In a medium, format, and manner prescribed ~~by the~~ 85400
~~director of job and family services~~ in rules adopted under 85401
authorized by section ~~5101.591~~ 5160.43 of the Revised Code; 85402

(b) Free of charge; 85403

(c) Not later than the end of the thirtieth day after the 85404
department makes its request, unless a different time is agreed to 85405
by the director in writing. 85406

(2) If the department chooses to receive access to 85407

information, the third party shall provide access by a method 85408
prescribed ~~by the director of job and family services~~ in rules 85409
~~adopted under~~ authorized by section ~~5101.591~~ 5160.43 of the 85410
Revised Code. In facilitating access, the department may enter 85411
into a trading partner agreement with the third party to permit 85412
the exchange of information via "ASC X 12N 270/271 Health Care 85413
Eligibility Benefit Inquiry and Response" transactions. 85414

(D) All of the following apply with respect to information 85415
provided by a third party to the department under this section: 85416

(1) The information is confidential and not a public record 85417
under section 149.43 of the Revised Code. 85418

(2) The release of information to the department is not to be 85419
considered a violation of any right of confidentiality or contract 85420
that the third party may have with covered persons including, but 85421
not limited to, contractees, beneficiaries, heirs, assignees, and 85422
subscribers. 85423

(3) The third party is immune from any liability that it may 85424
otherwise incur through its release of information to the 85425
department. 85426

The department ~~of job and family services~~ shall limit its use 85427
of information gained from third parties to purposes directly 85428
connected with the administration of the medicaid program and the 85429
child support program authorized by Title IV-D of the "Social 85430
Security Act," 42 U.S.C. 651 et seq. 85431

(E) No third party shall disclose to other parties or make 85432
use of any information regarding medical assistance recipients ~~of~~ 85433
~~aid under Chapter 5107. or 5111. of the Revised Code~~ that it 85434
obtains from the department, except in the manner provided ~~for by~~ 85435
~~the director of job and family services~~ in administrative rules 85436
authorized by section 5160.43 of the Revised Code. 85437

Sec. ~~5101.573~~ 5160.40. (A) Subject to divisions (B) and (C) 85438
of this section, a third party shall do all of the following: 85439

(1) Accept the department of ~~job and family services'~~ 85440
medicaid's right of recovery under section ~~5101.58~~ 5160.37 of the 85441
Revised Code and the assignment of rights to the department that 85442
are described in section ~~5101.59~~ 5160.38 of the Revised Code; 85443

(2) Respond to an inquiry by the department regarding a claim 85444
for payment of a medical item or service that was submitted to the 85445
third party not later than six years after the date of the 85446
provision of such medical item or service; 85447

(3) Not charge a fee to do either of the following for a 85448
claim described in division (A)(2) of this section: 85449

(a) Determine whether the claim should be paid; 85450

(b) Process the claim. 85451

(4) Pay a claim described in division (A)(2) of this section; 85452

(5) Not deny a claim submitted by the department solely on 85453
the basis of the date of submission of the claim, type or format 85454
of the claim form, or a failure by the medical assistance 85455
recipient who is the subject of the claim to present proper 85456
documentation of coverage at the time of service, if both of the 85457
following ~~are true~~ have occurred: 85458

(a) The claim was submitted by the department not later than 85459
six years after the date of the provision of the medical item or 85460
service. 85461

(b) An action by the department to enforce its right of 85462
recovery under section ~~5101.58~~ 5160.37 of the Revised Code on the 85463
claim was commenced not later than six years after the 85464
department's submission of the claim. 85465

(6) Consider the department's payment of a claim for a 85466

medical item or service to be the equivalent of the medical 85467
assistance recipient having obtained prior authorization for the 85468
item or service from the third party; 85469

(7) Not deny a claim described in division (A)(6) of this 85470
section that is submitted by the department solely on the basis of 85471
the medical assistance recipient's failure to obtain prior 85472
authorization for the medical item or service. 85473

(B) For purposes of the requirements in division (A) of this 85474
section, a third party shall treat a medicaid managed care 85475
organization as the department for a claim ~~in which both of the~~ 85476
~~following are true:~~ 85477

~~(1) The if the individual who is the subject of the claim 85478
received a medical item or service through a medicaid managed care 85479
organization ~~that has entered into a contract with the department~~ 85480
~~of job and family services under section 5111.17 of the Revised~~ 85481
~~Code;~~ 85482~~

~~(2) The and the department has assigned its right of recovery 85483
for the claim to the medicaid managed care organization. 85484~~

(C) If the department of medicaid, as permitted by division 85485
(K) of section 5160.37 of the Revised Code, assigns to a medical 85486
assistance provider the department's right of recovery for a claim 85487
for which it has notified the provider that it intends to recoup 85488
its prior payment for a claim, a third party shall treat the 85489
provider as the department and shall pay the provider the greater 85490
of the following: 85491

(1) The amount the department intends to recoup from the 85492
provider for the claim. 85493

(2) If the third party and the provider have an agreement 85494
that requires the third party to pay the provider at the time the 85495
provider presents the claim to the third party, the amount that is 85496
to be paid under that agreement. 85497

(D) The time limitations associated with the requirements in 85498
divisions (A)(2) and (5) of this section apply only to submissions 85499
of claims to, and payments of claims by, a health insurer to which 85500
the "Social Security Act," section 1902(a)(25)(I), 42 U.S.C. 85501
1396a(a)(25)(I), applies. 85502

Sec. ~~5101.574~~ 5160.41. No third party shall consider whether 85503
an individual is eligible for or ~~receives~~ enrolled in a medical 85504
assistance program when either of the following applies: 85505

(A) The individual seeks to obtain a policy or enroll in a 85506
plan or program operated or administered by the third party; 85507

(B) The individual, or a person or governmental entity on the 85508
individual's behalf, seeks payment for a medical item or service 85509
provided to the individual. 85510

Sec. ~~5101.575~~ 5160.42. (A) If a third party violates section 85511
~~5101.572~~ 5160.39, ~~5101.573~~ 5160.40, or ~~5101.574~~ 5160.41 of the 85512
Revised Code, a governmental entity that is responsible for 85513
issuing a license, certificate of authority, registration, or 85514
approval that authorizes the third party to do business in this 85515
state may impose a fine against the third party or deny, revoke, 85516
or terminate the third party's license, certificate, registration, 85517
or approval to do business in this state. The governmental entity 85518
shall determine which sanction is to be imposed. All actions to 85519
impose the sanction shall be taken in accordance with Chapter 119. 85520
of the Revised Code. 85521

(B) In addition to the sanctions that may be imposed under 85522
division (A) of this section for a violation of section ~~5101.572~~ 85523
5160.39, ~~5101.573~~ 5160.40, or ~~5101.574~~ 5160.41 of the Revised 85524
Code, the attorney general may petition a court of common pleas to 85525
enjoin the violation. 85526

~~Sec. 5101.591~~ 5160.43. (A) ~~Except as provided in division (B)~~ 85527
~~of this section, the The medicaid director of job and family~~ 85528
~~services may adopt rules in accordance with Chapter 119. under~~ 85529
section 5160.02 of the Revised Code to implement sections ~~5101.571~~ 85530
5160.35 to ~~5101.59~~ 5160.43 of the Revised Code, including rules 85531
that specify what constitutes cooperating with efforts to obtain 85532
support or payments, or medical assistance payments, and when 85533
cooperation may be waived. 85534

(B) The department shall adopt rules ~~in accordance with~~ 85535
~~Chapter 119. under section 5160.02~~ of the Revised Code to do all 85536
of the following: 85537

(1) For purposes of the definition of "information" in 85538
division (A) of section ~~5101.571~~ 5160.35 of the Revised Code, any 85539
data other than the data specified in that division that should be 85540
included in the definition. 85541

(2) For purposes of division (C)(1)(a) of section ~~5101.572~~ 85542
5160.39 of the Revised Code, the medium, format, and manner in 85543
which a third party must provide information to the department. 85544

(3) For purposes of division (C)(2) of section ~~5101.572~~ 85545
5160.39 of the Revised Code, the method by which a third party 85546
must provide the department with access to information. 85547

(C) Rules authorized by division (A) of this section may be 85548
adopted in accordance with section 111.15 of the Revised Code. 85549
Rules authorized by division (B) of this section shall be adopted 85550
in accordance with Chapter 119. of the Revised Code. 85551

~~Sec. 5101.271~~ 5160.45. (A) As used in sections 5160.45 to 85552
5160.481 of the Revised Code, "information" means all of the 85553
following: 85554

(1) Records, as defined in section 149.011 of the Revised 85555
Code; 85556

- (2) Any other documents in any format; 85557
- (3) Data derived from records and documents that are generated, acquired, or maintained by the department of medicaid, a county department of job and family services, or an entity performing duties on behalf of the department or a county department. 85558
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- (B) Except as permitted by this section, section ~~5101.273~~ 85563
~~5160.47~~, or rules ~~adopted under~~ authorized by section ~~5101.30~~ 85564
~~5160.48~~ or ~~5160.481~~ of the Revised Code, or when required by 85565
federal law, no person or government entity shall use or disclose 85566
information regarding a medical assistance recipient for any 85567
purpose not directly connected with the administration of ~~the a~~ 85568
medical assistance program. 85569
- ~~(B)~~(C) Both of the following shall be considered to be 85570
purposes directly connected with the administration of ~~the a~~ 85571
medical assistance program: 85572
- (1) Treatment, payment, or other operations or activities 85573
authorized by 42 C.F.R. Chapter IV; 85574
- (2) Any administrative function or duty the department of ~~job~~ 85575
~~and family services~~ medicaid performs alone or jointly with a 85576
federal government entity, another state government entity, or a 85577
local government entity implementing a provision of federal law. 85578
- ~~(C)~~(D) The department or a county ~~agency~~ department of job 85579
and family services may disclose information regarding a medical 85580
assistance recipient to any of the following: 85581
- (1) The recipient or the recipient's authorized 85582
representative; 85583
- (2) The recipient's legal guardian in accordance with 85584
division (C) of section 2111.13 of the Revised Code; 85585
- (3) The attorney of the recipient, if the department or 85586

county ~~agency~~ department has obtained authorization from the 85587
recipient, or the recipient's authorized representative, ~~or the~~ 85588
~~recipient's~~ legal guardian that meets all requirements of the 85589
Health Insurance Portability and Accountability Act of 1996, ~~Pub.~~ 85590
~~L. 104 191, 110 Stat. 1955,~~ 42 U.S.C. 1320d et seq., ~~as amended,~~ 85591
regulations promulgated by the United States department of health 85592
and human services to implement the act, section ~~5101.272~~ 5160.46 85593
of the Revised Code, and any rules ~~the director of job and family~~ 85594
~~services adopts under~~ authorized by section ~~5101.30~~ 5160.48 of the 85595
Revised Code; 85596

(4) A health information or health records management entity 85597
that has executed with the department a business associate 85598
agreement required by 45 C.F.R 164.502(e)(2) and has been 85599
authorized by the recipient, or the recipient's authorized 85600
representative, ~~or the recipient's~~ legal guardian to receive the 85601
recipient's electronic health records in accordance with rules ~~the~~ 85602
~~director of job and family services adopts under~~ authorized by 85603
section ~~5101.30~~ 5160.48 of the Revised Code; 85604

(5) A court if pursuant to a written order of the court. 85605

~~(D)~~(E) The department may receive from county departments of 85606
job and family services information regarding any medical 85607
assistance recipient for purposes of training and verifying the 85608
accuracy of eligibility determinations for a medical assistance 85609
program. The department may assemble information received under 85610
this division into a report if the report is in a form specified 85611
by the department. Information received and assembled into a 85612
report under this division shall remain confidential and not be 85613
subject to disclosure pursuant to section 149.43 or 1347.08 of the 85614
Revised Code. 85615

~~(E)~~(F) The department shall notify courts in this state 85616
regarding its authority, under division ~~(C)~~(D)(5) of this section, 85617
to disclose information regarding a medical assistance recipient 85618

pursuant to a written court order. 85619

Sec. 5160.46. (A) For the purposes of section 5160.45 of the 85620
Revised Code, an authorization shall be made on a form that uses 85621
language understandable to the average person and contains all of 85622
the following: 85623

(1) A description of the information to be used or disclosed 85624
that identifies the information in a specific and meaningful 85625
fashion; 85626

(2) The name or other specific identification of the person 85627
or class of persons authorized to make the requested use or 85628
disclosure; 85629

(3) The name or other specific identification of the person 85630
or government entity to which the information may be released; 85631

(4) A description of each purpose of the requested use or 85632
disclosure of the information; 85633

(5) The date on which the authorization expires or an event 85634
related either to the individual who is the subject of the request 85635
or to the purposes of the requested use or disclosure, the 85636
occurrence of which will cause the authorization to expire; 85637

(6) A statement that the information used or disclosed 85638
pursuant to the authorization may be disclosed by the recipient of 85639
the information and may no longer be protected from disclosure; 85640

(7) The signature of the individual or the individual's 85641
authorized representative and the date on which the authorization 85642
was signed; 85643

(8) If signed by an authorized representative, a description 85644
of the representative's authority to act for the individual; 85645

(9) A statement of the individual or authorized 85646
representative's right to prospectively revoke the written 85647

authorization in writing, along with either of the following: 85648

(a) A description of how the individual or authorized representative may revoke the authorization: 85649

(b) If the department of medicaid has established a privacy notice that contains a description of how the individual or authorized representative may revoke the authorization, a reference to the privacy notice. 85650

(10) A statement that treatment, payment, enrollment, or eligibility for a medical assistance program cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the program. 85651

(B) An authorization for the release of information regarding a medical assistance recipient to the recipient's attorney under division (D)(3) of section 5160.45 of the Revised Code may include a provision specifically authorizing the release of the recipient's electronic health records, if any, in accordance with rules authorized by section 5160.48 or 5160.481 of the Revised Code. 85652

(C) When an individual requests information pursuant to section 5160.45 of the Revised Code regarding the individual's enrollment in a medical assistance program and does not wish to provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section. 85653

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Sec. 5160.47. The department of medicaid shall enter into any necessary agreements with the United States department of health and human services and neighboring states to join and participate as an active member in the public assistance reporting information system. The department may disclose information regarding a medical assistance recipient to the extent necessary to

participate as an active member in the system. 85678

Sec. 5160.48. (A) The medicaid director shall adopt rules 85679
under section 5160.02 of the Revised Code implementing sections 85680
5160.45 to 5160.481 of the Revised Code and governing the custody, 85681
use, disclosure, and preservation of the information generated or 85682
received by the department of medicaid, county departments of job 85683
and family services, other state and county entities, contractors, 85684
grantees, private entities, or officials participating in the 85685
administration of medical assistance programs. The rules shall be 85686
adopted in accordance with Chapter 119. of the Revised Code. The 85687
rules may define who is an "authorized representative" for 85688
purposes of sections 5160.45 and 5160.46 of the Revised Code. The 85689
rules shall specify conditions and procedures for the release of 85690
information, which may include both of the following: 85691

(1) Permitting a provider of a service under a medical 85692
assistance program limited access to information that is essential 85693
for the provider to render the service or to bill for the service 85694
rendered; 85695

(2) Permitting a contractor, grantee, or other state or 85696
county entity limited access to information that is essential for 85697
the contractor, grantee, or entity to perform administrative or 85698
other duties on behalf of the department or a county department. 85699

(B) The department of aging, when investigating a complaint 85700
under section 173.20 of the Revised Code, shall be granted any 85701
limited access permitted in the rules authorized by division 85702
(A)(1) of this section. 85703

A contractor, grantee, or entity given access to information 85704
pursuant to the rules authorized by division (A)(2) of this 85705
section is bound by the director's rules. Disclosure of the 85706
information by the contractor, grantee, or entity in a manner not 85707

authorized by the rules is a violation of section 5160.45 of the 85708
Revised Code. 85709

Sec. 5160.481. Whenever names, addresses, or other 85710
information relating to medical assistance recipients is held by 85711
any agency other than the department of medicaid or a county 85712
department of job and family services, that other agency shall 85713
adopt rules consistent with sections 5160.45 to 5160.481 of the 85714
Revised Code to prevent the publication or disclosure of names, 85715
lists, or other information concerning those recipients. 85716

Sec. 5160.50. The department of medicaid shall administer the 85717
refugee medical assistance program authorized by the "Immigration 85718
and Nationality Act," section 412(e), 8 U.S.C. 1522(e). 85719
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Sec. 5160.52. The medicaid director may provide for the 85721
department of medicaid to develop, participate in the development 85722
of, negotiate, and enter into one or more interstate compacts on 85723
behalf of this state with agencies of any other states, for the 85724
provision of medical assistance to children in relation to whom 85725
all of the following apply: 85726

(A) They have special needs. 85727

(B) This state or another state that is a party to the 85728
interstate compact is providing adoption assistance on their 85729
behalf. 85730

(C) They move into this state from another state or move out 85731
of this state to another state. 85732

Sec. 5160.99. Whoever violates division (B) of section 85733
5160.45 of the Revised Code is guilty of a misdemeanor of the 85734
first degree. 85735

Sec. 5161.01. (A) As used in the Revised Code, "children's health insurance program" and, when used as an acronym for the children's health insurance program, "CHIP" mean the program of child health assistance authorized by Title XXI of the "Social Security Act," 42 U.S.C. 1397aa et seq. CHIP part I, CHIP part II, and CHIP part III, as authorized by this chapter, are components of CHIP. Any reference in statute enacted by the general assembly to medicaid or the medicaid program also means CHIP to the extent, if any, that CHIP is provided under the medicaid program.

(B) As used in this chapter, "federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

~~Sec. 5101.502~~ 5161.02. The medicaid director of ~~job and family services~~ may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the efficient administration of the children's health insurance program ~~part I~~, including rules that establish all of the following:

(A) The conditions under which ~~health assistance services~~ the program will be ~~reimbursed~~ pay for health benefits coverage;

(B) The method of ~~reimbursement~~ applicable to services reimbursable under the program payment;

(C) The amount of ~~reimbursement~~ payment, or the method by which the amount is to be determined, for each ~~reimbursable~~ service included in the health benefits coverage.

~~Sec. 5101.50~~ 5161.05. (A) ~~As used in sections 5101.50 to~~

~~5101.529 of the Revised Code:~~ 85765

~~(1) "Children's health insurance program" means the program 85766
authorized by Title XXI of the "Social Security Act," 111 Stat. 85767
552 (1997), 42 U.S.C.A. 1397aa. 85768~~

~~(2) "Federal poverty guidelines" has the same meaning as in 85769
section 5101.46 of the Revised Code. 85770~~

~~(B) The medicaid director of job and family services may 85771
continue to operate the component of the children's health 85772
insurance program initially authorized by an executive order 85773
issued under section 107.17 of the Revised Code as long as federal 85774
financial participation is available for the program. If operated, 85775
the program component shall provide health assistance to pay for 85776
part or all of the cost of health benefits coverage for uninsured 85777
individuals under nineteen years of age with family incomes not 85778
exceeding one hundred fifty per cent of the federal poverty 85779
guidelines line. In accordance with 42 U.S.C.A. 1397aa, the 85780
director may provide for the health assistance to meet the 85781
requirements of 42 U.S.C.A. 1397cc, to be provided under the 85782
medicaid program established under Chapter 5111. of the Revised 85783
Code, or to be a combination of both. 85784~~

~~**Sec. 5101.501 5161.06.** Health assistance provided under The 85785
component of the children's health insurance program authorized by 85786
section ~~5101.50~~ 5161.05 of the Revised Code shall be known as the 85787
children's health insurance program CHIP part I. 85788~~

~~**Sec. 5101.51 5161.10.** In accordance with federal law 85789
governing the children's health insurance program, the medicaid 85790
director of job and family services may submit a state child 85791
health plan to the United States secretary of health and human 85792
services to provide pay, except as provided in section ~~5101.516~~ 85793
5161.22 of the Revised Code, health assistance to for part or all 85794~~

of the cost of health benefits coverage for uninsured individuals 85795
under nineteen years of age with family incomes above one hundred 85796
fifty per cent of the federal poverty ~~guidelines~~ line but not 85797
exceeding two hundred per cent of the federal poverty ~~guidelines~~ 85798
line. If the director submits the plan, the director shall ~~include~~ 85799
~~both of the following~~ stipulate in the plan: 85800

~~(A) The health assistance will not begin before January 1,~~ 85801
~~2000.~~ 85802

~~(B) The health assistance~~ that the payments will be available 85803
only while federal financial participation is available for ~~it~~ 85804
them. 85805

Sec. ~~5101.511~~ 5161.11. ~~Health assistance provided under~~ The 85806
component of the children's health insurance program authorized by 85807
section ~~5101.51~~ 5161.10 of the Revised Code shall be known as ~~the~~ 85808
~~children's health insurance program~~ CHIP part II. 85809

Sec. ~~5101.512~~ 5161.12. If the medicaid director ~~of job and~~ 85810
~~family services~~ submits a state child health plan to the United 85811
States secretary of health and human services under section 85812
~~5101.51~~ 5161.10 of the Revised Code and the secretary approves the 85813
plan, the director shall implement ~~the children's health insurance~~ 85814
~~program~~ CHIP part II in accordance with the plan. ~~The director may~~ 85815
~~adopt rules in accordance with Chapter 119. of the Revised Code as~~ 85816
~~necessary for the efficient administration of the program,~~ 85817
~~including rules that establish all of the following:~~ 85818

~~(A) The conditions under which health assistance services~~ 85819
~~will be reimbursed;~~ 85820

~~(B) The method of reimbursement applicable to services~~ 85821
~~reimbursable under the program;~~ 85822

~~(C) The amount of reimbursement, or the method by which the~~ 85823
~~amount is to be determined, for each reimbursable service.~~ 85824

Sec. ~~5101.52~~ 5161.15. In accordance with federal law 85825
governing the children's health insurance program, the medicaid 85826
~~director of job and family services~~ may submit a request for a 85827
federal waiver to the United States secretary of health and human 85828
services to provide pay, except as provided in section ~~5101.526~~ 85829
5161.22 of the Revised Code, ~~health assistance to~~ for part or all 85830
of the cost of health benefits coverage for individuals under 85831
nineteen years of age with family incomes above two hundred per 85832
cent of the federal poverty ~~guidelines~~ line but not exceeding 85833
three hundred per cent of the federal poverty ~~guidelines~~ line. If 85834
the director submits the ~~plan waiver request~~, the director shall 85835
stipulate in the ~~plan request~~ that the ~~health assistance payments~~ 85836
will be available only while federal financial participation is 85837
available for it ~~and that health assistance shall not begin before~~ 85838
~~January 1, 2008~~ them. 85839

Sec. ~~5101.521~~ 5161.16. ~~Health assistance provided under~~ The 85840
component of the children's health insurance program authorized by 85841
section ~~5101.52~~ 5161.15 of the Revised Code shall be known as ~~the~~ 85842
~~children's health insurance program~~ CHIP part III. 85843

Sec. ~~5101.522~~ 5161.17. If the medicaid director ~~of job and~~ 85844
~~family services~~ submits a waiver request to the United States 85845
secretary of health and human services under section ~~5101.52~~ 85846
5161.15 of the Revised Code and the secretary grants the waiver, 85847
the director shall implement ~~the children's health insurance~~ 85848
~~program~~ CHIP part III in accordance with the waiver. ~~The director~~ 85849
~~may adopt rules in accordance with Chapter 119. of the Revised~~ 85850
~~Code as necessary for the efficient administration of the program,~~ 85851
~~including rules that establish all of the following:~~ 85852

~~(A) The conditions under which health assistance services~~ 85853
~~will be reimbursed;~~ 85854

~~(B) The method of reimbursement applicable to services
reimbursable under the program;~~ 85855
85856

~~(C) The amount of reimbursement, or the method by which the
amount is to be determined, for each reimbursable service.~~ 85857
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Sec. ~~5101.524~~ 5161.20. In accordance with the "Social 85859
Security Act," section 2101, 42 U.S.C. 1397aa, ~~the director of job~~ 85860
~~and family services shall provide for health assistance under the~~ 85861
~~children's health insurance program part III to meet~~ shall provide 85862
payments for obtaining health benefits coverage through any of the 85863
following: 85864

(A) Obtaining coverage that meets the requirements the 85865
"Social Security Act," section 2103, of 42 U.S.C. 1397cc, ~~to be~~ 85866
~~provided;~~ 85867

(B) Providing benefits under the medicaid program ~~established~~ 85868
~~under Chapter 5111. of the Revised Code, or to be a;~~ 85869

(C) A combination of both divisions (A) and (B) of this 85870
section. 85871

Sec. ~~5101.516~~ 5161.22. If the medicaid director ~~of job and~~ 85872
~~family services~~ determines that federal financial participation 85873
~~for the children's health insurance program~~ CHIP part II, part 85874
III, or both parts is insufficient to ~~provide health assistance to~~ 85875
pay for part or all of the costs of health benefits coverage for 85876
all the individuals the director anticipates are eligible for the 85877
~~program~~ part or parts, the director may refuse to accept new 85878
applications for the ~~program~~ part or parts or may make the 85879
~~program's~~ eligibility requirements more restrictive for the part 85880
or parts. 85881

Sec. ~~5101.517~~ 5161.24. To the extent permitted by the "Social 85882
Security Act," section 2103(e), 42 U.S.C.A. 1397cc(e), the 85883

~~medicaid~~ director ~~of job and family services~~ may require an 85884
individual ~~receiving health assistance under the children's health~~ 85885
~~insurance program seeking to enroll, or who is enrolled, in CHIP~~ 85886
part II to pay a premium, deductible, coinsurance payment, or 85887
other cost-sharing expense. 85888

Sec. ~~5101.527~~ 5161.25. To the extent permitted by the "Social 85889
Security Act," section 2103(e), 42 U.S.C. 1397cc(e), the medicaid 85890
director ~~of job and family services~~ shall require an individual 85891
~~receiving health assistance under the children's health insurance~~ 85892
~~program seeking to enroll, or who is enrolled, in CHIP~~ part III to 85893
pay the following as a term of ~~participation in the program~~ 85894
enrollment: 85895

(A) A premium of not less than forty dollars per month for a 85896
family with one individual ~~receiving health assistance under~~ 85897
seeking to enroll, or who is enrolled, in the program part; 85898

(B) A premium of not less than eighty dollars per month for a 85899
family with two individuals ~~receiving health assistance under~~ 85900
seeking to enroll, or who is enrolled, in the program part; 85901

(C) A premium of not less than one hundred twenty dollars per 85902
month for a family with three or more individuals ~~receiving health~~ 85903
~~assistance under seeking to enroll, or who are enrolled, in the~~ 85904
program part. 85905

Sec. ~~5101.519~~ 5161.27. A completed application for ~~medical~~ 85906
~~assistance under Chapter 5111. of the Revised Code~~ medicaid shall 85907
be treated as an application for ~~health assistance under the~~ 85908
children's health insurance program ~~part II~~ if the application is 85909
for an assistance group that includes a child under nineteen years 85910
of age and is denied. 85911

Sec. ~~5101.513~~ 5161.30. The medicaid director ~~of job and~~ 85912

~~family services~~ may contract with a government entity or person to 85913
perform the director's administrative duties regarding ~~the~~ 85914
~~children's health insurance program~~ CHIP part I, part II, part 85915
III, two of the parts, or all three parts, other than the duty to 85916
submit a state child health plan to the United States secretary of 85917
health and human services under section ~~5101.51~~ 5161.10 of the 85918
Revised Code, the duty to submit a waiver request under section 85919
5161.15 of the Revised Code, and the duty to adopt rules under 85920
section ~~5101.512~~ 5161.02 of the Revised Code. 85921

Sec. ~~5101.5110~~ 5161.35. (A) The medicaid director ~~of job and~~ 85922
~~family services~~ may submit a waiver request to the United States 85923
secretary of health and human services to provide health 85924
assistance to any individual who meets all of the following 85925
requirements: 85926

(1) Is the parent of a child who is under nineteen years of 85927
age ~~who,~~ resides with the parent, and is ~~eligible for health~~ 85928
~~assistance under~~ enrolled in the children's health insurance 85929
program part I or II or the medicaid program ~~established under~~ 85930
~~Chapter 5111. of the Revised Code;~~ 85931

(2) Is uninsured; 85932

(3) Has a family income that does not exceed one hundred per 85933
cent of the federal poverty ~~guidelines~~ line. 85934

(B) A waiver request the director submits under division (A) 85935
of this section may seek federal funds allotted to the state under 85936
~~Title XXI of the "Social Security Act," 111 Stat. 558 (1997)~~ 85937
section 2104, 42 U.S.C.A. 1397dd, as amended, that are not 85938
otherwise used to fund the children's health insurance program 85939
parts I and II. 85940

~~(C) If a waiver request the director submits under division~~ 85941
~~(A) of this section is granted, the director may adopt rules in~~ 85942

~~accordance with Chapter 119. of the Revised Code as necessary for~~ 85943
~~the efficient administration of the program authorization by the~~ 85944
~~waiver.~~ 85945

Sec. 5162.01. (A) As used in the Revised Code: 85946

(1) "Medicaid" and "medicaid program" mean the program of 85947
medical assistance established by Title XIX of the "Social 85948
Security Act," 42 U.S.C. 1396 et seq., including any medical 85949
assistance provided under the medicaid state plan or a federal 85950
medicaid waiver granted by the United States secretary of health 85951
and human services. 85952

(2) "Medicare" and "medicare program" mean the federal health 85953
insurance program established by Title XVIII of the "Social 85954
Security Act," 42 U.S.C. 1395 et seq. 85955

(B) As used in this chapter: 85956

(1) "Dual eligible individual" has the same meaning as in 85957
section 5160.01 of the Revised Code. 85958

(2) "Federal financial participation" has the same meaning as 85959
in section 5160.01 of the Revised Code. 85960

(3) "Federal poverty line" means the official poverty line 85961
defined by the United States office of management and budget based 85962
on the most recent data available from the United States bureau of 85963
the census and revised by the United States secretary of health 85964
and human services pursuant to the "Omnibus Budget Reconciliation 85965
Act of 1981," section 673(2), 42 U.S.C. 9902(2). 85966

(4) "Healthy start component" means the component of the 85967
medicaid program that covers pregnant women and children and is 85968
identified in rules adopted under section 5162.02 of the Revised 85969
Code as the healthy start component. 85970

(5) "ICF/MR" has the same meaning as in section 5124.01 of 85971
the Revised Code. 85972

<u>(6) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.</u>	85973
	85974
<u>(7) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.</u>	85975
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<u>(8) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.</u>	85977
	85978
<u>(9) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.</u>	85979
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<u>(10) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in a geographical area smaller than that of the state.</u>	85981
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<u>(11) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.</u>	85985
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<u>(12) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.</u>	85987
	85988
<u>(13) "Qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:</u>	85989
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<u>(a) It holds a valid provider agreement.</u>	85995
<u>(b) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules authorized by section 5162.364 of the Revised Code.</u>	85996
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<u>(14) "State agency" means every organized body, office, or agency, other than the department of medicaid, established by the laws of the state for the exercise of any function of state government.</u>	85999
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(15) "Vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider. 86003
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Sec. 5162.02. The medicaid director shall adopt rules as necessary to implement this chapter. 86006
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Sec. 5162.021. The medicaid director shall adopt rules under sections 5160.02, 5162.02, 5163.03, 5164.04, 5165.05, 5166.02, and 5167.02 of the Revised Code as necessary to authorize the directors of other state agencies to adopt rules regarding medicaid components, or aspects of medicaid components, the other state agencies administer pursuant to contracts entered into under section 5162.35 of the Revised Code. 86008
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Sec. 5162.022. The medicaid director's rules governing medicaid are binding on other state agencies and political subdivisions that administer one or more components of the medicaid program, or one or more aspects of a component, pursuant to contracts entered into under section 5162.35 of the Revised Code. No state agency or political subdivision may establish, by rule or otherwise, a policy governing medicaid that is inconsistent with a medicaid policy established, in rule or otherwise, by the director. 86015
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Sec. ~~5111.01~~ 5162.03. (A) As used in this chapter: 86024

"Children's health insurance program" means the children's health insurance program part I, children's health insurance program part II, and children's health insurance program part III authorized by sections 5101.50 to 5101.529 of the Revised Code. 86025
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"Medical assistance program" or "medicaid" means the program that is authorized by this chapter and provided by the office of medical assistance under this chapter, Title XIX of the "Social 86029
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~~Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, et seq., as 86032
amended, and the waivers of Title XIX requirements granted to the 86033
office by the centers for medicare and medicaid services of the 86034
United States department of health and human services. 86035~~

~~(B) There is hereby established the office of medical 86036
assistance as a work unit within the department of job and family 86037
services. The chief of the office shall hold the title of medical 86038
assistance director. Notwithstanding section 5101.06 of the 86039
Revised Code, the governor shall appoint the medical assistance 86040
director and the medical assistance director shall serve at the 86041
governor's pleasure. The medical assistance director is not an 86042
assistant director of the department of job and family services 86043
for purposes of section 121.05 or 5101.03 of the Revised Code or 86044
any other purpose. 86045~~

~~Subject to appropriations for the medicaid program and 86046
children's health insurance program, the department of job and 86047
family services shall provide staff and support services as 86048
necessary for the operation of the office of medical assistance. 86049~~

~~If a statute, rule, contract, or other legal authority 86050
requires the director of job and family services or department of 86051
job and family services to take an action regarding the medicaid 86052
program or children's health insurance program, the medical 86053
assistance director or office of medical assistance shall take the 86054
action in place of the director of job and family services or 86055
department of job and family services. If a statute, rule, 86056
contract, or other legal authority permits the director of job and 86057
family services or department of job and family services to take 86058
an action regarding the medicaid program or children's health 86059
insurance program, the medical assistance director or office of 86060
medical assistance shall take the action in place of the director 86061
of job and family services or department of job and family 86062
services if the action is to be taken. 86063~~

~~The office For the purpose of the "Social Security Act," section 1902(a)(5), 42 U.S.C. 1396a(a)(5), the department of medical assistance medicaid shall act as the single state agency to supervise the administration of the medicaid program. As the single state agency, the office department shall comply with 42 C.F.R. 431.10(e) and all other federal requirements applicable to the single state agency. The office's rules governing medicaid are binding on other agencies that administer components of the medicaid program. No agency may establish, by rule or otherwise, a policy governing medicaid that is inconsistent with a medicaid policy established, in rule or otherwise, by the medical assistance director.~~

~~(C) The office of medical assistance may provide medical assistance under the medicaid program as long as federal funds are provided for such assistance, to the following:~~

~~(1) Families with children that meet either of the following conditions:~~

~~(a) The family meets the income, resource, and family composition requirements in effect on July 16, 1996, for the former aid to dependent children program as those requirements were established by Chapter 5107. of the Revised Code, federal waivers granted pursuant to requests made under former section 5101.09 of the Revised Code, and rules adopted by the department or any changes the department makes to those requirements in accordance with paragraph (a)(2) of section 114 of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of implementing section 5111.0120 of the Revised Code. An adult loses eligibility for medicaid under division (C)(1)(a) of this section pursuant to division (E) of section 5107.16 of the Revised Code.~~

~~(b) The family does not meet the requirements specified in division (C)(1)(a) of this section but is eligible for medicaid~~

~~pursuant to section 5101.18 of the Revised Code.~~ 86096

~~(2) Aged, blind, and disabled persons who meet the following conditions:~~ 86097
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~~(a) Receive federal aid under Title XVI of the "Social Security Act," or are eligible for but are not receiving such aid, provided that the income from all other sources for individuals with independent living arrangements shall not exceed one hundred seventy five dollars per month. The income standards hereby established shall be adjusted annually at the rate that is used by the United States department of health and human services to adjust the amounts payable under Title XVI.~~ 86099
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~~(b) Do not receive aid under Title XVI, but meet any of the following criteria:~~ 86107
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~~(i) Would be eligible to receive such aid, except that their income, other than that excluded from consideration as income under Title XVI, exceeds the maximum under division (C)(2)(a) of this section, and incurred expenses for medical care, as determined under federal regulations applicable to section 209(b) of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 U.S.C. 1396a(f), as amended, equal or exceed the amount by which their income exceeds the maximum under division (C)(2)(a) of this section;~~ 86109
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~~(ii) Received aid for the aged, aid to the blind, or aid for the permanently and totally disabled prior to January 1, 1974, and continue to meet all the same eligibility requirements;~~ 86118
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~~(iii) Are eligible for medicaid pursuant to section 5101.18 of the Revised Code.~~ 86121
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~~(3) Persons to whom federal law requires, as a condition of state participation in the medicaid program, that medicaid be provided;~~ 86123
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~~(4) Persons under age twenty one who meet the income requirements for the Ohio works first program established under Chapter 5107. of the Revised Code but do not meet other eligibility requirements for the program. The medical assistance director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying which Ohio works first requirements shall be waived for the purpose of providing medicaid eligibility under division (C)(4) of this section.~~

~~(D) If sufficient funds are appropriated for the medicaid program, the office of medical assistance may provide medical assistance under the medicaid program to persons in groups designated by federal law as groups to which a state, at its option, may provide medical assistance under the medicaid program.~~

~~(E) The office of medical assistance may expand eligibility for the medicaid program to include individuals under age nineteen with family incomes at or below one hundred fifty per cent of the federal poverty guidelines, except that the eligibility expansion shall not occur unless the office receives the approval of the federal government. The office may implement the eligibility expansion authorized under this division on any date selected by the office, but not sooner than January 1, 1998.~~

~~(F) In addition to any other authority or requirement to adopt rules under this chapter, the medical assistance director may adopt rules in accordance with section 111.15 of the Revised Code as the director considers necessary to establish standards, procedures, and other requirements regarding the provision of medical assistance under the medicaid program. The rules may establish requirements to be followed in applying for medicaid, making determinations of eligibility for medicaid, and verifying eligibility for medicaid. The rules may include special conditions as the office determines appropriate for making applications, determining eligibility, and verifying eligibility for any medical~~

~~assistance that the office may provide under the medicaid program 86158
pursuant to division (E) of this section and section 5111.014 or 86159
5111.0120 of the Revised Code. 86160~~

Sec. ~~5111.98~~ 5162.031. (A) The medicaid director ~~of job and 86161
family services~~ may do all of the following as necessary for the 86162
department of ~~job and family services~~ medicaid to fulfill the 86163
duties it has, as the single state agency for the medicaid 86164
program, under the "Medicare Prescription Drug, Improvement, and 86165
Modernization Act of 2003" Pub. L. No. 108-173, ~~117 Stat. 2066:~~ 86166

(1) Adopt rules in accordance with division (B) of this 86167
section; 86168

(2) Assign duties to county departments of job and family 86169
services; 86170

(3) Make payments to the United States department of health 86171
and human services from appropriations made to the department of 86172
~~job and family services~~ medicaid for this purpose. 86173

(B) Rules ~~adopted under~~ authorized by division (A)(1) of this 86174
section shall be adopted as follows: 86175

(1) If the rules concern the department's duties regarding 86176
~~service~~ medicaid providers, ~~in accordance with Chapter 119. under~~ 86177
sections 5164.02 and 5165.02 of the Revised Code, as appropriate; 86178

(2) If the rules concern the department's duties concerning 86179
individuals' eligibility for medicaid services, ~~in accordance with~~ 86180
under section ~~111.15~~ 5163.02 of the Revised Code; 86181

(3) If the rules concern the department's duties concerning 86182
financial and operational matters between the department and 86183
county departments of job and family services, ~~in accordance with~~ 86184
under section ~~111.15~~ 5162.02 of the Revised Code ~~as if the rules~~ 86185
~~were internal management rules.~~ 86186

Sec. ~~5111.102~~ 5162.04. As used in this section, "state agency" has the same meaning as in section 9.23 of the Revised Code. 86187
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No provision of Title LI of the Revised Code or any other law of this state that incorporates any provision of federal ~~Medicaid~~ medicaid law, ~~Title XIX of the Social Security Act, 79 Stat. 286 (1965), 42 U.S.C. 1396,~~ or that may be construed as requiring the state, a state agency, or any state official or employee to comply with that federal provision, shall be construed as creating a cause of action to enforce such state law beyond the causes of action available under federal law for enforcement of the provision of federal law. 86190
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Sec. 5162.05. The medicaid program shall be implemented in accordance with all of the following: 86199
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(A) The medicaid state plan approved by the United States secretary of health and human services, including amendments to the plan approved by the United States secretary; 86201
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(B) Federal medicaid waivers granted by the United States secretary, including amendments to waivers approved by the United States secretary; 86204
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(C) Other types of federal approval, including demonstration grants, that establish requirements for components of the medicaid program; 86207
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(D) Except as otherwise authorized by a federal medicaid waiver granted by the United States secretary, all applicable federal statutes, regulations, and policy guidances; 86210
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(E) All applicable state statutes. 86213

Sec. 5162.06. (A) Notwithstanding any other state statute, no component, or aspect of a component, of the medicaid program shall 86214
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be implemented without all of the following: 86216

(1) Subject to division (B) of this section, if the 86217
component, or aspect of the component, requires federal approval, 86218
receipt of the federal approval; 86219

(2) Sufficient federal financial participation for the 86220
component or aspect of the component; 86221

(3) Sufficient nonfederal funds for the component or aspect 86222
of the component that qualify as funds needed to obtain the 86223
federal financial participation. 86224

(B) A component, or aspect of a component, of the medicaid 86225
program that requires federal approval may begin to be implemented 86226
before receipt of the federal approval if federal law authorizes 86227
implementation to begin before receipt of the federal approval. 86228
Implementation shall cease if the federal approval is ultimately 86229
denied. 86230

Sec. 5162.07. The medicaid director shall seek federal 86231
approval for all components, and aspects of components, of the 86232
medicaid program for which federal approval is needed, except that 86233
the director is permitted rather than required to seek federal 86234
approval for components, and aspects of components, that state 86235
statutes permit rather than require be implemented. Federal 86236
approval shall be sought in the following forms as appropriate: 86237

(A) The medicaid state plan; 86238

(B) Amendments to the medicaid state plan; 86239

(C) Federal medicaid waivers; 86240

(D) Amendments to federal medicaid waivers; 86241

(E) Other types of federal approval, including demonstration 86242
grants. 86243

~~Sec. 5111.10~~ 5162.10. The medicaid director of ~~job and family services~~ may conduct reviews of the medicaid program. The reviews may include physical inspections of records and sites where ~~medicaid-funded~~ medicaid services are provided and interviews of medicaid providers and medicaid recipients ~~of the services~~. If the director determines pursuant to a review that a person or government entity has violated a rule governing the medicaid program, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules ~~governing the medicaid program~~ adopted under section 5162.02 of the Revised Code.

~~Sec. 5111.915~~ 5162.11. (A) The department of ~~job and family services~~ medicaid shall enter into an agreement with the department of administrative services for the department of administrative services to contract through competitive selection pursuant to section 125.07 of the Revised Code with a vendor to perform an assessment of the data collection and data warehouse functions of the medicaid data warehouse system, including the ability to link the data sets of all agencies serving medicaid recipients.

The assessment of the data system shall include functions related to fraud and abuse detection, program management and budgeting, and performance measurement capabilities of all agencies serving medicaid recipients, including the departments of aging, ~~alcohol and drug addiction services~~, health, job and family services, medicaid, mental health mental health and addiction services, and developmental disabilities.

~~The department of administrative services shall enter into this contract within thirty days after September 29, 2005. The contract shall require the vendor to complete the assessment~~

~~within ninety days after September 29, 2005.~~ 86275

A qualified vendor with whom the department of administrative services contracts to assess the data system shall also assist the medicaid agencies in the definition of the requirements for an enhanced data system or a new data system and assist the department of administrative services in the preparation of a request for proposal to enhance or develop a data system. 86276
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(B) Based on the assessment performed pursuant to division (A) of this section, the department of administrative services shall seek a qualified vendor through competitive selection pursuant to section 125.07 of the Revised Code to develop or enhance a data collection and data warehouse system for the department of ~~job and family services~~ medicaid and all agencies serving medicaid recipients. 86282
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~~Within ninety days after September 29, 2005, the~~ The department of ~~job and family services~~ medicaid shall seek enhanced federal ~~funding~~ financial participation for ninety per cent of the funds required to establish or enhance the data system. The department of administrative services shall not award a contract for establishing or enhancing the data system until the department of ~~job and family services~~ medicaid receives approval from the ~~secretary of the~~ United States ~~department~~ secretary of health and human services for the ninety per cent federal ~~match~~ financial participation. 86289
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Sec. 5162.12. (A) The medicaid director may enter into a contract with one or more persons to receive and process, on the director's behalf, requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data made by persons who intend to use the items for commercial or academic purposes. 86299
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(B) At a minimum, a contract entered into under this section shall do both of the following: 86306
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(1) Authorize the contracting person to engage in the activities described in division (A) of this section for compensation, which must be stated as a percentage of the fees paid by persons who are provided the items; 86308
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(2) Specify the schedule of fees the contracting person is to charge for the items. 86312
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(C) Except as required by federal or state law and subject to division (E) of this section, both of the following conditions apply with respect to a request for data described in division (A) of this section: 86314
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(1) The request shall be made through a person who has entered into a contract with the medicaid director under this section. 86318
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(2) An item prepared pursuant to the request may be provided to the department of medicaid and is confidential and not subject to disclosure under section 149.43 or 1347.08 of the Revised Code. 86321
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(D) The medicaid director shall use fees the director receives pursuant to a contract entered into under this section to pay obligations specified in contracts entered under this section. Any money remaining after the obligations are paid shall be deposited in the health care services administration fund created under section 5162.54 of the Revised Code. 86324
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(E) This section does not apply to requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data that are for any of the following purposes: 86330
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(1) Treatment of medicaid recipients; 86335

<u>(2) Payment of medicaid claims;</u>	86336
<u>(3) Establishment or management of medicaid third party liability pursuant to sections 5160.35 to 5160.43 of the Revised Code;</u>	86337 86338 86339
<u>(4) Compliance with the terms of an agreement the medicaid director enters into for purposes of administering the medicaid program;</u>	86340 86341 86342
<u>(5) Compliance with an operating protocol the executive director of the office of health transformation or the executive director's designee adopts under division (D) of section 191.06 of the Revised Code.</u>	86343 86344 86345 86346
Sec. 5111.09 <u>5162.13</u>. On or before the first day of January of each year, the department of job and family services <u>medicaid</u> shall submit to the speaker and minority leader of the house of representatives and the president and minority leader of the senate, and shall make available to the public, a report on the effectiveness of the Ohio works first program established under Chapter 5107. of the Revised Code and the medical assistance medicaid program established under this chapter in meeting the health care needs of low-income pregnant women, infants, and children. The report shall include: the estimated number of persons eligible for health care services to pregnant women, infants, and children under the programs <u>eligible for the program;</u> the actual number of eligible persons served <u>enrolled in the program;</u> the number of prenatal, postpartum, and child health visits; a report on birth outcomes, including a comparison of low-birthweight births and infant mortality rates of program participants <u>medicaid recipients</u> with the general female child-bearing and infant population in this state; and a comparison of the prenatal, delivery, and child health costs of the programs <u>program</u> with such costs of similar programs in other	86347 86348 86349 86350 86351 86352 86353 86354 86355 86356 86357 86358 86359 86360 86361 86362 86363 86364 86365 86366

states, where available. 86367

Sec. ~~5111.091~~ 5162.131. Semiannually, the medicaid director 86368
~~of job and family services~~ shall submit to the president and 86369
minority leader of the senate, speaker and minority leader of the 86370
house of representatives, and the chairpersons of the standing 86371
committees of the senate and house of representatives with primary 86372
responsibility for legislation making biennial appropriations a 86373
report on the establishment and implementation of programs 86374
designed to control the increase of the cost of the medicaid 86375
program, increase the efficiency of the medicaid program, and 86376
promote better health outcomes. In each calendar year, one report 86377
shall be submitted not later than the last day of June and the 86378
subsequent report shall be submitted not later than the last day 86379
of December. 86380

Sec. ~~5111.092~~ 5162.132. ~~(A) Not later than January 1, 2010,~~ 86381
~~and each year thereafter~~ Annually, the department of ~~job and~~ 86382
~~family services~~ medicaid shall prepare a report on the 86383
department's efforts to minimize fraud, waste, and abuse in the 86384
medicaid program. 86385

~~(B)~~ Each report shall be made available on the department's 86386
web site. The department shall submit a copy of each report to the 86387
governor and, in accordance with section 101.68 of the Revised 86388
Code, the general assembly. Copies of the report also shall be 86389
made available to the public on request. 86390

Sec. ~~5111.101~~ 5162.15. (A) As used in this section; 86391
"Agent" and "contractor" include any agent, contractor, 86392
subcontractor, or other person who, on behalf of an entity, 86393
furnishes or authorizes the furnishing of ~~health care items or~~ 86394
medicaid services ~~under the medicaid program~~, performs billing or 86395
coding functions, or is involved in monitoring of health care that 86396

an entity provides. 86397

"Employee" includes any officer or employee (including 86398
management employees) of an entity. 86399

"Entity" includes a governmental entity or an organization, 86400
unit, corporation, partnership, or other business arrangement, 86401
including any medicaid managed care organization, irrespective of 86402
the form of business structure or arrangement by which it exists, 86403
whether for-profit or not-for-profit. "Entity" does not include a 86404
government entity that administers one or more components of the 86405
medicaid program, unless the government entity receives medicaid 86406
payments for providing ~~items or~~ medicaid services. 86407

"Federal health care programs" has the same meaning as in the 86408
"Social Security Act," section 1128B, 42 U.S.C. 1320a-7b(f). 86409

(B) Each entity that receives or makes in a federal fiscal 86410
year payments under the medicaid program, either through the 86411
medicaid state ~~medicaid~~ plan or a federal medicaid waiver, 86412
totaling at least five million dollars shall, as a condition of 86413
receiving such payments, do all of the following not later than 86414
the first day of the succeeding calendar year: 86415

(1) Establish written policies for all of the entity's 86416
employees, contractors, and agents that provide detailed 86417
information about the role of all of the following in preventing 86418
and detecting fraud, waste, and abuse in federal health care 86419
programs: 86420

(a) Federal false claims law under 31 U.S.C. 3729 to 3733; 86421

(b) Federal administrative remedies for false claims and 86422
statements available under 31 U.S.C. 3801 to 3812; 86423

(c) Sections 124.341, 2913.40, 2913.401, and 2921.13 of the 86424
Revised Code and any other state laws pertaining to civil or 86425
criminal penalties for false claims and statements; 86426

(d) Whistleblower protections under the laws specified in 86427
divisions (B)(1)(a) to (c) of this section. 86428

(2) Include as part of the written policies required by 86429
division (B)(1) of this section detailed provisions regarding the 86430
entity's policies and procedures for preventing and detecting 86431
fraud, waste, and abuse. 86432

(3) Disseminate the written policies required by division 86433
(B)(1) of this section to each of the entity's employees, 86434
contractors, and agents in a paper or electronic form and make the 86435
written policies readily available to the entity's employees, 86436
contractors, and agents. 86437

(4) If the entity has an employee handbook, include in the 86438
employee handbook a specific discussion of the laws specified in 86439
division (B)(1) of this section, the rights of employees to be 86440
protected as whistleblowers, and the entity's policies and 86441
procedures for preventing and detecting fraud, waste, and abuse. 86442

(5) Require the entity's contractors and agents to adopt the 86443
entity's written policies required by division (B)(1) of this 86444
section. 86445

(C) An entity that furnishes ~~items or~~ medicaid services at 86446
multiple locations or under multiple contractual or other payment 86447
arrangements is required to comply with division (B) of this 86448
section if the entity receives in a federal fiscal year medicaid 86449
payments totaling in the aggregate at least five million dollars. 86450
This applies regardless of whether the entity submits claims for 86451
medicaid payments using multiple provider identification or tax 86452
identification numbers. 86453

Sec. ~~5111.0112~~ 5162.20. (A) The ~~director~~ department of job 86454
and family services medicaid shall institute a cost-sharing 86455
~~program under~~ requirements for the medicaid program. ~~In~~ 86456

~~instituting the cost sharing program, the director shall comply~~ 86457
~~with federal law. The cost-sharing program requirements shall~~ 86458
~~establish~~ include a copayment requirement for at least dental 86459
services, vision services, nonemergency emergency department 86460
services, and ~~prescription~~ prescribed drugs, ~~other than generic~~ 86461
~~drugs~~. The cost-sharing ~~program requirements also~~ shall ~~establish~~ 86462
include requirements regarding premiums, enrollment fees, 86463
deductions, and similar charges. ~~The director shall adopt rules~~ 86464
~~under section 5111.02 of the Revised Code governing the~~ 86465
~~cost sharing program.~~ 86466

~~(B) The cost sharing program shall, to the extent permitted~~ 86467
~~by federal law, provide for all of the following with regard to~~ 86468
~~any providers participating in the medicaid program:~~ 86469

(1) No provider shall refuse to provide a service to a 86470
medicaid recipient who is unable to pay a required copayment for 86471
the service. 86472

(2) Division (B)(1) of this section shall not be considered 86473
to do either of the following with regard to a medicaid recipient 86474
who is unable to pay a required copayment: 86475

(a) Relieve the medicaid recipient from the obligation to pay 86476
a copayment; 86477

(b) Prohibit the provider from attempting to collect an 86478
unpaid copayment. 86479

~~(3)(C)~~ Except as provided in division ~~(C)(F)~~ of this section, 86480
no provider shall waive a medicaid recipient's obligation to pay 86481
the provider a copayment. 86482

~~(4)(D)~~ No provider or drug manufacturer, including the 86483
manufacturer's representative, employee, independent contractor, 86484
or agent, shall pay any copayment on behalf of a medicaid 86485
recipient. 86486

~~(5)(E)~~ If it is the routine business practice of ~~the a~~ 86487
provider to refuse service to any individual who owes an 86488
outstanding debt to the provider, the provider may consider an 86489
unpaid copayment imposed by the cost-sharing ~~program~~ requirements 86490
as an outstanding debt and may refuse service to a medicaid 86491
recipient who owes the provider an outstanding debt. If the 86492
provider intends to refuse service to a medicaid recipient who 86493
owes the provider an outstanding debt, the provider shall notify 86494
the ~~individual~~ recipient of the provider's intent to refuse 86495
~~services~~ service. 86496

~~(C)(F)~~ In the case of a provider that is a hospital, the 86497
cost-sharing program shall permit the hospital to take action to 86498
collect a copayment by providing, at the time services are 86499
rendered to a medicaid recipient, notice that a copayment may be 86500
owed. If the hospital provides the notice and chooses not to take 86501
any further action to pursue collection of the copayment, the 86502
prohibition against waiving copayments specified in division 86503
~~(B)(3)(C)~~ of this section does not apply. 86504

~~(D)(G)~~ The department of ~~job and family services~~ medicaid may 86505
~~work~~ collaborate with a state agency that is administering, 86506
pursuant to a contract entered into under section ~~5111.91~~ 5162.35 86507
of the Revised Code, one or more components ~~of the medicaid~~ 86508
~~program~~, or one or more aspects of a component, of the medicaid 86509
program as necessary for the state agency to apply the 86510
cost-sharing ~~program~~ requirements to the components or aspects of 86511
~~the medicaid program~~ a component that the state agency 86512
administers. 86513

Sec. ~~5111.11~~ 5162.21. (A) As used in this section and section 86514
~~5111.111~~ 5162.211 of the Revised Code: 86515

(1) "Estate" includes both of the following: 86516

(a) All real and personal property and other assets to be 86517

administered under Title XXI of the Revised Code and property that 86518
would be administered under that title if not for section 2113.03 86519
or 2113.031 of the Revised Code; 86520

(b) Any other real and personal property and other assets in 86521
which an individual had any legal title or interest at the time of 86522
death (to the extent of the interest), including assets conveyed 86523
to a survivor, heir, or assign of the individual through joint 86524
tenancy, tenancy in common, survivorship, life estate, living 86525
trust, or other arrangement. 86526

(2) "Institution" means a nursing facility, ~~intermediate care~~ 86527
~~facility for the mentally retarded~~ ICF/MR, or a medical 86528
institution. 86529

(3) ~~"Intermediate care facility for the mentally retarded"~~ 86530
~~and "nursing facility" have the same meanings as in section~~ 86531
~~5111.20 of the Revised Code.~~ 86532

~~(4)~~ "Permanently institutionalized individual" means an 86533
individual to whom all of the following apply: 86534

(a) Is an inpatient in an institution; 86535

(b) Is required, as a condition of the medicaid program 86536
paying for the individual's services in the institution, to spend 86537
for costs of medical or nursing care all of the individual's 86538
income except for an amount for personal needs specified by the 86539
department of ~~job and family services~~ medicaid; 86540

(c) Cannot reasonably be expected to be discharged from the 86541
institution and return home as determined by the department of ~~job~~ 86542
~~and family services~~ medicaid. 86543

~~(5)~~(4) "Qualified state long-term care insurance partnership 86544
program" means the program established under section ~~5111.18~~ 86545
5164.86 of the Revised Code. 86546

~~(6)~~(5) "Time of death" shall not be construed to mean a time 86547

after which a legal title or interest in real or personal property 86548
or other asset may pass by survivorship or other operation of law 86549
due to the death of the decedent or terminate by reason of the 86550
decedent's death. 86551

(B) To the extent permitted by federal law, the department of 86552
~~job and family services~~ medicaid shall institute a medicaid estate 86553
recovery program under which the department shall, except as 86554
provided in divisions (C) and (E) of this section, and subject to 86555
division (D) of this section, do all of the following: 86556

(1) For the costs of medicaid services the medicaid program 86557
correctly paid or will pay on behalf of a permanently 86558
institutionalized individual of any age, seek adjustment or 86559
recovery from the individual's estate or on the sale of property 86560
of the individual or spouse that is subject to a lien imposed 86561
under section ~~5111.111~~ 5162.211 of the Revised Code; 86562

(2) For the costs of medicaid services the medicaid program 86563
correctly paid or will pay on behalf of an individual fifty-five 86564
years of age or older who is not a permanently institutionalized 86565
individual, seek adjustment or recovery from the individual's 86566
estate; 86567

(3) Seek adjustment or recovery from the estate of other 86568
individuals as permitted by federal law. 86569

(C)(1) No adjustment or recovery may be made under division 86570
(B)(1) of this section from a permanently institutionalized 86571
individual's estate or on the sale of property of a permanently 86572
institutionalized individual that is subject to a lien imposed 86573
under section ~~5111.111~~ 5162.211 of the Revised Code or under 86574
division (B)(2) or (3) of this section from an individual's estate 86575
while either of the following are alive: 86576

(a) The spouse of the permanently institutionalized 86577
individual or individual; 86578

(b) The son or daughter of a permanently institutionalized individual or individual if the son or daughter is under age twenty-one or, under the "Social Security Act," section 1614, 42 U.S.C. 1382c, is considered blind or disabled.

(2) No adjustment or recovery may be made under division (B)(1) of this section from a permanently institutionalized individual's home that is subject to a lien imposed under section ~~5111.111~~ 5162.211 of the Revised Code while either of the following lawfully reside in the home:

(a) The permanently institutionalized individual's sibling who resided in the home for at least one year immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time;

(b) The permanently institutionalized individual's son or daughter who provided care to the permanently institutionalized individual that delayed the permanently institutionalized individual's institutionalization and resided in the home for at least two years immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time.

(D) In the case of a participant of the qualified state long-term care insurance partnership program, adjustment or recovery required by this section may be reduced in accordance with rules ~~adopted under~~ authorized by division (G) of this section.

(E) The department shall, in accordance with procedures and criteria established in rules ~~adopted under~~ authorized by division (G) of this section, waive seeking an adjustment or recovery otherwise required by this section if the medicaid director ~~of job and family services~~ determines that adjustment or recovery would

work an undue hardship. The department may limit the duration of 86610
the waiver to the period during which the undue hardship exists. 86611

(F) For the purpose of determining whether an individual 86612
meets the definition of "permanently institutionalized individual" 86613
established for this section, a rebuttable presumption exists that 86614
the individual cannot reasonably be expected to be discharged from 86615
an institution and return home if either of the following is the 86616
case: 86617

(1) The individual declares that he or she does not intend to 86618
return home. 86619

(2) The individual has been an inpatient in an institution 86620
for at least six months. 86621

~~(G) The director of job and family services shall adopt rules 86622
in accordance with Chapter 119. of the Revised Code regarding the 86623
medicaid estate recovery program, including rules that Rules 86624
adopted under section 5162.02 of the Revised Code shall do both of 86625
the following: 86626~~

(1) For the purpose of division (D) of this section and 86627
consistent with the "Social Security Act," section 1917(b)(1)(C), 86628
42 U.S.C. 1396p(b)(1)(C), provide for reducing an adjustment or 86629
recovery in the case of a participant of the qualified state 86630
long-term care insurance partnership program; 86631

(2) For the purpose of division (E) of this section and 86632
consistent with the standards specified by the United States 86633
secretary of health and human services under the "Social Security 86634
Act," section 1917(b)(3), 42 U.S.C. 1396p(b)(3), establish 86635
procedures and criteria for waiving adjustment or recovery due to 86636
an undue hardship. 86637

Sec. ~~5111.111~~ 5162.211. (A) Except as provided in division 86638
(B) of this section and section ~~5111.12~~ 5162.23 of the Revised 86639

Code, no lien may be imposed against the property of an individual 86640
before the individual's death on account of medicaid services 86641
correctly paid or to be paid on the individual's behalf. 86642

(B) Except as provided in division (C) of this section, the 86643
department of ~~job and family services~~ medicaid may impose a lien 86644
against the real property of a medicaid recipient who is a 86645
permanently institutionalized individual and against the real 86646
property of the recipient's spouse, including any real property 86647
that is jointly held by the recipient and spouse. The lien may be 86648
imposed on account of medicaid paid or to be paid on the 86649
recipient's behalf. 86650

(C) No lien may be imposed under division (B) of this section 86651
against the home of a medicaid recipient if any of the following 86652
lawfully resides in the home: 86653

(1) The recipient's spouse; 86654

(2) The recipient's son or daughter who is under twenty-one 86655
years of age or, under the "Social Security Act," section 1614, 42 86656
U.S.C. 1382c, considered to be blind or disabled; 86657

(3) The recipient's sibling who has an equity interest in the 86658
home and resided in the home for at least one year immediately 86659
before the date of the recipient's admission to the institution. 86660

(D) The medicaid director ~~of job and family services~~ or a 86661
person designated by the director shall sign a certificate to 86662
effectuate a lien required to be imposed under this section. The 86663
county department of job and family services shall file for 86664
recording and indexing the certificate, or a certified copy, in 86665
the real estate mortgage records in the office of the county 86666
recorder in every county in which real property of the recipient 86667
or spouse is situated. From the time of filing the certificate in 86668
the office of the county recorder, the lien attaches to all real 86669
property of the recipient or spouse described in the certificate 86670

for all amounts for which adjustment or recovery may be made under 86671
section ~~5111.11~~ 5162.21 of the Revised Code and, except as 86672
provided in division (E) of this section, shall remain a lien 86673
until satisfied. 86674

Upon filing the certificate in the office of the recorder, 86675
all persons are charged with notice of the lien and the rights of 86676
the department of ~~job and family services~~ medicaid thereunder. 86677

The county recorder shall keep a record of every certificate 86678
filed showing its date, the time of filing, the name and residence 86679
of the recipient or spouse, and any release, waivers, or 86680
satisfaction of the lien. 86681

The priority of the lien shall be established in accordance 86682
with state and federal law. 86683

The department may waive the priority of its lien to provide 86684
for the costs of the last illness as determined by the department, 86685
administration, attorney fees, administrator fees, a sum for the 86686
payment of the costs of burial, which shall be computed by 86687
deducting from five hundred dollars whatever amount is available 86688
for the same purpose from all other sources, and a similar sum for 86689
the spouse of the decedent. 86690

(E) A lien imposed with respect to a medicaid recipient under 86691
this section shall dissolve on the recipient's discharge from the 86692
institution and return home. 86693

Sec. ~~5111.112~~ 5162.212. The department of ~~job and family~~ 86694
~~services~~ medicaid shall certify amounts due under the medicaid 86695
estate recovery program instituted under section ~~5111.11~~ 5162.21 86696
of the Revised Code to the attorney general pursuant to section 86697
131.02 of the Revised Code. The attorney general may enter into a 86698
contract with any person or government entity to collect the 86699
amounts due on behalf of the attorney general. 86700

The attorney general, in entering into a contract under this section, shall comply with all of the requirements that must be met for the state to receive federal financial participation for the costs incurred in entering into the contract and carrying out actions under the contract. The contract may provide for the person or government entity with which the attorney general contracts to be compensated from the property recovered under the medicaid estate recovery program or may provide for another manner of compensation agreed to by the parties to the contract.

Regardless of whether the attorney general collects the amounts due under the medicaid estate recovery program or contracts with a person or government entity to collect the amounts due on behalf of the attorney general, the amounts due shall be collected in accordance with applicable requirements of federal statutes and regulations and state statutes and rules.

Sec. ~~5111.113~~ 5162.22. (A) As used in this section:

(1) "Commissioner" means a person appointed by a probate court under division (E) of section 2113.03 of the Revised Code to act as a commissioner.

(2) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(3) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of ~~an adult~~ care a residential facility or home and that the facility or home manages for the resident.

(4) "Residential facility" means a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) Except as provided in divisions (C) and (D) of this

section, the owner or operator of a home or residential facility 86731
shall transfer to the department of ~~job and family services~~ 86732
medicaid the money in the personal needs allowance account of a 86733
resident of the home or facility who was a medicaid recipient ~~of~~ 86734
~~the medical assistance program~~ no earlier than sixty days but not 86735
later than ninety days after the resident dies. The home or 86736
facility shall transfer the money even though the owner or 86737
operator of the facility or home has not been issued letters 86738
testamentary or letters of administration concerning the 86739
resident's estate. 86740

(C) If funeral or burial expenses for a resident of a home or 86741
residential facility who has died have not been paid and the only 86742
resource the resident had that could be used to pay for the 86743
expenses is the money in the resident's personal needs allowance 86744
account, or all other resources of the resident are inadequate to 86745
pay the full cost of the expenses, the money in the resident's 86746
personal needs allowance account shall be used to pay for the 86747
expenses rather than being transferred to the department of ~~job~~ 86748
~~and family services~~ medicaid pursuant to division (B) of this 86749
section. 86750

(D) If, not later than sixty days after a resident of a home 86751
or residential facility dies, letters testamentary or letters of 86752
administration are issued, or an application for release from 86753
administration is filed under section 2113.03 of the Revised Code, 86754
concerning the resident's estate, the owner or operator of the 86755
home or facility shall transfer the money in the resident's 86756
personal needs allowance account to the administrator, executor, 86757
commissioner, or person who filed the application for release from 86758
administration. 86759

(E) The transfer or use of money in a resident's personal 86760
needs allowance account in accordance with division (B), (C), or 86761
(D) of this section discharges and releases the home or 86762

residential facility, and the owner or operator of the home, from 86763
any claim for the money from any source. 86764

(F) If, sixty-one or more days after a resident of a home or 86765
residential facility dies, letters testamentary or letters of 86766
administration are issued, or an application for release from 86767
administration under section 2113.03 of the Revised Code is filed, 86768
concerning the resident's estate, the department of ~~job and family~~ 86769
~~services~~ medicaid shall transfer the funds to the administrator, 86770
executor, commissioner, or person who filed the application, 86771
unless the department is entitled to recover the money under the 86772
medicaid estate recovery program instituted under section ~~5111.11~~ 86773
5162.21 of the Revised Code. 86774

Sec. ~~5111.12~~ 5162.23. (A) The medicaid director ~~of job and~~ 86775
~~family services~~ shall ~~establish~~ adopt rules under ~~which~~ section 86776
5162.02 of the Revised Code permitting county departments of job 86777
and family services may to take action to recover benefits 86778
incorrectly paid on behalf of medicaid recipients ~~of medical~~ 86779
~~assistance~~. The rules shall provide for recovery by the following 86780
methods: 86781

(1) Soliciting voluntary payments from recipients or from 86782
persons holding property in which a recipient has a legal or 86783
equitable interest; 86784

(2) Obtaining a lien on property pursuant to division (B) of 86785
this section. 86786

(B) A county department of job and family services may bring 86787
a civil action in a court of common pleas against a medicaid 86788
recipient ~~of medical assistance~~ for the recovery of any ~~medical~~ 86789
~~assistance benefits~~ medicaid payments determined by the court to 86790
have been paid incorrectly on behalf of the recipient. All persons 86791
holding property in which the recipient has a legal or equitable 86792
interest may be joined as parties. The court may issue 86793

pre-judgment orders, including injunctive relief or attachment 86794
under Chapter 2715. of the Revised Code, for the preservation of 86795
real or personal property in which the recipient may have a legal 86796
or equitable interest. If the court determines that ~~benefits~~ 86797
medicaid payments were ~~paid~~ made incorrectly and issues a judgment 86798
to that effect, the county department may obtain a lien upon 86799
property of the recipient in accordance with Chapter 2329. of the 86800
Revised Code. 86801

(C) The county department of job and family services shall 86802
retain fifty per cent of the balance remaining after deduction 86803
from the recovery of the amount required to be returned to the 86804
federal government and shall pay the other fifty per cent of the 86805
balance to the department of ~~job and family services~~ medicaid. 86806

(D) Recovery of ~~medical assistance benefits~~ medicaid payments 86807
incorrectly ~~paid to~~ made on behalf of a medicaid recipient may not 86808
be accomplished by reducing the amount of benefits the recipient 86809
is entitled to receive under another government assistance 86810
program. 86811

(E) The remedies provided pursuant to this section do not 86812
affect any other remedies county departments of job and family 86813
services may have to recover benefits incorrectly paid on behalf 86814
of medicaid recipients ~~of medical assistance~~. 86815

Sec. ~~5111.121~~ 5162.24. (A) As used in this section, "third 86816
party" has the same meaning as in section ~~5101.571~~ 5160.35 of the 86817
Revised Code. 86818

(B) In addition to the authority granted under section 86819
~~5101.59~~ 5160.38 of the Revised Code, the department of ~~job and~~ 86820
~~family services~~ medicaid may, to the extent necessary to reimburse 86821
its costs, garnish the wages, salary, or other employment income 86822
of, and withhold amounts from state tax refunds to, any person to 86823
whom both of the following apply: 86824

(1) The person is required by a court or administrative order 86825
to provide coverage of the cost of health care services to a child 86826
eligible for ~~medical assistance under this chapter~~ medicaid. 86827

(2) The person has received payment from a third party for 86828
the costs of such services but has not used the payment to 86829
reimburse either the other parent or guardian of the child or the 86830
provider of the services. 86831

(C) Claims for current and past due child support shall take 86832
priority over claims under division (B) of this section. 86833

Sec. 5162.31. Local funds, whether from public or private 86834
sources, expended by a county department of job and family 86835
services for administration of the healthy start component shall 86836
be considered to have been expended by the state for the purpose 86837
of determining the extent to which the state has complied with any 86838
federal requirement that the state provide funds to match federal 86839
financial participation for the medicaid program. This section 86840
does not affect the amount of funds a county is entitled to 86841
receive under sections 5101.16 and 5101.161 of the Revised Code. 86842

~~Sec. 5111.90 5162.32. (A) As used in sections 5111.90 to 86843~~
~~5111.93 of the Revised Code:~~ 86844

~~(1) "Political subdivision" means a municipal corporation, 86845~~
~~township, county, school district, or other body corporate and 86846~~
~~politic responsible for governmental activities only in a 86847~~
~~geographical area smaller than that of the state.~~ 86848

~~(2) "State agency" means every organized body, office, or 86849~~
~~agency, other than the department of job and family services, 86850~~
~~established by the laws of the state for the exercise of any 86851~~
~~function of state government.~~ 86852

~~(B) To the extent permitted by Title XIX of the "Social 86853~~
~~Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended,~~ 86854

~~and regulations adopted under that title, the~~ The department of 86855
~~job and family services~~ medicaid may enter into contracts with 86856
political subdivisions to use funds of the political subdivision 86857
to pay the nonfederal share of expenditures under the medicaid 86858
program. The determination and provision of federal financial 86859
~~reimbursement~~ participation to a subdivision entering into a 86860
contract under this section shall be determined by the department, 86861
subject to section ~~5111.92~~ 5162.40 of the Revised Code, ~~approval~~ 86862
~~by the United States secretary of health and human services, and~~ 86863
~~the availability of federal financial participation.~~ 86864

Sec. ~~5111.91~~ 5162.35. The department of ~~job and family~~ 86865
~~services~~ medicaid may enter into contracts with one or more other 86866
state agencies or political subdivisions to have the state agency 86867
or political subdivision administer one or more components of the 86868
medicaid program, or one or more aspects of a component, under the 86869
department's supervision. A state agency or political subdivision 86870
that enters into such a contract shall comply with the terms of 86871
the contract and any rules the medicaid director ~~of job and family~~ 86872
~~services~~ has adopted governing the component, or aspect of the 86873
component, that the state agency or political subdivision is to 86874
administer, including any rules establishing review, audit, and 86875
corrective action plan requirements. A contract with a state 86876
agency shall be in the form of an interagency agreement. 86877

A state agency or political subdivision that enters into a 86878
contract with the department under this section shall reimburse 86879
the department for the nonfederal share of the cost to the 86880
department of performing, or contracting for the performance of, a 86881
fiscal audit of the component of the medicaid program, or aspect 86882
of the component, that the state agency or political subdivision 86883
administers if rules governing the component, or aspect of the 86884
component, require that a fiscal audit be conducted. 86885

~~There is hereby created in the state treasury the medicaid administrative reimbursement fund. The department shall use money in the fund to pay for the nonfederal share of the cost of a fiscal audit for which a state agency or political subdivision is required by this section to reimburse the department. The department shall deposit the reimbursements into the fund.~~

Sec. ~~5111.71~~ 5162.36. (A) ~~As used in sections 5111.71 to 5111.715 of the Revised Code, "qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:~~

~~(1) It holds a valid medicaid provider agreement.~~

~~(2) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules adopted under section 5111.715 of the Revised Code.~~

(B) The medicaid director of ~~job and family services~~ shall submit a state medicaid plan amendment to the United States secretary of health and human services for the purpose of ~~creating~~ create, in accordance with sections ~~5111.71~~ 5162.36 to ~~5111.715~~ 5162.364 of the Revised Code, the medicaid school component of the medicaid program. The director shall create the medicaid school component on receipt of the United States secretary's approval of the amendment.

Sec. ~~5111.711~~ 5162.361. A qualified medicaid school provider participating in the medicaid school component of the medicaid program may submit a claim to the department of ~~job and family services~~ medicaid for federal financial participation for providing, in schools, services covered by the medicaid school

component to medicaid recipients who are eligible for the 86916
services. No qualified medicaid school provider may submit such a 86917
claim before the provider incurs the cost of providing the 86918
service. 86919

The claim shall include certification of the qualified 86920
medicaid school provider's expenditures for the service. The 86921
certification shall show that the money the qualified medicaid 86922
school provider used for the expenditures was nonfederal money the 86923
provider may legally use for providing the service and that the 86924
amount of the expenditures was sufficient to pay the full cost of 86925
the service. 86926

Except as otherwise provided in sections ~~5111.71~~ 5162.36 to 86927
~~5111.715~~ 5162.364 of the Revised Code and rules ~~adopted under~~ 86928
authorized by sections ~~5111.713~~ 5162.363 and ~~5111.715~~ 5162.364 of 86929
the Revised Code, a qualified medicaid school provider is subject 86930
to all conditions of participation in the medicaid program that 86931
generally apply to providers of goods and services under the 86932
medicaid program, including conditions regarding audits and 86933
recovery of overpayments. 86934

Sec. ~~5111.712~~ 5162.362. The department of ~~job and family~~ 86935
~~services~~ medicaid shall seek federal financial participation for 86936
each claim a qualified medicaid school provider properly submits 86937
to the department under section ~~5111.711~~ 5162.361 of the Revised 86938
Code. The department shall disburse the federal financial 86939
participation the department receives from the federal government 86940
for such a claim to the qualified medicaid school provider that 86941
submitted the claim. The department may not pay the qualified 86942
medicaid school provider the nonfederal share of the cost of the 86943
services for which the claim was submitted. 86944

Sec. ~~5111.713~~ 5162.363. The department of ~~job and family~~ 86945

~~services~~ medicaid shall enter into an interagency agreement with 86946
the department of education under section ~~5111.91~~ 5162.35 of the 86947
Revised Code that provides for the department of education to 86948
administer the medicaid school component of the medicaid program 86949
other than the aspects of the component that sections ~~5111.71~~ 86950
5162.36 to ~~5111.715~~ 5162.364 of the Revised Code require the 86951
department of ~~job and family services~~ medicaid to administer. The 86952
interagency agreement may include a provision that provides for 86953
the department of education to pay to the department of ~~job and~~ 86954
~~family services~~ medicaid the nonfederal share of a portion of the 86955
administrative expenses the department of ~~job and family services~~ 86956
medicaid incurs in administering the aspects of the component that 86957
the department of ~~job and family services~~ medicaid administers. 86958

The To the extent authorized by rules authorized by section 86959
5162.021 of the Revised Code, the department of education shall 86960
establish, in rules adopted under ~~Chapter 119.~~ section 5162.02 of 86961
the Revised Code, a process by which qualified medicaid school 86962
providers participating in the medicaid school component pay to 86963
the department of education the nonfederal share of the 86964
department's expenses incurred in administering the component. The 86965
rules shall be adopted in accordance with Chapter 119. of the 86966
Revised Code. 86967

Sec. ~~5111.715~~ 5162.364. The medicaid director ~~of job and~~ 86968
~~family services~~ shall adopt rules under ~~Chapter 119.~~ section 86969
5162.02 of the Revised Code as necessary to implement the medicaid 86970
school component of the medicaid program, including rules that 86971
establish or specify all of the following: 86972

(A) Conditions a board of education of a city, local, or 86973
exempted school district, governing authority of a community 86974
school established under Chapter 3314. of the Revised Code, the 86975
state school for the deaf, and the state school for the blind must 86976

meet to participate in the component; 86977

(B) Services the component covers; 86978

(C) ~~Reimbursement~~ Payment rates for the services the 86979
component covers. 86980

The rules shall be adopted in accordance with Chapter 119. of 86981
the Revised Code. 86982

Sec. ~~5111.911~~ 5162.37. Any contract the department of ~~job and~~ 86983
~~family services~~ medicaid enters into with the department of ~~mental~~ 86984
~~health or department of alcohol and drug addiction services~~ mental 86985
health and addiction services under section ~~5111.91~~ 5162.35 of the 86986
Revised Code is subject to the approval of the director of budget 86987
and management and shall require or specify all of the following: 86988

(A) ~~In the case of a contract with the department of mental~~ 86989
~~health, that~~ That section ~~5111.912~~ 5162.371 of the Revised Code be 86990
complied with; 86991

(B) ~~In the case of a contract with the department of alcohol~~ 86992
~~and drug addiction services, that~~ section ~~5111.913~~ of the Revised 86993
Code be complied with; 86994

~~(C)~~ How providers will be paid for providing the services; 86995

~~(D)~~(C) The department of ~~mental health's or department of~~ 86996
~~alcohol and drug addiction services'~~ responsibilities of the 86997
department of mental health and addiction services with regard to 86998
providers, including program oversight and quality assurance. 86999

Sec. ~~5111.912~~ 5162.371. If the department of ~~job and family~~ 87000
~~services~~ medicaid enters into a contract with the department of 87001
~~mental health~~ mental health and addiction services under section 87002
~~5111.91~~ 5162.35 of the Revised Code, the department of ~~job and~~ 87003
~~family services~~ medicaid shall pay the nonfederal share of any 87004
medicaid payment to a provider for services under the component, 87005

or aspect of the component, the department of ~~mental health~~ mental 87006
health and addiction services administers. ~~If necessary, the~~ 87007
~~director of job and family services shall submit a medicaid state~~ 87008
~~plan amendment to the United States secretary of health and human~~ 87009
~~services regarding the department of job and family services' duty~~ 87010
~~under this section.~~ 87011

Sec. ~~5111.92~~ 5162.40. (A)(1) Except as provided in division 87012
(B) of this section, if a state agency or political subdivision 87013
administers one or more components of the medicaid program that 87014
the United States department of health and human services 87015
approved, and for which federal financial participation was 87016
initially obtained, prior to January 1, 2002, or administers one 87017
or more aspects of such a component, the department of ~~job and~~ 87018
~~family services~~ medicaid may retain or collect not more than ten 87019
per cent of the federal financial participation the state agency 87020
or political subdivision obtains through an approved, 87021
administrative claim regarding the component or aspect of the 87022
component. If the department retains or collects a percentage of 87023
such federal financial participation, the percentage the 87024
department retains or collects shall be specified in a contract 87025
the department enters into with the state agency or political 87026
subdivision under section ~~5111.91~~ 5162.35 of the Revised Code. 87027

(2) Except as provided in division (B) of this section, if a 87028
state agency or political subdivision administers one or more 87029
components of the medicaid program that the United States 87030
department of health and human services approved on or after 87031
January 1, 2002, or administers one or more aspects of such a 87032
component, the department of ~~job and family services~~ medicaid 87033
shall retain or collect not less than three and not more than ten 87034
per cent of the federal financial participation the state agency 87035
or political subdivision obtains through an approved, 87036

administrative claim regarding the component or aspect of the 87037
component. The percentage the department retains or collects shall 87038
be specified in a contract the department enters into with the 87039
state agency or political subdivision under section ~~5111.91~~ 87040
5162.35 of the Revised Code. 87041

~~(B) The department of job and family services may retain or 87042
collect a percentage of federal financial participation under 87043
divisions (A)(1) and (2) of this section only to the extent 87044
permitted by federal statutes and regulations. 87045~~

~~(C) All amounts the department retains or collects under this 87046
section shall be deposited into the health care services 87047
administration fund created under section ~~5111.94~~ 5162.54 of the 87048
Revised Code. 87049~~

Sec. ~~5111.93~~ 5162.41. The department of ~~job and family 87050
services~~ medicaid may retain or collect a percentage of the 87051
federal financial participation included in a supplemental 87052
medicaid payment to one or more medicaid providers owned or 87053
operated by a state agency or political subdivision that brings 87054
the payment to such provider or providers to the upper payment 87055
limit established by 42 C.F.R. 447.272. If the department retains 87056
or collects a percentage of that federal financial participation, 87057
the ~~department~~ medicaid director shall adopt a rule under ~~Chapter 87058
119. section 5162.02~~ of the Revised Code specifying the percentage 87059
the department is to retain or collect. All amounts the department 87060
retains or collects under this section shall be deposited into the 87061
health care services administration fund created under section 87062
~~5111.94~~ 5162.54 of the Revised Code. 87063

Sec. ~~5111.943~~ 5162.50. (A) The health care - federal fund is 87064
hereby created in the state treasury. All of the following shall 87065
be credited to the fund: 87066

(1) Funds that division (B) of section ~~5112.18~~ 5168.11 of the Revised Code requires be credited to the fund; 87067
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(2) The federal share of all rebates paid by drug manufacturers to the department of ~~job and family services~~ medicaid in accordance with a rebate agreement required by the "Social Security Act," section 1927, 42 U.S.C. 1396r-8; 87069
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(3) The federal share of all supplemental rebates paid by drug manufacturers to the department of ~~job and family services~~ medicaid in accordance with the supplemental drug rebate program established under section ~~5111.081~~ 5164.755 of the Revised Code; 87073
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(4) Except as otherwise provided by statute or as authorized by the controlling board, the federal share of all other medicaid-related revenues, collections, and recoveries. 87077
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(B) All money credited to the health care - federal fund pursuant to division (B) of section ~~5112.18~~ 5168.11 of the Revised Code shall be used solely for distributing funds to hospitals under section ~~5112.08~~ 5168.09 of the Revised Code. The department of ~~job and family services~~ medicaid shall use all other money credited to the fund to pay for other medicaid services and contracts. 87080
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Sec. ~~5111.941~~ 5162.52. (A) The health care/medicaid support and recoveries fund is hereby created in the state treasury. All of the following shall be credited to the fund: 87087
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(1) Except as otherwise provided by statute or as authorized by the controlling board, the nonfederal share of all medicaid-related revenues, collections, and recoveries; 87090
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(2) Federal reimbursement received for payment adjustments made pursuant to ~~section 1923~~ of the "Social Security Act," ~~101 Stat. 1330-148 (1987)~~ section 1923, 42 U.S.C. 1396r-4, ~~as amended,~~ under the medicaid program to state mental health hospitals 87093
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maintained and operated by the department of ~~mental health~~ mental health and addiction services under division (A) of section ~~5119.02~~ 5119.14 of the Revised Code; 87097
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(3) Revenues the department of ~~job and family services~~ medicaid receives from another state agency for medicaid services pursuant to an interagency agreement, other than such revenues required to be deposited into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code; 87100
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(4) The first seven hundred fifty thousand dollars the department receives in a fiscal year for performing eligibility verification services necessary for compliance with the independent, certified audit requirement of 42 C.F.R. 455.304; 87106
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(5) The nonfederal share of all rebates paid by drug manufacturers to the department of medicaid in accordance with a rebate agreement required by the "Social Security Act," section 1927, 42 U.S.C. 1396r-8; 87110
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(6) The nonfederal share of all supplemental rebates paid by drug manufacturers to the department of medicaid in accordance with the supplemental drug rebate program established under section 5164.755 of the Revised Code. 87114
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(B) The department of ~~job and family services~~ medicaid shall use money credited to the health care/medicaid support and recoveries fund to pay for medicaid services and contracts. 87118
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Sec. ~~5111.94~~ 5162.54. (A) ~~As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.~~ 87121
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~~(B)~~ There is hereby created in the state treasury the health care services administration fund. Except as provided in division 87125
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(C) of this section, all the following shall be deposited into the fund: 87127
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(1) Amounts deposited into the fund pursuant to sections ~~5111.92~~ 5162.12, 5162.40, and ~~5111.93~~ 5162.41 of the Revised Code; 87129
87130

(2) The amount of the state share of all money the department of ~~job and family services, in fiscal year 2003 and each fiscal year thereafter,~~ medicaid recovers each fiscal year pursuant to a tort action under the department's right of recovery under section ~~5101.58~~ 5160.37 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery; 87131
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(3) Subject to division ~~(D)~~(B) of this section, the amount of the state share of all money the department of ~~job and family services~~ medicaid, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits; 87138
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(4) Amounts from assessments on hospitals under section ~~5112.06~~ 5168.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section ~~5112.07~~ 5168.07 of the Revised Code that are deposited into the fund in accordance with the law; 87144
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(5) Amounts that the department of education pays to the department of ~~job and family services~~ medicaid, if any, pursuant to an interagency agreement ~~entered into under~~ authorized by section ~~5111.713~~ 5162.363 of the Revised Code; 87149
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(6) The application fees charged to providers under section ~~5111.063~~ 5164.31 of the Revised Code; 87153
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(7) The fines collected under section ~~5111.271~~ 5165.1010 of the Revised Code; 87155
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(8) Money the department receives in a fiscal year for performing eligibility verification services necessary for compliance with the independent, certified audit requirement of 42 C.F.R. 455.304, other than the amounts of such money that are to be credited to the health care/medicaid support and recoveries fund under section 5162.52 of the Revised Code. 87157
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~~(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.~~ 87163
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~~(D)~~(B) In determining under division ~~(B)~~(A)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded. 87166
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~~(E)~~(C) The ~~director~~ department of ~~job and family services~~ medicaid shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program. 87170
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Sec. 5111.945 5162.56. There is created in the state treasury the health care special activities fund. The department of ~~job and family services~~ medicaid shall deposit all funds it receives pursuant to the administration of the medicaid program into the fund, other than any such funds that are required by law to be deposited into another fund. The department shall use the money in the fund to pay for expenses related to the services provided under, and the administration of, the medicaid program. 87174
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Sec. 5111.944 5162.58. ~~(A) As used in this section:~~ 87182

~~"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).~~ 87183
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~~"Dual eligible integrated care demonstration project" means~~ 87186

~~the demonstration project authorized by section 5111.981 of the Revised Code.~~ 87187
87188

~~"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.~~ 87189
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~~(B) There is created in the state treasury the integrated care delivery systems fund. If the terms of the federal approval for the dual eligible integrated care demonstration project authorized by section 5164.91 of the Revised Code provide for the state to receive a portion of the amounts that the demonstration project saves the medicare program, such amounts shall be deposited into the fund. The department of job and family services medicaid shall use the money in the fund to further develop integrated delivery systems and improved care coordination for dual eligible individuals.~~ 87192
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Sec. 5162.60. (A) There is hereby created in the state treasury the managed care performance payment fund. The fund shall consist of all of the following: 87202
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(1) Amounts transferred to it by the director of budget and management for the purpose of the managed care performance payment program established under section 5167.30 of the Revised Code; 87205
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(2) All fines imposed on and collected from medicaid managed care organizations for failure to meet performance standards or other requirements specified in provider agreements or rules adopted under section 5167.02 of the Revised Code; 87208
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(3) All investment earnings of the fund. 87212

(B) Amounts in the fund may be used for the following: 87213

(1) To make performance payments to medicaid managed care organizations in accordance with section 5167.30 of the Revised Code; 87214
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<u>(2) To meet obligations specified in the provider agreements;</u>	87217
<u>(3) To pay for medicaid services provided by a medicaid managed care organization;</u>	87218
	87219
<u>(4) To reimburse a medicaid managed care organization that has paid a fine for failure to meet performance standards or other requirements specified in provider agreements or rules adopted under section 5167.02 of the Revised Code if that organization comes into compliance with those standards or requirements.</u>	87220
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	87224
<u>Sec. 5162.62. There is hereby created in the state treasury the medicaid administrative reimbursement fund. The department of medicaid shall use money in the fund to pay for the nonfederal share of the cost of a fiscal audit for which a state agency or political subdivision is required by section 5162.35 of the Revised Code to reimburse the department. The department shall deposit the reimbursements into the fund.</u>	87225
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	87231
<u>Sec. 5111.714 5162.64. (A) There is hereby created in the state treasury the medicaid school program administrative fund.</u>	87232
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<u>(B) Both of the following shall be deposited into the medicaid school program administrative fund:</u>	87234
	87235
<u>(1) The federal funds the department of education receives for the expenses the department incurs in administering the medicaid school component of the medicaid program <u>created under section 5162.36 of the Revised Code;</u></u>	87236
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<u>(2) The money the department collects from qualified medicaid school providers in the process established in rules adopted under <u>authorized by section 5111.713 5162.363 of the Revised Code.</u></u>	87240
	87241
	87242
<u>(C) No funds shall be deposited into the medicaid school program administrative fund in violation of federal statutes or regulations.</u>	87243
	87244
	87245

~~(D)~~ The department of education shall use money in the 87246
medicaid school program administrative fund for both of the 87247
following purposes: 87248

(1) Paying for the expenses the department incurs in 87249
administering the medicaid school component of the medicaid 87250
program; 87251

(2) Paying a qualified medicaid school provider a refund for 87252
any overpayment the provider makes to the department under the 87253
process established in rules ~~adopted under~~ authorized by section 87254
~~5111.713~~ 5162.363 of the Revised Code if the process results in an 87255
overpayment. 87256

Sec. ~~5111.62~~ 5162.66. The As used in this section, 87257
"deficiency" has the same meaning as in section 5165.60 of the 87258
Revised Code. 87259

The proceeds of all fines, including interest, collected 87260
under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised 87261
Code shall be deposited in the state treasury to the credit of the 87262
residents protection fund, which is hereby created. The proceeds 87263
of all fines, including interest, collected under section 173.42 87264
of the Revised Code shall be deposited in the state treasury to 87265
the credit of the residents protection fund. 87266

Money in the fund shall be used for the protection of the 87267
health or property of residents of nursing facilities in which the 87268
department of health finds deficiencies, including payment for the 87269
costs of relocation of residents to other facilities, maintenance 87270
of operation of a facility pending correction of deficiencies or 87271
closure, and reimbursement of residents for the loss of money 87272
managed by the facility under section 3721.15 of the Revised Code. 87273
Money in the fund may also be used to make payments under section 87274
~~5111.511~~ 5165.78 of the Revised Code. 87275

The fund shall be maintained and administered by the 87276
department of ~~job and family services~~ medicaid under rules 87277
developed in consultation with the departments of health and aging 87278
and adopted ~~by the director of job and family services~~ under 87279
~~Chapter 119.~~ section 5162.02 of the Revised Code. The rules shall 87280
be adopted in accordance with Chapter 119. of the Revised Code. 87281

Sec. 5163.01. As used in this chapter: 87282

"Federal financial participation" has the same meaning as in 87283
section 5160.01 of the Revised Code. 87284

"Healthy start component" has the same meaning as in section 87285
5162.01 of the Revised Code. 87286

"Intermediate care facility for the mentally retarded" and 87287
"ICF/MR" have the same meanings as in section 5124.01 of the 87288
Revised Code. 87289

"Mandatory eligibility groups" means the groups of 87290
individuals that must be covered by the medicaid state plan as a 87291
condition of the state receiving federal financial participation 87292
for the medicaid program. 87293

"Medicaid services" has the same meaning as in section 87294
5164.01 of the Revised Code. 87295

"Nursing facility" and "nursing facility services" have the 87296
same meanings as in section 5165.01 of the Revised Code. 87297

"Optional eligibility groups" means the groups of individuals 87298
who may be covered by the medicaid state plan or a federal 87299
medicaid waiver and for whom the medicaid program receives federal 87300
financial participation. 87301

"Other medicaid-funded long-term care services" has the 87302
meaning specified in rules adopted under section 5163.02 of the 87303
Revised Code. 87304

"Supplemental security income program" means the program 87305
established by Title XVI of the "Social Security Act," 42 U.S.C. 87306
1381 et seq. 87307

~~Sec. 5111.011 5163.02. (A) The medicaid director of ~~job and~~ 87308
~~family services~~ shall adopt rules establishing as necessary to 87309
implement this chapter. The rules shall establish eligibility 87310
requirements for the medicaid program. The rules may establish 87311
requirements for applying for medicaid and determining and 87312
verifying eligibility for medicaid. The rules shall be adopted 87313
~~pursuant to~~ in accordance with section 111.15 of the Revised Code 87314
and shall be consistent with federal and state law. The rules 87315
shall include rules that do all of the following: 87316~~

~~(1) Establish standards consistent with federal law for~~ 87317
~~allocating income and resources as income and resources of the~~ 87318
~~spouse, children, parents, or stepparents of a recipient of or~~ 87319
~~applicant for medicaid;~~ 87320

~~(2) Define the term "resources" as used in division (A)(1) of~~ 87321
~~this section;~~ 87322

~~(3) Specify the number of months that is to be used for the~~ 87323
~~purpose of the term "look back date" used in section 5111.0116 of~~ 87324
~~the Revised Code;~~ 87325

~~(4) Establish processes to be used to determine both of the~~ 87326
~~following:~~ 87327

~~(a) The date an institutionalized individual's ineligibility~~ 87328
~~for services under section 5111.0116 of the Revised Code is to~~ 87329
~~begin;~~ 87330

~~(b) The number of months an institutionalized individual's~~ 87331
~~ineligibility for such services is to continue.~~ 87332

~~(5) For the purpose of division (C) of section 5111.0116 of~~ 87333
~~the Revised Code, establish procedures for granting waivers of all~~ 87334

~~or a portion of the period of ineligibility that an 87335
institutionalized individual would otherwise be subject to under 87336
that section and additional reasons for which such waivers may be 87337
granted; 87338~~

~~(6) Define the term "other medicaid funded long term care 87339
services" as used in sections 5111.0117 and 5111.0118 of the 87340
Revised Code; 87341~~

~~(7) For the purpose of division (C)(2)(c) of section 87342
5111.0117 of the Revised Code, establish the process to determine 87343
whether the child of an aged, blind, or disabled individual is 87344
financially dependent on the individual for housing. 87345~~

~~(B) Notwithstanding any provision of state law, including 87346
statutes, administrative rules, common law, and court rules, 87347
regarding real or personal property or domestic relations, the 87348
standards established under rules adopted under ~~division (A)(1) of 87349
this section shall be used to determine eligibility for medicaid. 87350~~~~

Sec. 5163.03. (A) Subject to sections 5163.04 and 5163.05 of 87351
the Revised Code, the medicaid program shall cover all mandatory 87352
eligibility groups. 87353

(B) The medicaid program shall cover all of the optional 87354
eligibility groups that state statutes require the medicaid 87355
program to cover. 87356

(C) The medicaid program may cover any of the optional 87357
eligibility groups to which either of the following applies: 87358

(1) State statutes expressly permit the medicaid program to 87359
cover the optional eligibility group. 87360

(2) State statutes do not address whether the medicaid 87361
program may cover the optional eligibility group. 87362

(D) The medicaid program shall not cover any eligibility 87363
group that state statutes prohibit the medicaid program from 87364

covering. 87365

Sec. 5163.04. The medicaid program shall not cover the group 87366
described in the "Social Security Act," section 87367
1902(a)(10)(A)(i)(VIII), 42 U.S.C. 1396a(a)(10)(A)(i)(VIII). 87368

Sec. 5163.05. The medicaid program's eligibility requirements 87369
for aged, blind, and disabled individuals may be more restrictive 87370
than the eligibility requirements for the supplemental security 87371
income program. Any such more restrictive eligibility requirements 87372
shall be consistent with the 209(b) option described in the 87373
"Social Security Act," section 1902(f), 42 U.S.C. 1396a(f). 87374

Sec. 5163.06. Beginning January 1, 2014, the medicaid 87375
director may alter the eligibility requirements for, and terminate 87376
the medicaid program's coverage of, one or more optional 87377
eligibility groups or subgroups, including the following: 87378

(A) Children placed with adoptive parents who may be covered 87379
by medicaid pursuant to the "Social Security Act," section 87380
1902(a)(10)(A)(ii)(VIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(VIII); 87381

(B) Low income women and children who may be covered by 87382
medicaid pursuant to the "Social Security Act," section 87383
1902(a)(10)(A)(ii)(IX), 42 U.S.C. 1396a(a)(10)(A)(ii)(IX); 87384

(C) Employed individuals with disabilities who may be covered 87385
by medicaid pursuant to the "Social Security Act," section 87386
1902(a)(10)(A)(ii)(XV), 42 U.S.C. 1396a(a)(10)(A)(ii)(XV); 87387

(D) Employed individuals with medically improved disabilities 87388
who may be covered by medicaid pursuant to the "Social Security 87389
Act," section 1902(a)(10)(A)(ii)(XVI), 42 U.S.C. 87390
1396a(a)(10)(A)(ii)(XVI); 87391

(E) Independent foster care adolescents who may be covered by 87392
medicaid pursuant to the "Social Security Act," section 87393

<u>1902(a)(10)(A)(ii)(XVII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVII);</u>	87394
<u>(F) Pregnant women who may be determined presumptively</u>	87395
<u>eligible for medicaid pursuant to the "Social Security Act,"</u>	87396
<u>section 1920, 42 U.S.C. 1396r-1;</u>	87397
<u>(G) Children who may be determined presumptively eligible for</u>	87398
<u>medicaid pursuant to the "Social Security Act," section 1920A, 42</u>	87399
<u>U.S.C. 1396r-1a.</u>	87400
<u>Sec. 5163.061. If the medicaid director alters the</u>	87401
<u>eligibility requirements for, or terminates the medicaid program's</u>	87402
<u>coverage of, an optional eligibility group or subgroup pursuant to</u>	87403
<u>section 5163.06 of the Revised Code, all of the following apply:</u>	87404
<u>(A) In the case of an optional eligibility group or subgroup</u>	87405
<u>for which the eligibility requirements are altered:</u>	87406
<u>(1) No individual enrolled, before the effective date of the</u>	87407
<u>altered eligibility requirements, in medicaid as part of the group</u>	87408
<u>or subgroup shall remain enrolled in medicaid on and after that</u>	87409
<u>effective date unless the individual meets the altered eligibility</u>	87410
<u>requirements for the group or subgroup or meets the eligibility</u>	87411
<u>requirements for another eligibility group or subgroup.</u>	87412
<u>(2) Beginning on the effective date of the altered</u>	87413
<u>eligibility requirements, no individual may enroll in medicaid as</u>	87414
<u>part of the group or subgroup unless the individual meets the</u>	87415
<u>altered eligibility requirements for the group or subgroup or</u>	87416
<u>meets the eligibility requirements for another eligibility group</u>	87417
<u>or subgroup.</u>	87418
<u>(B) In the case of an optional eligibility group or subgroup</u>	87419
<u>whose medicaid coverage is terminated:</u>	87420
<u>(1) No individual enrolled, before the effective date of the</u>	87421
<u>termination, in medicaid as part of the group or subgroup shall</u>	87422
<u>remain enrolled in medicaid on and after that effective date</u>	87423

unless the individual meets the eligibility requirements for 87424
another eligibility group or subgroup. 87425

(2) Beginning on the effective date of the termination, no 87426
individual may enroll in medicaid as part of the group or subgroup 87427
but may enroll in medicaid as part of another group or subgroup 87428
for which the individual meets the eligibility requirements. 87429

(C) The department of medicaid shall take actions as the 87430
department determines necessary, including requiring actions from 87431
county departments of job and family services, to do both of the 87432
following: 87433

(1) Inform medicaid recipients about the altered eligibility 87434
requirements or termination of the medicaid program's coverage of 87435
the group or subgroup; 87436

(2) In the case of medicaid recipients who will cease to be 87437
eligible for medicaid as part of the group or subgroup because of 87438
the altered eligibility requirements or termination of the group's 87439
or subgroup's coverage, offer to assist the recipients with the 87440
following: 87441

(a) To continue to be enrolled in medicaid as part of another 87442
eligibility group or subgroup for which they meet the eligibility 87443
requirements; 87444

(b) Transition to other health coverage options available to 87445
them. 87446

(D) Regarding appeals authorized by section 5160.31 of the 87447
Revised Code: 87448

(1) No individual may appeal a denial of medicaid eligibility 87449
as part of a group or subgroup whose medicaid coverage is 87450
terminated if the denial is for medicaid eligibility that would 87451
begin or continue on or after the effective date of the 87452
termination. 87453

(2) An individual may initiate or continue, on or after the effective date of the termination, an appeal concerning the individual's eligibility for medicaid as part of the group or subgroup if the decision being appealed concerns the individual's eligibility for medicaid as part of the group or subgroup before the effective date of the termination. 87454
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(3) An appeal initiated or continued pursuant to division (D)(2) of this section may not result in the appellant being enrolled, or continuing to be enrolled, in medicaid as part of the group or subgroup on or after the effective date of the termination. 87460
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(E) The altered eligibility requirements or termination of the medicaid program's coverage of the group or subgroup has no effect on either of the following: 87465
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(1) An automatic right of recovery given under section 5160.37 of the Revised Code; 87468
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(2) An automatic assignment of rights under section 5160.38 of the Revised Code. 87470
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(F) All rules, standards, guidelines, or orders regarding the group or subgroup issued by the medicaid director before the effective date of the altered eligibility requirements or termination of the medicaid program's coverage of the group or subgroup shall be used for the purpose of determining the state's legal obligations for claims related to the group or subgroup that arise from any of the following: 87472
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(1) Eligibility determinations regarding enrollment in medicaid before that effective date; 87479
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(2) Claims for payment for medicaid services provided before that effective date; 87481
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(3) Recoveries of erroneous medicaid payments. 87483

Sec. 5163.07. (A) As used in this section, "actual income" 87484
means the amount of an individual's income before any disregarded 87485
amounts or other deductions are applied pursuant to an income 87486
eligibility methodology. 87487

(B) In transitioning to the use of modified adjusted gross 87488
income and household income methodologies to determine an 87489
individual's income eligibility for the medicaid program pursuant 87490
to the "Social Security Act," section 1902(e)(14), 42 U.S.C. 87491
1396a(e)(14), and except as provided in division (C) of this 87492
section, the medicaid director shall provide for both of the 87493
following to qualify for the medicaid program: 87494

(1) All individuals who would qualify for medicaid pursuant 87495
to former section 5111.0110 or 5111.0120 of the Revised Code using 87496
the applicable income eligibility methodology in effect on the day 87497
immediately preceding the effective date of this section; 87498

(2) All individuals who would qualify for medicaid pursuant 87499
to the optional eligibility group specified in the "Social 87500
Security Act," section 1902(a)(a)(10)(A)(ii)(XXI), 42 U.S.C. 87501
1396a(a)(10)(A)(ii)(XXI), using the applicable income eligibility 87502
methodology in effect on the day immediately preceding the 87503
effective date of this section. 87504

(C) An individual whose actual income exceeds one hundred 87505
thirty-eight per cent of the federal poverty line may not qualify 87506
for medicaid pursuant to division (B) of this section. 87507

Sec. 5163.08. The medicaid director shall implement the 87508
option authorized by the "Social Security Act," section 87509
1925(a)(5), 42 U.S.C. 1396r-6(a)(5), regarding the single 87510
twelve-month eligibility period for transitional medicaid. 87511

~~Sec. 5111.15~~ 5163.20. If a medicaid recipient of ~~medical~~ 87512

assistance is the beneficiary of a trust created pursuant to 87513
section 5815.28 of the Revised Code, then, notwithstanding any 87514
contrary provision of this chapter or of a rule adopted pursuant 87515
~~to this chapter~~ under section 5163.02 of the Revised Code, 87516
divisions (C) and (D) of that section shall apply in determining 87517
the assets or resources of the recipient, the recipient's estate, 87518
the settlor, or the settlor's estate and to claims arising under 87519
this chapter against the recipient, the recipient's estate, the 87520
settlor, or the settlor's estate. 87521

Sec. ~~5111.151~~ 5163.21. (A)(1) This section applies only to 87522
either of the following: 87523

(a) Initial eligibility determinations for the medicaid 87524
program ~~made by the department of job and family services pursuant~~ 87525
~~to section 5101.47 of the Revised Code or by a county department~~ 87526
~~of job and family services pursuant to section 5111.012 of the~~ 87527
~~Revised Code;~~ 87528

(b) An appeal from ~~a~~ an initial eligibility determination 87529
~~described in division (A)(1)(a) of this section~~ pursuant to 87530
section ~~5101.35~~ 5160.31 of the Revised Code. 87531

(2)(a) Except as provided in division (A)(2)(b) of this 87532
section, this section shall not be used by a court to determine 87533
the effect of a trust on an individual's initial eligibility for 87534
the medicaid program. 87535

(b) The prohibition in division (A)(2)(a) of this section 87536
does not apply to an appeal described in division (A)(1)(b) of 87537
this section. 87538

(B) As used in this section: 87539

(1) "Trust" means any arrangement in which a grantor 87540
transfers real or personal property to a trust with the intention 87541
that it be held, managed, or administered by at least one trustee 87542

for the benefit of the grantor or beneficiaries. "Trust" includes 87543
any legal instrument or device similar to a trust. 87544

(2) "Legal instrument or device similar to a trust" includes, 87545
but is not limited to, escrow accounts, investment accounts, 87546
partnerships, contracts, and other similar arrangements that are 87547
not called trusts under state law but are similar to a trust and 87548
to which all of the following apply: 87549

(a) The property in the trust is held, managed, retained, or 87550
administered by a trustee. 87551

(b) The trustee has an equitable, legal, or fiduciary duty to 87552
hold, manage, retain, or administer the property for the benefit 87553
of the beneficiary. 87554

(c) The trustee holds identifiable property for the 87555
beneficiary. 87556

(3) "Grantor" is a person who creates a trust, including all 87557
of the following: 87558

(a) An individual; 87559

(b) An individual's spouse; 87560

(c) A person, including a court or administrative body, with 87561
legal authority to act in place of or on behalf of an individual 87562
or an individual's spouse; 87563

(d) A person, including a court or administrative body, that 87564
acts at the direction or on request of an individual or the 87565
individual's spouse. 87566

(4) "Beneficiary" is a person or persons, including a 87567
grantor, who benefits in some way from a trust. 87568

(5) "Trustee" is a person who manages a trust's principal and 87569
income for the benefit of the beneficiaries. 87570

(6) "Person" has the same meaning as in section 1.59 of the 87571

Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association. 87572
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(7) "Applicant" is an individual who applies for medicaid or the individual's spouse. 87574
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(8) "Recipient" is an individual who receives medicaid or the individual's spouse. 87576
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(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable: 87578
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(a) A trust that provides that the trust can be terminated only by a court; 87581
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(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee. 87583
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(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor. 87586
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(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property. 87590
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(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient. 87593
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(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust. 87596
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(C)(1) If an applicant or recipient is a beneficiary of a trust, the applicant or recipient shall submit a complete copy of the trust instrument to the county department of job and family 87599
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services and the department of medicaid. A copy shall be 87602
considered complete if it contains all pages of the trust 87603
instrument and all schedules, attachments, and accounting 87604
statements referenced in or associated with the trust. The copy is 87605
confidential and is not subject to disclosure under section 149.43 87606
of the Revised Code. 87607

(2) On receipt of a copy of a trust instrument or otherwise 87608
determining that an applicant or recipient is a beneficiary of a 87609
trust, the county department of job and family services shall 87610
determine what type of trust it is and shall treat the trust in 87611
accordance with the appropriate provisions of this section and 87612
rules adopted ~~by the department of job and family services under~~ 87613
section 5163.02 of the Revised Code governing trusts. The county 87614
department of job and family services may determine that any of 87615
the following is the case regarding the trust or portion of the 87616
trust: 87617

(a) ~~It is~~ It is a resource available to the applicant or 87618
recipient; 87619

(b) ~~Contains~~ It contains income available to the applicant or 87620
recipient; 87621

(c) ~~Constitutes both items described in divisions~~ Divisions 87622
(C)~~(1)~~(2)(a) and (b) of this section are both applicable; 87623

(d) ~~Is neither an item described in~~ Neither division 87624
(C)~~(1)~~(2)(a) nor ~~(C)~~(1)(b) of this section is applicable. 87625

~~(2)~~(3) Except as provided in division (F) of this section, a 87626
trust or portion of a trust that is a resource available to the 87627
applicant or recipient or contains income available to the 87628
applicant or recipient shall be counted for purposes of 87629
determining medicaid eligibility. 87630

(D)(1) A trust or legal instrument or device similar to a 87631
trust shall be considered a medicaid qualifying trust if all of 87632

the following apply: 87633

(a) The trust was established on or prior to August 10, 1993. 87634

(b) The trust was not established by a will. 87635

(c) The trust was established by an applicant or recipient. 87636

(d) The applicant or recipient is or may become the 87637
beneficiary of all or part of the trust. 87638

(e) Payment from the trust is determined by one or more 87639
trustees who are permitted to exercise any discretion with respect 87640
to the distribution to the applicant or recipient. 87641

(2) If a trust meets the requirement of division (D)(1) of 87642
this section, the amount of the trust that is considered by the 87643
county department of job and family services to be a resource 87644
available to the applicant or recipient shall be the maximum 87645
amount of payments permitted under the terms of the trust to be 87646
distributed to the applicant or recipient, assuming the full 87647
exercise of discretion by the trustee or trustees. The maximum 87648
amount shall include only amounts that are permitted to be 87649
distributed but are not distributed from either the income or 87650
principal of the trust. 87651

(3) Amounts that are actually distributed from a medicaid 87652
qualifying trust to a beneficiary for any purpose shall be treated 87653
in accordance with rules adopted ~~by the department of job and~~ 87654
~~family services~~ under section 5163.02 of the Revised Code 87655
governing income. 87656

(4) Availability of a medicaid qualifying trust shall be 87657
considered without regard to any of the following: 87658

(a) Whether or not the trust is irrevocable or was 87659
established for purposes other than to enable a grantor to qualify 87660
for medicaid, ~~medical assistance for covered families and~~ 87661
~~children, or as a qualified medicare beneficiary, specified~~ 87662

~~low income medicare beneficiary, qualifying individual 1, or~~ 87663
~~qualifying individual 2;~~ 87664

(b) Whether or not the trustee actually exercises discretion. 87665

(5) If any real or personal property is transferred to a 87666
medicaid qualifying trust that is not distributable to the 87667
applicant or recipient, the transfer shall be considered an 87668
improper disposition of assets and shall be subject to section 87669
~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that 87670
section adopted under section ~~5111.011~~ 5163.02 of the Revised 87671
Code. 87672

(6) The baseline date for the look-back period for 87673
disposition of assets involving a medicaid qualifying trust shall 87674
be the date on which the applicant or recipient is both 87675
institutionalized and first applies for medicaid. 87676

(E)(1) A trust or legal instrument or device similar to a 87677
trust shall be considered a self-settled trust if all of the 87678
following apply: 87679

(a) The trust was established on or after August 11, 1993. 87680

(b) The trust was not established by a will. 87681

(c) The trust was established by an applicant or recipient, 87682
spouse of an applicant or recipient, or a person, including a 87683
court or administrative body, with legal authority to act in place 87684
of or on behalf of an applicant, recipient, or spouse, or acting 87685
at the direction or on request of an applicant, recipient, or 87686
spouse. 87687

(2) A trust that meets the requirements of division (E)(1) of 87688
this section and is a revocable trust shall be treated by the 87689
county department of job and family services as follows: 87690

(a) The corpus of the trust shall be considered a resource 87691
available to the applicant or recipient. 87692

(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

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(c) Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section ~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that section adopted under section ~~5111.011~~ 5163.02 of the Revised Code.

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(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

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(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

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(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

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(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section ~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that section adopted under section ~~5111.011~~ 5163.02 of the Revised Code.

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(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

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- (e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed. 87724
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- (f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust. 87727
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- (g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value. 87730
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- (h) Any addition of assets after the foreclosure date shall be considered a separate disposition. 87734
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- (4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient. 87736
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- (5) The availability of a self-settled trust shall be considered without regard to any of the following: 87742
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- (a) The purpose for which the trust is established; 87744
- (b) Whether the trustees have exercised or may exercise discretion under the trust; 87745
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- (c) Any restrictions on when or whether distributions may be made from the trust; 87747
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- (d) Any restrictions on the use of distributions from the trust. 87749
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- (6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized 87751
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and first applies for medicaid. 87754

(F) The principal or income from any of the following shall 87755
not be a resource available to the applicant or recipient: 87756

(1)(a) A special needs trust that meets all of the following 87757
requirements: 87758

(i) The trust contains assets of an applicant or recipient 87759
under sixty-five years of age and may contain the assets of other 87760
individuals. 87761

(ii) The applicant or recipient is disabled as defined in 87762
rules adopted ~~by the department of job and family services~~ under 87763
section 5163.02 of the Revised Code. 87764

(iii) The trust is established for the benefit of the 87765
applicant or recipient by a parent, grandparent, legal guardian, 87766
or a court. 87767

(iv) The trust requires that on the death of the applicant or 87768
recipient the state will receive all amounts remaining in the 87769
trust up to an amount equal to the total amount of medicaid ~~paid~~ 87770
payments made on behalf of the applicant or recipient. 87771

(b) If a special needs trust meets the requirements of 87772
division (F)(1)(a) of this section and has been established for a 87773
disabled applicant or recipient under sixty-five years of age, the 87774
exemption for the trust granted pursuant to division (F) of this 87775
section shall continue after the disabled applicant or recipient 87776
becomes sixty-five years of age if the applicant or recipient 87777
continues to be disabled as defined in rules adopted ~~by the~~ 87778
~~department of job and family services~~ under section 5163.02 of the 87779
Revised Code. Except for income earned by the trust, the grantor 87780
shall not add to or otherwise augment the trust after the 87781
applicant or recipient attains sixty-five years of age. An 87782
addition or augmentation of the trust by the applicant or 87783
recipient with the applicant's own assets after the applicant or 87784

recipient attains sixty-five years of age shall be treated as an 87785
improper disposition of assets. 87786

(c) Cash distributions to the applicant or recipient shall be 87787
counted as unearned income. All other distributions from the trust 87788
shall be treated as provided in rules adopted ~~by the department of~~ 87789
~~job and family services~~ under section 5163.02 of the Revised Code 87790
governing in-kind income. 87791

(d) Transfers of assets to a special needs trust shall not be 87792
treated as an improper transfer of resources. An asset held prior 87793
to the transfer to the trust shall be considered as a resource 87794
available to the applicant or recipient, income available to the 87795
applicant or recipient, or both a resource and income available to 87796
the individual. 87797

(2)(a) A qualifying income trust that meets all of the 87798
following requirements: 87799

(i) The trust is composed only of pension, social security, 87800
and other income to the applicant or recipient, including 87801
accumulated interest in the trust. 87802

(ii) The income is received by the individual and the right 87803
to receive the income is not assigned or transferred to the trust. 87804

(iii) The trust requires that on the death of the applicant 87805
or recipient the state will receive all amounts remaining in the 87806
trust up to an amount equal to the total amount of medicaid ~~paid~~ 87807
payments made on behalf of the applicant or recipient. 87808

(b) No resources shall be used to establish or augment the 87809
trust. 87810

(c) If an applicant or recipient has irrevocably transferred 87811
or assigned the applicant's or recipient's right to receive income 87812
to the trust, the trust shall not be considered a qualifying 87813
income trust by the county department of job and family services. 87814

(d) Income placed in a qualifying income trust shall not be 87815
counted in determining an applicant's or recipient's eligibility 87816
for medicaid. The recipient of the funds may place any income 87817
directly into a qualifying income trust without those funds 87818
adversely affecting the applicant's or recipient's eligibility for 87819
medicaid. Income generated by the trust that remains in the trust 87820
shall not be considered as income to the applicant or recipient. 87821

(e) All income placed in a qualifying income trust shall be 87822
combined with any income available to the individual that is not 87823
placed in the trust to arrive at a base income figure to be used 87824
for spend down calculations. 87825

(f) The base income figure shall be used for post-eligibility 87826
deductions, including personal needs allowance, monthly income 87827
allowance, family allowance, and medical expenses not subject to 87828
third party payment. Any income remaining shall be used toward 87829
payment of patient liability. Payments made from a qualifying 87830
income trust shall not be combined with the base income figure for 87831
post-eligibility calculations. 87832

(g) The base income figure shall be used when determining the 87833
spend down budget for the applicant or recipient. Any income 87834
remaining after allowable deductions are permitted as provided 87835
under rules adopted ~~by the department of job and family services~~ 87836
under section 5163.02 of the Revised Code shall be considered the 87837
applicant's or recipient's spend down liability. 87838

(3)(a) A pooled trust that meets all of the following 87839
requirements: 87840

(i) The trust contains the assets of the applicant or 87841
recipient of any age who is disabled as defined in rules adopted 87842
~~by the department of job and family services~~ under section 5163.02 87843
of the Revised Code. 87844

(ii) The trust is established and managed by a nonprofit 87845

organization. 87846

(iii) A separate account is maintained for each beneficiary 87847
of the trust but, for purposes of investment and management of 87848
funds, the trust pools the funds in these accounts. 87849

(iv) Accounts in the trust are established by the applicant 87850
or recipient, the applicant's or recipient's parent, grandparent, 87851
or legal guardian, or a court solely for the benefit of 87852
individuals who are disabled. 87853

(v) The trust requires that, to the extent that any amounts 87854
remaining in the beneficiary's account on the death of the 87855
beneficiary are not retained by the trust, the trust pay to the 87856
state the amounts remaining in the trust up to an amount equal to 87857
the total amount of medicaid ~~paid~~ payments made on behalf of the 87858
beneficiary. 87859

(b) Cash distributions to the applicant or recipient shall be 87860
counted as unearned income. All other distributions from the trust 87861
shall be treated as provided in rules adopted ~~by the department of~~ 87862
~~job and family services~~ under section 5163.02 of the Revised Code 87863
governing in-kind income. 87864

(c) Transfers of assets to a pooled trust shall not be 87865
treated as an improper disposition of assets. An asset held prior 87866
to the transfer to the trust shall be considered as a resource 87867
available to the applicant or recipient, income available to the 87868
applicant or recipient, or both a resource and income available to 87869
the applicant or recipient. 87870

(4) A supplemental services trust that meets the requirements 87871
of section 5815.28 of the Revised Code and to which all of the 87872
following apply: 87873

(a) A person may establish a supplemental services trust 87874
pursuant to section 5815.28 of the Revised Code only for another 87875
person who is eligible to receive services through one of the 87876

following agencies: 87877

(i) The department of developmental disabilities; 87878

(ii) A county board of developmental disabilities; 87879

(iii) The department of ~~mental health~~ mental health and
addiction services; 87880
87881

(iv) A board of alcohol, drug addiction, and mental health 87882
services. 87883

(b) A county department of job and family services shall not 87884
determine eligibility for another agency's program. An applicant 87885
or recipient shall do one of the following: 87886

(i) Provide documentation from one of the agencies listed in 87887
division (F)(4)(a) of this section that establishes that the 87888
applicant or recipient was determined to be eligible for services 87889
from the agency at the time of the creation of the trust; 87890

(ii) Provide an order from a court of competent jurisdiction 87891
that states that the applicant or recipient was eligible for 87892
services from one of the agencies listed in division (F)(4)(a) of 87893
this section at the time of the creation of the trust. 87894

(c) At the time the trust is created, the trust principal 87895
does not exceed the maximum amount permitted. The maximum amount 87896
permitted in calendar year 2006 is two hundred twenty-two thousand 87897
dollars. Each year thereafter, the maximum amount permitted is the 87898
prior year's amount plus two thousand dollars. 87899

(d) A county department of job and family services shall 87900
review the trust to determine whether it complies with the 87901
provisions of section 5815.28 of the Revised Code. 87902

(e) Payments from supplemental services trusts shall be 87903
exempt as long as the payments are for supplemental services as 87904
defined in rules adopted ~~by the department of job and family~~ 87905
services under section 5163.02 of the Revised Code. All 87906

supplemental services shall be purchased by the trustee and shall 87907
not be purchased through direct cash payments to the beneficiary. 87908

(f) If a trust is represented as a supplemental services 87909
trust and a county department of job and family services 87910
determines that the trust does not meet the requirements provided 87911
in division (F)(4) of this section and section 5815.28 of the 87912
Revised Code, the county department of job and family services 87913
shall not consider it an exempt trust. 87914

(G)(1) A trust or legal instrument or device similar to a 87915
trust shall be considered a trust established by an individual for 87916
the benefit of the applicant or recipient if all of the following 87917
apply: 87918

(a) The trust is created by a person other than the applicant 87919
or recipient. 87920

(b) The trust names the applicant or recipient as a 87921
beneficiary. 87922

(c) The trust is funded with assets or property in which the 87923
applicant or recipient has never held an ownership interest prior 87924
to the establishment of the trust. 87925

(2) Any portion of a trust that meets the requirements of 87926
division (G)(1) of this section shall be a resource available to 87927
the applicant or recipient only if the trust permits the trustee 87928
to expend principal, corpus, or assets of the trust for the 87929
applicant's or recipient's medical care, care, comfort, 87930
maintenance, health, welfare, general well being, or any 87931
combination of these purposes. 87932

(3) A trust that meets the requirements of division (G)(1) of 87933
this section shall be considered a resource available to the 87934
applicant or recipient even if the trust contains any of the 87935
following types of provisions: 87936

(a) A provision that prohibits the trustee from making 87937
payments that would supplant or replace medicaid or other public 87938
assistance; 87939

(b) A provision that prohibits the trustee from making 87940
payments that would impact or have an effect on the applicant's or 87941
recipient's right, ability, or opportunity to receive medicaid or 87942
other public assistance; 87943

(c) A provision that attempts to prevent the trust or its 87944
corpus or principal from being a resource available to the 87945
applicant or recipient. 87946

(4) A trust that meets the requirements of division (G)(1) of 87947
this section shall not be counted as a resource available to the 87948
applicant or recipient if at least one of the following 87949
circumstances applies: 87950

(a) If a trust contains a clear statement requiring the 87951
trustee to preserve a portion of the trust for another beneficiary 87952
or remainderman, that portion of the trust shall not be counted as 87953
a resource available to the applicant or recipient. Terms of a 87954
trust that grant discretion to preserve a portion of the trust 87955
shall not qualify as a clear statement requiring the trustee to 87956
preserve a portion of the trust. 87957

(b) If a trust contains a clear statement requiring the 87958
trustee to use a portion of the trust for a purpose other than 87959
medical care, care, comfort, maintenance, welfare, or general well 87960
being of the applicant or recipient, that portion of the trust 87961
shall not be counted as a resource available to the applicant or 87962
recipient. Terms of a trust that grant discretion to limit the use 87963
of a portion of the trust shall not qualify as a clear statement 87964
requiring the trustee to use a portion of the trust for a 87965
particular purpose. 87966

(c) If a trust contains a clear statement limiting the 87967

trustee to making fixed periodic payments, the trust shall not be 87968
counted as a resource available to the applicant or recipient and 87969
payments shall be treated in accordance with rules adopted ~~by the~~ 87970
~~department of job and family services~~ under section 5163.02 of the 87971
Revised Code governing income. Terms of a trust that grant 87972
discretion to limit payments shall not qualify as a clear 87973
statement requiring the trustee to make fixed periodic payments. 87974

(d) If a trust contains a clear statement that requires the 87975
trustee to terminate the trust if it is counted as a resource 87976
available to the applicant or recipient, the trust shall not be 87977
counted as such. Terms of a trust that grant discretion to 87978
terminate the trust do not qualify as a clear statement requiring 87979
the trustee to terminate the trust. 87980

(e) If a person obtains a judgment from a court of competent 87981
jurisdiction that expressly prevents the trustee from using part 87982
or all of the trust for the medical care, care, comfort, 87983
maintenance, welfare, or general well being of the applicant or 87984
recipient, the trust or that portion of the trust subject to the 87985
court order shall not be counted as a resource available to the 87986
applicant or recipient. 87987

(f) If a trust is specifically exempt from being counted as a 87988
resource available to the applicant or recipient by a provision of 87989
the Revised Code, rules, or federal law, the trust shall not be 87990
counted as such. 87991

(g) If an applicant or recipient presents a final judgment 87992
from a court demonstrating that the applicant or recipient was 87993
unsuccessful in a civil action against the trustee to compel 87994
payments from the trust, the trust shall not be counted as a 87995
resource available to the applicant or recipient. 87996

(h) If an applicant or recipient presents a final judgment 87997
from a court demonstrating that in a civil action against the 87998

trustee the applicant or recipient was only able to compel limited 87999
or periodic payments, the trust shall not be counted as a resource 88000
available to the applicant or recipient and payments shall be 88001
treated in accordance with rules adopted ~~by the department of job~~ 88002
~~and family services~~ under section 5163.02 of the Revised Code 88003
governing income. 88004

(i) If an applicant or recipient provides written 88005
documentation showing that the cost of a civil action brought to 88006
compel payments from the trust would be cost prohibitive, the 88007
trust shall not be counted as a resource available to the 88008
applicant or recipient. 88009

(5) Any actual payments to the applicant or recipient from a 88010
trust that meet the requirements of division (G)(1) of this 88011
section, including trusts that are not counted as a resource 88012
available to the applicant or recipient, shall be treated as 88013
provided in rules adopted ~~by the department of job and family~~ 88014
~~services~~ under section 5163.02 of the Revised Code governing 88015
income. Payments to any person other than the applicant or 88016
recipient shall not be considered income to the applicant or 88017
recipient. Payments from the trust to a person other than the 88018
applicant or recipient shall not be considered an improper 88019
disposition of assets. 88020

Sec. ~~5111.181~~ 5163.22. (A) The general assembly hereby finds 88021
that the state has an insurable interest in ~~medical assistance~~ 88022
medicaid recipients because of the state's statutory right to 88023
recover from the estate of a recipient state funds used to provide 88024
the recipient with ~~medical care and~~ medicaid services. 88025

(B) As used in this section: 88026

(1) "Beneficiary" means the person or entity designated in a 88027
life insurance policy to receive the proceeds of the policy on the 88028
death of the insured or maturity of the policy. 88029

(2) "Owner" means the person who has the right to designate the beneficiary of a life insurance policy and to change the designation. 88030
88031
88032

(C) ~~Notwithstanding section 5111.011 of the Revised Code, the~~ 88033
The value of a life insurance policy that would otherwise be 88034
considered a resource in determining eligibility for the ~~medical~~ 88035
~~assistance~~ medicaid program shall be excluded from any 88036
determination of a person's eligibility for the ~~medical assistance~~ 88037
medicaid program if the owner designates the department of ~~job and~~ 88038
~~family services~~ medicaid as beneficiary of the policy. The 88039
department may pay premiums to keep the policy in force. Premiums 88040
paid by the department are ~~medical assistance~~ medicaid payments 88041
correctly paid on behalf of a ~~medical assistance~~ medicaid 88042
recipient and subject to recovery under section ~~5111.11~~ 5162.21 of 88043
the Revised Code. 88044

(D) The medicaid director ~~of job and family services~~ shall 88045
deposit the proceeds of a life insurance policy that do not exceed 88046
the amount the department may recover against the property and 88047
estate of the owner under section ~~5111.11~~ 5162.21 of the Revised 88048
Code into the general revenue fund. The director shall pay any 88049
remaining proceeds to the person designated by the owner. If the 88050
owner failed to designate a person, the director shall pay the 88051
remaining proceeds to the surviving spouse, or, if there is no 88052
surviving spouse, to the estate of the owner. 88053

(E) If the owner designates the department of ~~job and family~~ 88054
~~services~~ medicaid as the policy's beneficiary, the department 88055
shall notify the owner that the owner may designate a person to 88056
receive proceeds of the policy that exceed the amount the 88057
department may recover against the owner's property and estate 88058
under section ~~5111.11~~ 5162.21 of the Revised Code. The designation 88059
shall be made on a form provided by the department. 88060

~~(F) The department of job and family services shall not~~ 88061

~~implement this section if implementation would violate any federal 88062
requirement unless the department receives a waiver of the 88063
requirement from the United States department of health and human 88064
services. 88065~~

Sec. ~~5111.0116~~ 5163.30. (A) As used in this section: 88066

(1) "Assets" include all of an individual's income and 88067
resources and those of the individual's spouse, including any 88068
income or resources the individual or spouse is entitled to but 88069
does not receive because of action by any of the following: 88070

(a) The individual or spouse; 88071

(b) A person or government entity, including a court or 88072
administrative agency, with legal authority to act in place of or 88073
on behalf of the individual or spouse; 88074

(c) A person or government entity, including a court or 88075
administrative agency, acting at the direction or on the request 88076
of the individual or spouse. 88077

(2) "Home and community-based services" means home and 88078
community-based services furnished under a medicaid waiver granted 88079
by the United States secretary of health and human services under 88080
the "Social Security Act," section 1915(c) or (d), 42 U.S.C. 88081
1396n(c) or (d). 88082

(3) "Institutionalized individual" means a resident of a 88083
nursing facility, an inpatient in a medical institution for whom a 88084
payment is made based on a level of care provided in a nursing 88085
facility, or an individual described in the "Social Security Act," 88086
section 1902(a)(10)(A)(ii)(VI), 42 U.S.C. 1396a(a)(10)(A)(ii)(VI). 88087

(4) "Look-back date" means the date that is a number of 88088
months specified in rules adopted under section ~~5111.011~~ 5163.02 88089
of the Revised Code immediately before either of the following: 88090

(a) The date an individual becomes an institutionalized 88091

individual if the individual is eligible for medicaid on that 88092
date; 88093

(b) The date an individual applies for medicaid while an 88094
institutionalized individual. 88095

(5) ~~"Nursing facility" has the same meaning as in section~~ 88096
~~5111.20 of the Revised Code.~~ 88097

~~(6)~~ "Nursing facility equivalent services" means services 88098
that are covered by the medicaid program, equivalent to nursing 88099
facility services, provided by an institution that provides the 88100
same level of care as a nursing facility, and provided to an 88101
inpatient of the institution who is a medicaid recipient eligible 88102
for medicaid-covered nursing facility equivalent services. 88103

~~(7) "Nursing facility services" means nursing facility~~ 88104
~~services covered by the medicaid program that a nursing facility~~ 88105
~~provides to a resident of the nursing facility who is a medicaid~~ 88106
~~recipient eligible for medicaid covered nursing facility services.~~ 88107

~~(8)~~(6) "Undue hardship" means being deprived of either of the 88108
following: 88109

(a) Medical care such that an individual's health or life is 88110
endangered; 88111

(b) Food, clothing, shelter, or other necessities of life. 88112

(B) Except as provided in division (C) of this section and 88113
rules adopted under section ~~5111.011~~ 5163.02 of the Revised Code, 88114
an institutionalized individual is ineligible for nursing facility 88115
services, nursing facility equivalent services, and home and 88116
community-based services if the individual or individual's spouse 88117
disposes of assets for less than fair market value on or after the 88118
look-back date. The institutionalized individual's ineligibility 88119
shall begin on a date determined in accordance with rules adopted 88120
under section ~~5111.011~~ 5163.02 of the Revised Code and shall 88121

continue for a number of months determined in accordance with such 88122
rules. 88123

(C) An institutionalized individual may be granted a waiver 88124
of all or a portion of the period of ineligibility to which the 88125
individual would otherwise be subjected under division (B) of this 88126
section if the ineligibility would cause an undue hardship for the 88127
individual. An institutionalized individual shall be granted a 88128
waiver of all or a portion of the period of ineligibility if the 88129
administrator of the nursing facility in which the individual 88130
resides has notified the individual of a proposed transfer or 88131
discharge under section 3721.16 of the Revised Code due to failure 88132
to pay for the care the nursing facility has provided to the 88133
individual, the individual or the individual's sponsor requests a 88134
hearing on the proposed transfer or discharge in accordance with 88135
section 3721.161 of the Revised Code, and the transfer or 88136
discharge is upheld by a final determination that is not subject 88137
to further appeal. Waivers shall be granted in accordance with 88138
rules adopted under section ~~5111.011~~ 5163.02 of the Revised Code. 88139

(D) To secure compliance with this section, the medicaid 88140
~~director of job and family services~~ may require an individual, as 88141
a condition of initial or continued eligibility for medicaid, to 88142
provide documentation of the individual's assets up to five years 88143
before the date the individual becomes an institutionalized 88144
individual if the individual is eligible for medicaid on that date 88145
or the date the individual applies for medicaid while an 88146
institutionalized individual. Documentation may include tax 88147
returns, records from financial institutions, and real property 88148
records. 88149

Sec. ~~5111.0117~~ 5163.31. (A) ~~As used in this section and~~ 88150
~~section 5111.0118 of the Revised Code:~~ 88151

~~(1) "ICF/MR services" means intermediate care facility for~~ 88152

~~the mentally retarded services covered by the medicaid program 88153
that an intermediate care facility for the mentally retarded 88154
provides to a resident of the facility who is a medicaid recipient 88155
eligible for medicaid covered intermediate care facility for the 88156
mentally retarded services. 88157~~

~~(2) "Intermediate care facility for the mentally retarded" 88158
has the same meaning as in section 5111.20 of the Revised Code. 88159~~

~~(3) "Nursing facility" has the same meaning as in section 88160
5111.20 of the Revised Code. 88161~~

~~(4) "Nursing facility services" means nursing facility 88162
services covered by the medicaid program that a nursing facility 88163
provides to a resident of the nursing facility who is a medicaid 88164
recipient eligible for medicaid covered nursing facility services. 88165~~

~~(5) "Other medicaid funded long term care services" has the 88166
meaning specified in rules adopted under section 5111.011 of the 88167
Revised Code. 88168~~

~~(B) Except as provided by division (C)(A) of this section and 88169
for the purpose of determining whether an aged, blind, or disabled 88170
individual is eligible for nursing facility services, ICF/MR 88171
services, or other medicaid-funded long-term care services, the 88172
medicaid director ~~of job and family services~~ may consider an aged, 88173
blind, or disabled individual's real property to not be the 88174
individual's homestead or principal place of residence once the 88175
individual has resided in a nursing facility, ~~intermediate care~~ 88176
~~facility for the mentally retarded~~ ICF/MR, or other medical 88177
institution for at least thirteen months. 88178~~

~~(C)(B) Division (B)(A) of this section does not apply to an 88179
individual if any of the following reside in the individual's real 88180
property that, because of this division, continues to be 88181
considered the individual's homestead or principal place of 88182
residence: 88183~~

(1) The individual's spouse;	88184
(2) The individual's child if any of the following apply:	88185
(a) The child is under twenty-one years of age.	88186
(b) The child is considered blind or disabled under <u>the</u>	88187
<u>"Social Security Act," section 1614, 42 U.S.C. 1382c.</u>	88188
(c) The child is financially dependent on the individual for	88189
housing as determined in accordance with rules adopted under	88190
section 5111.011 <u>5163.02</u> of the Revised Code.	88191
(3) The individual's sibling if the sibling has a verified	88192
equity interest in the real property and resided in the real	88193
property for at least one year immediately before the date the	88194
individual was admitted to the nursing facility, intermediate care	88195
facility for the mentally retarded <u>ICF/MR</u> , or other medical	88196
institution.	88197
Sec. 5111.0118 <u>5163.32</u>. (A) Except as otherwise provided by	88198
this section, no individual shall qualify for nursing facility	88199
services or other medicaid-funded long-term care services if the	88200
individual's equity interest in the individual's home exceeds five	88201
hundred thousand dollars. The <u>medicaid</u> director of job and family	88202
services shall increase this amount effective January 1, 2011, and	88203
the first day of each year thereafter, by the percentage increase	88204
in the consumer price index for all urban consumers (all items;	88205
United States city average), rounded to the nearest one thousand	88206
dollars.	88207
(B) This section does not apply to an individual if either of	88208
the following applies:	88209
(1) Either of the following lawfully reside in the	88210
individual's home:	88211
(a) The individual's spouse;	88212

(b) The individual's child if the child is under twenty-one 88213
years of age or, under the "Social Security Act," section 1614, 42 88214
U.S.C. 1382c, considered blind or disabled. 88215

(2) The individual qualifies, pursuant to the process 88216
established under division (C) of this section, for a waiver of 88217
this section due to a demonstrated hardship. 88218

(C) The director shall establish a process by which 88219
individuals may obtain a waiver of this section due to a 88220
demonstrated hardship. The process shall be consistent with the 88221
process for such waivers established by the United States 88222
secretary of health and human services under the "Social Security 88223
Act," section 1917(f)(4), 42 U.S.C. 1396p(f)(4). 88224

(D) Nothing in this section shall be construed as preventing 88225
an individual from using a reverse mortgage or home equity loan to 88226
reduce the individual's total equity interest in the home. 88227

~~Sec. 5111.114 5163.33. As used in this section, "nursing 88228
facility" and "intermediate care facility for the mentally 88229
retarded" have the same meanings as in section 5111.20 of the 88230
Revised Code. 88231~~

~~(A) In determining the amount of income that a medicaid 88232
recipient ~~of medical assistance~~ must apply monthly toward payment 88233
of the cost of care in a nursing facility or ~~intermediate care~~ 88234
~~facility for the mentally retarded ICF/MR, the a~~ county department 88235
of job and family services shall deduct from the recipient's 88236
monthly income a monthly personal needs allowance in accordance 88237
with ~~section 1902 of the "Social Security Act," 49 Stat. 620~~ 88238
~~(1935) section 1902(q), 42 U.S.C.A. 1396a, as amended 1396a(q).~~ 88239~~

~~For (B) In the case of a resident of a nursing facility, the 88240
monthly personal needs allowance shall be as follows: 88241~~

~~(1) Prior to January 1, 2014, not less than forty dollars for 88242~~

an individual resident and not less than eighty dollars for a 88243
married couple if both spouses are residents of a nursing facility 88244
and their incomes are considered available to each other in 88245
determining eligibility; 88246

(2) For calendar year 2014, not less than forty-five dollars 88247
for an individual resident and not less than ninety dollars for a 88248
married couple if both spouses are residents of a nursing facility 88249
and their incomes are considered available to each other in 88250
determining eligibility; 88251

(3) For calendar year 2015 and each calendar year thereafter, 88252
not less than fifty dollars for an individual resident and not 88253
less than one hundred dollars for a married couple if both spouses 88254
are residents of a nursing facility and their incomes are 88255
considered available to each other in determining eligibility. 88256

~~For (C) In the case of a resident of an intermediate care~~ 88257
~~facility for the mentally retarded ICF/MR, the monthly personal~~ 88258
needs allowance shall be forty dollars unless the resident has 88259
earned income, in which case the monthly personal needs allowance 88260
shall be determined by the state department of job and family 88261
~~services~~ medicaid, or the department's designee, but shall not 88262
exceed one hundred five dollars. 88263

Sec. ~~5111.013~~ 5163.40. (A) ~~The provision of medical~~ 88264
~~assistance to pregnant women and young children who are eligible~~ 88265
~~for medical assistance under division (C)(3) of section 5111.01 of~~ 88266
~~the Revised Code, but who are not otherwise eligible for medical~~ 88267
~~assistance under that section, shall be known as the healthy start~~ 88268
~~program.~~ 88269

~~(B)~~ The department of ~~job and family services~~ medicaid shall 88270
do all of the following with regard to the application procedures 88271
for the healthy start component of the medicaid program: 88272

(1) Establish a short application form for the ~~program~~ component that requires the applicant to provide no more information than is necessary for making determinations of eligibility for the ~~healthy start program~~ component, except that the form may require applicants to provide their social security numbers. The form shall include a statement, which must be signed by the applicant, indicating that she does not choose at the time of making application for the ~~program~~ component to apply for assistance provided under any other program administered by the department or the department of job and family services and that she understands that she is permitted at any other time to apply at the county department of job and family services of the county in which she resides for ~~any~~ other assistance administered by the department or the department of job and family services.

(2) ~~To the extent permitted by federal law, do~~ Do one or both of the following:

(a) Distribute the application form for the ~~program~~ component to each public or private entity that serves as a women, infants, and children clinic or as a child and family health clinic and to each administrative body for such clinics and train employees of each such ~~agency clinic~~ or entity administrative body to provide applicants assistance in completing the form;

(b) In cooperation with the department of health, develop arrangements under which employees of county departments of job and family services are stationed at public or private ~~agencies or~~ entities selected by the department of ~~job and family services~~ medicaid that serve as women, infants, and children clinics; child and family health clinics; or administrative bodies for such clinics for the purpose both of assisting applicants for the ~~program~~ component in completing the application form and of making determinations at that location of eligibility for the ~~program~~ component.

(3) Establish performance standards by which a county department of job and family services' level of enrollment of persons potentially eligible for the ~~program~~ component can be measured, and establish acceptable levels of enrollment for each county department.

(4) Direct any county department of job and family services whose rate of enrollment of potentially eligible enrollees in the ~~program~~ component is below acceptable levels established under division ~~(B)~~(A)(3) of this section to implement corrective action. Corrective action may include but is not limited to any one or more of the following ~~to the extent permitted by federal law:~~

(a) Establishing formal referral and outreach methods with local health departments and local entities receiving funding through the bureau of maternal and child health;

(b) Designating a specialized intake unit within the county department for healthy start applicants;

(c) Establishing abbreviated timeliness requirements to shorten the time between receipt of an application and the scheduling of an initial application interview;

(d) Establishing a system for telephone scheduling of intake interviews for applicants;

(e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department.

~~(C) To the extent permitted by federal law, local funds, whether from public or private sources, expended by a county department for administration of the healthy start program shall~~

~~be considered to have been expended by the state for the purpose 88336
of determining the extent to which the state has complied with any 88337
federal requirement that the state provide funds to match federal 88338
funds for medical assistance, except that this division shall not 88339
affect the amount of funds the county is entitled to receive under 88340
section 5101.16, 5101.161, or 5111.012 of the Revised Code. 88341~~

~~(D)~~(B) A county department of job and family services that 88342
maintains offices at more than one location shall accept 88343
applications for the healthy start ~~program~~ component at all of 88344
those locations. 88345

~~(E) The director of job and family services shall adopt rules 88346
in accordance with section 111.15 of the Revised Code as necessary 88347
to implement this section. 88348~~

Sec. ~~5111.0119~~ 5163.45. (A)(1) As used in this section, 88349
subject to division (A)(2) of this section, "state or local 88350
correctional facility" means any of the following: 88351

(a) A "state correctional institution," as defined in section 88352
2967.01 of the Revised Code; 88353

(b) A "local correctional facility," as defined in section 88354
2903.13 of the Revised Code; 88355

(c) A correctional facility that is privately operated and 88356
managed pursuant to section 9.06 of the Revised Code. 88357

(2) "State or local correctional facility" does not include 88358
any facility operated directly by or at the direction of the 88359
department of youth services. 88360

(B) If a person who is confined in a state or local 88361
correctional facility was a medicaid recipient immediately prior 88362
to being confined in the facility, all of the following apply: 88363

(1) The person's eligibility for medicaid while so confined 88364
shall be suspended due to the confinement. 88365

(2) No medicaid payment shall be made for any care, services, 88366
or supplies provided to the person during the suspension described 88367
in division (B)(1) of this section. 88368

(3) The suspension described in division (B)(1) of this 88369
section shall end upon the release of the person from the 88370
confinement. 88371

(4) Except as provided in division (C) of this section, the 88372
person shall not be required to reapply or undergo a 88373
redetermination of eligibility for medicaid when the suspension 88374
described in division (B)(1) of this section ends. 88375

(C) A person may be disenrolled from medicaid any time after 88376
the suspension described in division (B)(1) of this section ends 88377
if the person is no longer eligible for medicaid. A person may be 88378
required to undergo a redetermination of eligibility for medicaid 88379
any time after the suspension described in division (B)(1) of this 88380
section ends if it is time or past time for the person's 88381
eligibility redetermination or the person's circumstances have 88382
changed in a manner warranting a redetermination. 88383

~~(D) The department of job and family services shall take the 88384
steps necessary to begin implementation of this section not later 88385
than September 1, 2009. 88386~~

Sec. 5164.01. As used in this chapter: 88387

(A) "Early and periodic screening, diagnostic, and treatment 88388
services" has the same meaning as in the "Social Security Act," 88389
section 1905(r), 42 U.S.C. 1396d(r). 88390

(B) "Federal financial participation" has the same meaning as 88391
in section 5160.01 of the Revised Code. 88392

(C) "Healthcheck" means the component of the medicaid program 88393
that provides early and periodic screening, diagnostic, and 88394
treatment services. 88395

<u>(D) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.</u>	88396
	88397
	88398
<u>(E) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.</u>	88399
	88400
<u>(F) "ICF/MR" has the same meaning as in section 5124.01 of the Revised Code.</u>	88401
	88402
<u>(G) "Mandatory services" means the medical services and items that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program.</u>	88403
	88404
	88405
	88406
<u>(H) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.</u>	88407
	88408
<u>(I) "Medicaid provider" means a person or government entity with a valid provider agreement to provide medicaid services to medicaid recipients. To the extent appropriate in the context, "medicaid provider" includes a person or government entity applying for a provider agreement, a former medicaid provider, or both.</u>	88409
	88410
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	88412
	88413
	88414
<u>(J) "Medicaid services" means either or both of the following:</u>	88415
	88416
<u>(1) Mandatory services;</u>	88417
<u>(2) Optional services that the medicaid program covers.</u>	88418
<u>(K) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.</u>	88419
	88420
<u>(L) "Optional services" means the medical services and items that may be covered by the medicaid state plan or a federal medicaid waiver and for which the medicaid program receives federal financial participation.</u>	88421
	88422
	88423
	88424
<u>(M) "Prescribed drug" has the same meaning as in 42 C.F.R.</u>	88425

<u>440.120.</u>	88426
<u>(N) "Provider agreement" means an agreement to which all of the following apply:</u>	88427
<u>(1) It is between a medicaid provider and the department of medicaid;</u>	88428
<u>(2) It provides for the medicaid provider to provide medicaid services to medicaid recipients;</u>	88429
<u>(3) It complies with 42 C.F.R. 431.107(b).</u>	88430
<u>(O) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.</u>	88431
	88432
<u>Sec. 5111.02 5164.02. (A) The director of job and family services shall adopt, and may amend or rescind, rules under medicaid director shall adopt rules as necessary to implement this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code establishing the amount, duration, and scope of medicaid services. The rules shall be consistent with federal and state law. The rules may be different for different medicaid services. The</u>	88433
	88436
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	88443
<u>(B) The rules shall establish all of the following:</u>	88444
(A) The conditions under which the medicaid program shall cover and reimburse medicaid services;	88445
	88446
(B) The method of reimbursement applicable to each medicaid service <u>(1) The amount, duration, and scope of the medicaid services covered by the medicaid program;</u>	88447
	88448
	88449
(C)(2) The payment amount of reimbursement for each medicaid service or, in lieu of amounts the payment amount, methods the method by which amounts are the payment amount is to be determined for each medicaid service;	88450
	88451
	88452
	88453
(D)(3) Procedures for enforcing the rules adopted under this	88454

section that provide due process protections, including procedures 88455
for corrective action plans for, and imposing financial and 88456
administrative sanctions on, persons and government entities that 88457
violate the rules. 88458

(C) The rules may be different for different medicaid 88459
services. 88460

(D) The medicaid director is not required to adopt a rule 88461
establishing the payment amount for a medicaid service if the 88462
director adopts a rule establishing the method by which the 88463
payment amount is to be determined for the medicaid service and 88464
makes the payment amount available on the internet web site 88465
maintained by the department of medicaid. 88466

Sec. 5164.03. (A) The medicaid program shall cover all 88467
mandatory services. 88468

(B) The medicaid program shall cover all of the optional 88469
services that state statutes require the medicaid program to 88470
cover. 88471

(C) The medicaid program may cover any of the optional 88472
services to which either of the following applies: 88473

(1) State statutes expressly permit the medicaid program to 88474
cover the optional service; 88475

(2) State statutes do not address whether the medicaid 88476
program may cover the optional service. 88477

(D) The medicaid program shall not cover any optional 88478
services that state statutes prohibit the medicaid program from 88479
covering. 88480

Sec. 5111.04 5164.05. (A) As used in this section: 88481

(1) "Outpatient health facility" means a facility that 88482
provides comprehensive primary health services by or under the 88483

direction of a physician at least five days per week on a 88484
forty-hour per week basis to outpatients, is operated by the board 88485
of health of a city or general health district or another public 88486
agency or by a nonprofit private agency or organization under the 88487
direction and control of a governing board that has no 88488
health-related responsibilities other than the direction and 88489
control of one or more such outpatient health facilities, and 88490
receives at least seventy-five per cent of its operating funds 88491
from public sources, except that it does not include an outpatient 88492
hospital facility or a federally qualified health center as 88493
defined in ~~Sec. 1905(1) (2)(B) of the "Social Security Act," 103~~ 88494
~~Stat. 2264 (1989)~~ section 1905(1)(2)(B), 42 U.S.C.A. 88495
1396d(1)(2)(B). 88496

(2) "Comprehensive primary health services" means preventive, 88497
diagnostic, therapeutic, rehabilitative, or palliative items or 88498
services that include all of the following: 88499

(a) Services of physicians, physician assistants, and 88500
certified nurse practitioners; 88501

(b) Diagnostic laboratory and radiological services; 88502

(c) Preventive health services, such as children's eye and 88503
ear examinations, perinatal services, well child services, and 88504
family planning services; 88505

(d) Arrangements for emergency medical services; 88506

(e) Transportation services. 88507

(3) "Certified nurse practitioner" has the same meaning as in 88508
section 4723.01 of the Revised Code. 88509

(B) ~~Outpatient~~ Subject to division (C) of this section, the 88510
medicaid program shall cover comprehensive primary health services 88511
provided by outpatient health facilities ~~are a separate category~~ 88512
~~of medical care provider under the rules governing the~~ 88513

~~administration of the medical assistance program established under~~ 88514
~~section 5111.01 of the Revised Code with valid provider~~ 88515
~~agreements. Rates of reimbursement for items and services provided~~ 88516
~~by an outpatient health facility under this section shall be~~ 88517
~~prospectively determined by the~~ The department of job and family 88518
~~services~~ medicaid shall prospectively determine the medicaid 88519
payment rates for such comprehensive primary health services not 88520
less often than once each year~~7~~. The rates shall not be subject to 88521
retroactive adjustment based on actual costs incurred~~7~~, and. The 88522
rates shall not exceed the maximum fee schedule or rates of 88523
payment, limitations based on reasonable costs or customary 88524
charges, and limitations based on combined payments received for 88525
furnishing comparable services, as are applicable to outpatient 88526
hospital facilities under ~~Title XVIII of the "Social Security Act~~ 88527
medicare program." In determining ~~rates of reimbursement an~~ 88528
outpatient health facility's rate prospectively, the department 88529
shall take into account the historic expenses of the facility, the 88530
operating requirements and services offered by the facility, and 88531
the geographical location of the facility, shall provide 88532
incentives for the efficient and economical utilization of the 88533
facility's resources, and shall ensure that the facility does not 88534
discriminate between classes of persons for whom or by whom 88535
payment for ~~items and~~ the services is made. 88536

(C) A An outpatient health facility does not qualify for 88537
~~classification as an outpatient health facility~~ medicaid payments 88538
under this section unless it: 88539

(1) Has health and medical care policies developed with the 88540
advice of and subject to review by an advisory committee of 88541
professional personnel, including one or more physicians, one or 88542
more dentists if dental care is provided, and one or more 88543
registered nurses; 88544

(2) Has a medical director, a dental director, if dental care 88545

is provided, and a nursing director responsible for the execution 88546
of such policies, and has physicians, dentists, nursing, and 88547
ancillary staff appropriate to the scope of services provided; 88548

(3) Requires that the care of every patient be under the 88549
supervision of a physician, provides for medical care in case of 88550
emergency, has in effect a written agreement with one or more 88551
hospitals and one or more other outpatient facilities, and has an 88552
established system for the referral of patients to other resources 88553
and a utilization review plan and program; 88554

(4) Maintains clinical records on all patients; 88555

(5) Provides nursing services and other therapeutic services 88556
in compliance with applicable laws and rules and under the 88557
supervision of a registered nurse, and has a registered nurse on 88558
duty at all times when the facility is in operation; 88559

(6) Follows approved methods and procedures for the 88560
dispensing and administration of drugs and biologicals; 88561

(7) Maintains the accounting and record-keeping system 88562
required under federal laws and regulations for the determination 88563
of reasonable and allowable costs. 88564

Sec. ~~5111.029~~ 5164.06. The medicaid program shall cover 88565
occupational therapy services provided by an occupational 88566
therapist licensed under section 4755.08 of the Revised Code. 88567
Coverage shall not be limited to services provided in a hospital 88568
or nursing facility. Any licensed occupational therapist may enter 88569
into a ~~medicaid~~ provider agreement with the department of ~~job and~~ 88570
~~family services~~ medicaid to provide occupational therapy services 88571
under the medicaid program. 88572

Sec. ~~5111.018~~ 5164.07. (A) The ~~provision of medical~~ 88573
~~assistance under this chapter~~ medicaid program shall include 88574
coverage of inpatient care and follow-up care for a mother and her 88575

newborn as follows: 88576

(1) The ~~medical assistance~~ medicaid program shall cover a 88577
minimum of forty-eight hours of inpatient care following a normal 88578
vaginal delivery and a minimum of ninety-six hours of inpatient 88579
care following a cesarean delivery. Services covered as inpatient 88580
care shall include medical, educational, and any other services 88581
that are consistent with the inpatient care recommended in the 88582
protocols and guidelines developed by national organizations that 88583
represent pediatric, obstetric, and nursing professionals. 88584

(2) The ~~medical assistance~~ medicaid program shall cover a 88585
physician-directed source of follow-up care. Services covered as 88586
follow-up care shall include physical assessment of the mother and 88587
newborn, parent education, assistance and training in breast or 88588
bottle feeding, assessment of the home support system, performance 88589
of any medically necessary and appropriate clinical tests, and any 88590
other services that are consistent with the follow-up care 88591
recommended in the protocols and guidelines developed by national 88592
organizations that represent pediatric, obstetric, and nursing 88593
professionals. The coverage shall apply to services provided in a 88594
medical setting or through home health care visits. The coverage 88595
shall apply to a home health care visit only if the health care 88596
professional who conducts the visit is knowledgeable and 88597
experienced in maternity and newborn care. 88598

When a decision is made in accordance with division (B) of 88599
this section to discharge a mother or newborn prior to the 88600
expiration of the applicable number of hours of inpatient care 88601
required to be covered, the coverage of follow-up care shall apply 88602
to all follow-up care that is provided within forty-eight hours 88603
after discharge. When a mother or newborn receives at least the 88604
number of hours of inpatient care required to be covered, the 88605
coverage of follow-up care shall apply to follow-up care that is 88606
determined to be medically necessary by the health care 88607

professionals responsible for discharging the mother or newborn. 88608

(B) Any decision to shorten the length of inpatient stay to 88609
less than that specified under division (A)(1) of this section 88610
shall be made by the physician attending the mother or newborn, 88611
except that if a nurse-midwife is attending the mother in 88612
collaboration with a physician, the decision may be made by the 88613
nurse-midwife. Decisions regarding early discharge shall be made 88614
only after conferring with the mother or a person responsible for 88615
the mother or newborn. For purposes of this division, a person 88616
responsible for the mother or newborn may include a parent, 88617
guardian, or any other person with authority to make medical 88618
decisions for the mother or newborn. 88619

(C) The department of ~~job and family services~~ medicaid, in 88620
administering the ~~medical assistance~~ medicaid program, may not do 88621
either of the following: 88622

(1) Terminate the ~~participation~~ provider agreement of a 88623
health care professional or health care facility ~~as a provider~~ 88624
~~under the program~~ solely for making recommendations for inpatient 88625
or follow-up care for a particular mother or newborn that are 88626
consistent with the care required to be covered by this section; 88627

(2) Establish or offer monetary or other financial incentives 88628
for the purpose of encouraging a person to decline the inpatient 88629
or follow-up care required to be covered by this section. 88630

(D) This section does not do any of the following: 88631

(1) Require the ~~medical assistance~~ medicaid program to cover 88632
inpatient or follow-up care that is not received in accordance 88633
with the program's terms pertaining to the health care 88634
professionals and facilities from which ~~an individual~~ a medicaid 88635
recipient is authorized to receive health care services. 88636

(2) Require a mother or newborn to stay in a hospital or 88637
other inpatient setting for a fixed period of time following 88638

delivery; 88639

(3) Require a child to be delivered in a hospital or other 88640
inpatient setting; 88641

(4) Authorize a nurse-midwife to practice beyond the 88642
authority to practice nurse-midwifery in accordance with Chapter 88643
4723. of the Revised Code; 88644

(5) Establish minimum standards of medical diagnosis, care, 88645
or treatment for inpatient or follow-up care for a mother or 88646
newborn. A deviation from the care required to be covered under 88647
this section shall not, on the basis of this section, give rise to 88648
a medical claim or derivative medical claim, as those terms are 88649
defined in section 2305.113 of the Revised Code. 88650

Sec. ~~5111.024~~ 5164.08. (A) As used in this section, 88651
"screening mammography" means a radiologic examination utilized to 88652
detect unsuspected breast cancer at an early stage in asymptomatic 88653
women and includes the x-ray examination of the breast using 88654
equipment that is dedicated specifically for mammography, 88655
including the x-ray tube, filter, compression device, screens, 88656
film, and cassettes, and that has an average radiation exposure 88657
delivery of less than one rad mid-breast. "Screening mammography" 88658
includes two views for each breast. The term also includes the 88659
professional interpretation of the film. 88660

"Screening mammography" does not include diagnostic 88661
mammography. 88662

(B) ~~In addition to any other services required to be included~~ 88663
~~in the program or for which federal approval is received, the~~ 88664
~~medical assistance~~ The medicaid program shall include cover both 88665
of the following ~~if approval for use of federal funds is granted~~ 88666
~~to the department by the federal agency responsible for~~ 88667
~~distributing funds under Title XIX of the "Social Security Act,"~~ 88668

~~49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:~~ 88669

(1) ~~Effective July 1, 1993, screening~~ Screening mammography 88670
to detect the presence of breast cancer in adult women; 88671

(2) ~~Effective January 1, 1993, cytologic~~ Cytologic screening 88672
for the presence of cervical cancer. 88673

(C) ~~The service provided under~~ medicaid program's coverage of
screening mammography pursuant to division (B)(1) of this section 88674
shall be provided in accordance with all of the following: 88675
88676

(1) If a woman is at least thirty-five years of age but under 88677
forty years of age, one screening mammography; 88678

(2) If a woman is at least forty years of age but under fifty 88679
years of age, either of the following: 88680

(a) One screening mammography every two years; 88681

(b) If a licensed physician has determined that the woman has 88682
risk factors to breast cancer, one screening mammography every 88683
year. 88684

(3) If a woman is at least fifty years of age but under 88685
sixty-five years of age, one screening mammography every year. 88686

(D) ~~The service provided under~~ medicaid program's coverage of 88687
screening mammographies pursuant to division (B)(1) of this 88688
section shall be provided only for screening mammographies that 88689
are performed in a facility or mobile mammography screening unit 88690
that is accredited under the American college of radiology 88691
mammography accreditation program or in a hospital as defined in 88692
section 3727.01 of the Revised Code. 88693

(E) ~~The service provided under~~ medicaid program's coverage of 88694
cytologic screenings pursuant to division (B)(2) of this section 88695
shall be provided only for cytologic screenings that are processed 88696
and interpreted in a laboratory certified by the college of 88697
American pathologists or in a hospital as defined in section 88698

3727.01 of the Revised Code. 88699

Sec. ~~5111.023~~ 5164.15. (A) As used in this section: 88700

(1) "Community mental health ~~agency~~ services provider or 88701
facility" means a community mental health ~~agency~~ services provider 88702
or facility that has its community mental health services 88703
certified by the department of ~~mental health~~ mental health and 88704
addiction services under section ~~5119.611~~ 5119.36 of the Revised 88705
Code or by the department of job and family services under section 88706
5103.03 of the Revised Code. 88707

(2) "Mental health professional" means a person qualified to 88708
work with mentally ill persons under the standards established by 88709
the director of ~~mental health~~ mental health and addiction services 88710
pursuant to section ~~5119.611~~ 5119.36 of the Revised Code. 88711

(B) The ~~state~~ medicaid plan program may ~~include provision of~~ 88712
cover the following mental health services when provided by 88713
community mental health ~~agencies~~ services providers or facilities: 88714

(1) Outpatient mental health services, including, but not 88715
limited to, preventive, diagnostic, therapeutic, rehabilitative, 88716
and palliative interventions rendered to individuals in an 88717
individual or group setting by a mental health professional in 88718
accordance with a plan of treatment appropriately established, 88719
monitored, and reviewed; 88720

(2) Partial-hospitalization mental health services rendered 88721
by persons directly supervised by a mental health professional; 88722

(3) Unscheduled, emergency mental health services of a kind 88723
ordinarily provided to persons in crisis when rendered by persons 88724
supervised by a mental health professional; 88725

(4) ~~Subject to receipt of federal approval, assertive~~ 88726
Assertive community treatment and intensive home-based mental 88727
health services. 88728

(C) The department of ~~job and family services~~ medicaid shall 88729
enter into a separate contract with the department of ~~mental~~ 88730
~~health~~ mental health and addiction services under section ~~5111.91~~ 88731
5162.35 of the Revised Code with regard to the ~~component of~~ mental 88732
health services the medicaid program ~~provided for by~~ covers 88733
pursuant to this section. 88734

Sec. ~~5111.027~~ 5164.20. ~~If the medicaid program provides~~ 88735
~~prescription drug services to medicaid recipients, the~~ The 88736
medicaid program shall not ~~provide reimbursement for~~ prescription 88737
cover prescribed drugs for treatment of erectile dysfunction. 88738

Sec. ~~5111.042~~ 5164.25. The departments of developmental 88739
disabilities and ~~job and family services~~ medicaid may approve, 88740
reduce, deny, or terminate a medicaid service included in the 88741
individualized service plan developed for a medicaid recipient 88742
with mental retardation or other developmental disability who is 88743
eligible for medicaid case management services. If either 88744
department approves, reduces, denies, or terminates a service, 88745
that department shall timely notify the medicaid recipient that 88746
the recipient may ~~request a hearing under~~ appeal pursuant to 88747
section ~~5101.35~~ 5160.31 of the Revised Code. 88748

Sec. ~~5111.016~~ 5164.26. ~~(A) As used in this section,~~ 88749
~~"healthcheck" has the same meaning as in section 3313.714 of the~~ 88750
~~Revised Code.~~ 88751

~~(B)~~ The department of ~~job and family services~~ medicaid shall 88752
~~adopt rules in accordance with Chapter 119. of the Revised Code~~ 88753
~~establishing~~ establish a combination of written and oral methods 88754
designed to provide information about healthcheck to all persons 88755
eligible for the program or their parents or guardians. The 88756
department shall ensure that its methods of providing information 88757
are effective. ~~The methods shall comply with federal law and~~ 88758

~~regulations.~~ 88759

Each ~~county department of job and family services or other~~ 88760
entity that distributes or accepts applications for ~~medical~~ 88761
~~assistance~~ medicaid shall prominently display a notice that 88762
complies with the ~~rules adopted~~ methods of providing information 88763
about healthcheck established under this ~~division~~ section. 88764

Sec. 5164.30. No person or government entity may participate 88765
in the medicaid program as a medicaid provider without a valid 88766
provider agreement with the department of medicaid. 88767

~~Sec. 5111.053~~ 5164.301. (A) As used in this section, "group 88768
practice" has the same meaning as in section 4731.65 of the 88769
Revised Code. 88770

(B) The department of ~~job and family services~~ medicaid shall 88771
establish a process by which a physician assistant may enter into 88772
a ~~medicaid~~ provider agreement. 88773

(C)(1) Subject to division (C)(2) of this section, a claim 88774
for ~~reimbursement~~ medicaid payment for a medicaid service provided 88775
by a physician assistant to a medicaid recipient may be submitted 88776
by the physician assistant who provided the service or the 88777
physician, group practice, clinic, or other health care facility 88778
that employs the physician assistant. 88779

(2) A claim for ~~reimbursement~~ medicaid payment may be 88780
submitted by the physician assistant who provided the service only 88781
if the physician assistant has a valid provider agreement. When 88782
submitting the claim, the physician assistant shall use only the 88783
medicaid provider number the department has assigned to the 88784
physician assistant. 88785

~~(D) The director of job and family services may adopt rules~~ 88786
~~under section 5111.02 of the Revised Code to implement this~~ 88787
~~section.~~ 88788

~~Sec. 5111.063~~ 5164.31. (A) For the purpose of raising funds 88789
necessary to pay the expenses of implementing the provider 88790
screening requirements of subpart E of 42 C.F.R. Part 455 and 88791
except as provided in division (B) of this section, the department 88792
of ~~job and family services~~ medicaid shall ~~charge~~ collect an 88793
application fee ~~to~~ from a medicaid provider ~~seeking to enter into~~ 88794
~~or renew a medicaid provider agreement,~~ unless the provider is 88795
~~exempt from paying the application fee under 42 C.F.R. 455.460(a)~~ 88796
before doing any of the following: 88797

(1) Entering into a provider agreement with a medicaid 88798
provider that seeks initial enrollment as a provider; 88799

(2) Entering into a provider agreement with a former medicaid 88800
provider that seeks re-enrollment as a provider; 88801

(3) Revalidating a medicaid provider's continued enrollment 88802
as a provider. The 88803

(B) The department is not to collect an application fee from 88804
a medicaid provider that is exempt from paying the fee under 42 88805
C.F.R. 455.460(a). 88806

(C) The application fees shall be deposited into the health 88807
care services administration fund created under section ~~5111.94~~ 88808
5162.54 of the Revised Code. Application fees are nonrefundable 88809
when collected in accordance with 42 C.F.R. 455.460(a). 88810

(D) The medicaid director of ~~job and family services~~ shall 88811
adopt rules in accordance with ~~Chapter 119.~~ under section 5164.02 88812
of the Revised Code as necessary to implement this section, 88813
including a rule establishing the amount of the application fee 88814
that is ~~charged~~ to be collected under this section. The amount of 88815
the application fee shall not be set at an amount that is more 88816
than necessary to pay for the expenses of implementing the 88817
provider screening requirements. 88818

~~Sec. 5111.028 5164.32. (A) Pursuant to section 5111.02 of the Revised Code, the director of job and family services shall adopt rules establishing procedures for the use of time limited provider agreements under the medicaid program. Except as provided in division (E) of this section, all provider agreements shall be time limited in accordance with the procedures established in the rules.~~

~~The department of job and family services shall phase in the use of time limited provider agreements pursuant to this section during a period commencing not later than January 1, 2008, and ending January 1, 2015.~~

~~(B) In the use of time limited provider agreements pursuant to this section, all of the following apply:~~

~~(1) Each medicaid provider agreement shall expire not later than seven five years from the its effective date of the agreement.~~

~~(2) During the phase in period specified in division (A) of this section, the department may provide for the conversion of. If a provider agreement without a time limit entered into before the effective date of this amendment does not have a time limit, the department of medicaid shall convert the agreement to a provider agreement with a time limit. ~~The department may take an action to convert the provider agreement by sending a notice by regular mail to the address of the provider on record with the department advising the provider of the conversion.~~~~

~~(3) The department may make the effective date of a provider agreement retroactive for a period not to exceed one year from the date of the provider's application for the agreement, as long as the provider met all medicaid program requirements during that period.~~

~~(C)~~(B) The medicaid director shall adopt rules under section 5164.02 of the Revised Code as necessary to implement this section. The rules ~~for use of time limited provider agreements pursuant to this section~~ shall be consistent with subpart E of 42 C.F.R. Part 455 and include a process for ~~re-enrollment of providers~~ revalidating medicaid providers' continued enrollments as providers. All of the following apply to the ~~re-enrollment revalidation~~ process:

(1) ~~The department of job and family services may terminate a time limited provider agreement or deny re-enrollment~~ shall refuse to revalidate a provider's provider agreement when a ~~the~~ provider fails to ~~file an~~ do either of the following:

(a) File a complete application for re-enrollment revalidation within the time and in the manner required under the ~~re-enrollment revalidation~~ process;

(b) Provide required supporting documentation not later than thirty days after the date the provider timely applies for revalidation.

(2) If a provider files an application for ~~re-enrollment revalidation~~ within the time and in the manner required under the ~~re-enrollment revalidation~~ process and timely provides required supporting documentation, but the provider agreement expires before the department acts on the application or before the effective date of the department's decision on the application, the provider, subject to division (B)(3) of this section, may continue operating under the terms of the expired provider agreement until the effective date of the department's decision.

(3) ~~A decision by the department to approve an application for re-enrollment becomes effective on the date of the department's decision. A decision by the department to deny re-enrollment shall take effect not sooner than thirty days after~~

~~the date the department mails written notice of the decision to~~ 88880
~~the provider. The department shall specify in the notice the date~~ 88881
~~on which the provider is required to cease operating under the~~ 88882
~~provider agreement~~ If a provider continues operating under the 88883
terms of an expired provider agreement pursuant to division (B)(2) 88884
of this section and the department denies the provider's 88885
application for revalidation, medicaid payments shall not be made 88886
for services or items the provider provides during the period 88887
beginning on the date the provider agreement expired and ending on 88888
the effective date of a subsequent provider agreement, if any, the 88889
department enters into with the provider. 88890

~~(D) Pursuant to section 5111.06 of the Revised Code, the~~ 88891
~~department is not required to take the actions specified in~~ 88892
~~division (C)(1) of this section by issuing an order pursuant to an~~ 88893
~~adjudication conducted in accordance with Chapter 119. of the~~ 88894
~~Revised Code.~~ 88895

~~(E) The use of time limited provider agreements pursuant to~~ 88896
~~this section does not apply to provider agreements issued to the~~ 88897
~~following, including any provider agreements issued to the~~ 88898
~~following that are otherwise time limited under the medicaid~~ 88899
~~program.~~ 88900

~~(1) A managed care organization under contract with the~~ 88901
~~department pursuant to section 5111.17 of the Revised Code;~~ 88902

~~(2) A nursing facility, as defined in section 5111.20 of the~~ 88903
~~Revised Code;~~ 88904

~~(3) An intermediate care facility for the mentally retarded,~~ 88905
~~as defined in section 5111.20 of the Revised Code;~~ 88906

~~(4) A hospital.~~ 88907

Sec. 5164.33. (A) The medicaid director may do the following 88908
for any reason permitted or required by federal law: 88909

<u>(1) Deny or terminate a provider agreement;</u>	88910
<u>(2) Exclude an individual, provider of services or goods, or other entity from participation in the medicaid program.</u>	88911 88912
<u>(B) No individual, provider, or entity excluded from participation in the medicaid program under this section shall do any of the following:</u>	88913 88914 88915
<u>(1) Own, or provide services to, any other medicaid provider or risk contractor;</u>	88916 88917
<u>(2) Arrange for, render, or order services for medicaid recipients during the period of exclusion;</u>	88918 88919
<u>(3) During the period of exclusion, receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor.</u>	88920 88921 88922 88923 88924
<u>(C) An individual, provider, or entity excluded from participation in the medicaid program under this section may request a reconsideration of the exclusion. The director shall adopt rules under section 5164.02 of the Revised Code governing the process for requesting a reconsideration.</u>	88925 88926 88927 88928 88929
<u>(D) Nothing in this section limits the applicability of section 5164.38 of the Revised Code to a medicaid provider.</u>	88930 88931
Sec. 5111.032 5164.34. (A) As used in this section:	88932
(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	88933 88934
(2) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.	88935 88936 88937
(3) "Owner" means a person who has an ownership interest in a	88938

~~medicaid~~ provider ~~or applicant to be a provider~~ in an amount 88939
designated in rules ~~adopted under~~ authorized by this section. 88940

(4) "Person subject to the criminal records check 88941
requirement" means the following: 88942

(a) A medicaid provider ~~or applicant to be a provider~~ who is 88943
notified under division (E)(1) of this section that the provider 88944
~~or applicant~~ is subject to a criminal records check; 88945

(b) An owner or prospective owner, officer or prospective 88946
officer, or board member or prospective board member of a medicaid 88947
provider ~~or applicant to be a provider~~ if, pursuant to division 88948
(E)(1)(a) of this section, the owner or prospective owner, officer 88949
or prospective officer, or board member or prospective board 88950
member is specified in information given to the provider ~~or~~ 88951
~~applicant~~ under division (E)(1) of this section; 88952

(c) An employee or prospective employee of a medicaid 88953
provider ~~or applicant to be a provider~~ if both of the following 88954
apply: 88955

(i) The employee or prospective employee is specified, 88956
pursuant to division (E)(1)(b) of this section, in information 88957
given to the provider ~~or applicant~~ under division (E)(1) of this 88958
section. 88959

(ii) The provider ~~or applicant~~ is not prohibited by division 88960
(D)(3)(b) of this section from employing the employee or 88961
prospective employee. 88962

(5) ~~"Provider" means a person, institution, or entity that~~ 88963
~~has a medicaid provider agreement with the department of job and~~ 88964
~~family services.~~ 88965

~~(6)~~ "Responsible entity" means the following: 88966

(a) With respect to a criminal records check required under 88967
this section for a medicaid provider ~~or applicant to be a~~ 88968

~~provider~~, the department of ~~job and family services~~ medicaid or 88969
the department's designee; 88970

(b) With respect to a criminal records check required under 88971
this section for an owner or prospective owner, officer or 88972
prospective officer, board member or prospective board member, or 88973
employee or prospective employee of a medicaid provider ~~or~~ 88974
~~applicant to be a provider~~, the provider ~~or applicant~~. 88975

(B) This section does not apply to any individual who is 88976
subject to a criminal records check under section 3712.09, 88977
3721.121, ~~5111.034~~, 5123.081, ~~or~~ 5123.169, or 5164.341 of the 88978
Revised Code or any individual who is subject to a database review 88979
or criminal records check under section ~~173.394~~ 173.38, 3701.881, 88980
or ~~5111.033~~ 5164.342 of the Revised Code. 88981

(C) The department of ~~job and family services~~ medicaid may do 88982
any of the following: 88983

(1) Require that any medicaid provider ~~or applicant to be a~~ 88984
~~provider~~ submit to a criminal records check as a condition of 88985
~~having~~ obtaining or maintaining a ~~medicaid~~ provider agreement; 88986

(2) Require that any medicaid provider ~~or applicant to be a~~ 88987
~~provider~~ require an owner or prospective owner, officer or 88988
prospective officer, or board member or prospective board member 88989
of the provider ~~or applicant~~ submit to a criminal records check as 88990
a condition of being an owner, officer, or board member of the 88991
provider ~~or applicant~~; 88992

(3) Require that any medicaid provider ~~or applicant to be a~~ 88993
~~provider~~ do the following: 88994

(a) If so required by rules ~~adopted under~~ authorized by this 88995
section, determine pursuant to a database review conducted under 88996
division (F)(1)(a) of this section whether any employee or 88997
prospective employee of the provider ~~or applicant~~ is included in a 88998
database; 88999

(b) Unless the provider ~~or applicant~~ is prohibited by 89000
division (D)(3)(b) of this section from employing the employee or 89001
prospective employee, require the employee or prospective employee 89002
to submit to a criminal records check as a condition of being an 89003
employee of the provider ~~or applicant~~. 89004

(D)(1) The department or the department's designee shall deny 89005
or terminate a medicaid provider's ~~medicaid~~ provider agreement ~~or~~ 89006
~~deny an applicant's application for a medicaid provider agreement~~ 89007
if the provider ~~or applicant~~ is a person subject to the criminal 89008
records check requirement and either of the following applies: 89009

(a) The provider ~~or applicant~~ fails to obtain the criminal 89010
records check after being given the information specified in 89011
division (G)(1) of this section. 89012

(b) Except as provided in rules ~~adopted under~~ authorized by 89013
this section, the provider ~~or applicant~~ is found by the criminal 89014
records check to have been convicted of, or have pleaded guilty 89015
to, ~~or been found eligible for intervention in lieu of conviction~~ 89016
~~for~~ a disqualifying offense, regardless of the date of the 89017
conviction, or the date of entry of the guilty plea, ~~or the date~~ 89018
~~the applicant or provider was found eligible for intervention in~~ 89019
~~lieu of conviction.~~ 89020

(2) No medicaid provider ~~or applicant~~ ~~to be a provider~~ shall 89021
permit a person to be an owner, officer, or board member of the 89022
provider ~~or applicant~~ if the person is a person subject to the 89023
criminal records check requirement and either of the following 89024
applies: 89025

(a) The person fails to obtain the criminal records check 89026
after being given the information specified in division (G)(1) of 89027
this section. 89028

(b) Except as provided in rules ~~adopted under~~ authorized by 89029
this section, the person is found by the criminal records check to 89030

have been convicted of, or have pleaded guilty to, ~~or been found~~ 89031
~~eligible for intervention in lieu of conviction for a~~ 89032
disqualifying offense, regardless of the date of the conviction, 89033
or the date of entry of the guilty plea, ~~or the date the person~~ 89034
~~was found eligible for intervention in lieu of conviction.~~ 89035

(3) No medicaid provider ~~or applicant to be a provider~~ shall 89036
employ a person if any of the following apply: 89037

(a) The person has been excluded from ~~providing services or~~ 89038
~~items under the~~ being a medicaid ~~program provider,~~ the a medicare 89039
~~program operated pursuant to Title XVIII of the "Social Security~~ 89040
~~Act provider,"~~ or provider for any other federal health care 89041
program. 89042

(b) If the person is subject to a database review conducted 89043
under division (F)(1)(a) of this section, the person is found by 89044
the database review to be included in a database and the rules 89045
~~adopted under~~ authorized by this section regarding the database 89046
review prohibit the provider ~~or applicant~~ from employing a person 89047
included in the database. 89048

(c) If the person is a person subject to the criminal records 89049
check requirement, either of the following applies: 89050

(i) The person fails to obtain the criminal records check 89051
after being given the information specified in division (G)(1) of 89052
this section. 89053

(ii) Except as provided in rules ~~adopted under~~ authorized by 89054
this section, the person is found by the criminal records check to 89055
have been convicted of, or have pleaded guilty to, ~~or been found~~ 89056
~~eligible for intervention in lieu of conviction for a~~ 89057
disqualifying offense, regardless of the date of the conviction, 89058
or the date of entry of the guilty plea, ~~or the date the person~~ 89059
~~was found eligible for intervention in lieu of conviction.~~ 89060

(E)(1) The department or the department's designee shall 89061

inform each medicaid provider ~~or applicant to be a provider~~ 89062
whether the provider ~~or applicant~~ is subject to a criminal records 89063
check. For providers with valid provider agreements, the 89064
information shall be given at times designated in rules ~~adopted~~ 89065
~~under~~ authorized by this section. For ~~applicants~~ providers 89066
applying to be medicaid providers, the information shall be given 89067
at the time of initial application. When the information is given, 89068
the department or the department's designee shall specify the 89069
following: 89070

(a) Which of the provider's ~~or applicant's~~ owners or 89071
prospective owners, officers or prospective officers, or board 89072
members or prospective board members are subject to a criminal 89073
records check; 89074

(b) Which of the provider's ~~or applicant's~~ employees or 89075
prospective employees are subject to division (C)(3) of this 89076
section. 89077

(2) At times designated in rules ~~adopted under~~ authorized by 89078
this section, a medicaid provider ~~or applicant to be a provider~~ 89079
that is a person subject to the criminal records check requirement 89080
shall do the following: 89081

(a) Inform each person specified under division (E)(1)(a) of 89082
this section that the person is required to submit to a criminal 89083
records check as a condition of being an owner, officer, or board 89084
member of the provider ~~or applicant~~; 89085

(b) Inform each person specified under division (E)(1)(b) of 89086
this section that the person is subject to division (C)(3) of this 89087
section. 89088

(F)(1) If a medicaid provider ~~or applicant to be a provider~~ 89089
is a person subject to the criminal records check requirement, the 89090
department or the department's designee shall require the conduct 89091
of a criminal records check by the superintendent of the bureau of 89092

criminal identification and investigation. A medicaid provider ~~or~~ 89093
~~applicant to be a provider~~ shall require the conduct of a criminal 89094
records check by the superintendent with respect to each of the 89095
persons specified under division (E)(1)(a) of this section. With 89096
respect to each employee and prospective employee specified under 89097
division (E)(1)(b) of this section, a medicaid provider ~~or~~ 89098
~~applicant to be a provider~~ shall do the following: 89099

(a) If rules ~~adopted under~~ authorized by this section require 89100
the provider ~~or applicant~~ to conduct a database review to 89101
determine whether the employee or prospective employee is included 89102
in a database, conduct the database review in accordance with the 89103
rules; 89104

(b) Unless the provider ~~or applicant~~ is prohibited by 89105
division (D)(3)(b) of this section from employing the employee or 89106
prospective employee, require the conduct of a criminal records 89107
check of the employee or prospective employee by the 89108
superintendent. 89109

(2) If a person subject to the criminal records check 89110
requirement does not present proof of having been a resident of 89111
this state for the five-year period immediately prior to the date 89112
the criminal records check is requested or provide evidence that 89113
within that five-year period the superintendent has requested 89114
information about the person from the federal bureau of 89115
investigation in a criminal records check, the responsible entity 89116
shall require the person to request that the superintendent obtain 89117
information from the federal bureau of investigation as part of 89118
the criminal records check of the person. Even if the person 89119
presents proof of having been a resident of this state for the 89120
five-year period, the responsible entity may require that the 89121
person request that the superintendent obtain information from the 89122
federal bureau of investigation and include it in the criminal 89123
records check of the person. 89124

(G) Criminal records checks required by this section shall be 89125
obtained as follows: 89126

(1) The responsible entity shall provide each person subject 89127
to the criminal records check requirement information about 89128
accessing and completing the form prescribed pursuant to division 89129
(C)(1) of section 109.572 of the Revised Code and the standard 89130
impression sheet prescribed pursuant to division (C)(2) of that 89131
section. 89132

(2) The person subject to the criminal records check 89133
requirement shall submit the required form and one complete set of 89134
the person's fingerprint impressions directly to the 89135
superintendent for purposes of conducting the criminal records 89136
check using the applicable methods prescribed by division (C) of 89137
section 109.572 of the Revised Code. The person shall pay all fees 89138
associated with obtaining the criminal records check. 89139

(3) The superintendent shall conduct the criminal records 89140
check in accordance with section 109.572 of the Revised Code. The 89141
person subject to the criminal records check requirement shall 89142
instruct the superintendent to submit the report of the criminal 89143
records check directly to the responsible entity. If the 89144
department or the department's designee is not the responsible 89145
entity, the department or designee may require the responsible 89146
entity to submit the report to the department or designee. 89147

(H)(1) A medicaid provider ~~or applicant to be a provider~~ may 89148
employ conditionally a person for whom a criminal records check is 89149
required by this section prior to obtaining the results of the 89150
criminal records check if both of the following apply: 89151

(a) The provider ~~or applicant~~ is not prohibited by division 89152
(D)(3)(b) of this section from employing the person. 89153

(b) The person submits a request for the criminal records 89154
check not later than five business days after the person begins 89155

conditional employment. 89156

(2) A medicaid provider ~~or applicant to be a provider~~ that 89157
employs a person conditionally under division (H)(1) of this 89158
section shall terminate the person's employment if the results of 89159
the criminal records check request are not obtained within the 89160
period ending sixty days after the date the request is made. 89161
Regardless of when the results of the criminal records check are 89162
obtained, if the results indicate that the person has been 89163
convicted of, or has pleaded guilty to, ~~or has been found eligible~~ 89164
~~for intervention in lieu of conviction for~~ a disqualifying 89165
offense, the provider ~~or applicant~~ shall terminate the person's 89166
employment unless circumstances specified in rules ~~adopted under~~ 89167
authorized by this section exist that permit the provider ~~or~~ 89168
~~applicant~~ to employ the person and the provider ~~or applicant~~ 89169
chooses to employ the person. 89170

(I) The report of a criminal records check conducted pursuant 89171
to this section is not a public record for the purposes of section 89172
149.43 of the Revised Code and shall not be made available to any 89173
person other than the following: 89174

(1) The person who is the subject of the criminal records 89175
check or the person's representative; 89176

(2) The medicaid director ~~of job and family services~~ and the 89177
staff of the department who are involved in the administration of 89178
the medicaid program; 89179

(3) The department's designee; 89180

(4) The medicaid provider ~~or applicant to be a provider~~ who 89181
required the person who is the subject of the criminal records 89182
check to submit to the criminal records check; 89183

(5) An individual receiving or deciding whether to receive, 89184
from the subject of the criminal records check, home and 89185
community-based services available under the medicaid state plan; 89186

(6) A court, hearing officer, or other necessary individual 89187
involved in a case dealing with any of the following: 89188

(a) The denial or termination of a ~~medicaid~~ provider 89189
agreement; 89190

(b) A person's denial of employment, termination of 89191
employment, or employment or unemployment benefits; 89192

(c) A civil or criminal action regarding the medicaid 89193
program. 89194

(J) The medicaid director ~~of job and family services~~ may 89195
adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 89196
of the Revised Code to implement this section. If the director 89197
adopts such rules, the rules shall designate the times at which a 89198
criminal records check must be conducted under this section. The 89199
rules may do any of the following: 89200

(1) Designate the categories of persons who are subject to a 89201
criminal records check under this section; 89202

(2) Specify circumstances under which the department or the 89203
department's designee may continue a ~~medicaid~~ provider agreement 89204
or issue a ~~medicaid~~ provider agreement ~~to an applicant~~ when the 89205
medicaid provider ~~or applicant~~ is found by a criminal records 89206
check to have been convicted of, pleaded guilty to, or been found 89207
eligible for intervention in lieu of conviction for a 89208
disqualifying offense; 89209

(3) Specify circumstances under which a medicaid provider ~~or~~ 89210
~~applicant to be a provider~~ may permit a person to be an employee, 89211
owner, officer, or board member of the provider ~~or applicant~~, when 89212
the person is found by a criminal records check conducted pursuant 89213
to this section to have been convicted of, or have pleaded guilty 89214
to, ~~or been found eligible for intervention in lieu of conviction~~ 89215
~~for~~ a disqualifying offense; 89216

(4) Specify all of the following:	89217
(a) The circumstances under which a database review must be conducted under division (F)(1)(a) of this section to determine whether an employee or prospective employee of a <u>medicaid</u> provider or applicant to be a provider is included in a database;	89218 89219 89220 89221
(b) The procedures for conducting the database review;	89222
(c) The databases that are to be checked;	89223
(d) The circumstances under which a <u>medicaid</u> provider or applicant to be a provider is prohibited from employing a person who is found by the database review to be included in a database.	89224 89225 89226
Sec. 5111.034 <u>5164.341</u>. (A) As used in this section:	89227
"Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003.	89228 89229 89230
"Applicant" means a person who has applied for a medicaid provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component administered by the department of job and family services <u>medicaid</u> .	89231 89232 89233 89234 89235
"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	89236 89237
"Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.	89238 89239 89240
"Independent provider" means a person who has a medicaid provider agreement to provide home and community-based services as an independent provider in a home and community-based services medicaid waiver component administered by the department of job and family services <u>medicaid</u> .	89241 89242 89243 89244 89245

~~"Home and community based services medicaid waiver component"~~ 89246
~~has the same meaning as in section 5111.85 of the Revised Code.~~ 89247

(B) The department of ~~job and family services~~ medicaid or the 89248
department's designee shall deny an applicant's application for a 89249
~~medicaid~~ provider agreement and shall terminate an independent 89250
provider's ~~medicaid~~ provider agreement if either of the following 89251
applies: 89252

(1) After the applicant or independent provider is given the 89253
information and notification required by divisions (D)(2)(a) and 89254
(b) of this section, the applicant or independent provider fails 89255
to do either of the following: 89256

(a) Access, complete, or forward to the superintendent of the 89257
bureau of criminal identification and investigation the form 89258
prescribed pursuant to division (C)(1) of section 109.572 of the 89259
Revised Code or the standard impression sheet prescribed pursuant 89260
to division (C)(2) of that section; 89261

(b) Instruct the superintendent to submit the completed 89262
report of the criminal records check required by this section 89263
directly to the department or the department's designee. 89264

(2) Except as provided in rules ~~adopted under~~ authorized by 89265
this section, the applicant or independent provider is found by a 89266
criminal records check required by this section to have been 89267
convicted of, or have pleaded guilty to, ~~or been found eligible~~ 89268
~~for intervention in lieu of conviction for~~ a disqualifying 89269
offense, regardless of the date of the conviction, or the date of 89270
entry of the guilty plea, ~~or the date the applicant or independent~~ 89271
~~provider was found eligible for intervention in lieu of~~ 89272
~~conviction.~~ 89273

(C)(1) The department or the department's designee shall 89274
inform each applicant, at the time of initial application for a 89275
~~medicaid~~ provider agreement, that the applicant is required to 89276

provide a set of the applicant's fingerprint impressions and that 89277
a criminal records check is required to be conducted as a 89278
condition of the department's approving the application. 89279

(2) Beginning on September 26, 2003, the department or the 89280
department's designee shall inform each independent provider on or 89281
before the time of the anniversary date of the ~~medicaid~~ provider 89282
agreement that the independent provider is required to provide a 89283
set of the independent provider's fingerprint impressions and that 89284
a criminal records check is required to be conducted. 89285

(D)(1) The department or the department's designee shall 89286
require an applicant to complete a criminal records check prior to 89287
entering into a ~~medicaid~~ provider agreement with the applicant. 89288
The department or the department's designee shall require an 89289
independent provider to complete a criminal records check at least 89290
annually. If an applicant or independent provider for whom a 89291
criminal records check is required by this section does not 89292
present proof of having been a resident of this state for the 89293
five-year period immediately prior to the date the criminal 89294
records check is requested or provide evidence that within that 89295
five-year period the superintendent of the bureau of criminal 89296
identification and investigation has requested information about 89297
the applicant or independent provider from the federal bureau of 89298
investigation in a criminal records check, the department or the 89299
department's designee shall request that the applicant or 89300
independent provider obtain through the superintendent a criminal 89301
records request from the federal bureau of investigation as part 89302
of the criminal records check of the applicant or independent 89303
provider. Even if an applicant or independent provider for whom a 89304
criminal records check request is required by this section 89305
presents proof of having been a resident of this state for the 89306
five-year period, the department or the department's designee may 89307
request that the applicant or independent provider obtain 89308

information through the superintendent from the federal bureau of 89309
investigation in the criminal records check. 89310

(2) The department or the department's designee shall provide 89311
the following to each applicant and independent provider for whom 89312
a criminal records check is required by this section: 89313

(a) Information about accessing, completing, and forwarding 89314
to the superintendent of the bureau of criminal identification and 89315
investigation the form prescribed pursuant to division (C)(1) of 89316
section 109.572 of the Revised Code and the standard impression 89317
sheet prescribed pursuant to division (C)(2) of that section; 89318

(b) Written notification that the applicant or independent 89319
provider is to instruct the superintendent to submit the completed 89320
report of the criminal records check directly to the department or 89321
the department's designee. 89322

(3) Each applicant and independent provider for whom a 89323
criminal records check is required by this section shall pay to 89324
the bureau of criminal identification and investigation the fee 89325
prescribed pursuant to division (C)(3) of section 109.572 of the 89326
Revised Code for the criminal records check conducted of the 89327
applicant or independent provider. 89328

(E) The report of any criminal records check conducted by the 89329
bureau of criminal identification and investigation in accordance 89330
with section 109.572 of the Revised Code and pursuant to a request 89331
made under this section is not a public record for the purposes of 89332
section 149.43 of the Revised Code and shall not be made available 89333
to any person other than the following: 89334

(1) The person who is the subject of the criminal records 89335
check or the person's representative; 89336

(2) The medicaid director ~~of job and family services~~ and the 89337
staff of the department who are involved in the administration of 89338
the medicaid program; 89339

(3) The department's designee; 89340

(4) An individual ~~who receives~~ receiving or deciding whether 89341
to receive home and community-based services from the person who 89342
is the subject of the criminal records check; 89343

(5) A court, hearing officer, or other necessary individual 89344
involved in a case dealing with either of the following: 89345

(a) A denial or termination of a provider agreement related 89346
to the criminal records check; 89347

(b) A civil or criminal action regarding the medicaid 89348
program. 89349

(F) The medicaid director ~~of job and family services~~ shall 89350
adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 89351
of the Revised Code to implement this section. The rules shall 89352
specify circumstances under which the department or the 89353
department's designee may either approve an applicant's 89354
application or allow an independent provider to maintain an 89355
existing ~~medicaid~~ provider agreement even though the applicant or 89356
independent provider is found by a criminal records check required 89357
by this section to have been convicted of, or have pleaded guilty 89358
to, ~~or been found eligible for intervention in lieu of conviction~~ 89359
~~for~~ a disqualifying offense. 89360

Sec. ~~5111.033~~ 5164.342. (A) As used in this section: 89361

"Applicant" means a person who is under final consideration 89362
for employment with a waiver agency in a full-time, part-time, or 89363
temporary position that involves providing home and 89364
community-based services. 89365

"Community-based long-term care agency provider" ~~has the same~~ 89366
~~meaning~~ means a provider as defined in section 173.39 of the 89367
Revised Code. 89368

"Community-based long-term care subcontractor" means a 89369

subcontractor as defined in section 173.38 of the Revised Code. 89370

"Criminal records check" has the same meaning as in section 89371
109.572 of the Revised Code. 89372

"Disqualifying offense" means any of the offenses listed or 89373
described in divisions (A)(3)(a) to (e) of section 109.572 of the 89374
Revised Code. 89375

"Employee" means a person employed by a waiver agency in a 89376
full-time, part-time, or temporary position that involves 89377
providing home and community-based services. 89378

~~"Home and community based services medicaid waiver component"~~ 89379
~~has the same meaning as in section 5111.85 of the Revised Code.~~ 89380

"Waiver agency" means a person or government entity that 89381
provides home and community-based services under a home and 89382
community-based services medicaid waiver component administered by 89383
the department of ~~job and family services~~ medicaid, other than 89384
such a person or government entity that is certified under the 89385
medicare program. "Waiver agency" does not mean an independent 89386
provider as defined in section ~~5111.034~~ 5164.341 of the Revised 89387
Code. 89388

(B) This section does not apply to any individual who is 89389
subject to a database review or criminal records check under 89390
section 3701.881 of the Revised Code. If a waiver agency also is a 89391
community-based long-term care ~~agency~~ provider or community-based 89392
long-term care subcontractor, the waiver agency may provide for 89393
applicants and employees to undergo database reviews and criminal 89394
records checks in accordance with section ~~173.394~~ 173.38 of the 89395
Revised Code rather than this section. 89396

(C) No waiver agency shall employ an applicant or continue to 89397
employ an employee in a position that involves providing home and 89398
community-based services if any of the following apply: 89399

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules ~~adopted under~~ authorized by this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services.

(2) After the applicant or employee is given the information and notification required by divisions (F)(2)(a) and (b) of this section, the applicant or employee fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the chief administrator of the waiver agency.

(3) Except as provided in rules ~~adopted under~~ authorized by this section, the applicant or employee is found by a criminal

records check required by this section to have been convicted of, 89431
~~or have pleaded guilty to, or been found eligible for intervention~~ 89432
~~in lieu of conviction for~~ a disqualifying offense, regardless of 89433
the date of the conviction, or date of entry of the guilty plea, 89434
~~or the date the applicant or employee was found eligible for~~ 89435
~~intervention in lieu of conviction.~~ 89436

(D) At the time of each applicant's initial application for 89437
employment in a position that involves providing home and 89438
community-based services, the chief administrator of a waiver 89439
agency shall inform the applicant of both of the following: 89440

(1) That a review of the databases listed in division (E) of 89441
this section will be conducted to determine whether the waiver 89442
agency is prohibited by division (C)(1) of this section from 89443
employing the applicant in the position; 89444

(2) That, unless the database review reveals that the 89445
applicant may not be employed in the position, a criminal records 89446
check of the applicant will be conducted and the applicant is 89447
required to provide a set of the applicant's fingerprint 89448
impressions as part of the criminal records check. 89449

(E) As a condition of employing any applicant in a position 89450
that involves providing home and community-based services, the 89451
chief administrator of a waiver agency shall conduct a database 89452
review of the applicant in accordance with rules ~~adopted under~~ 89453
authorized by this section. If rules ~~adopted under~~ authorized by 89454
this section so require, the chief administrator of a waiver 89455
agency shall conduct a database review of an employee in 89456
accordance with the rules as a condition of continuing to employ 89457
the employee in a position that involves providing home and 89458
community-based services. A database review shall determine 89459
whether the applicant or employee is included in any of the 89460
following: 89461

- (1) The excluded parties list system that is maintained by 89462
the United States general services administration pursuant to 89463
subpart 9.4 of the federal acquisition regulation and available at 89464
the federal web site known as the system for award management; 89465
- (2) The list of excluded individuals and entities maintained 89466
by the office of inspector general in the United States department 89467
of health and human services pursuant to ~~section 1128 of the~~ 89468
"Social Security Act," ~~94 Stat. 2619 (1980)~~ sections 1128 and 89469
1156, 42 U.S.C. 1320a-7, ~~as amended~~, and ~~section 1156 of the~~ 89470
~~"Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as~~ 89471
~~amended;~~ 89472
- (3) The registry of MR/DD employees established under section 89473
5123.52 of the Revised Code; 89474
- (4) The internet-based sex offender and child-victim offender 89475
database established under division (A)(11) of section 2950.13 of 89476
the Revised Code; 89477
- (5) The internet-based database of inmates established under 89478
section 5120.66 of the Revised Code; 89479
- (6) The state nurse aide registry established under section 89480
3721.32 of the Revised Code; 89481
- (7) Any other database, if any, specified in rules ~~adopted~~ 89482
~~under~~ authorized by this section. 89483
- (F)(1) As a condition of employing any applicant in a 89484
position that involves providing home and community-based 89485
services, the chief administrator of a waiver agency shall require 89486
the applicant to request that the superintendent of the bureau of 89487
criminal identification and investigation conduct a criminal 89488
records check of the applicant. If rules ~~adopted under~~ authorized 89489
by this section so require, the chief administrator of a waiver 89490
agency shall require an employee to request that the 89491
superintendent conduct a criminal records check of the employee at 89492

times specified in the rules as a condition of continuing to 89493
employ the employee in a position that involves providing home and 89494
community-based services. However, a criminal records check is not 89495
required for an applicant or employee if the waiver agency is 89496
prohibited by division (C)(1) of this section from employing the 89497
applicant or continuing to employ the employee in a position that 89498
involves providing home and community-based services. If an 89499
applicant or employee for whom a criminal records check request is 89500
required by this section does not present proof of having been a 89501
resident of this state for the five-year period immediately prior 89502
to the date the criminal records check is requested or provide 89503
evidence that within that five-year period the superintendent has 89504
requested information about the applicant or employee from the 89505
federal bureau of investigation in a criminal records check, the 89506
chief administrator shall require the applicant or employee to 89507
request that the superintendent obtain information from the 89508
federal bureau of investigation as part of the criminal records 89509
check. Even if an applicant or employee for whom a criminal 89510
records check request is required by this section presents proof 89511
of having been a resident of this state for the five-year period, 89512
the chief administrator may require the applicant or employee to 89513
request that the superintendent include information from the 89514
federal bureau of investigation in the criminal records check. 89515

(2) The chief administrator shall provide the following to 89516
each applicant and employee for whom a criminal records check is 89517
required by this section: 89518

(a) Information about accessing, completing, and forwarding 89519
to the superintendent of the bureau of criminal identification and 89520
investigation the form prescribed pursuant to division (C)(1) of 89521
section 109.572 of the Revised Code and the standard impression 89522
sheet prescribed pursuant to division (C)(2) of that section; 89523

(b) Written notification that the applicant or employee is to 89524

instruct the superintendent to submit the completed report of the 89525
criminal records check directly to the chief administrator. 89526

(3) A waiver agency shall pay to the bureau of criminal 89527
identification and investigation the fee prescribed pursuant to 89528
division (C)(3) of section 109.572 of the Revised Code for any 89529
criminal records check required by this section. However, a waiver 89530
agency may require an applicant to pay to the bureau the fee for a 89531
criminal records check of the applicant. If the waiver agency pays 89532
the fee for an applicant, it may charge the applicant a fee not 89533
exceeding the amount the waiver agency pays to the bureau under 89534
this section if the waiver agency notifies the applicant at the 89535
time of initial application for employment of the amount of the 89536
fee and that, unless the fee is paid, the applicant will not be 89537
considered for employment. 89538

(G)(1) A waiver agency may employ conditionally an applicant 89539
for whom a criminal records check is required by this section 89540
prior to obtaining the results of the criminal records check if 89541
both of the following apply: 89542

(a) The waiver agency is not prohibited by division (C)(1) of 89543
this section from employing the applicant in a position that 89544
involves providing home and community-based services. 89545

(b) The chief administrator of the waiver agency requires the 89546
applicant to request a criminal records check regarding the 89547
applicant in accordance with division (F)(1) of this section not 89548
later than five business days after the applicant begins 89549
conditional employment. 89550

(2) A waiver agency that employs an applicant conditionally 89551
under division (G)(1) of this section shall terminate the 89552
applicant's employment if the results of the criminal records 89553
check, other than the results of any request for information from 89554
the federal bureau of investigation, are not obtained within the 89555

period ending sixty days after the date the request for the 89556
criminal records check is made. Regardless of when the results of 89557
the criminal records check are obtained, if the results indicate 89558
that the applicant has been convicted of, or has pleaded guilty 89559
to, ~~or has been found eligible for intervention in lieu of~~ 89560
~~conviction for~~ a disqualifying offense, the waiver agency shall 89561
terminate the applicant's employment unless circumstances 89562
specified in rules ~~adopted under~~ authorized by this section exist 89563
that permit the waiver agency to employ the applicant and the 89564
waiver agency chooses to employ the applicant. 89565

(H) The report of any criminal records check conducted 89566
pursuant to a request made under this section is not a public 89567
record for the purposes of section 149.43 of the Revised Code and 89568
shall not be made available to any person other than the 89569
following: 89570

(1) The applicant or employee who is the subject of the 89571
criminal records check or the representative of the applicant or 89572
employee; 89573

(2) The chief administrator of the waiver agency that 89574
requires the applicant or employee to request the criminal records 89575
check or the administrator's representative; 89576

(3) The medicaid director ~~of job and family services~~ and the 89577
staff of the department who are involved in the administration of 89578
the medicaid program; 89579

(4) The director of aging or the director's designee if the 89580
waiver agency also is a community-based long-term care ~~agency~~ 89581
provider or community-based long-term care subcontractor; 89582

(5) An individual receiving or deciding whether to receive 89583
home and community-based services from the subject of the criminal 89584
records check; 89585

(6) A court, hearing officer, or other necessary individual 89586

involved in a case dealing with any of the following: 89587

(a) A denial of employment of the applicant or employee; 89588

(b) Employment or unemployment benefits of the applicant or 89589
employee; 89590

(c) A civil or criminal action regarding the medicaid 89591
program. 89592

(I) The medicaid director ~~of job and family services~~ shall 89593
adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 89594
of the Revised Code to implement this section. 89595

(1) The rules may do the following: 89596

(a) Require employees to undergo database reviews and 89597
criminal records checks under this section; 89598

(b) If the rules require employees to undergo database 89599
reviews and criminal records checks under this section, exempt one 89600
or more classes of employees from the requirements; 89601

(c) For the purpose of division (E)(7) of this section, 89602
specify other databases that are to be checked as part of a 89603
database review conducted under this section. 89604

(2) The rules shall specify all of the following: 89605

(a) The procedures for conducting a database review under 89606
this section; 89607

(b) If the rules require employees to undergo database 89608
reviews and criminal records checks under this section, the times 89609
at which the database reviews and criminal records checks are to 89610
be conducted; 89611

(c) If the rules specify other databases to be checked as 89612
part of a database review, the circumstances under which a waiver 89613
agency is prohibited from employing an applicant or continuing to 89614
employ an employee who is found by the database review to be 89615

included in one or more of those databases; 89616

(d) The circumstances under which a waiver agency may employ 89617
an applicant or employee who is found by a criminal records check 89618
required by this section to have been convicted of, or have 89619
pleaded guilty to, ~~or been found eligible for intervention in lieu~~ 89620
~~of conviction for~~ a disqualifying offense. 89621

(J) The amendments made by H.B. 487 of the 129th general 89622
assembly to this section do not preclude the department of ~~job and~~ 89623
~~family services~~ medicaid from taking action against a person for 89624
failure to comply with former division (H) of this section as that 89625
division existed on the day preceding ~~the effective date of this~~ 89626
~~amendment~~ January 1, 2013. 89627

Sec. ~~5111.03~~ 5164.35. (A) As used in this section, "owner" 89628
means any person having at least five per cent ownership in a 89629
medicaid provider. 89630

~~(B)(1) No medicaid provider of services or goods contracting~~ 89631
~~with the department of job and family services pursuant to the~~ 89632
~~medicaid program shall, by do any of the following:~~ 89633

(a) By deception, obtain or attempt to obtain payments under 89634
~~this chapter~~ the medicaid program to which the provider is not 89635
entitled pursuant to the provider's provider agreement, or the 89636
rules of the federal government or the ~~department of job and~~ 89637
~~family services~~ medicaid director relating to the program. ~~No~~ 89638
~~provider shall willfully;~~ 89639

(b) Willfully receive payments to which the provider is not 89640
entitled, ~~or willfully;~~ 89641

(c) Willfully receive payments in a greater amount than that 89642
to which the provider is entitled; ~~nor shall any provider falsify~~ 89643

(d) Falsify any report or document required by state or 89644
federal law, rule, or provider agreement relating to medicaid 89645

payments. ~~As used in this section, a~~ 89646

(2) A medicaid provider engages in "deception" for the 89647
purpose of this section when the provider, acting with actual 89648
knowledge of the representation or information involved, acting in 89649
deliberate ignorance of the truth or falsity of the representation 89650
or information involved, or acting in reckless disregard of the 89651
truth or falsity of the representation or information involved, 89652
deceives another or causes another to be deceived by any false or 89653
misleading representation, by withholding information, by 89654
preventing another from acquiring information, or by any other 89655
conduct, act, or omission that creates, confirms, or perpetuates a 89656
false impression in another, including a false impression as to 89657
law, value, state of mind, or other objective or subjective fact. 89658
No proof of specific intent to defraud is required to show, for 89659
purposes of this section, that a medicaid provider has engaged in 89660
deception. 89661

~~(B)~~(C) Any medicaid provider who violates division ~~(A)~~(B) of 89662
this section shall be liable, in addition to any other penalties 89663
provided by law, for all of the following civil penalties: 89664

(1) Payment of interest on the amount of the excess payments 89665
at the maximum interest rate allowable for real estate mortgages 89666
under section 1343.01 of the Revised Code on the date the payment 89667
was made to the provider for the period from the date upon which 89668
payment was made, to the date upon which repayment is made to the 89669
state; 89670

(2) Payment of an amount equal to three times the amount of 89671
any excess payments; 89672

(3) Payment of a sum of not less than five thousand dollars 89673
and not more than ten thousand dollars for each deceptive claim or 89674
falsification; 89675

(4) All reasonable expenses which the court determines have 89676

been necessarily incurred by the state in the enforcement of this 89677
section. 89678

~~(C) As used in this division, "intermediate care facility for 89679
the mentally retarded" and "nursing facility" have the same 89680
meanings given in section 5111.20 of the Revised Code. 89681~~

(D) In addition to the civil penalties provided in division 89682
~~(B)(C)~~ of this section, the medicaid director of job and family 89683
services, upon the conviction of, or the entry of a judgment in 89684
either a criminal or civil action against, a medicaid provider or 89685
its owner, officer, authorized agent, associate, manager, or 89686
employee in an action brought pursuant to section 109.85 of the 89687
Revised Code, shall terminate the provider's provider agreement 89688
~~between the department and the provider~~ and stop reimbursement 89689
payment to the provider for medicaid services rendered from the 89690
date of conviction or entry of judgment. ~~As used in this division,~~ 89691
~~"owner" means any person having at least five per cent ownership~~ 89692
~~in the medicaid provider.~~ No such medicaid provider, owner, 89693
officer, authorized agent, associate, manager, or employee shall 89694
own or provide medicaid services to any other medicaid provider or 89695
risk contractor or arrange for, render, or order medicaid services 89696
for medicaid recipients, nor shall such provider, owner, officer, 89697
authorized agent, associate, manager, or employee receive 89698
~~reimbursement in the form of direct payments from the department~~ 89699
under the medicaid program or indirect payments of medicaid funds 89700
in the form of salary, shared fees, contracts, kickbacks, or 89701
rebates from or through any ~~participating~~ other medicaid provider 89702
or risk contractor. The provider agreement shall not be terminated 89703
~~or reimbursement, and payment shall not be terminated,~~ if the 89704
medicaid provider or owner can demonstrate that the provider or 89705
owner did not directly or indirectly sanction the action of its 89706
authorized agent, associate, manager, or employee that resulted in 89707
the conviction or entry of a judgment in a criminal or civil 89708

action brought pursuant to section 109.85 of the Revised Code. 89709
Nothing in this division prohibits any owner, officer, authorized 89710
agent, associate, manager, or employee of a medicaid provider from 89711
entering into a ~~medicaid~~ provider agreement if the person can 89712
demonstrate that the person had no knowledge of an action of the 89713
medicaid provider the person was formerly associated with that 89714
resulted in the conviction or entry of a judgment in a criminal or 89715
civil action brought pursuant to section 109.85 of the Revised 89716
Code. 89717

Nursing facility ~~or intermediate care facility for the~~ 89718
~~mentally retarded and ICF/MR~~ providers whose provider agreements 89719
are terminated pursuant to this section may continue to receive 89720
~~reimbursement~~ medicaid payments for up to thirty days after the 89721
effective date of the termination if the provider makes reasonable 89722
efforts to transfer medicaid recipients to another facility or to 89723
alternate care and if federal ~~funds are~~ financial participation is 89724
provided for ~~such reimbursement~~ the payments. 89725

~~(D) For any reason permitted or required by federal law, the~~ 89726
~~director of job and family services may deny a provider agreement~~ 89727
~~or terminate a provider agreement.~~ 89728

~~For any reason permitted or required by federal law, the~~ 89729
~~director may exclude an individual, provider of services or goods,~~ 89730
~~or other entity from participation in the medicaid program. No~~ 89731
~~individual, provider, or entity excluded under this division shall~~ 89732
~~own or provide services to any other medicaid provider or risk~~ 89733
~~contractor or arrange for, render, or order services for medicaid~~ 89734
~~recipients during the period of exclusion, nor, during the period~~ 89735
~~of exclusion, shall such individual, provider, or entity receive~~ 89736
~~reimbursement in the form of direct payments from the department~~ 89737
~~or indirect payments of medicaid funds in the form of salary,~~ 89738
~~shared fees, contracts, kickbacks, or rebates from or through any~~ 89739
~~participating provider or risk contractor. An excluded individual,~~ 89740

~~provider, or entity may request a reconsideration of the 89741
exclusion. The director shall adopt rules in accordance with 89742
Chapter 119. of the Revised Code governing the process for 89743
requesting a reconsideration. 89744~~

~~Nothing in this division limits the applicability of section 89745
5111.06 of the Revised Code to a medicaid provider. 89746~~

~~(E) Any provider of services or goods contracting with the 89747
department of job and family services pursuant to Title XIX of the 89748
"Social Security Act," who, without intent, obtains payments under 89749
this chapter in excess of the amount to which the provider is 89750
entitled, thereby becomes liable for payment of interest on the 89751
amount of the excess payments at the maximum real estate mortgage 89752
rate on the date the payment was made to the provider for the 89753
period from the date upon which payment was made to the date upon 89754
which repayment is made to the state. 89755~~

~~(F)(E) The attorney general on behalf of the state may 89756
commence proceedings to enforce this section in any court of 89757
competent jurisdiction; and the attorney general may settle or 89758
compromise any case brought under this section with the approval 89759
of the department of job and family services medicaid. 89760
Notwithstanding any other provision of law providing a shorter 89761
period of limitations, the attorney general may commence a 89762
proceeding to enforce this section at any time within six years 89763
after the conduct in violation of this section terminates. 89764~~

~~(G) The authority, under state and federal law, of the 89765
department of job and family services or a county department of 89766
job and family services to recover excess payments made to a 89767
provider is not limited by the availability of remedies under 89768
sections 5111.11 and 5111.12 of the Revised Code for recovering 89769
benefits paid on behalf of recipients of medical assistance. 89770~~

~~The penalties under this chapter apply to any overpayment, 89771~~

~~billing, or falsification occurring on and after April 24, 1978.~~ 89772

(F) All moneys collected by the state pursuant to this section 89773
shall be deposited in the state treasury to the credit of the 89774
general revenue fund. 89775

Sec. ~~5111.035~~ 5164.36. (A) As used in this section: 89776

(1) "~~Creditable~~ Credible allegation of fraud" has the same 89777
meaning as in 42 C.F.R. 455.2, except that for purposes of this 89778
section any reference in that regulation to the "state" or the 89779
"state medicaid agency" means the department of ~~job and family~~ 89780
~~services~~ medicaid. 89781

(2) "~~Provider~~" ~~has the same meaning as in section 5111.032 of~~ 89782
~~the Revised Code.~~ 89783

~~(3)~~ "Owner" has the same meaning as in section ~~5111.031~~ 89784
5164.37 of the Revised Code. 89785

(B)(1) Except as provided in division (C) of this section and 89786
in rules ~~adopted~~ authorized by the ~~department of job and family~~ 89787
~~services under division (J) of~~ this section, on determining there 89788
is a ~~creditable~~ credible allegation of fraud for which an 89789
investigation is pending under the medicaid program against a 89790
medicaid provider, the department of medicaid shall suspend the 89791
provider agreement held by the provider. Subject to division (C) 89792
of this section, the department shall also terminate medicaid 89793
~~reimbursement~~ payments to the provider for services rendered. 89794

(2)(a) The suspension shall continue in effect until either 89795
of the following is the case: 89796

(i) The department or a prosecuting authority determines that 89797
there is insufficient evidence of fraud by the medicaid provider; 89798

(ii) The proceedings in any related criminal case are 89799
completed through dismissal of the indictment or through 89800
conviction, entry of a guilty plea, or finding of not guilty. 89801

(b) If the department commences a process to terminate the 89802
suspended provider agreement, the suspension shall also continue 89803
in effect until the termination process is concluded. 89804

~~(3) Pursuant to section 5111.06 of the Revised Code, the 89805
department is not required to take action under division (B)(1) of 89806
this section by issuing an order pursuant to an adjudication in 89807
accordance with Chapter 119. of the Revised Code. 89808~~

~~(4) When subject to a suspension under this section, a 89809
medicaid provider, owner, officer, authorized agent, associate, 89810
manager, or employee shall not own or provide services to any 89811
other medicaid provider or risk contractor or arrange for, render, 89812
or order services to any other medicaid provider or risk 89813
contractor or arrange for, render, or order services for medicaid 89814
recipients during the period of suspension. During the period of 89815
suspension, the provider, owner, officer, authorized agent, 89816
associate, manager, or employee shall not receive ~~reimbursement in~~ 89817
~~the form of~~ direct payments ~~from the department~~ under the medicaid 89818
program or indirect payments of medicaid funds in the form of 89819
salary, shared fees, contracts, kickbacks, or rebates from or 89820
through any ~~participating~~ other medicaid provider or risk 89821
contractor. 89822~~

(C) The department shall not suspend a provider agreement or 89823
terminate medicaid ~~reimbursement~~ payments under division (B) of 89824
this section if the medicaid provider or owner can demonstrate 89825
through the submission of written evidence that the provider or 89826
owner did not directly or indirectly sanction the action of its 89827
authorized agent, associate, manager, or employee that resulted in 89828
the ~~creditable~~ credible allegation of fraud. 89829

(D) The termination of medicaid ~~reimbursement~~ payment under 89830
division (B) of this section applies only to payments for medicaid 89831
services rendered subsequent to the date on which the notice 89832
required by division (E) of this section is sent. Claims for 89833

~~reimbursement~~ payment of medicaid services rendered by the 89834
medicaid provider prior to the issuance of the notice may be 89835
subject to prepayment review procedures whereby the department 89836
reviews claims to determine whether they are supported by 89837
sufficient documentation, are in compliance with state and federal 89838
statutes and rules, and are otherwise complete. 89839

(E) After suspending a provider agreement under division (B) 89840
of this section, the department shall, as specified in 42 C.F.R. 89841
455.23(b), send notice of the suspension to the affected medicaid 89842
provider or owner in accordance with the following timeframes: 89843

(1) Not later than five days after the suspension, unless a 89844
law enforcement agency makes a written request to temporarily 89845
delay the notice; 89846

(2) If a law enforcement agency makes a written request to 89847
temporarily delay the notice, not later than thirty days after the 89848
suspension occurs subject to the conditions specified in division 89849
(F) of this section. 89850

(F) A written request for a temporary delay described in 89851
division (E)(2) of this section may be renewed in writing by a law 89852
enforcement agency not more than two times except that under no 89853
circumstances shall the notice be issued more than ninety days 89854
after the suspension occurs. 89855

(G) The notice required by division (E) of this section shall 89856
do all of the following: 89857

(1) State that payments are being suspended in accordance 89858
with this section and 42 C.F.R. 455.23; 89859

(2) Set forth the general allegations related to the nature 89860
of the conduct leading to the suspension, except that it is not 89861
necessary to disclose any specific information concerning an 89862
ongoing investigation; 89863

(3) State that the suspension continues to be in effect until 89864
either of the following is the case: 89865

(a) The department or a prosecuting authority determines that 89866
there is insufficient evidence of fraud by the provider; 89867

(b) The proceedings in any related criminal case are 89868
completed through dismissal of the indictment or through 89869
conviction, entry of a guilty plea, or finding of not guilty and, 89870
if the department commences a process to terminate the suspended 89871
provider agreement, until the termination process is concluded. 89872

(4) Specify, if applicable, the type or types of medicaid 89873
claims or business units of the medicaid provider that are 89874
affected by the suspension; 89875

(5) Inform the medicaid provider or owner of the opportunity 89876
to submit to the department, not later than thirty days after 89877
receiving the notice, a request for reconsideration of the 89878
suspension in accordance with division (H) of this section. 89879

(H)(1) Pursuant to the procedure specified in division (H)(2) 89880
of this section, a medicaid provider or owner subject to a 89881
suspension under this section may request a reconsideration of the 89882
suspension. The request shall be made not later than thirty days 89883
after receipt of a notice required by division (E) of this 89884
section. The reconsideration is not subject to an adjudication 89885
hearing pursuant to Chapter 119. of the Revised Code. 89886

(2) In requesting a reconsideration, the medicaid provider or 89887
owner shall submit written information and documents to the 89888
department. The information and documents may pertain to any of 89889
the following issues: 89890

(a) Whether the determination to suspend the provider 89891
agreement was based on a mistake of fact, other than the validity 89892
of an indictment in a related criminal case. 89893

(b) If there has been an indictment in a related criminal case, whether any offense charged in the indictment resulted from an offense specified in division (E) of section ~~5111.031~~ 5164.37 of the Revised Code.

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the suspension under this section or an indictment in a related criminal case.

(I) The department shall review the information and documents submitted in a request made under division (H) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

~~(J) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules~~ Rules adopted under section 5164.02 of the Revised Code may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. ~~5111.031~~ 5164.37. (A) As used in this section:

(1) "Independent provider" has the same meaning as in section ~~5111.034~~ 5164.341 of the Revised Code.

~~(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.~~

~~(3)~~ "Noninstitutional medicaid provider" means any person or

entity with a ~~medicaid~~ provider agreement other than a hospital, 89924
nursing facility, or ~~intermediate care facility for the mentally~~ 89925
~~retarded~~ ICF/MR. 89926

~~(4)~~(3) "Owner" means any person having at least five per cent 89927
ownership in a noninstitutional medicaid provider. 89928

(B) Notwithstanding any provision of this chapter to the 89929
contrary, the department of ~~job and family services~~ medicaid shall 89930
take action under this section against a noninstitutional medicaid 89931
provider or its owner, officer, authorized agent, associate, 89932
manager, or employee. 89933

(C) Except as provided in division (D) of this section and in 89934
rules ~~adopted~~ authorized by the ~~department under division (H) of~~ 89935
this section, on receiving notice and a copy of an indictment that 89936
is issued on or after September 29, 2007, and charges a 89937
noninstitutional medicaid provider or its owner, officer, 89938
authorized agent, associate, manager, or employee with committing 89939
an offense specified in division (E) of this section, the 89940
department shall suspend the provider agreement held by the 89941
noninstitutional medicaid provider. Subject to division (D) of 89942
this section, the department shall also terminate medicaid 89943
~~reimbursement~~ payments to the provider for medicaid services 89944
rendered. 89945

The suspension shall continue in effect until the proceedings 89946
in the criminal case are completed through dismissal of the 89947
indictment or through conviction, entry of a guilty plea, or 89948
finding of not guilty. If the department commences a process to 89949
terminate the suspended provider agreement, the suspension shall 89950
also continue in effect until the termination process is 89951
concluded. 89952

~~Pursuant to section 5111.06 of the Revised Code, the~~ 89953
~~department is not required to take action under this division by~~ 89954

~~issuing an order pursuant to an adjudication conducted in~~ 89955
~~accordance with Chapter 119. of the Revised Code.~~ 89956

When subject to a suspension under this division, a provider, 89957
owner, officer, authorized agent, associate, manager, or employee 89958
shall not own or provide medicaid services to any other medicaid 89959
provider or risk contractor or arrange for, render, or order 89960
medicaid services for medicaid recipients during the period of 89961
suspension. During the period of suspension, the provider, owner, 89962
officer, authorized agent, associate, manager, or employee shall 89963
not receive ~~reimbursement in the form of~~ direct payments ~~from~~ 89964
under the department medicaid program or indirect payments of 89965
medicaid funds in the form of salary, shared fees, contracts, 89966
kickbacks, or rebates from or through any ~~participating other~~ 89967
medicaid provider or risk contractor. 89968

(D)(1) The department shall not suspend a provider agreement 89969
or terminate medicaid ~~reimbursement~~ payments under division (C) of 89970
this section if the provider or owner can demonstrate through the 89971
submission of written evidence that the provider or owner did not 89972
directly or indirectly sanction the action of its authorized 89973
agent, associate, manager, or employee that resulted in the 89974
indictment. 89975

(2) The termination of medicaid ~~reimbursement~~ payments 89976
applies only to payments for medicaid services rendered subsequent 89977
to the date on which the notice required under division (F) of 89978
this section is sent. Claims for ~~reimbursement~~ payment for 89979
medicaid services rendered by the provider prior to the issuance 89980
of the notice may be subject to prepayment review procedures 89981
whereby the department reviews claims to determine whether they 89982
are supported by sufficient documentation, are in compliance with 89983
state and federal statutes and rules, and are otherwise complete. 89984

(E)(1) In the case of a noninstitutional medicaid provider 89985
that is not an independent provider, the suspension of a provider 89986

agreement under division (C) of this section applies when an 89987
indictment charges a person with committing an act that would be a 89988
felony or misdemeanor under the laws of this state and the act 89989
relates to or results from either of the following: 89990

(a) Furnishing or billing for ~~medical care,~~ medicaid 89991
~~services, or supplies~~ under the medicaid program; 89992

(b) Participating in the performance of management or 89993
administrative services relating to furnishing ~~medical care,~~ 89994
medicaid ~~services, or supplies~~ under the medicaid program. 89995

(2) In the case of a noninstitutional medicaid provider that 89996
is an independent provider, the suspension of a provider agreement 89997
under division (C) of this section applies when an indictment 89998
charges a person with committing an act that would constitute a 89999
disqualifying offense as defined in section ~~5111.032~~ 5164.34 of 90000
the Revised Code. 90001

(F) Not later than five days after suspending a provider 90002
agreement under division (C) of this section, the department shall 90003
send notice of the suspension to the affected provider or owner. 90004
In providing the notice, the department shall do all of the 90005
following: 90006

(1) Describe the indictment that was the cause of the 90007
suspension, without necessarily disclosing specific information 90008
concerning any ongoing civil or criminal investigation; 90009

(2) State that the suspension will continue in effect until 90010
the proceedings in the criminal case are completed through 90011
dismissal of the indictment or through conviction, entry of a 90012
guilty plea, or finding of not guilty and, if the department 90013
commences a process to terminate the suspended provider agreement, 90014
until the termination process is concluded; 90015

(3) Inform the provider or owner of the opportunity to submit 90016
to the department, not later than thirty days after receiving the 90017

notice, a request for a reconsideration pursuant to division (G) 90018
of this section. 90019

(G)(1) Pursuant to the procedure specified in division (G)(2) 90020
of this section, a noninstitutional medicaid provider or owner 90021
subject to a suspension under this section may request a 90022
reconsideration. The request shall be made not later than thirty 90023
days after receipt of the notice provided under division (F) of 90024
this section. The reconsideration is not subject to an 90025
adjudication hearing pursuant to Chapter 119. of the Revised Code. 90026

(2) In requesting a reconsideration, the provider or owner 90027
shall submit written information and documents to the department. 90028
The information and documents may pertain to any of the following 90029
issues: 90030

(a) Whether the determination to suspend the provider 90031
agreement was based on a mistake of fact, other than the validity 90032
of the indictment; 90033

(b) Whether any offense charged in the indictment resulted 90034
from an offense specified in division (E) of this section; 90035

(c) Whether the provider or owner can demonstrate that the 90036
provider or owner did not directly or indirectly sanction the 90037
action of its authorized agent, associate, manager, or employee 90038
that resulted in the indictment. 90039

(3) The department shall review the information and documents 90040
submitted in a request for reconsideration. After the review, the 90041
suspension may be affirmed, reversed, or modified, in whole or in 90042
part. The department shall notify the affected provider or owner 90043
of the results of the review. The review and notification of its 90044
results shall be completed not later than forty-five days after 90045
receiving the information and documents submitted in a request for 90046
reconsideration. 90047

(H) ~~The department may adopt rules in accordance with Chapter~~ 90048

~~119. of the Revised Code to implement this section. The rules~~ 90049
~~Rules adopted under section 5164.02 of the Revised Code may~~ 90050
~~specify circumstances under which the department would not suspend~~ 90051
~~a provider agreement pursuant to this section.~~ 90052

Sec. ~~5111.06~~ 5164.38. (A)~~(1)~~ As used in this section ~~and in~~ 90053
~~sections 5111.061 and 5111.063 of the Revised Code:~~ 90054

~~(a) "Provider" means any person, institution, or entity that~~ 90055
~~furnishes medicaid services under a provider agreement with the~~ 90056
~~department of job and family services pursuant to Title XIX of the~~ 90057
~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as~~ 90058
~~amended.~~ 90059

~~(b) "Party" has the same meaning as in division (G) of~~ 90060
~~section 119.01 of the Revised Code.~~ 90061

~~(c)(1)~~ "Adjudication" has the same meaning as in division (D) 90062
of section 119.01 of the Revised Code. 90063

(2) "Party" has the same meaning as in division (G) of 90064
section 119.01 of the Revised Code. 90065

(3) "Revalidate" means to approve a medicaid provider's 90066
continued enrollment as a medicaid provider in accordance with the 90067
revalidation process established in rules authorized by section 90068
5164.32 of the Revised Code. 90069

(B) This section does not apply to either of the following: 90070

~~(a)(1)~~ Any action taken or decision made by the department of 90071
~~job and family services~~ medicaid with respect to entering into or 90072
refusing to enter into a contract with a managed care organization 90073
pursuant to section ~~5111.17~~ 5167.10 of the Revised Code; 90074

~~(b)(2)~~ Any action taken by the department under sections 90075
~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. 90076

~~(B)(C)~~ Except as provided in division ~~(D)~~ (E) of this section 90077

and section ~~5111.914~~ 5164.58 of the Revised Code, the department 90078
shall do ~~either~~ any of the following by issuing an order pursuant 90079
to an adjudication conducted in accordance with Chapter 119. of 90080
the Revised Code: 90081

(1) Enter into or refuse to enter into a provider agreement 90082
with a medicaid provider, ~~or suspend;~~ 90083

(2) Revalidate or refuse to revalidate a medicaid provider's 90084
provider agreement; 90085

(3) Suspend or terminate, ~~renew, or refuse to renew an~~ 90086
~~existing a medicaid provider's~~ provider agreement ~~with a provider;~~ 90087

~~(2)~~(4) Take any action based upon a final fiscal audit of a 90088
medicaid provider. 90089

~~(C)~~(D) Any party who is adversely affected by the issuance of 90090
an adjudication order under division ~~(B)~~(C) of this section may 90091
appeal to the court of common pleas of Franklin county in 90092
accordance with section 119.12 of the Revised Code. 90093

~~(D)~~(E) The department is not required to comply with division 90094
~~(B)~~(C)(1), (2), or (3) of this section whenever any of the 90095
following occur: 90096

(1) The terms of a provider agreement require the medicaid 90097
provider to hold a license, permit, or certificate or maintain a 90098
certification issued by an official, board, commission, 90099
department, division, bureau, or other agency of state or federal 90100
government other than the department of ~~job and family services~~ 90101
medicaid, and the license, permit, certificate, or certification 90102
has been denied, revoked, not renewed, suspended, or otherwise 90103
limited. 90104

(2) The terms of a provider agreement require the medicaid 90105
provider to hold a license, permit, or certificate or maintain 90106
certification issued by an official, board, commission, 90107

department, division, bureau, or other agency of state or federal 90108
government other than the department of ~~job and family services~~ 90109
medicaid, and the provider has not obtained the license, permit, 90110
certificate, or certification. 90111

(3) The medicaid provider's application for a provider 90112
agreement is denied, or the provider's provider agreement is 90113
terminated, or not ~~renewed due~~ revalidated, because of or pursuant 90114
to ~~the~~ any of the following: 90115

(a) The termination, refusal to renew, or denial of a 90116
license, permit, certificate, or certification by an official, 90117
board, commission, department, division, bureau, or other agency 90118
of this state other than the department of ~~job and family services~~ 90119
medicaid, notwithstanding the fact that the provider may hold a 90120
license, permit, certificate, or certification from an official, 90121
board, commission, department, division, bureau, or other agency 90122
of another state. 90123

~~(4) The provider agreement is denied, terminated, or not~~ 90124
~~renewed pursuant to division (C);~~ 90125

(b) Division (D) or (F)(E) of section 5111.03 5164.35 of the 90126
Revised Code. 90127

~~(5) The provider agreement is denied, terminated, or not~~ 90128
~~renewed due to the;~~ 90129

(c) The provider's termination, suspension, or exclusion from 90130
the medicare program established under Title XVIII of the "Social 90131
Security Act" or from another state's medicaid program and, in 90132
either case, the termination, suspension, or exclusion is binding 90133
on the provider's participation in the medicaid program in this 90134
state. 90135

~~(6) The provider agreement is denied, terminated, or not~~ 90136
~~renewed due to the;~~ 90137

(d) The provider's pleading guilty to or being convicted of a 90138
criminal activity materially related to either the medicare or 90139
medicaid program;

(e) The provider or its owner, officer, authorized agent, 90141
associate, manager, or employee having been convicted of one of 90142
the offenses that caused the provider's provider agreement to be 90143
suspended pursuant to section 5164.36 of the Revised Code; 90144

(f) The provider's failure to provide the department the 90145
national provider identifier assigned the provider by the national 90146
provider system pursuant to 45 C.F.R. 162.408. 90147

~~(7)(4)~~ The medicaid provider's application for a provider 90148
agreement is denied, or the provider's provider agreement is 90149
terminated, or suspended, as a result of action by the United 90150
States department of health and human services and that action is 90151
binding on the provider's medicaid participation in the medicaid 90152
program. 90153

~~(8)(5)~~ Pursuant to either section ~~5111.031~~ 5164.36 or 90154
~~5111.035~~ 5164.37 of the Revised Code, the medicaid provider's 90155
provider agreement is suspended and payments to the provider are 90156
suspended pending indictment of the provider. 90157

~~(9) The provider agreement is denied, terminated, or not~~ 90158
~~renewed because the provider or its owner, officer, authorized~~ 90159
~~agent, associate, manager, or employee has been convicted of one~~ 90160
~~of the offenses that caused the provider agreement to be suspended~~ 90161
~~pursuant to section 5111.031 of the Revised Code.~~ 90162

~~(10)(6)~~ The medicaid provider's application for a provider 90163
agreement is denied because the provider's application was not 90164
complete; 90165

(7) The medicaid provider's provider agreement is converted 90166
under section ~~5111.028~~ 5164.32 of the Revised Code from a provider 90167
agreement that is not time-limited to a provider agreement that is 90168

time-limited. 90169

~~(11) The provider agreement is terminated or an application~~ 90170
~~for re-enrollment is denied because the provider has failed to~~ 90171
~~apply for re-enrollment within the time or in the manner specified~~ 90172
~~for re-enrollment (8) Unless the medicaid provider is a nursing~~ 90173
~~facility or ICF/MR, the provider's provider agreement is not~~ 90174
~~revalidated pursuant to division (B)(1) of section 5111.028~~ 90175
~~5164.32 of the Revised Code.~~ 90176

~~(12)(9) The medicaid provider's provider agreement is~~ 90177
~~suspended or, terminated, or an application for enrollment or~~ 90178
~~re-enrollment is denied, for any not revalidated because of either~~ 90179
~~of the following:~~ 90180

(a) Any reason authorized or required by one or more of the 90181
following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 90182
455.450- 90183

~~(13) The provider agreement is terminated or not renewed~~ 90184
~~because the;~~ 90185

(b) The provider has not billed or otherwise submitted a 90186
medicaid claim to the department for two years or longer. 90187

~~(14) The provider agreement is denied, terminated, or not~~ 90188
~~renewed because the provider fails to provide to the department~~ 90189
~~the national provider identifier assigned the provider by the~~ 90190
~~national provider system pursuant to 45 C.F.R. 162.408.~~ 90191

(F) In the case of a medicaid provider described in division 90192
~~(D)(13)(E)(3)(f), (6), (7), or (14)(9)(b)~~ of this section, the 90193
department may take its proposed action against a provider 90194
agreement by sending a notice explaining the proposed action to 90195
the provider. The notice shall be sent to the medicaid provider's 90196
address on record with the department. The notice may be sent by 90197
regular mail. 90198

~~(E)(G)~~ The department may withhold payments for medicaid 90199
services rendered by a medicaid provider ~~under the medicaid~~ 90200
~~program~~ during the pendency of proceedings initiated under 90201
division ~~(B)(C)(1), (2), or (3)~~ of this section. If the 90202
proceedings are initiated under division ~~(B)(2)(C)(4)~~ of this 90203
section, the department may withhold payments only to the extent 90204
that they equal amounts determined in a final fiscal audit as 90205
being due the state. This division does not apply if the 90206
department fails to comply with section 119.07 of the Revised 90207
Code, requests a continuance of the hearing, or does not issue a 90208
decision within thirty days after the hearing is completed. This 90209
division does not apply to nursing facilities and ~~intermediate~~ 90210
~~care facilities for the mentally retarded as defined in section~~ 90211
~~5111.20 of the Revised Code~~ ICFs/MR. 90212

Sec. ~~5111.062~~ 5164.39. In any action taken by the department 90213
of ~~job and family services~~ medicaid under section ~~5111.06~~ 5164.38 90214
or ~~5111.061~~ 5164.57 of the Revised Code or any other ~~provision of~~ 90215
~~this chapter~~ state statute governing the medicaid program that 90216
requires the department to give notice of an opportunity for a 90217
hearing in accordance with Chapter 119. of the Revised Code, if 90218
the department gives notice of the opportunity for a hearing but 90219
the medicaid provider or other entity subject to the notice does 90220
not request a hearing or timely request a hearing in accordance 90221
with section 119.07 of the Revised Code, the department is not 90222
required to hold a hearing. The medicaid director ~~of job and~~ 90223
~~family service~~ may proceed by issuing a final adjudication order 90224
in accordance with Chapter 119. of the Revised Code. 90225

Sec. ~~5111.05~~ 5164.45. (A) The department of ~~job and family~~ 90226
~~services~~ medicaid may contract with any person or persons as a 90227
fiscal agent for the examination, processing, and determination of 90228
~~medical assistance~~ medicaid claims ~~under this chapter~~. The 90229

contracting party may provide any of the following services, as 90230
required by the contract: 90231

(1) Design and operate medicaid management information 90232
systems, including the provision of data processing services; 90233

(2) Determine the amounts of payments to be made upon claims 90234
for ~~medical assistance~~ medicaid; 90235

(3) Prepare and furnish to the department lists and computer 90236
tapes of such claims for payment; 90237

(4) In addition to audits which may be conducted by the 90238
department and by the auditor of state, make audits of providers 90239
and the claims of medicaid providers ~~of medical assistance~~ 90240
according to the standards set forth in the contract; 90241

(5) Assist medicaid providers ~~of medical assistance~~ in the 90242
development of procedures relating to utilization practices, make 90243
studies of the effectiveness of such procedures and methods for 90244
their improvement, implement and enforce standards of medical 90245
policy, and assist in the application of safeguards against 90246
unnecessary utilization; 90247

(6) Assist any institution, facility, or agency to qualify as 90248
a medicaid provider ~~of medical assistance~~; 90249

(7) Establish and maintain fiscal records for the ~~medical~~ 90250
~~assistance~~ medicaid program; 90251

(8) Perform statistical and research studies; 90252

(9) Develop and implement programs for ~~medical assistance~~ 90253
medicaid cost containment; 90254

(10) Perform such other duties as are necessary to carry out 90255
the ~~medical assistance~~ medicaid program. 90256

(B) The department ~~of job and family services~~ may contract 90257
with any person or persons as an insuring agent for the 90258
examination, processing, and determination of ~~medical assistance~~ 90259

medicaid claims, as provided in division (A) of this section, and 90260
for the payment of ~~medical assistance~~ medicaid claims through an 90261
underwritten program in which the state pays the insuring agent a 90262
monthly premium and the insuring agent pays for ~~medical~~ medicaid 90263
services ~~authorized under the state's medical assistance program.~~ 90264
The person with whom the department contracts, with respect to the 90265
awarding, provisions, and performance of such contract, shall not 90266
be subject to the provisions of Title XXXIX of the Revised Code or 90267
to regulation by the department of insurance, nor to taxation as 90268
an insurance company pursuant to section 5725.18 or 5729.03 of the 90269
Revised Code. A contract with an insuring agent shall specify the 90270
qualifications, including capital and surplus requirements, and 90271
other conditions with which the insuring agent must comply. 90272

(C) In entering into a contract under this section, the 90273
department, in cooperation with the director of budget and 90274
management, shall determine that the contracting party is 90275
qualified to perform the required services and shall follow 90276
applicable procedures required of the department of administrative 90277
services in sections 125.07 to 125.11 of the Revised Code. A 90278
contract shall be awarded to the bidder who, with due 90279
consideration to the bidder's experience and financial capability, 90280
offers the lowest and best bid to the state for control of the 90281
costs of the ~~medical assistance~~ medicaid program consistent with 90282
meeting the obligations under that program for fair and equitable 90283
treatment of medicaid recipients and medicaid providers ~~of medical~~ 90284
~~services~~. Any arrangement whereby funds are paid to an insuring or 90285
fiscal agent for administrative functions under this section 90286
shall, for the purposes of section 125.081 of the Revised Code, be 90287
deemed to be a contract or purchase by the department of 90288
administrative services; however, money to be used by an insuring 90289
agent to pay for ~~medical~~ medicaid services ~~authorized under the~~ 90290
~~state's medical assistance program~~ shall not be deemed a contract 90291
or purchase within the meaning of such section. 90292

~~Sec. 5111.052~~ 5164.46. (A) As used in this section, 90293
"electronic claims submission process" means any of the following: 90294

(1) Electronic interchange of data; 90295

(2) Direct entry of data through an internet-based mechanism 90296
implemented by the department of ~~job and family services~~ medicaid; 90297

(3) Any other process for the electronic submission of claims 90298
that is specified in rules adopted under ~~this~~ section 5162.02 of 90299
the Revised Code. 90300

(B) Not later than January 1, 2013, and except as provided in 90301
division (C) of this section, each medicaid provider ~~of services~~ 90302
~~to medicaid recipients~~ shall do both of the following: 90303

(1) Use only an electronic claims submission process to 90304
submit to the department of ~~job and family services~~ medicaid 90305
claims for medicaid ~~reimbursement~~ payment for medicaid services 90306
provided to medicaid recipients; 90307

(2) Arrange to receive medicaid ~~reimbursement~~ payment from 90308
the department by means of electronic funds transfer. 90309

(C) Division (B) of this section does not apply to any of the 90310
following: 90311

(1) A nursing facility, ~~as defined in section 5111.20 of the~~ 90312
~~Revised Code~~; 90313

(2) An ~~intermediate care facility for the mentally retarded,~~ 90314
~~as defined in section 5111.20 of the Revised Code~~ ICF/MR; 90315

(3) A medicaid managed care organization ~~under contract with~~ 90316
~~the department pursuant to section 5111.17 of the Revised Code~~; 90317

(4) Any other medicaid provider or type of medicaid provider 90318
designated in rules adopted under ~~this~~ section 5162.02 of the 90319
Revised Code. 90320

(D) The department shall not process a medicaid claim 90321

submitted on or after January 1, 2013, unless the claim is 90322
submitted through an electronic claims submission process in 90323
accordance with this section. 90324

~~(E) The director of job and family services may adopt rules 90325
in accordance with Chapter 119. of the Revised Code as the 90326
director considers necessary to implement this section. 90327~~

Sec. ~~5111.054~~ 5164.47. (A) As used in this section: 90328

~~(1) "Federal financial participation" means the federal 90329
government's share of expenditures made by an entity in 90330
implementing the medicaid program. 90331~~

~~(2),~~ "OCHSPS" means the private, not-for-profit corporation 90332
known as the Ohio children's hospital solutions for patient 90333
safety, which was formed for the purpose of improving pediatric 90334
patient care in this state, which performs functions that are 90335
included within the functions of a peer review committee as 90336
defined in section 2305.25 of the Revised Code, and which consists 90337
of all of the following members: Akron children's hospital, 90338
Cincinnati children's hospital medical center, Cleveland clinic 90339
children's hospital, Dayton children's medical center, mercy 90340
children's hospital, nationwide children's hospital, rainbow 90341
babies & children's hospital, and Toledo children's hospital. 90342

(B) If, as authorized by section ~~5101.10~~ 5160.10 of the 90343
Revised Code, the ~~department of job and family services~~ medicaid
director chooses to contract with a person to perform either or 90344
both of the following services, ~~it~~ the director may contract with 90345
any qualified person, including OCHSPS, to perform the service or 90346
services on ~~the department's~~ behalf of the department of medicaid: 90347
90348

(1) Review and analyze claims for ~~medical assistance made~~ 90349
~~under this chapter~~ medicaid services provided to children in 90350
accordance with all state and federal laws governing the 90351

confidentiality of patient-identifying information; 90352

(2) Perform quality assurance and quality review functions, 90353
other than those described in division (B)(1) of this section, 90354
related to ~~medical assistance made under this chapter~~ medicaid 90355
services provided to children. 90356

The functions specified in division (B)(2) of this section 90357
may include those recommended by the best evidence for advancing 90358
child health in Ohio now (BEACON) council. 90359

(C) If the ~~department~~ director enters into a contract with 90360
OCHSPS for OCHSPS to perform either or both of the services 90361
described in division (B) of this section, OCHSPS shall, only for 90362
purposes of section ~~5101.11~~ 5160.12 of the Revised Code, be 90363
considered a public entity and the ~~department~~ director shall seek 90364
federal financial participation for costs incurred by OCHSPS in 90365
performing the service or services. 90366

Sec. ~~5111.051~~ 5164.48. The medicaid director ~~of job and~~ 90367
~~family services~~ may ~~submit a medicaid state plan amendment or~~ 90368
~~request for a federal waiver to the United States secretary of~~ 90369
~~health and human services as necessary to implement, at the~~ 90370
~~director's discretion,~~ a system under which medicaid payments for 90371
~~medical assistance provided under the~~ medicaid program services 90372
are made to an organization on behalf of ~~the~~ medicaid providers ~~of~~ 90373
~~the medical assistance.~~ The system may not provide for an 90374
organization to receive an amount that exceeds, in aggregate, the 90375
amount the ~~department~~ medicaid program would have paid directly to 90376
~~the~~ medicaid providers if not for this section. 90377

Sec. 5164.55. The department of medicaid may conduct final 90378
fiscal audits of medicaid providers in accordance with the 90379
applicable requirements set forth in federal laws and regulations 90380
and determine any amounts the provider may owe the state. When 90381

conducting final fiscal audits, the department shall consider 90382
generally accepted auditing standards, which include the use of 90383
statistical sampling. 90384

Sec. ~~5111.022~~ 5164.56. Under the medicaid program, any amount 90385
determined to be owed the state by a final fiscal audit conducted 90386
pursuant to ~~division (D) of section 5111.021~~ 5164.55 of the 90387
Revised Code, upon the issuance of an adjudication order pursuant 90388
to Chapter 119. of the Revised Code that contains a finding that 90389
there is a preponderance of the evidence that ~~the~~ a medicaid 90390
provider will liquidate assets or file bankruptcy in order to 90391
prevent payment of the amount determined to be owed the state, 90392
becomes a lien upon the real and personal property of the 90393
provider. Upon failure of the provider to pay the amount to the 90394
state, the medicaid ~~director of job and family services~~ shall file 90395
notice of the lien, for which there shall be no charge, in the 90396
office of the county recorder of the county in which it is 90397
ascertained that the provider owns real or personal property. The 90398
director shall notify the provider by mail of the lien, but 90399
absence of proof that the notice was sent does not affect the 90400
validity of the lien. The lien is not valid as against the claim 90401
of any mortgagee, pledgee, purchaser, judgment creditor, or other 90402
lienholder of record at the time the notice is filed. 90403

If the provider acquires real or personal property after 90404
notice of the lien is filed, the lien shall not be valid as 90405
against the claim of any mortgagee, pledgee, subsequent bona fide 90406
purchaser for value, judgment creditor, or other lienholder of 90407
record to such after-acquired property unless the notice of lien 90408
is refiled after the property is acquired by the provider and 90409
before the competing lien attaches to the after-acquired property 90410
or before the conveyance to the subsequent bona fide purchaser for 90411
value. 90412

When the amount has been paid, the provider may record with 90413
the recorder notice of the payment. For recording such notice of 90414
payment, the recorder shall charge and receive from the provider a 90415
base fee of one dollar for services and a housing trust fund fee 90416
of one dollar pursuant to section 317.36 of the Revised Code. 90417

In the event of a distribution of a the provider's assets 90418
pursuant to an order of any court under the law of this state 90419
including any receivership, assignment for benefit of creditors, 90420
adjudicated insolvency, or similar proceedings, amounts then or 90421
thereafter due the state under ~~this chapter~~ the medicaid program 90422
have the same priority as provided by law for the payment of taxes 90423
due the state and shall be paid out of the receivership trust fund 90424
or other such trust fund in the same manner as provided for claims 90425
for unpaid taxes due the state. 90426

If the attorney general finds after investigation that any 90427
amount due the state under ~~this chapter~~ the medicaid program is 90428
uncollectable, in whole or in part, the attorney general shall 90429
recommend to the director the cancellation of all or part of the 90430
claim. The director may thereupon effect the cancellation. 90431

Sec. ~~5111.061~~ 5164.57. (A) As used in this section, 90432
"adjudication" has the same meaning as in section 119.01 of the 90433
Revised Code. 90434

(B)(1) Except as provided in division ~~(A)~~(B)(2) of this 90435
section, the department of ~~job and family services~~ medicaid may 90436
recover a medicaid payment or portion of a payment made to a 90437
medicaid provider to which the provider is not entitled if the 90438
department notifies the provider of the overpayment during the 90439
five-year period immediately following the end of the state fiscal 90440
year in which the overpayment was made. 90441

(2) In the case of a hospital medicaid provider, if the 90442
department determines as a result of a medicare or medicaid cost 90443

report settlement that the provider received an amount under the 90444
medicaid program to which the provider is not entitled, the 90445
department may recover the overpayment if the department notifies 90446
the provider of the overpayment during the later of the following: 90447

(a) The five-year period immediately following the end of the 90448
state fiscal year in which the overpayment was made; 90449

(b) The one-year period immediately following the date the 90450
department receives from the United States centers for medicare 90451
and medicaid services a completed, audited, medicare cost report 90452
for the provider that applies to the state fiscal year in which 90453
the overpayment was made. 90454

~~(B)~~(C) Among the overpayments that may be recovered under 90455
this section are the following: 90456

(1) Payment for a medicaid service, or a day of service, not 90457
rendered; 90458

(2) Payment for a day of service at a full per diem rate that 90459
should have been paid at a percentage of the full per diem rate; 90460

(3) Payment for a medicaid service, or day of service, that 90461
was paid by, or partially paid by, a third party, as defined in 90462
section ~~5101.571~~ 5160.35 of the Revised Code, and the third 90463
party's payment or partial payment was not offset against the 90464
amount paid by the medicaid program to reduce or eliminate the 90465
amount that was paid by the medicaid program; 90466

(4) Payment when a medicaid recipient's responsibility for 90467
payment was understated and resulted in an overpayment to the 90468
provider. 90469

~~(C)~~(D) The department may recover an overpayment under this 90470
section prior to or after any of the following: 90471

(1) Adjudication of a final fiscal audit that section ~~5111.06~~ 90472
5164.38 of the Revised Code requires to be conducted in accordance 90473

with Chapter 119. of the Revised Code; 90474

(2) Adjudication of a finding under any other provision of 90475
~~this chapter state statutes governing the medicaid program~~ or the 90476
rules adopted under ~~it~~ those statutes; 90477

(3) Expiration of the time to issue a final fiscal audit that 90478
section ~~5111.06~~ 5164.38 of the Revised Code requires to be 90479
conducted in accordance with Chapter 119. of the Revised Code; 90480

(4) Expiration of the time to issue a finding under any other 90481
provision of ~~this chapter state statutes governing the medicaid~~ 90482
program or the rules adopted under ~~it~~ those statutes. 90483

~~(D)~~(E)(1) Subject to division ~~(D)~~(E)(2) of this section, the 90484
recovery of an overpayment under this section does not preclude 90485
the department from subsequently doing the following: 90486

(a) Issuing a final fiscal audit in accordance with Chapter 90487
119. of the Revised Code, as required under section ~~5111.06~~ 90488
5164.38 of the Revised Code; 90489

(b) Issuing a finding under any other provision of ~~this~~ 90490
~~chapter state statutes governing the medicaid program~~ or the rules 90491
adopted under ~~it~~ those statutes. 90492

(2) A final fiscal audit or finding issued subsequent to the 90493
recovery of an overpayment under this section shall be reduced by 90494
the amount of the prior recovery, as appropriate. 90495

~~(E)~~(F) Nothing in this section limits the department's 90496
authority to recover overpayments pursuant to any other provision 90497
of the Revised Code. 90498

Sec. ~~5111.914~~ 5164.58. (A) ~~As used in this section,~~ 90499
~~"provider" has the same meaning as in section 5111.06 of the~~ 90500
~~Revised Code.~~ 90501

~~(B)~~ If a state agency that enters into a contract with the 90502

department of ~~job and family services~~ medicaid under section 90503
~~5111.91~~ 5162.35 of the Revised Code identifies that a medicaid 90504
overpayment has been made to a medicaid provider, the state agency 90505
may commence actions to recover the overpayment on behalf of the 90506
department. 90507

~~(C)~~(B) In recovering an overpayment pursuant to this section, 90508
a state agency shall comply with the following procedures: 90509

(1) The state agency shall attempt to recover the overpayment 90510
by notifying the medicaid provider of the overpayment and 90511
requesting voluntary repayment. Not later than five business days 90512
after notifying the medicaid provider, the state agency shall 90513
notify the department in writing of the overpayment. The state 90514
agency may negotiate a settlement of the overpayment and notify 90515
the department of the settlement. A settlement negotiated by the 90516
state agency is not valid and shall not be implemented until the 90517
department has given its written approval of the settlement. 90518

(2) If the state agency is unable to obtain voluntary 90519
repayment of an overpayment, the agency shall give the medicaid 90520
provider notice of an opportunity for a hearing in accordance with 90521
Chapter 119. of the Revised Code. If the medicaid provider timely 90522
requests a hearing in accordance with section 119.07 of the 90523
Revised Code, the state agency shall conduct the hearing to 90524
determine the legal and factual validity of the overpayment. On 90525
completion of the hearing, the state agency shall submit its 90526
hearing officer's report and recommendation and the complete 90527
record of proceedings, including all transcripts, to the medicaid 90528
director ~~of job and family services~~ for final adjudication. The 90529
director may issue a final adjudication order in accordance with 90530
Chapter 119. of the Revised Code. The state agency shall pay any 90531
attorney's fees imposed under section 119.092 of the Revised Code. 90532
The department of ~~job and family services~~ medicaid shall pay any 90533
attorney's fees imposed under section 2335.39 of the Revised Code. 90534

~~(D)~~(C) In any action taken by a state agency under this 90535
section that requires the agency to give notice of an opportunity 90536
for a hearing in accordance with Chapter 119. of the Revised Code, 90537
if the agency gives notice of the opportunity for a hearing but 90538
the medicaid provider subject to the notice does not request a 90539
hearing or timely request a hearing in accordance with section 90540
119.07 of the Revised Code, the agency is not required to hold a 90541
hearing. The agency may request that the medicaid director ~~of job~~ 90542
~~and family services~~ issue a final adjudication order in accordance 90543
with Chapter 119. of the Revised Code. 90544

~~(E)~~(D) This section does not preclude the department of ~~job~~ 90545
~~and family services~~ medicaid from adjudicating a final fiscal 90546
audit under section ~~5111.06~~ 5164.38 of the Revised Code, 90547
recovering overpayments under section ~~5111.061~~ 5164.57 of the 90548
Revised Code, or making findings or taking other actions 90549
authorized by ~~this chapter~~ state statutes governing the medicaid 90550
program. 90551

Sec. 5164.59. The department of medicaid may deduct from 90552
medicaid payments for medicaid services rendered by a medicaid 90553
provider any amounts the provider owes the state as the result of 90554
incorrect medicaid payments the department has made to the 90555
provider. 90556

Sec. 5164.60. Any medicaid provider who, without intent, 90557
obtains payments under the medicaid program in excess of the 90558
amount to which the provider is entitled is liable for payment of 90559
interest on the amount of the excess payments at the maximum 90560
interest rate allowable for real estate mortgages under section 90561
1343.01 of the Revised Code on the date the payment was made to 90562
the provider for the period from the date on which payment was 90563
made to the date on which repayment is made to the state. 90564

Sec. 5164.61. The authority, under state and federal law, of the department of medicaid or a county department of job and family services to recover excess medicaid payments made to a medicaid provider is not limited by the availability of remedies under sections 5162.21 and 5162.23 of the Revised Code for recovering benefits paid on behalf of medicaid recipients.

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~~Sec. 5111.021~~ 5164.70. Under the medicaid program:

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~~(A)~~ Except as otherwise required by federal statute or regulation, the department of job and family services shall not reimburse a medical provider no medicaid payment for any medical assistance rendered under the program an amount that exceeds medicaid service shall exceed the following:

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~~(1)~~(A) If the medicaid provider is a hospital, nursing facility, or ~~intermediate care facility for the mentally retarded~~ ICF/MR, the limits established under Subpart C of 42 C.F.R. Part 447;

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~~(2)~~(B) If the medicaid provider is other than a provider described in division (A)~~(1)~~ of this section, the authorized reimbursement payment limits for the same service under the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

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~~(B)~~ Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

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~~(C)~~ The department may deduct from payments for services rendered by a medicaid provider under the medicaid program any amounts the provider owes the state as the result of incorrect medicaid payments the department has made to the provider.

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~~(D)~~ The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal

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~~laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.~~

~~(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.~~

~~(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.~~

Sec. 5164.71. Medicaid payments for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

Sec. 5164.72. The number of days of inpatient hospital care for which a medicaid payment is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the

recipient's admission to the hospital and ending sixty days after 90625
the termination of that hospital stay, except that the department 90626
of medicaid may make exceptions to this limitation. The limitation 90627
does not apply to children participating in the program for 90628
medically handicapped children established under section 3701.023 90629
of the Revised Code. 90630

Sec. 5164.73. The division of any medicaid payment between a 90631
collaborating physician or podiatrist and a clinical nurse 90632
specialist, certified nurse-midwife, or certified nurse 90633
practitioner for services performed by the nurse shall be 90634
determined and agreed on by the nurse and collaborating physician 90635
or podiatrist. In no case shall the medicaid payment exceed the 90636
medicaid payment that the physician or podiatrist would have 90637
received had the physician or podiatrist provided the entire 90638
service. 90639

Sec. ~~5111.19~~ 5164.74. The medicaid director of job and family 90640
services shall adopt rules under section 5164.02 of the Revised 90641
Code governing the calculation and payment of, and the allocation 90642
of payments for, graduate medical education costs associated with 90643
medicaid services rendered to medicaid recipients after June 30, 90644
1994. Subject to section ~~5111.191~~ 5164.741 of the Revised Code, 90645
the rules shall provide for reimbursement payment of graduate 90646
medical education costs associated with medicaid services rendered 90647
to medicaid recipients, including recipients enrolled in a 90648
medicaid managed care organization under contract with the 90649
department office under section ~~5111.17~~ of the Revised Code, that 90650
the department of medicaid determines are allowable and 90651
reasonable. 90652

If the department requires a managed care organization to pay 90653
a provider for graduate medical education costs associated with 90654

~~the delivery of services to medicaid recipients enrolled in the organization, the department shall include in its payment to the organization an amount sufficient for the organization to pay such costs. If the department does not include in its payments to the managed care organization amounts for graduate medical education costs of providers, all of the following apply:~~

~~(A) Except as provided in section 5111.191 of the Revised Code, the department shall pay the provider for graduate medical education costs associated with the delivery of services to medicaid recipients enrolled in the organization;~~

~~(B) No provider shall seek reimbursement from the organization for such costs;~~

~~(C) The organization is not required to pay providers for such costs.~~

Sec. ~~5111.191~~ 5164.741. (A) Except as provided in division (B) of this section, the department of job and family services medicaid may deny medicaid payment to a hospital for direct graduate medical education costs associated with the delivery of medicaid services to any medicaid recipient if the hospital refuses without good cause to contract with a medicaid managed care organization that ~~serves participants in the care management system established under section 5111.16 of the Revised Code who are required to be enrolled in a managed care organization and the managed care organization~~ serves the area in which the hospital is located.

(B) A hospital is not subject to division (A) of this section if all of the following are the case:

(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a

health insuring corporation. 90685

(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (B)(1) of this section. 90686
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(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation. 90689
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(C) The medicaid director ~~of job and family services~~ shall specify in the rules adopted under section ~~5111.19~~ 5164.02 of the Revised Code what constitutes good cause for a hospital to refuse to contract with a medicaid managed care organization. 90693
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Sec. ~~5111.086~~ 5164.75. As used in this section, "federal upper reimbursement limit" means the limit established pursuant to ~~section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 (1990)~~ section 1927(e), 42 U.S.C. 1396r-8(e), as amended. 90697
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The medicaid payment for a drug that is subject to a federal upper reimbursement limit shall not exceed, in the aggregate, the federal upper reimbursement limit for the drug. ~~The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~ 90701
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Sec. ~~5111.082~~ 5164.751. (A) As used in this section: 90706

~~(1) "State, "state~~ maximum allowable cost means the per unit amount the ~~department of job and family services reimburses~~ medicaid program pays a terminal distributor of dangerous drugs for a ~~prescription~~ prescribed drug included in the state maximum allowable cost program established under division (B) of this section. "State maximum allowable cost" excludes dispensing fees and copayments, coinsurance, or other cost-sharing charges, if any. 90707
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~~(2) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.~~ 90715
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(B) The medicaid director ~~of job and family services~~ shall establish a state maximum allowable cost program for purposes of managing ~~reimbursement~~ medicaid payments to terminal distributors of dangerous drugs for ~~prescription~~ prescribed drugs identified by the director pursuant to this division. The director shall do all of the following with respect to the program: 90717
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(1) Identify and create a list of ~~prescription~~ prescribed drugs to be included in the program. 90723
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(2) Update the list of ~~prescription~~ prescribed drugs described in division (B)(1) of this section on a weekly basis. 90725
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(3) Review the state maximum allowable cost for each prescribed drug included on the list described in division (B)(1) of this section on a weekly basis. 90727
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~~(C) The director may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~ 90730
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Sec. ~~5111.07~~ 5164.752. ~~Commencing in In July, 1986, and of every second July thereafter~~ even-numbered year, the department of ~~job and family services~~ medicaid shall initiate a ~~private confidential~~ survey of ~~retail pharmacy operations~~ the cost of dispensing drugs incurred by terminal distributors of dangerous drugs in ~~the~~ this state. The survey shall be used as the basis for establishing a ~~current maximum~~ the medicaid program's dispensing fee for ~~licensed pharmacists who are providers of drugs under this chapter.~~ The terminal distributors in accordance with section 5164.753 of the Revised Code. The survey shall be completed and its results published not later than the last day of October of the year in which it is conducted. 90732
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Each terminal distributor that is a provider of drugs under 90744

the medicaid program shall participate in the survey. Except as necessary to publish the survey's results, a terminal distributor's responses to the survey are confidential and not a public record under section 149.43 of the Revised Code. 90745
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The survey shall be conducted in conformance with the requirements set forth in 42 C.F.R. 447.331 through 447.333, as amended or superseded, and 447.500 to 447.518. The survey shall include operational data and direct prescription expenses, professional services and personnel costs, and usual and customary overhead expenses, and profit data of the retail pharmacies terminal distributors surveyed. The survey shall be completed and its results published no later than the last day of October of the year in which the survey is conducted, and the survey shall compute and report the cost of dispensing fees on a basis of the usual and customary charges by retail pharmacies terminal distributors to their customers for dispensing drugs. The director of job and family services shall take into account the results of the survey in establishing a dispensing fee. 90749
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Sec. 5111.071 5164.753. Commencing in In December, 1986, and of every second December thereafter even-numbered year, the medicaid director of job and family services shall establish a dispensing fee, effective the following January July, for licensed pharmacists terminal distributors of dangerous drugs who are providers of drugs under this chapter the medicaid program. The In establishing the dispensing fee, the director shall take into consideration the results of the survey conducted under section 5111.07 5164.752 of the Revised Code and the extent to which each terminal distributor participates in the medicaid program as a provider of drugs. 90763
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Sec. 5111.0114 5164.754. (A) As used in this section, "dangerous drug" and "manufacturer of dangerous drugs" have the 90774
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same meaning as in section 4729.01 of the Revised Code. 90776

(B) The medicaid director ~~of job and family services~~ may 90777
enter into or administer an agreement or cooperative arrangement 90778
with other states to create or join a multiple-state prescription 90779
drug purchasing program for the purpose of negotiating with 90780
manufacturers of dangerous drugs to receive discounts or rebates 90781
for dangerous drugs ~~dispensed under~~ covered by the medicaid 90782
program. 90783

Sec. ~~5111.081~~ 5164.755. The medicaid director ~~of job and~~ 90784
~~family services~~, in rules adopted under section ~~5111.02~~ 5164.02 of 90785
the Revised Code, may establish and implement a supplemental drug 90786
rebate program under which drug manufacturers may be required to 90787
provide the department of ~~job and family services~~ medicaid a 90788
supplemental rebate as a condition of having the drug 90789
manufacturers' drug products covered by the medicaid program 90790
without prior approval. The department may receive a supplemental 90791
rebate negotiated under the program for a drug dispensed to a 90792
medicaid recipient pursuant to a prescription or a drug purchased 90793
by a medicaid provider for administration to a medicaid recipient 90794
in the provider's primary place of business. ~~If necessary, the~~ 90795
~~director may apply to the United States secretary of health and~~ 90796
~~human services for a waiver of federal statutes and regulations to~~ 90797
~~establish the supplemental drug rebate program.~~ 90798

If the director establishes a supplemental drug rebate 90799
program, the director shall consult with drug manufacturers 90800
regarding the establishment and implementation of the program. 90801

Sec. ~~5101.31~~ 5164.756. Any record, data, pricing information, 90802
or other information regarding a drug rebate agreement or a 90803
supplemental drug rebate agreement for the medicaid program 90804
~~established under Chapter 5111. of the Revised Code that the~~ 90805

department of ~~job and family services~~ medicaid receives from a 90806
pharmaceutical manufacturer or creates pursuant to negotiation of 90807
the agreement is not a public record under section 149.43 of the 90808
Revised Code and shall be treated by the department as 90809
confidential information. 90810

Sec. ~~5111.083~~ 5164.757. (A) As used in this section, 90811
"licensed health professional authorized to prescribe drugs" has 90812
the same meaning as in section 4729.01 of the Revised Code. 90813

(B) The medicaid director ~~of job and family services~~ may 90814
~~establish an~~ acquire or specify technologies to provide 90815
information regarding medicaid recipient eligibility, claims 90816
history, and drug coverage to medicaid providers through 90817
electronic health record and e-prescribing system for the medicaid 90818
~~program under which~~ applications. 90819

If such technologies are acquired or specified, the 90820
e-prescribing applications shall enable a medicaid provider who is 90821
a licensed health professional authorized to prescribe drugs ~~shall~~ 90822
to use an electronic system to prescribe a drug for a medicaid 90823
recipient ~~when required to do so by division (C) of this section.~~ 90824
The ~~e-prescribing~~ purpose of the electronic system shall is to 90825
eliminate the need for such medicaid providers to ~~make~~ issue 90826
prescriptions for medicaid recipients by handwriting or telephone. 90827
The ~~e-prescribing system~~ technologies acquired or specified by the 90828
director also shall provide such medicaid providers with an 90829
up-to-date, clinically relevant drug information database and a 90830
system of electronically monitoring medicaid recipients' medical 90831
history, drug regimen compliance, and fraud and abuse. 90832

~~(C) If the director establishes an e-prescribing system under~~ 90833
~~division (B) of this section, the director shall do all of the~~ 90834
~~following:~~ 90835

~~(1) Require that a medicaid provider who is a licensed health professional authorized to prescribe drugs use the e-prescribing system during a fiscal year if the medicaid provider was one of the ten medicaid providers who, during the calendar year that precedes that fiscal year, issued the most prescriptions for medicaid recipients receiving hospital services;~~

~~(2) Before the beginning of each fiscal year, determine the ten medicaid providers that issued the most prescriptions for medicaid recipients receiving hospital services during the calendar year that precedes the upcoming fiscal year and notify those medicaid providers that they must use the e-prescribing system for the upcoming fiscal year;~~

~~(3) Seek the most federal financial participation available for the development and implementation of the e-prescribing system.~~

Sec. 5111.085 5164.758. ~~Not later than July 1, 2012, the department of job and family services The medicaid director shall adopt rules in accordance with Chapter 119. under section 5164.02 of the Revised Code to implement a coordinated services program for medicaid recipients who are found to have obtained prescription prescribed drugs under the medicaid program at a frequency or in an amount that is not medically necessary. The program shall be implemented in a manner that is consistent with section 1915(a)(2) of the "Social Security Act," 95 Stat. 810 ~~(1981)~~ section 1915(a)(2), 42 U.S.C. 1396n(a)(2), ~~as amended,~~ and 42 C.F.R. 431.54(e).~~

Sec. 5111.08 5164.759. In accordance with ~~subsection (g) of section 1927~~ of the "Social Security Act," 49 Stat. 320 ~~(1935)~~ section 1927(q), 42 U.S.C.A. 1396r-8(g), ~~as amended,~~ the department of job and family services medicaid shall establish an

outpatient drug use review program to assure that prescriptions 90866
obtained by medicaid recipients ~~of medical assistance under this~~ 90867
~~chapter~~ are appropriate, medically necessary, and unlikely to 90868
cause adverse medical results. 90869

Sec. ~~5111.084~~ 5164.7510. (A) There is hereby established the 90870
pharmacy and therapeutics committee of the department of ~~job and~~ 90871
~~family services~~ medicaid. The committee shall assist the 90872
department with developing and maintaining a preferred drug list 90873
for the medicaid program. 90874

The committee shall review and recommend to the medicaid 90875
director ~~of job and family services~~ the drugs that should be 90876
included on the preferred drug list. The recommendations shall be 90877
made based on the evaluation of competent evidence regarding the 90878
relative safety, efficacy, and effectiveness of ~~prescription~~ 90879
prescribed drugs within a class or classes of ~~prescription~~ 90880
prescribed drugs. 90881

(B) The committee shall consist of ten members and shall be 90882
appointed by the medicaid director ~~of job and family services~~. The 90883
director shall seek recommendations for membership from relevant 90884
professional organizations. A candidate for membership recommended 90885
by a professional organization shall have professional experience 90886
working with medicaid recipients. 90887

The membership of the committee shall include: 90888

(1) Three pharmacists licensed under Chapter 4729. of the 90889
Revised Code; 90890

(2) Two doctors of medicine and two doctors of osteopathy who 90891
hold certificates to practice issued under Chapter 4731. of the 90892
Revised Code, one of whom is a family practice physician; 90893

(3) A registered nurse licensed under Chapter 4723. of the 90894
Revised Code; 90895

(4) A pharmacologist who has a doctoral degree; 90896

(5) A psychiatrist who holds a certificate to practice issued 90897
under Chapter 4731. of the Revised Code and specializes in 90898
psychiatry. 90899

(C) The committee shall elect from among its members a 90900
chairperson. Five committee members constitute a quorum. 90901

The committee shall establish guidelines necessary for the 90902
committee's operation. 90903

The committee may establish one or more subcommittees to 90904
investigate and analyze issues consistent with the duties of the 90905
committee under this section. The subcommittees may submit 90906
proposals regarding the issues to the committee and the committee 90907
may adopt, reject, or modify the proposals. 90908

A vote by a majority of a quorum is necessary to make 90909
recommendations to the director. In the case of a tie, the 90910
chairperson shall decide the outcome. 90911

(D) The director shall act on the committee's recommendations 90912
not later than thirty days after the recommendation is posted on 90913
the department's web site under division (F) of this section. If 90914
the director does not accept a recommendation of the committee, 90915
the director shall present the basis for this determination not 90916
later than fourteen days after making the determination or at the 90917
next scheduled meeting of the committee, whichever is sooner. 90918

(E) An interested party may request, and shall be permitted, 90919
to make a presentation or submit written materials to the 90920
committee during a committee meeting. The presentation or other 90921
materials shall be relevant to an issue under consideration by the 90922
committee and any written material, including a transcript of 90923
testimony to be given on the day of the meeting, may be submitted 90924
to the committee in advance of the meeting. 90925

(F) The department shall post the following on the department's web site: 90926
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(1) Guidelines established by the committee under division (C) of this section; 90928
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(2) A detailed committee agenda not later than fourteen days prior to the date of a regularly scheduled meeting and not later than seventy-two hours prior to the date of a special meeting called by the committee; 90930
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(3) Committee recommendations not later than seven days after the meeting at which the recommendation was approved; 90934
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(4) The director's final determination as to the recommendations made by the committee under this section. 90936
90937

Sec. ~~5111.025~~ 5164.76. (A) In rules adopted under section ~~5111.02~~ 5164.02 of the Revised Code, the medicaid director ~~of job and family services~~ shall modify the manner or establish a new manner in which the following are paid under medicaid: 90938
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(1) Community mental health ~~agencies~~ service providers or facilities for providing community mental health services ~~included in covered by the state medicaid plan program~~ pursuant to section ~~5111.023~~ 5164.15 of the Revised Code; 90942
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(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services ~~included in covered by the medicaid program pursuant to rules adopted under section 5111.02 of the Revised Code.~~ 90946
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(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section ~~5111.02 or 5119.61~~ 5119.22 or 5164.02 of the Revised Code that are in effect on June 26, 2003, and govern the way medicaid pays for those services. This is the case 90950
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regardless of what state agency adopted the rules. 90956

Sec. ~~5111.0213~~ 5164.77. (A) As used in this section: 90957

(1) "Aide services" means all of the following: 90958

(a) Home health aide services available under the home health 90959
services benefit pursuant to 42 C.F.R. 440.70(b)(2); 90960

(b) Home care attendant services available under a home and 90961
community-based services medicaid waiver component; 90962

(c) Personal care aide services available under a home and 90963
community-based services medicaid waiver component. 90964

(2) ~~"Home and community based services medicaid waiver 90965
component" has the same meaning as in section 5111.85 of the 90966
Revised Code.~~ 90967

~~(3)~~ "Independent provider" means an individual who personally 90968
provides aide services or nursing services and is not employed by, 90969
under contract with, or affiliated with another entity that 90970
provides those services. 90971

~~(4)~~(3) "Nursing services" means all of the following: 90972

(a) Nursing services available under the home health services 90973
benefit pursuant to 42 C.F.R. 440.70(b)(1); 90974

(b) Private duty nursing services as defined in 42 C.F.R. 90975
440.80; 90976

(c) Nursing services available under a home and 90977
community-based services medicaid waiver component. 90978

(B) The department of ~~job and family services~~ medicaid shall 90979
do ~~both~~ all of the following: 90980

(1) Effective October 1, 2011, reduce the medicaid program's 90981
first-hour-unit price for aide services to ninety-seven per cent 90982
of the price paid on June 30, 2011, and for nursing services to 90983

ninety-five per cent of the price paid on June 30, 2011; 90984

(2) Effective October 1, 2011, pay for a service that is an 90985
aide service or a nursing service provided by an independent 90986
provider eighty per cent of the price it pays for the same service 90987
provided by a provider that is not an independent provider; 90988

(3) Not sooner than July 1, 2012, adjust the medicaid 90989
~~reimbursement~~ payment rates for aide services and nursing services 90990
in a manner that reflects, at a minimum, labor market data, 90991
education and licensure status, home health agency and independent 90992
provider status, and length of service visit. 90993

(C) The department shall strive to have the adjustment made 90994
under division (B)(3) of this section go into effect on July 1, 90995
2012. The reductions made under divisions (B)(1) and (2) of this 90996
section shall remain in effect until the adjustment made under 90997
division (B)(3) of this section goes into effect. 90998

~~(D) The director of job and family services shall adopt rules 90999
under sections 5111.02 and 5111.85 of the Revised Code as 91000
necessary to implement this section. 91001~~

Sec. ~~5111.0212~~ 5164.80. As necessary to comply with ~~section~~ 91002
~~1902(a)(13)(A)~~ of the "Social Security Act," ~~111 Stat. 507 (1997)~~ 91003
section 1902(a)(13)(A), 42 U.S.C. 1396a(a)(13)(A), ~~as amended~~, and 91004
any other federal law that requires public notice of proposed 91005
changes to ~~reimbursement~~ payment rates for ~~medical assistance~~ 91006
~~provided under the medicaid program~~ services, the medicaid 91007
~~director of job and family services~~ shall give public notice in 91008
the register of Ohio of any change to a method or standard used to 91009
determine the medicaid ~~reimbursement~~ payment rate for ~~medical~~ 91010
~~assistance~~ a medicaid service. 91011

Sec. ~~5111.0214~~ 5164.82. The department of ~~job and family~~ 91012
~~services~~ medicaid shall not knowingly make a medicaid payment for 91013

a provider-preventable condition for which federal financial 91014
participation is prohibited by regulations adopted under ~~section~~ 91015
~~2702~~ of the "Patient Protection and Affordable Care Act," ~~124~~ 91016
~~Stat. 318 (2010)~~ section 2702, 42 U.S.C. 1396b-1. ~~The director of~~ 91017
~~job and family services shall adopt rules under section 5111.02 of~~ 91018
~~the Revised Code as necessary to implement this section.~~ 91019

Sec. 5164.83. (A) As used in this section: 91020

(1) "Core competencies," "direct care services," and "direct 91021
care worker" have the same meanings as in section 191.061 of the 91022
Revised Code. 91023

(2) "Direct payment" means payment by the medicaid program 91024
for direct care services provided by a direct care worker to a 91025
medicaid recipient that is delivered directly to the worker. 91026

(3) "Indirect payment" means payment by the medicaid program 91027
for direct care services provided by a direct care worker to a 91028
medicaid recipient that is delivered to a third party but later 91029
transferred to the worker. 91030

(B) The department of medicaid shall not do either of the 91031
following unless a direct care worker demonstrates core 91032
competencies in accordance with section 191.061 of the Revised 91033
Code: 91034

(1) Permit a direct or indirect payment to be made to the 91035
worker for a direct care service provided by the worker on or 91036
after October 1, 2015; 91037

(2) Enter into a provider agreement with the direct care 91038
worker on or after October 1, 2015. 91039

Sec. 5111.13 5164.85. (A) As used in this section, 91040
"cost-effective" and "group health plan" have the same meanings as 91041
in ~~section 1906~~ of the "Social Security Act," ~~104 Stat. 1388-161~~ 91042

~~(1990) section 1906, 42 U.S.C. 1396e, as amended, and any~~ 91043
~~regulations adopted under that section.~~ 91044

~~(B) The department of job and family services medicaid may~~ 91045
~~submit a medicaid state plan amendment to the United States~~ 91046
~~secretary of health and human services for the purpose of~~ 91047
~~implementing implement a program pursuant to ~~section 1906~~ of the~~ 91048
~~"Social Security Act," 104 Stat. 1388-161 (1990) section 1906, 42~~ 91049
~~U.S.C. 1396e, as amended, for the enrollment of medicaid-eligible~~ 91050
~~individuals in group health plans when the department determines~~ 91051
~~that enrollment is cost-effective.~~ 91052

~~(C) The director of job and family services may adopt rules~~ 91053
~~in accordance with Chapter 119. of the Revised Code as necessary~~ 91054
~~to implement this section.~~ 91055

Sec. ~~5111.18~~ 5164.86. ~~Not later than September 1, 2007, the~~ 91056
~~The medicaid director of job and family services shall establish a~~ 91057
~~qualified state long-term care insurance partnership program~~ 91058
~~consistent with the definition of that term in the "Social~~ 91059
~~Security Act," section 1917(b)(1)(C)(iii), 42 U.S.C.~~ 91060
~~1396p(b)(1)(C)(iii). An individual participating in the program~~ 91061
~~who is subject to the medicaid estate recovery program instituted~~ 91062
~~under section ~~5111.11~~ 5162.21 of the Revised Code shall be~~ 91063
~~eligible for the reduced adjustment or recovery under division (D)~~ 91064
~~of that section.~~ 91065

~~The director of job and family services may adopt rules in~~ 91066
~~accordance with Chapter 119. of the Revised Code as necessary to~~ 91067
~~implement this section.~~ 91068

Sec. ~~5111.14~~ 5164.88. ~~The medicaid director of job and family~~ 91069
~~services may submit to the United States secretary of health and~~ 91070
~~human services an amendment to the medicaid state plan in order to~~ 91071
~~implement within the medicaid program a system under which~~ 91072

medicaid recipients with chronic conditions are provided with 91073
coordinated care through health homes, as authorized by ~~section~~ 91074
~~1945~~ of the "Social Security Act," ~~124 Stat. 319 (2010)~~ section 91075
1945, 42 U.S.C. 1396w-4. 91076

~~The director may adopt rules under section 5111.02 of the~~ 91077
~~Revised Code to implement this section.~~ 91078

Sec. ~~5111.141~~ 5164.89. The department of ~~job and family~~ 91079
~~services~~ medicaid may require county departments of job and family 91080
services to provide case management of nonemergency transportation 91081
services provided under the ~~medical assistance~~ medicaid program. 91082
County departments shall provide the case management if required 91083
by the department in accordance with rules adopted ~~by the director~~ 91084
~~of job and family services~~ under section 5164.02 of the Revised 91085
Code. 91086

The department shall determine, for the purposes of claiming 91087
federal ~~reimbursement under the medical assistance program~~ 91088
financial participation, whether it will claim expenditures for 91089
nonemergency transportation services as administrative or program 91090
expenditures. 91091

Sec. ~~5111.96~~ 5164.90. (A) As used in this section, "MFP 91092
demonstration project" means a money follows the person 91093
demonstration project that the United States secretary of health 91094
and human services is authorized to award under section 6071 of 91095
the "Deficit Reduction Act of 2005" (Pub. L. No. 109-171, as 91096
amended). 91097

(B) To the extent funds are available under an MFP 91098
demonstration project awarded to the department of ~~job and family~~ 91099
~~services~~ medicaid, the director of ~~job and family services~~ 91100
medicaid may operate the helping Ohioans move, expanding (HOME) 91101
choice demonstration component of the medicaid program to 91102

transition medicaid recipients who qualify for the demonstration 91103
component to community settings. ~~The director may adopt rules in~~ 91104
~~accordance with Chapter 119. of the Revised Code for the~~ 91105
~~administration and operation of the demonstration component.~~ 91106

Sec. ~~5111.981~~ 5164.91. ~~(A) As used in this section and~~ 91107
~~section 5111.982 of the Revised Code:~~ 91108

~~"Dual eligible individual" has the same meaning as in the~~ 91109
~~"Social Security Act," section 1915(h)(2)(B), 42 U.S.C.~~ 91110
~~1396n(h)(2)(B).~~ 91111

~~"Medicare" means the program created in the "Social Security~~ 91112
~~Act," Title XVIII, 42 U.S.C. 1395 et seq., as amended.~~ 91113

~~(B) Subject to division (C) of this section, the medical~~ 91114
~~assistance The medicaid director may implement a demonstration~~ 91115
~~project called the integrated care delivery system to test and~~ 91116
~~evaluate the integration of the care that dual eligible~~ 91117
~~individuals receive under medicare and medicaid. No provision of~~ 91118
~~Title LI of the Revised Code applies to the integrated care~~ 91119
~~delivery system if that provision implements or incorporates a~~ 91120
~~provision of federal law governing medicaid and that provision of~~ 91121
~~federal law does not apply to the system.~~ 91122

~~(C) Before implementing the integrated care delivery system~~ 91123
~~under division (B) of this section, the director shall obtain the~~ 91124
~~approval of the United States secretary of health and human~~ 91125
~~services in the form of a federal medicaid waiver, medicaid state~~ 91126
~~plan amendment, or demonstration grant. The director is required~~ 91127
~~to seek the federal approval only if the director seeks to~~ 91128
~~implement the integrated care delivery system. The director shall~~ 91129
~~implement the integrated care delivery system in accordance with~~ 91130
~~the terms of the federal approval, including the terms regarding~~ 91131
~~the duration of the system.~~ 91132

Sec. ~~5111.0210~~ 5164.92. As used in this section, "advanced diagnostic imaging services" means magnetic resonance imaging services, computed tomography services, positron emission tomography services, cardiac nuclear medicine services, and similar imaging services.

~~Not later than January 1, 2010, the~~ The department of ~~job and family services~~ medicaid shall implement evidence-based, best practice guidelines or protocols and decision support tools for advanced diagnostic imaging services ~~available under~~ covered by the fee-for-service component of the medicaid program.

Sec. ~~5111.0215~~ 5164.93. (A) The department of ~~job and family services~~ medicaid may establish a program under which it provides incentive payments, as authorized by the "~~Health Information Technology for Economic and Clinical Health~~ Social Security Act," ~~123 Stat. 489 (2009)~~ section 1903(a)(3)(F) and (t), 42 U.S.C. 1396b(a)(3)(F) and ~~1396b(t)~~, ~~as amended~~, to encourage the adoption and use of electronic health record technology by medicaid providers who are identified under that federal law as eligible professionals.

(B) After the department has made a determination regarding the amount of a medicaid provider's electronic health record incentive payment or the denial of an incentive payment, the department shall notify the provider. The provider may request that the department reconsider its determination.

A request for reconsideration shall be submitted in writing to the department not later than fifteen days after the provider receives notification of the determination. The request shall be accompanied by written materials setting forth the basis for, and supporting, the reconsideration request.

On receipt of a timely request, the department shall

reconsider the determination. On the basis of the written materials accompanying the request, the department may uphold, reverse, or modify its original determination. The department shall mail to the provider by certified mail a written notice of the reconsideration decision.

In accordance with Chapter 2505. of the Revised Code, the medicaid provider may appeal the reconsideration decision by filing a notice of appeal with the court of common pleas of Franklin county. The notice shall identify the decision being appealed and the specific grounds for the appeal. The notice of appeal shall be filed not later than fifteen days after the department mails its notice of the reconsideration decision. A copy of the notice of appeal shall be filed with the department not later than three days after the notice is filed with the court.

(C) The medicaid director ~~of job and family services~~ may adopt rules ~~in accordance with Chapter 119.~~ under section 5162.02 of the Revised Code as necessary to implement this section. The rules, if any, shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. ~~5111.20~~ 5165.01. As used in ~~sections 5111.20 to 5111.331~~ of the Revised Code this chapter:

(A) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator

with the exiting operator specified in division (A)(1) of this section. 91193
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~~(B)~~ "Allowable costs" are those a nursing facility's costs determined by that the department of job and family services to be medicaid determines are reasonable and do not include fines. Fines paid under sections ~~5111.35~~ 5165.60 to ~~5111.61~~ 5165.89 and section ~~5111.99~~ 5165.99 of the Revised Code are not allowable costs. 91195
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~~(B)~~(C) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs, tax costs, or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social services, pharmacy consultants, habilitation supervisors, qualified mental retardation professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted ~~by the director of job and family services~~ under section ~~5111.02~~ 5165.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the nursing facility's cost report for the cost reporting period ending December 31, 1992. 91200
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(C)(D)(1) "Capital costs" means costs of ownership and, in	91225
the case of an intermediate care facility for the mentally	91226
retarded, costs of nonextensive renovation <u>the actual expense</u>	91227
incurred by a nursing facility for all of the following:	91228
(a) <u>Depreciation and interest on any capital assets that cost</u>	91229
five hundred dollars or more per item, including the following:	91230
(i) <u>Buildings;</u>	91231
(ii) <u>Building improvements;</u>	91232
(iii) <u>Except as provided in division (C) of this section,</u>	91233
<u>equipment;</u>	91234
(iv) <u>Transportation equipment.</u>	91235
(b) <u>Amortization and interest on land improvements and</u>	91236
<u>leasehold improvements;</u>	91237
(c) <u>Amortization of financing costs;</u>	91238
(d) <u>Lease and rent of land, buildings, and equipment.</u>	91239
(2) <u>The costs of capital assets of less than five hundred</u>	91240
<u>dollars per item may be considered capital costs in accordance</u>	91241
<u>with a provider's practice.</u>	91242
(1) "Cost of ownership" means the actual expense incurred for	91243
all of the following:	91244
(a) <u>Depreciation and interest on any capital assets that cost</u>	91245
<u>five hundred dollars or more per item, including the following:</u>	91246
(i) <u>Buildings;</u>	91247
(ii) <u>Building improvements that are not approved as</u>	91248
<u>nonextensive renovations under section 5111.251 of the Revised</u>	91249
<u>Code;</u>	91250
(iii) <u>Except as provided in division (B) of this section,</u>	91251
<u>equipment;</u>	91252

(iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations;	91253
	91254
(v) Transportation equipment.	91255
(b) Amortization and interest on land improvements and leasehold improvements;	91256
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(c) Amortization of financing costs;	91258
(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.	91259
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The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.	91261
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(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.	91264
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(D)(E) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	91268
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(E) "Case mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.	91271
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(F) "Case-mix score" means a measure determined under section 5165.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a nursing facility resident.	91276
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(G) "Change of operator" means an entering operator becoming the operator of a nursing facility in the place of the exiting operator.	91280
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<u>(1) Actions that constitute a change of operator include the</u>	91283
<u>following:</u>	91284
<u>(a) A change in an exiting operator's form of legal</u>	91285
<u>organization, including the formation of a partnership or</u>	91286
<u>corporation from a sole proprietorship;</u>	91287
<u>(b) A transfer of all the exiting operator's ownership</u>	91288
<u>interest in the operation of the nursing facility to the entering</u>	91289
<u>operator, regardless of whether ownership of any or all of the</u>	91290
<u>real property or personal property associated with the nursing</u>	91291
<u>facility is also transferred;</u>	91292
<u>(c) A lease of the nursing facility to the entering operator</u>	91293
<u>or the exiting operator's termination of the exiting operator's</u>	91294
<u>lease;</u>	91295
<u>(d) If the exiting operator is a partnership, dissolution of</u>	91296
<u>the partnership;</u>	91297
<u>(e) If the exiting operator is a partnership, a change in</u>	91298
<u>composition of the partnership unless both of the following apply:</u>	91299
<u>(i) The change in composition does not cause the</u>	91300
<u>partnership's dissolution under state law.</u>	91301
<u>(ii) The partners agree that the change in composition does</u>	91302
<u>not constitute a change in operator.</u>	91303
<u>(f) If the operator is a corporation, dissolution of the</u>	91304
<u>corporation, a merger of the corporation into another corporation</u>	91305
<u>that is the survivor of the merger, or a consolidation of one or</u>	91306
<u>more other corporations to form a new corporation.</u>	91307
<u>(2) The following, alone, do not constitute a change of</u>	91308
<u>operator:</u>	91309
<u>(a) A contract for an entity to manage a nursing facility as</u>	91310
<u>the operator's agent, subject to the operator's approval of daily</u>	91311
<u>operating and management decisions;</u>	91312

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility if an entering operator does not become the operator in place of an exiting operator; 91313
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(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator. 91317
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(H) "Cost center" means the following: 91321

(1) Ancillary and support costs; 91322

(2) Capital costs; 91323

(3) Direct care costs; 91324

(4) Tax costs. 91325

(I) "Custom wheelchair" means a wheelchair to which both of the following apply: 91326
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(1) It has been measured, fitted, or adapted in consideration of either of the following: 91328
91329

(a) The body size or disability of the individual who is to use the wheelchair; 91330
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(b) The individual's period of need for, or intended use of, the wheelchair. 91332
91333

(2) It has customized features, modifications, or components, such as adaptive seating and positioning systems, that the supplier who assembled the wheelchair, or the manufacturer from which the wheelchair was ordered, added or made in accordance with the instructions of the physician of the individual who is to use the wheelchair. 91334
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(J)(1) "Date of licensure~~7~~" for a means the following: 91340

(a) In the case of a nursing facility originally that was 91341

~~required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, means the date specific beds were the nursing facility was originally so licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.;~~

~~If (b) In the case of a nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were facility that was not required by law to be licensed as a nursing home when they were it originally used to provide began to be operated as a nursing home or residential facility services, "date of licensure" means the date the beds it first were used to provide began to be operated as a nursing home or residential facility services, regardless of the date the present provider obtained licensure nursing facility was first licensed as a nursing home.~~

~~(2) If a facility adds, after a nursing facility's original date of licensure, more nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure are added to the nursing facility, it will have the nursing facility has a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space. This does not apply, however, to additional beds when both of the following apply:~~

~~(a) The additional beds are located in a part of the nursing facility that was constructed at the same time as the previously licensed continuing beds but already located in that part of the~~

nursing facility; 91374

(b) The part of the nursing facility in which the additional beds are located was constructed as part of the nursing facility at a time when the nursing facility was not required by law to be licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time as a nursing home. 91375
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~~(2)~~(3) The definition of "date of licensure" in this section applies in determinations of the nursing facilities' medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded payment rates but does not apply in determinations of the nursing facilities' franchise permit fee for a nursing facility or intermediate care facility for the mentally retarded fees. 91380
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~~(G)~~(K) "Desk-reviewed" means that a nursing facility's costs as reported on a cost report submitted under section ~~5111.26~~ 5165.10 of the Revised Code have been subjected to a desk review under ~~division (A) of section 5111.27~~ 5165.108 of the Revised Code and preliminarily determined to be allowable costs. 91387
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~~(H)~~(L) "Direct care costs" means all of the following costs incurred by a nursing facility: 91392
91393

(1)~~(a)~~ Costs for registered nurses, licensed practical nurses, and nurse aides employed by the nursing facility; 91394
91395

~~(b)~~(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division ~~(H)~~(2)~~(L)~~(8) of this section, other persons holding degrees qualifying them to provide therapy; 91396
91397
91398
91399

~~(c)~~(3) Costs of purchased nursing services; 91400

~~(d)~~(4) Costs of quality assurance; 91401

~~(e)~~(5) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or 91402
91403

costs for self-insurance claims and related costs as specified in 91404
rules adopted by the director of job and family services in 91405
~~accordance with Chapter 119, under section 5165.02~~ of the Revised 91406
Code, for personnel listed in divisions ~~(H)(L)(1)(a), (b)(2), and~~ 91407
~~(d)(4), and (8)~~ of this section; 91408

~~(f)(6)~~ Costs of consulting and management fees related to 91409
direct care; 91410

~~(g)(7)~~ Allocated direct care home office costs. 91411

~~(2)~~ In addition to the costs specified in division ~~(H)(1)~~ of 91412
~~this section, for nursing facilities only, direct care costs~~ 91413
~~include costs;~~ 91414

(8) Costs of habilitation staff (other than habilitation 91415
supervisors), medical supplies, oxygen, over-the-counter pharmacy 91416
products, behavioral and mental health services, physical 91417
therapists, physical therapy assistants, occupational therapists, 91418
occupational therapy assistants, speech therapists, audiologists, 91419
habilitation supplies, ~~wheelchairs,~~ resident transportation, and 91420
universal precautions supplies. i 91421

~~(3)~~ In addition to the costs specified in division ~~(H)(1)~~ of 91422
~~this section, for intermediate care facilities for the mentally~~ 91423
~~retarded only, direct care costs include both of the following:~~ 91424

~~(a)~~ Costs for physical therapists and physical therapy 91425
assistants, occupational therapists and occupational therapy 91426
assistants, speech therapists, audiologists, habilitation staff 91427
~~(including habilitation supervisors), qualified mental retardation~~ 91428
~~professionals, program directors, social services staff,~~ 91429
~~activities staff, off-site day programming, psychologists and~~ 91430
~~psychology assistants, and social workers and counselors;~~ 91431

~~(b)~~ Costs of training and staff development, employee 91432
benefits, payroll taxes, and workers' compensation premiums or 91433
costs for self-insurance claims and related costs as specified in 91434

~~rules adopted under section 5111.02 of the Revised Code, for~~ 91435
~~personnel listed in division (H)(3)(a) of this section.~~ 91436

~~(4)(9) Costs of wheelchairs other than the following:~~ 91437

~~(a) Custom wheelchairs;~~ 91438

~~(b) Repairs to and replacements of custom wheelchairs and~~ 91439
~~parts that are made in accordance with the instructions of the~~ 91440
~~physician of the individual who uses the custom wheelchair.~~ 91441

~~(10) Costs of other direct-care resources that are specified~~ 91442
~~as direct care costs in rules adopted under section 5111.02~~ 91443
~~5165.02 of the Revised Code.~~ 91444

~~(I)(M) "Dual eligible individual" has the same meaning as in~~ 91445
~~section 5160.01 of the Revised Code.~~ 91446

~~(N) "Effective date of a change of operator" means the day~~ 91447
~~the entering operator becomes the operator of the nursing~~ 91448
~~facility.~~ 91449

~~(O) "Effective date of a facility closure" means the last day~~ 91450
~~that the last of the residents of the nursing facility resides in~~ 91451
~~the nursing facility.~~ 91452

~~(P) "Effective date of an involuntary termination" means the~~ 91453
~~date the department of medicaid terminates the operator's provider~~ 91454
~~agreement for the nursing facility.~~ 91455

~~(Q) "Effective date of a voluntary withdrawal of~~ 91456
~~participation" means the day the nursing facility ceases to accept~~ 91457
~~new medicaid residents other than the individuals who reside in~~ 91458
~~the nursing facility on the day before the effective date of the~~ 91459
~~voluntary withdrawal of participation.~~ 91460

~~(R) "Entering operator" means the person or government entity~~ 91461
~~that will become the operator of a nursing facility when a change~~ 91462
~~of operator occurs or following an involuntary termination.~~ 91463

~~(S) "Exiting operator" means any of the following:~~ 91464

<u>(1) An operator that will cease to be the operator of a nursing facility on the effective date of a change of operator;</u>	91465
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<u>(2) An operator that will cease to be the operator of a nursing facility on the effective date of a facility closure;</u>	91467
	91468
<u>(3) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation;</u>	91469
	91470
<u>(4) An operator of a nursing facility that is undergoing or has undergone an involuntary termination.</u>	91471
	91472
<u>(T)(1) Subject to divisions (T)(2) and (3) of this section, "facility closure" means either of the following:</u>	91473
	91474
<u>(a) Discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility that results in the relocation of all of the nursing facility's residents;</u>	91475
	91476
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	91478
<u>(b) Conversion of the building, or part of the building, that houses a nursing facility to a different use with any necessary license or other approval needed for that use being obtained and one or more of the nursing facility's residents remaining in the building, or part of the building, to receive services under the new use.</u>	91479
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	91484
<u>(2) A facility closure occurs regardless of any of the following:</u>	91485
	91486
<u>(a) The operator completely or partially replacing the nursing facility by constructing a new nursing facility or transferring the nursing facility's license to another nursing facility;</u>	91487
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<u>(b) The nursing facility's residents relocating to another of the operator's nursing facilities;</u>	91491
	91492
<u>(c) Any action the department of health takes regarding the nursing facility's medicaid certification that may result in the</u>	91493
	91494

transfer of part of the nursing facility's survey findings to 91495
another of the operator's nursing facilities; 91496

(d) Any action the department of health takes regarding the 91497
nursing facility's license under Chapter 3721. of the Revised 91498
Code. 91499

(3) A facility closure does not occur if all of the nursing 91500
facility's residents are relocated due to an emergency evacuation 91501
and one or more of the residents return to a medicaid-certified 91502
bed in the nursing facility not later than thirty days after the 91503
evacuation occurs. 91504

(U) "Fiscal year" means the fiscal year of this state, as 91505
specified in section 9.34 of the Revised Code. 91506

~~(J)(V) "Franchise permit fee" means the following:~~ 91507

~~(1) In the context of nursing facilities, the fee imposed by~~ 91508
~~sections 3721.50 5168.40 to 3721.58 5168.56 of the Revised Code;~~ 91509

~~(2) In the context of intermediate care facilities for the~~ 91510
~~mentally retarded, the fee imposed by sections 5112.30 to 5112.39~~ 91511
~~of the Revised Code.~~ 91512

~~(K) "Indirect care costs" means all reasonable costs incurred~~ 91513
~~by an intermediate care facility for the mentally retarded other~~ 91514
~~than direct care costs, other protected costs, or capital costs.~~ 91515
~~"Indirect care costs" includes but is not limited to costs of~~ 91516
~~habilitation supplies, pharmacy consultants, medical and~~ 91517
~~habilitation records, program supplies, incontinence supplies,~~ 91518
~~food, enterals, dietary supplies and personnel, laundry,~~ 91519
~~housekeeping, security, administration, liability insurance,~~ 91520
~~bookkeeping, purchasing department, human resources,~~ 91521
~~communications, travel, dues, license fees, subscriptions, home~~ 91522
~~office costs not otherwise allocated, legal services, accounting~~ 91523
~~services, minor equipment, maintenance and repairs, help wanted~~ 91524
~~advertising, informational advertising, start-up costs,~~ 91525

~~organizational expenses, other interest, property insurance, 91526
employee training and staff development, employee benefits, 91527
payroll taxes, and workers' compensation premiums or costs for 91528
self insurance claims and related costs as specified in rules 91529
adopted under section 5111.02 of the Revised Code, for personnel 91530
listed in this division. Notwithstanding division (C)(1) of this 91531
section, "indirect care costs" also means the cost of equipment, 91532
including vehicles, acquired by operating lease executed before 91533
December 1, 1992, if the costs are reported as administrative and 91534
general costs on the facility's cost report for the cost reporting 91535
period ending December 31, 1992. 91536~~

~~(L)(W) "Inpatient days" means the following: 91537~~

~~(1) In the context of a nursing facility, both of the 91538
following: 91539~~

~~(a)(1) All days during which a resident, regardless of 91540
payment source, occupies a bed in a nursing facility that is 91541
included in the nursing facility's certified medicaid-certified 91542
capacity under Title XIX; 91543~~

~~(b)(2) Fifty per cent of the days for which payment is made 91544
under section 5111.331 5165.34 of the Revised Code. 91545~~

~~(2) In the context of an intermediate care facility for the 91546
mentally retarded, both of the following: 91547~~

~~(a) All days during which a resident, regardless of payment 91548
source, occupies a bed in an intermediate care facility for the 91549
mentally retarded that is included in the facility's certified 91550
capacity under Title XIX; 91551~~

~~(b) All days for which payment is made under section 5111.33 91552
of the Revised Code. 91553~~

~~(M) "Intermediate care facility for the mentally retarded" 91554
means an intermediate care facility for the mentally retarded 91555~~

~~certified as in compliance with applicable standards for the~~ 91556
~~medicaid program by the director of health in accordance with~~ 91557
~~Title XIX.~~ 91558

~~(N)(X) "Involuntary termination" means the department of~~ 91559
~~medicaid's termination of the operator's provider agreement for~~ 91560
~~the nursing facility when the termination is not taken at the~~ 91561
~~operator's request.~~ 91562

~~(Y) "Low resource utilization resident" means a medicaid~~ 91563
~~recipient residing in a nursing facility who, for purposes of~~ 91564
~~calculating the nursing facility's medicaid payment rate for~~ 91565
~~direct care costs, is placed in either of the two lowest resource~~ 91566
~~utilization groups, excluding any resource utilization group that~~ 91567
~~is a default group used for residents with incomplete assessment~~ 91568
~~data.~~ 91569

~~(Z) "Maintenance and repair expenses" means, except as~~ 91570
~~provided in division (BB)(2) of this section, a nursing facility's~~ 91571
expenditures that are necessary and proper to maintain an asset in 91572
a normally efficient working condition and that do not extend the 91573
useful life of the asset two years or more. "Maintenance and 91574
repair expenses" includes but is not limited to the ~~cost~~ costs of 91575
ordinary repairs such as painting and wallpapering. 91576

~~(O)(AA) "Medicaid-certified capacity" means the number of a~~ 91577
~~nursing facility's beds that are certified for participation in~~ 91578
~~medicaid as nursing facility beds.~~ 91579

~~(BB) "Medicaid days" means the following:~~ 91580

~~(1) In the context of a nursing facility, both of the~~ 91581
following: 91582

~~(a)(1) All days during which a resident who is a medicaid~~ 91583
recipient eligible for nursing facility services occupies a bed in 91584
a nursing facility that is included in the nursing facility's 91585
~~certified medicaid-certified capacity under Title XIX;~~ 91586

~~(b)(2)~~ Fifty per cent of the days for which payment is made under section ~~5111.331~~ 5165.34 of the Revised Code. 91587
91588

~~(2) In the context of an intermediate care facility for the mentally retarded, both of the following:~~ 91589
91590

~~(a) All days during which a resident who is a medicaid recipient eligible for intermediate care facility for the mentally retarded services occupies a bed in an intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX;~~ 91591
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~~(b) All days for which payment is made under section 5111.33 of the Revised Code.~~ 91596
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~~(P)(CC)(1) "New nursing facility" means a nursing facility for which the provider obtains an initial provider agreement following medicaid certification of the nursing facility by the director of health, including such a nursing facility that replaces one or more nursing facilities for which a provider previously held a provider agreement.~~ 91598
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~~(2) "New nursing facility" does not mean a nursing facility for which the entering operator seeks a provider agreement pursuant to section 5165.511 or 5165.512 or (pursuant to section 5165.515) section 5165.07 of the Revised Code.~~ 91604
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~~(DD) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is certified as a skilled nursing facility by the director in accordance with Title XVIII has the same meaning as in the "Social Security Act," section 1919(a), 42 U.S.C. 1396r(a).~~ 91608
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~~(Q)~~(EE) "Nursing facility services" has the same meaning as 91618
in the "Social Security Act," section 1905(f), 42 U.S.C. 1396d(f). 91619

(FF) "Nursing home" has the same meaning as in section 91620
3721.01 of the Revised Code. 91621

(GG) "Operator" means the person or government entity 91622
responsible for the daily operating and management decisions for a 91623
nursing facility ~~or intermediate care facility for the mentally~~ 91624
~~retarded~~. 91625

~~(R) "Other protected costs" means costs incurred by an 91626
intermediate care facility for the mentally retarded for medical 91627
supplies; real estate, franchise, and property taxes; natural gas, 91628
fuel oil, water, electricity, sewage, and refuse and hazardous 91629
medical waste collection; allocated other protected home office 91630
costs; and any additional costs defined as other protected costs 91631
in rules adopted under section 5111.02 of the Revised Code. 91632~~

~~(S)~~(HH)(1) "Owner" means any person or government entity that 91633
has at least five per cent ownership or interest, either directly, 91634
indirectly, or in any combination, in any of the following 91635
regarding a nursing facility ~~or intermediate care facility for the~~ 91636
~~mentally retarded~~: 91637

(a) The land on which the nursing facility is located; 91638

(b) The structure in which the nursing facility is located; 91639

(c) Any mortgage, contract for deed, or other obligation 91640
secured in whole or in part by the land or structure on or in 91641
which the nursing facility is located; 91642

(d) Any lease or sublease of the land or structure on or in 91643
which the nursing facility is located. 91644

(2) "Owner" does not mean a holder of a debenture or bond 91645
related to the nursing facility ~~or intermediate care facility for~~ 91646
~~the mentally retarded~~ and purchased at public issue or a regulated 91647

lender that has made a loan related to the nursing facility unless 91648
the holder or lender operates the nursing facility directly or 91649
through a subsidiary. 91650

~~(T) "Patient" includes "resident."~~ 91651

~~(U) Except as provided in divisions (U)(1) and (2) of this 91652
section, "per (II) "Per diem" means a nursing facility's ~~or~~ 91653
~~intermediate care facility for the mentally retarded's~~ actual, 91654
allowable costs in a given cost center in a cost reporting period, 91655
divided by the nursing facility's inpatient days for that cost 91656
reporting period. 91657~~

~~(1) When calculating indirect care costs for the purpose of 91658
establishing rates under section 5111.241 of the Revised Code, 91659
"per diem" means an intermediate care facility for the mentally 91660
retarded's actual, allowable indirect care costs in a cost 91661
reporting period divided by the greater of the facility's 91662
inpatient days for that period or the number of inpatient days the 91663
facility would have had during that period if its occupancy rate 91664
had been eighty five per cent. 91665~~

~~(2) When calculating capital costs for the purpose of 91666
establishing rates under section 5111.251 of the Revised Code, 91667
"per diem" means a facility's actual, allowable capital costs in a 91668
cost reporting period divided by the greater of the facility's 91669
inpatient days for that period or the number of inpatient days the 91670
facility would have had during that period if its occupancy rate 91671
had been ninety five per cent. 91672~~

~~(V)(JJ) "Provider" means an operator with a provider 91673
agreement. 91674~~

~~(W)(KK) "Provider agreement" means a ~~contract~~ provider 91675
agreement, as defined in section 5164.01 of the Revised Code, that 91676
is between the department of job and family services medicaid and 91677
the operator of a nursing facility ~~or intermediate care facility~~ 91678~~

~~for the mentally retarded~~ for the provision of nursing facility 91679
~~services or intermediate care facility services for the mentally~~ 91680
~~retarded~~ under the medicaid program. 91681

~~(X)~~(LL) "Purchased nursing services" means services that are 91682
provided in a nursing facility by registered nurses, licensed 91683
practical nurses, or nurse aides who are not employees of the 91684
nursing facility. 91685

~~(Y)~~(MM) "Reasonable" means that a cost is an actual cost that 91686
is appropriate and helpful to develop and maintain the operation 91687
of patient care facilities and activities, including normal 91688
standby costs, and that does not exceed what a prudent buyer pays 91689
for a given item or services. Reasonable costs may vary from 91690
provider to provider and from time to time for the same provider. 91691

~~(Z)~~(NN) "Related party" means an individual or organization 91692
that, to a significant extent, has common ownership with, is 91693
associated or affiliated with, has control of, or is controlled 91694
by, the provider. 91695

(1) An individual who is a relative of an owner is a related 91696
party. 91697

(2) Common ownership exists when an individual or individuals 91698
possess significant ownership or equity in both the provider and 91699
the other organization. Significant ownership or equity exists 91700
when an individual or individuals possess five per cent ownership 91701
or equity in both the provider and a supplier. Significant 91702
ownership or equity is presumed to exist when an individual or 91703
individuals possess ten per cent ownership or equity in both the 91704
provider and another organization from which the provider 91705
purchases or leases real property. 91706

(3) Control exists when an individual or organization has the 91707
power, directly or indirectly, to significantly influence or 91708
direct the actions or policies of an organization. 91709

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities ~~or intermediate care facilities for the mentally retarded~~ from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the nursing facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

~~(AA)~~(OO) "Relative of owner" means an individual who is related to an owner of a nursing facility ~~or intermediate care facility for the mentally retarded~~ by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Stepparent, stepchild, stepbrother, or stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster

sister. 91739

~~(BB) "Renovation" and "extensive renovation" mean:~~ 91740

~~(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.~~ 91741
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~~(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993:~~ 91746
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~~(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.~~ 91749
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~~(b) "Extensive renovation" means a renovation that costs more than sixty five per cent and no more than eighty five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.~~ 91762
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~~For the purposes of division (BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which~~ 91766
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~~the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~ 91770
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~~The department of job and family services may treat a renovation that costs more than eighty five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.~~ 91774
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~~(CC)(PP) "Residents' rights advocate" has the same meaning as in section 3721.10 of the Revised Code.~~ 91779
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~~(OO) "Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).~~ 91781
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~~(RR) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.~~ 91783
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~~(SS) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.~~ 91785
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~~(DD)(TT) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended et seq.~~ 91788
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~~(EE)(UU) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended et seq.~~ 91790
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~~(VV) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.~~ 91793
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~~Sec. 5111.201 5165.011. Whenever (A) Except as provided in division (B) of this section, whenever "skilled nursing facility," "intermediate care facility," or "dual skilled nursing and~~ 91797
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intermediate care facility" is referred to or designated in any 91800
statute, rule, contract, provider agreement, or other document 91801
pertaining to the ~~medical assistance~~ medicaid program, the 91802
reference or designation is deemed to refer to a nursing facility, 91803
~~except that a.~~ 91804

(B) A reference to or designation of an "intermediate care 91805
facility for the mentally retarded" or "ICF/MR" is not deemed to 91806
refer to a nursing facility. 91807

Sec. 5165.02. The medicaid director shall adopt rules as 91808
necessary to implement this chapter. The rules shall be adopted in 91809
accordance with Chapter 119. of the Revised Code. 91810

~~Sec. 5111.202~~ 5165.03. (A) As used in this section: 91811

(1) "Dementia" includes Alzheimer's disease or a related 91812
disorder. 91813

(2) "Serious mental illness" means "serious mental illness," 91814
as defined by the United States department of health and human 91815
services in regulations adopted under ~~section 1919(e)(7)(G)(i) of~~ 91816
the "Social Security Act," ~~49 Stat. 620 (1935)~~ section 91817
1919(e)(7)(G)(i), 42 U.S.C.A. 301, as amended 1396r(e)(7)(G)(i). 91818

(3) "Mentally ill individual" means an individual who has a 91819
serious mental illness other than either of the following: 91820

(a) A primary diagnosis of dementia; 91821

(b) A primary diagnosis that is not a primary diagnosis of 91822
dementia and a primary diagnosis of something other than a serious 91823
mental illness. 91824

(4) "Mentally retarded individual" means an individual who is 91825
mentally retarded or has a related condition, as described in 91826
~~section 1905(d) of the "Social Security Act,"~~ section 1905(d), 42 91827
U.S.C. 1396d(d). 91828

(5) "Specialized services" means the services specified by 91829
the United States department of health and human services in 91830
regulations adopted under ~~section 1919(e)(7)(G)(iii)~~ of the 91831
"Social Security Act," section 1919(e)(7)(G)(iii), 42 U.S.C. 91832
1396r(e)(7)(G)(iii). 91833

(B)(1) Except as provided in division (D) of this section, no 91834
nursing facility shall admit as a resident any mentally ill 91835
individual unless the facility has received evidence that the 91836
department of ~~mental health~~ mental health and addiction services 91837
has determined both of the following under section ~~5119.061~~ 91838
5119.40 of the Revised Code: 91839

(a) That the individual requires the level of services 91840
provided by a nursing facility because of the individual's 91841
physical and mental condition; 91842

(b) Whether the individual requires specialized services for 91843
mental illness. 91844

(2) Except as provided in division (D) of this section, no 91845
nursing facility shall admit as a resident any mentally retarded 91846
individual unless the facility has received evidence that the 91847
department of developmental disabilities has determined both of 91848
the following under section 5123.021 of the Revised Code: 91849

(a) That the individual requires the level of services 91850
provided by a nursing facility because of the individual's 91851
physical and mental condition; 91852

(b) Whether the individual requires specialized services for 91853
mental retardation. 91854

(C) The department of ~~job and family services~~ medicaid shall 91855
not make medicaid payments ~~under the medical assistance program~~ to 91856
a nursing facility on behalf of any individual who is admitted to 91857
the facility in violation of division (B) of this section for the 91858
period beginning on the date of admission and ending on the date 91859

the requirements of division (B) of this section are met. 91860

(D) A determination under division (B) of this section is not 91861
required for any individual who is exempted from the requirement 91862
that a determination be made by division (B)(2) of section 91863
~~5119.061~~ 5119.40 of the Revised Code or rules adopted by the 91864
department of ~~mental health~~ mental health and addiction services 91865
under division (E)(3) of that section, or by division (B)(2) of 91866
section 5123.021 of the Revised Code or rules adopted by the 91867
department of developmental disabilities under division (E)(3) of 91868
that section. 91869

Sec. ~~5111.203~~ 5165.031. ~~Regardless of whether or not an~~ 91870
~~applicant~~ An individual who applies for admission to a nursing 91871
~~facility or resident of~~ resides in a nursing facility ~~is an~~ 91872
~~applicant for or recipient of medical assistance, the department~~ 91873
~~of job and family services shall provide notice and an opportunity~~ 91874
~~for a hearing to any applicant for admission to a nursing facility~~ 91875
~~or resident of a nursing facility who is~~ may appeal if adversely 91876
affected by a determination made by the department of ~~mental~~ 91877
~~health~~ mental health and addiction services under section ~~5119.061~~ 91878
5119.40 of the Revised Code or by the department of developmental 91879
disabilities under section 5123.021 of the Revised Code. ~~The~~ 91880
~~hearing shall be conducted in the same manner as hearings~~ 91881
~~conducted under~~ If the individual is an applicant for or recipient 91882
of medicaid, the individual may appeal pursuant to section 5160.31 91883
of the Revised Code. If the individual is not an applicant for or 91884
recipient of medicaid, the individual may appeal pursuant to a 91885
process the department of medicaid shall establish, which shall be 91886
similar to the appeals process established by section 5101.35 of 91887
the Revised Code. The department of medicaid shall provide notice 91888
of the right to appeal to individuals adversely affected by 91889
determinations made under sections 5119.40 and 5123.021 of the 91890
Revised Code. Any decision made ~~by the department of job and~~ 91891

~~family services~~ on the basis of ~~the hearing~~ such an appeal is 91892
binding on the department of ~~mental health~~ mental health and 91893
addiction services and the department of developmental 91894
disabilities. 91895

Sec. ~~5111.204~~ 5165.04. (A) As used in this section, 91896
"representative" means a person acting on behalf of an applicant 91897
for or recipient of medicaid. A representative may be a family 91898
member, attorney, hospital social worker, or any other person 91899
chosen to act on behalf of an applicant or recipient. 91900

(B) The department of ~~job and family services~~ medicaid may 91901
require each applicant for or recipient of medicaid who applies or 91902
intends to apply for admission to a nursing facility or resides in 91903
a nursing facility to undergo an assessment to determine whether 91904
the applicant or recipient needs the level of care provided by a 91905
nursing facility. The assessment may be performed concurrently 91906
with a long-term care consultation provided under section 173.42 91907
of the Revised Code. 91908

To the maximum extent possible, the assessment shall be based 91909
on information from the resident assessment instrument specified 91910
in rules ~~adopted~~ authorized by ~~the director of job and family~~ 91911
~~services under division (E)~~ of section ~~5111.232~~ 5165.191 of the 91912
Revised Code. The assessment shall also be based on criteria and 91913
procedures established in rules ~~adopted under~~ authorized by 91914
division (F) of this section and information provided by the 91915
person being assessed or the person's representative. 91916

The department of ~~job and family services~~ medicaid, or if the 91917
assessment is performed by an agency under contract with the 91918
department pursuant to division (G) of this section, the agency, 91919
shall, not later than the time the level of care determination 91920
based on the assessment is required to be provided under division 91921
(C) of this section, give written notice of its conclusions and 91922

the basis for them to the person assessed and, if the department 91923
~~of job and family services~~ or agency under contract with the 91924
department has been informed that the person has a representative, 91925
to the representative. 91926

(C) The department ~~of job and family services~~ or agency under 91927
contract with the department, whichever performs the assessment, 91928
shall provide a level of care determination based on the 91929
assessment as follows: 91930

(1) In the case of a person applying or intending to apply 91931
for admission to a nursing facility while hospitalized, not later 91932
than one of the following: 91933

(a) One working day after the person or the person's 91934
representative submits the application or notifies the department 91935
of the person's intention to apply and submits all information 91936
required for providing the level of care determination, as 91937
specified in rules ~~adopted under~~ authorized by division (F)(2) of 91938
this section; 91939

(b) A later date requested by the person or the person's 91940
representative. 91941

(2) In the case of a person applying or intending to apply 91942
for admission to a nursing facility who is not hospitalized, not 91943
later than one of the following: 91944

(a) Five calendar days after the person or the person's 91945
representative submits the application or notifies the department 91946
of the person's intention to apply and submits all information 91947
required for providing the level of care determination, as 91948
specified in rules ~~adopted under~~ authorized by division (F)(2) of 91949
this section; 91950

(b) A later date requested by the person or the person's 91951
representative. 91952

(3) In the case of a person who resides in a nursing facility, not later than one of the following:

(a) Five calendar days after the person or the person's representative submits an application for ~~medical assistance~~ medicaid and submits all information required for providing the level of care determination, as specified in rules ~~adopted under~~ authorized by division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(4) In the case of an emergency, as specified in rules ~~adopted under~~ authorized by division (F)(4) of this section, within the number of days specified in the rules.

(D) A person assessed under this section or the person's representative may ~~request a state hearing to dispute~~ appeal the conclusions reached by the department ~~of job and family services~~ or agency under contract with the department on the basis of the assessment. The ~~request for a state hearing~~ appeal shall be made ~~in accordance with~~ pursuant to section ~~5101.35~~ 5160.31 of the Revised Code. The department ~~of job and family services~~ or agency under contract with the department shall provide to the person or the person's representative and the nursing facility written notice of the person's right to request a state hearing. The notice shall include an explanation of the procedure for requesting a state hearing. If a state hearing is requested, the state shall be represented in the hearing by the department ~~of job and family services~~ or the agency under contract with the department, whichever performed the assessment.

(E) A nursing facility that admits or retains a person determined pursuant to an assessment required under this section not to need the level of care provided by the nursing facility shall not be ~~reimbursed~~ paid under the medicaid program for the

person's care. 91984

(F) The medicaid director ~~of job and family services~~ shall 91985
adopt rules ~~in accordance with Chapter 119.~~ under section 5165.02 91986
of the Revised Code to implement and administer this section. The 91987
rules shall include all of the following: 91988

(1) Criteria and procedures to be used in determining whether 91989
admission to a nursing facility or continued stay in a nursing 91990
facility is appropriate for the person being assessed; 91991

(2) Information the person being assessed or the person's 91992
representative must provide to the department or agency under 91993
contract with the department for purposes of the assessment and 91994
providing a level of care determination based on the assessment; 91995

(3) Circumstances under which a person is not required to be 91996
assessed; 91997

(4) Circumstances that constitute an emergency for purposes 91998
of division (C)(4) of this section and the number of days within 91999
which a level of care determination must be provided in the case 92000
of an emergency. 92001

(G) Pursuant to section ~~5111.91~~ 5162.35 of the Revised Code, 92002
the department of ~~job and family services~~ medicaid may enter into 92003
contracts in the form of interagency agreements with one or more 92004
other state agencies to perform the assessments required under 92005
this section. The interagency agreements shall specify the 92006
responsibilities of each agency in the performance of the 92007
assessments. 92008

Sec. ~~5111.21~~ 5165.06. ~~(A) In order to be~~ Subject to section 92009
5165.072 of the Revised Code, an operator is eligible for ~~medicaid~~ 92010
~~payments, the operator of~~ to enter into a provider agreement for a 92011
~~nursing facility or intermediate care facility for the mentally~~ 92012
~~retarded shall do~~ if all of the following apply: 92013

~~(1) Enter into a provider agreement with the department as provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code (A) The nursing facility is certified by the director of health for participation in medicaid;~~ 92014
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~~(2) Apply for and maintain a valid license to operate (B) The nursing facility is licensed by the director of health as a nursing home if so required by law;~~ 92018
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~~(3) Subject to division (B) of this section, (C) The operator and nursing facility comply with all applicable state and federal laws and rules.~~ 92021
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~~(B) A state rule that requires the operator of an intermediate care facility for the mentally retarded to have received approval of a plan for the proposed facility pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible for medicaid payments for the facility does not apply if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of such a plan.~~ 92024
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~~(C)(1) Except as provided in division (C)(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid certified beds in the medicare program established by Title XVIII. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.~~ 92034
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~~(2) The department of veterans services is not required to qualify all of the medicaid certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the~~ 92042
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~~Revised Code in the medicare program.~~ 92045

Sec. 5111.22 5165.07. (A) Except as provided in section 5165.072 of the Revised Code, the department of medicaid shall enter into a provider agreement with a nursing facility operator who applies, and is eligible, for the provider agreement. 92046
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~~(B) A provider agreement between the department of job and family services and the provider of a nursing facility or intermediate care facility for the mentally retarded shall contain~~ 92050
~~require the following provisions:~~ 92051
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~~(A) The department agrees to make medicaid payments to the provider, as provided in sections 5111.20 to 5111.331 of the Revised Code, in accordance with this chapter for medicaid covered nursing facility services the nursing facility provides to a resident of the its residents who are medicaid recipients eligible for nursing facility who is a medicaid recipient services. No payment shall be made for the day a medicaid recipient is discharged from the facility.~~ 92054
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~~(B) The~~ (C) A provider agreement shall require the provider agrees to do all of the following: 92062
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(1) Maintain eligibility for the provider agreement as provided in section ~~5111.24~~ 5165.06 of the Revised Code; 92064
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(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with ~~division (B) of section 5111.27~~ 5165.109 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted; 92066
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(3) File reports as required by the department; 92071

(4) Open all records relating to the costs of ~~its~~ the nursing facility's services for inspection and audit by the department; 92072
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(5) Open its premises for inspection by the department, the 92074

department of health, and any other state or local authority 92075
having authority to inspect; 92076

(6) Supply to the department such information as it requires 92077
concerning the nursing facility's services to residents who are, 92078
or are eligible to be, medicaid recipients; 92079

(7) Comply with section ~~5111.31~~ 5165.08 of the Revised Code. 92080

~~The (D) A~~ provider agreement may contain other provisions 92081
that are consistent with law and considered necessary by the 92082
department. 92083

~~A provider agreement shall be effective for no longer than~~ 92084
~~twelve months, except that if federal statute or regulations~~ 92085
~~authorize a longer term, it may be effective for a longer term so~~ 92086
~~authorized. A provider agreement may be renewed only if the~~ 92087
~~facility is certified by the department of health for~~ 92088
~~participation in the medicaid program.~~ 92089

~~The department of job and family services, in accordance with~~ 92090
~~rules adopted under section 5111.02 of the Revised Code, may elect~~ 92091
~~not to enter into, not to renew, or to terminate a provider~~ 92092
~~agreement when the department determines that such an agreement~~ 92093
~~would not be in the best interests of medicaid recipients or of~~ 92094
~~the state.~~ 92095

Sec. ~~5111.223~~ 5165.071. ~~The A nursing facility operator of a~~ 92096
~~nursing facility or intermediate care facility for the mentally~~ 92097
~~retarded may enter into provider agreements for more than one~~ 92098
~~nursing facility or intermediate care facility for the mentally~~ 92099
~~retarded.~~ 92100

Sec. 5165.072. The department of medicaid, in accordance with 92101
rules adopted under section 5165.02 of the Revised Code, may elect 92102
not to enter into, not to revalidate, or to terminate a nursing 92103
facility provider agreement when the department determines that 92104

such an agreement would not be in the best interests of medicaid recipients or the state. The department shall not revalidate a nursing facility provider agreement if the provider fails to maintain eligibility for the provider agreement as provided in section 5165.06 of the Revised Code. 92105
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Sec. ~~5111.30~~ 5165.073. The department of ~~job and family services~~ medicaid shall terminate the provider agreement with a nursing facility provider that does not comply with the requirements of section 3721.071 of the Revised Code for the installation of fire extinguishing and fire alarm systems. 92110
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Sec. ~~5111.31~~ 5165.08. (A) Every provider agreement with ~~the a nursing facility provider of a nursing facility or intermediate care facility for the mentally retarded~~ shall do both of the following: 92115
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(1) Except as provided by division (B)(1) of this section, include any part of the nursing facility that meets federal and state standards for medicaid certification; 92119
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(2) Prohibit the provider from doing either of the following: 92122

(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin; 92123
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(b) Subject to division (D) of this section, failing or refusing to ~~retain~~ do either of the following: 92125
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(i) Except as otherwise prohibited under section 5165.82 of the Revised Code, admit as a resident of the nursing facility an individual because the individual is, or may (as a resident of the nursing facility) become, a medicaid recipient if less than eighty per cent of the nursing facility's residents are medicaid recipients; 92127
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(ii) Retain as a ~~patient any person~~ resident of the nursing 92133

~~facility an individual because the person individual is, becomes, 92134
or may (as a resident of the nursing facility) become, as a 92135
patient in the facility, become a medicaid recipient. For the 92136
purposes of this division, a medicaid recipient who is a patient 92137
in a facility shall be considered a patient in the facility during 92138
any hospital stays totaling less than twenty five days during any 92139
twelve month period. Recipients who have been identified by the 92140
department of job and family services or its designee as requiring 92141
the level of care of an intermediate care facility for the 92142
mentally retarded shall not be subject to a maximum period of 92143
absences during which they are considered patients if prior 92144
authorization of the department for visits with relatives and 92145
friends and participation in therapeutic programs is obtained 92146
under rules adopted under section 5111.02 of the Revised Code. 92147~~

~~(2) Except as provided by division (B)(1) of this section, 92148
include any part of the facility that meets standards for 92149
certification of compliance with federal and state laws and rules 92150
for participation in the medicaid program. 92151~~

~~(3) Prohibit the provider from discriminating against any 92152
patient on the basis of race, color, sex, creed, or national 92153
origin. 92154~~

~~(4) Except as otherwise prohibited under section 5111.55 of 92155
the Revised Code, prohibit the provider from failing or refusing 92156
to accept a patient because the patient is, becomes, or may, as a 92157
patient in the facility, become a medicaid recipient if less than 92158
eighty per cent of the patients in the facility are medicaid 92159
recipients. 92160~~

~~(B)(1) Except as provided by division (B)(2) of this section, 92161
the following beds added during the period beginning July 1, 1987, 92162
and ending July 1, 1993, to a nursing home licensed under Chapter 92163
3721. of the Revised Code are not required to be included in a 92164
provider agreement unless otherwise required by federal law. 92165~~

~~(a) Beds added during the period beginning July 1, 1987, and ending July 1, 1993, to a nursing home licensed under Chapter 3721. of the Revised Code;~~ 92166
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~~(b) Beds in an intermediate care facility for the mentally retarded that are designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5111.87 of the Revised Code.~~ 92169
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(2) If a provider chooses to include a bed specified in division (B)(1)(a) of this section in a provider agreement, the bed may not be removed from the provider agreement unless the provider withdraws the nursing facility in which the bed is located from the medicaid program. 92173
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(C) For the purpose of division (A)(2)(b)(ii) of this section, a medicaid recipient who is a patient in a nursing facility shall be considered a patient in the nursing facility during any hospital stays totaling less than twenty-five days during any twelve-month period. 92178
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(D) Nothing in this section shall bar a provider that from doing any of the following: 92183
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(1) If the provider is a religious organization operating a religious or denominational nursing facility or intermediate care facility for the mentally retarded from giving preference to persons of the same religion or denomination. Nothing in this section shall bar any provider from giving; 92185
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(2) Giving preference to persons with whom the provider has contracted to provide continuing care- 92190
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~~(D) Nothing in this section shall bar the provider of;~~ 92192

(3) If the nursing facility is a county home organized under Chapter 5155. of the Revised Code from, admitting residents exclusively from the county in which the county home is located- 92193
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~~(E) No provider of a nursing facility or intermediate care facility for the mentally retarded for which a provider agreement is in effect shall violate the provider contract obligations imposed under this section.~~ 92196
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~~(F) Nothing in divisions (A) and (C) of this section shall bar a provider from retaining patients;~~ 92200
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(4) Retaining residents who have resided in the provider's nursing facility for not less than one year as private pay patients and who subsequently become medicaid recipients, but refusing to accept as a patient resident any person who is, or may, ~~(as a patient in resident of the nursing facility)~~ become a medicaid recipient, if all of the following apply: 92202
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~~(1)(a)~~ The provider does not refuse to retain any patient resident who has resided in the provider's nursing facility for not less than one year as a private pay patient resident because the patient resident becomes a medicaid recipient, except as necessary to comply with division ~~(F)(2)(D)(4)(b)~~ of this section; 92208
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~~(2)(b)~~ The number of medicaid recipients retained under ~~this~~ division (D)(4) of this section does not at any time exceed ten per cent of all the ~~patients~~ residents in the nursing facility; 92213
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~~(3)(c)~~ On July 1, 1980, all the ~~patients~~ residents in the nursing facility were private pay ~~patients~~ residents. 92216
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(E) No provider shall violate the provider agreement obligations imposed by this section. 92218
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Sec. 5111.32 5165.081. Any patient A nursing facility resident has a cause of action against ~~the~~ a nursing facility provider ~~of a nursing facility or intermediate care facility for the mentally retarded~~ for breach of the provider agreement obligations or other duties imposed by section ~~5111.31~~ 5165.08 of the Revised Code. The action may be commenced by the patient 92220
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resident, or on the ~~patient's~~ resident's behalf by the ~~patient's~~ resident's sponsor or a residents' rights advocate, ~~as either is defined under section 3721.10 of the Revised Code,~~ by the filing of a civil action in the court of common pleas of the county in which the nursing facility is located, or in the court of common pleas of Franklin county.

If ~~the~~ a court of common pleas finds that a ~~breach of the provider has breached a provider agreement obligations obligation or other duty~~ imposed by section ~~5111.31~~ 5165.08 of the Revised Code ~~has occurred~~, the court may ~~enjoin~~ do one or more of the following:

(A) Enjoin the provider from engaging in the practice, ~~order;~~

(B) Order such affirmative relief as may be necessary, ~~and award;~~

(C) Award to ~~the patient~~ a resident and a ~~person~~ sponsor or ~~public agency~~ government entity that brings ~~an~~ the action on behalf of a ~~patient~~ resident actual damages, costs, and reasonable attorney's fees.

Sec. 5165.082. (A) Except as provided in division (B) of this section, the operator of a nursing facility that elects to have the nursing facility participate in the medicaid program shall qualify all of the nursing facility's medicaid-certified beds in the medicare program. The medicaid director may adopt rules under section 5165.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.

(B) The department of veterans services is not required to qualify all of the medicaid-certified beds in a nursing facility the department maintains and operates under section 5907.01 of the Revised Code in the medicare program.

~~Sec. 5111.26 5165.10.~~ (A)~~(1)(a)~~ Except as provided in 92256
division ~~(A)(1)(b)(D)~~ of this section, each nursing facility 92257
provider shall file with the department of ~~job and family services~~ 92258
medicaid an annual cost report for each of the provider's nursing 92259
facilities ~~and intermediate care facilities for the mentally~~ 92260
~~retarded~~ that participate in the medicaid program. ~~A provider~~ 92261
~~shall prepare the reports in accordance with guidelines~~ 92262
~~established by the department. A~~ The cost report for a year shall 92263
cover a the calendar year or the portion of a the calendar year 92264
during which the nursing facility participated in the medicaid 92265
program. ~~A provider shall file the reports within~~ Except as 92266
provided in division (E) of this section, the cost report is due 92267
not later than ninety days after the end of the calendar year, or 92268
portion of the calendar year, that the cost report covers. The 92269
~~department, for good cause, may grant a fourteen day extension of~~ 92270
~~the time for filing cost reports upon written request from a~~ 92271
~~provider. The director of job and family services shall prescribe,~~ 92272
~~in rules adopted under section 5111.02 of the Revised Code, the~~ 92273
~~cost reporting form and a uniform chart of accounts for the~~ 92274
~~purpose of cost reporting, and shall distribute cost reporting~~ 92275
~~forms or computer software for electronic submission of the cost~~ 92276
~~report to each provider at least sixty days before the reporting~~ 92277
~~date.~~ 92278

~~(b) If rates for a provider's nursing facility or~~ 92279
~~intermediate care facility for the mentally retarded were most~~ 92280
~~recently established under section 5111.254 or 5111.255 of the~~ 92281
~~Revised Code, the provider shall submit a cost report for that~~ 92282
~~facility no later than ninety days after the end of the facility's~~ 92283
~~first three full calendar months of operation. If a nursing~~ 92284
~~facility or intermediate care facility for the mentally retarded~~ 92285
~~undergoes a change of provider that the department determines, in~~ 92286
~~accordance with rules adopted under section 5111.02 of the Revised~~ 92287

~~Code, is an arm's length transaction, the new provider shall 92288
submit a cost report for that facility not later than ninety days 92289
after the end of the facility's first three full calendar months 92290
of operation under the new provider. The provider of a facility 92291
that opens or undergoes a change of provider that is an arm's 92292
length transaction after the first day of October in any calendar 92293
year is not required to file a cost report for that calendar year. 92294~~

~~(e)(B) If a nursing facility undergoes a change of provider 92295
that the department determines, in accordance with rules adopted 92296
under section ~~5111.02~~ 5165.02 of the Revised Code, is not an ~~arms~~ 92297
arm's length transaction, the new provider shall file a the 92298
nursing facility's cost report ~~under~~ in accordance with division 92299
(A)~~(1)(a)~~ of this section ~~for the facility. The~~ and the cost 92300
report shall cover the portion of the calendar year during which 92301
the new provider operated the nursing facility and the portion of 92302
the calendar year during which the previous provider operated the 92303
nursing facility. 92304~~

~~(2) If a provider required to submit a cost report for a 92305
nursing facility or intermediate care facility for the mentally 92306
retarded does not file the report within the required time period 92307
or within fourteen days thereafter if an extension is granted 92308
under division (A)(1)(a) of this section, or files an incomplete 92309
or inadequate report for the facility, the department shall 92310
provide immediate written notice to the provider that the provider 92311
agreement for the facility will be terminated in thirty days 92312
unless the provider submits a complete and adequate cost report 92313
for the facility within thirty days. During the thirty day 92314
termination period or any additional time allowed for an appeal of 92315
the proposed termination of a provider agreement, the provider 92316
shall be paid the facility's then current per resident per day 92317
rate, minus two dollars. On July 1, 1994, the department shall 92318
adjust the two dollar reduction to reflect the rate of inflation 92319~~

~~during the preceding twelve months, as shown in the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics. On July 1, 1995, and the first day of July of each year thereafter, the department shall adjust the amount of the reduction in effect during the previous twelve months to reflect the rate of inflation during the preceding twelve months, as shown in the same index.~~

~~(B) No provider shall report fines paid under sections 5111.35 to 5111.62 or section 5111.99 of the Revised Code in any cost report filed under this section.~~

~~(C) The department shall develop an addendum to the cost report form that a provider may use to set forth costs that the provider believes may be disputed by the department. Any costs reported by the provider on the addendum may be considered by the department in setting the facility's rate. If the department does not consider the costs listed on the addendum in setting the facility's rate, the provider may seek reconsideration of that determination under section 5111.29 of the Revised Code. If the department subsequently includes the costs listed in the addendum in the facility's rate, the department shall pay the provider interest at a reasonable rate established in rules adopted under section 5111.02 of the Revised Code for the time that the rate paid excluded the costs. If the medicaid payment rate for a new nursing facility was most recently determined in accordance with section 5165.151 of the Revised Code, the provider shall file with the department a cost report for the new nursing facility not later than, except as provided in division (E) of this section, ninety days after the end of the new nursing facility's first three full calendar months of operation. The cost report shall cover the period that begins with the nursing facility's first day of operation and ends on the first day of the month immediately~~

following the first three full months of operation. 92352

(D) A nursing facility provider is not required to file a 92353
cost report for a nursing facility for a calendar year in 92354
accordance with division (A) of this section if the provider files 92355
a cost report for the nursing facility under division (C) of this 92356
section and that cost report covers a period that begins after the 92357
first day of October of that calendar year. The provider shall 92358
file a cost report for the nursing facility in accordance with 92359
division (A) of this section for the immediately following 92360
calendar year. 92361

(E) The department may grant to a provider a fourteen-day 92362
extension to file a cost report under this section if the provider 92363
provides the department a written request for the extension and 92364
the department determines that there is good cause for the 92365
extension. 92366

Sec. ~~5111.266~~ 5165.101. A nursing facility provider of a 92367
nursing facility filing the nursing facility's cost report with 92368
the department of job and family services medicaid under section 92369
5111.26 5165.10 or 5165.522 of the Revised Code shall report as a 92370
nonreimbursable expense the cost of the nursing facility's 92371
franchise permit fee. 92372

Sec. 5165.102. No nursing facility provider shall report 92373
finest paid under sections 5165.60 to 5165.89 or section 5165.99 of 92374
the Revised Code in a cost report filed under section 5165.10 or 92375
5165.522 of the Revised Code. 92376

Sec. 5165.103. Cost reports shall be completed using the form 92377
prescribed under section 5165.104 of the Revised Code and in 92378
accordance with the guidelines established under that section. 92379

Sec. 5165.104. The department of medicaid shall do all of the 92380

following: 92381

(A) Prescribe the form to be used for completing a cost report and a uniform chart of accounts for the purpose of reporting costs on the form; 92382
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(B) Distribute a paper copy of the form, or computer software for electronic submission of the form, to each provider at least sixty days before the date the cost report is due; 92385
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(C) Establish guidelines for completing the form. 92388

Sec. 5165.105. The department of medicaid shall develop an addendum to the cost report form that a nursing facility provider may use to set forth costs that the provider believes the department may dispute. The department may consider such costs in determining a nursing facility's medicaid payment rate. If the department does not consider such costs in determining a nursing facility's medicaid payment rate, the provider may seek reconsideration of the determination in accordance with section 5165.38 of the Revised Code. If the department subsequently includes such costs in a nursing facility's medicaid payment rate, the department shall pay the provider interest at a reasonable rate established in rules adopted under section 5165.02 of the Revised Code for the period that the rate excluded the costs. 92389
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Sec. 5165.106. If a nursing facility provider required by section 5165.10 of the Revised Code to file a cost report for the nursing facility fails to file the cost report by the date it is due or the date, if any, to which the due date is extended pursuant to division (E) of that section, or files an incomplete or inadequate report for the nursing facility under that section, the department of medicaid shall provide immediate written notice to the provider that the provider agreement for the nursing facility will be terminated in thirty days unless the provider 92402
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submits a complete and adequate cost report for the nursing facility within thirty days. During the thirty-day termination period or any additional time allowed for an appeal of the proposed termination of a provider agreement, the provider shall be paid the nursing facility's then current per medicaid day payment rate, minus the dollar amount by which nursing facility's per medicaid day payment rates are reduced during fiscal year 2013 in accordance with division (A)(2) of section 5111.26 of the Revised Code (renumbered as section 5165.10 of the Revised Code by H.B. 59 of the 130th general assembly) as that section existed on the day immediately preceding the effective date of this section. On the first day of each July, the department shall adjust the amount of the reduction in effect during the previous twelve months to reflect the rate of inflation during the preceding twelve months, as shown in the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

Sec. ~~5111.261~~ 5165.107. (A) Except as provided in division (B) of this section and not later than three years after a nursing facility provider files a cost report with the department of ~~job and family services~~ medicaid under section ~~5111.26~~ 5165.10 of the Revised Code, the provider may amend the cost report if the provider discovers a material error in the cost report or additional information to be included in the cost report. The department shall review the amended cost report for accuracy and notify the provider of its determination.

(B) A provider may not amend a cost report if the department has notified the provider that an audit of the cost report or a cost report of the provider for a subsequent cost reporting period is to be conducted under section ~~5111.27~~ 5165.109 of the Revised Code. The provider may, however, provide the department

information that affects the costs included in the cost report. 92442
Such information may not be provided after the adjudication of the 92443
final settlement of the cost report. 92444

Sec. ~~5111.27~~ 5165.108. (A) The department of ~~job and family~~ 92445
~~services~~ medicaid shall conduct a desk review of each cost report 92446
it receives under section ~~5111.26~~ 5165.10 or 5165.522 of the 92447
Revised Code. Based on the desk review, the department shall make 92448
a preliminary determination of whether the reported costs are 92449
allowable costs. The department shall notify each nursing facility 92450
provider of whether any of the reported costs are preliminarily 92451
determined not to be allowable, the medicaid payment rate 92452
calculation determined under ~~sections 5111.20 to 5111.331~~ of the 92453
~~Revised Code~~ this chapter that results from that determination, 92454
and the reasons for the determination and resulting rate. The 92455
department shall allow the provider to verify the calculation and 92456
submit additional information. 92457

~~(B) The department may conduct an audit, as defined by rule~~ 92458
~~adopted under section 5111.02 of the Revised Code, of any cost~~ 92459
~~report. The decision whether to conduct an audit and the scope of~~ 92460
~~the audit, which may be a desk or field audit, may be determined~~ 92461
~~based on prior performance of the provider, a risk analysis, or~~ 92462
~~other evidence that gives the department reason to believe that~~ 92463
~~the provider has reported costs improperly. A desk or field audit~~ 92464
~~may be performed annually, but is required whenever a provider~~ 92465
~~does not pass the risk analysis tolerance factors. An audit shall~~ 92466
~~be conducted by auditors under contract with or employed by the~~ 92467
~~department. The department shall notify a provider of the findings~~ 92468
~~of an audit by issuing an audit report. An audit report regarding~~ 92469
~~a nursing facility shall include notice of any fine imposed under~~ 92470
~~section 5111.271 of the Revised Code. The department shall issue~~ 92471
~~the audit report no later than three years after the cost report~~ 92472
~~is filed, or upon the completion of a desk or field audit on the~~ 92473

~~report or a report for a subsequent cost reporting period, 92474
whichever is earlier. 92475~~

~~The department may establish a contract for the auditing of 92476
facilities by outside firms. Each contract entered into by bidding 92477
shall be effective for one to two years. The department shall 92478
establish an audit manual and program which shall require that all 92479
field audits, conducted either pursuant to a contract or by 92480
department employees; 92481~~

~~(1) Comply with the applicable rules prescribed pursuant to 92482
Titles XVIII and XIX; 92483~~

~~(2) Consider generally accepted auditing standards prescribed 92484
by the American institute of certified public accountants; 92485~~

~~(3) Include a written summary as to whether the costs 92486
included in the report examined during the audit are allowable and 92487
are presented in accordance with state and federal laws and 92488
regulations, and whether, in all material respects, allowable 92489
costs are documented, reasonable, and related to patient care; 92490~~

~~(4) Are conducted by accounting firms or auditors who, during 92491
the period of the auditors' professional engagement or employment 92492
and during the period covered by the cost reports, do not have nor 92493
are committed to acquire any direct or indirect financial interest 92494
in the ownership, financing, or operation of a nursing facility or 92495
intermediate care facility for the mentally retarded in this 92496
state; 92497~~

~~(5) Are conducted by accounting firms or auditors who, as a 92498
condition of the contract or employment, shall not audit any 92499
facility that has been a client of the firm or auditor; 92500~~

~~(6) Are conducted by auditors who are otherwise independent 92501
as determined by the standards of independence included in the 92502
government auditing standards produced by the United States 92503
government accountability office; 92504~~

~~(7) Are completed within the time period specified by the department;~~ 92505
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~~(8) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's facility is entitled.~~ 92507
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~~For the purposes of division (B)(4) of this section, employment of a member of an auditor's family by a nursing facility or intermediate care facility for the mentally retarded that the auditor does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.~~ 92514
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~~(C) The department, pursuant to rules adopted under section 5111.02 of the Revised Code, may conduct an exception review of assessment data submitted under section 5111.232 of the Revised Code. The department may conduct an exception review based on the findings of a certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.~~ 92520
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~~Exception reviews shall be conducted at the facility by appropriate health professionals under contract with or employed by the department of job and family services. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate assessments and resulting inaccurate case mix scores.~~ 92526
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~~The rules shall establish an exception review program that requires that exception reviews do all of the following:~~ 92533
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~~(1) Comply with Titles XVIII and XIX;~~ 92535

~~(2) Provide a written summary that states whether the resident assessment forms have been completed accurately;~~ 92536
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~~(3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;~~ 92538
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~~(4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any provider that has been a client of the professional.~~ 92544
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~~For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.~~ 92547
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~~If an exception review is conducted before the effective date of the rate that is based on the case mix data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case mix scores, quarterly average facility case mix scores, and annual average facility case mix scores. The department may use the recalculated quarterly and annual facility average case mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.~~ 92553
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~~(D) The department shall prepare a written summary of any audit disallowance or exception review finding that is made after the effective date of the rate that is based on the cost or~~ 92564
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~~ease mix data. Where the provider is pursuing judicial or 92567
administrative remedies in good faith regarding the disallowance 92568
or finding, the department shall not withhold from the provider's 92569
current payments any amounts the department claims to be due from 92570
the provider pursuant to section 5111.28 of the Revised Code. 92571~~

~~(E) The department shall not reduce rates calculated under 92572
sections 5111.20 to 5111.331 of the Revised Code on the basis that 92573
the provider charges a lower rate to any resident who is not 92574
eligible for the medicaid program. 92575~~

~~(F) The department shall adjust the rates calculated under 92576
sections 5111.20 to 5111.331 of the Revised Code to account for 92577
reasonable additional costs that must be incurred by intermediate 92578
care facilities for the mentally retarded to comply with 92579
requirements of federal or state statutes, rules, or policies 92580
enacted or amended after January 1, 1992, or with orders issued by 92581
state or local fire authorities. 92582~~

Sec. 5165.109. (A) The department of medicaid may conduct an 92583
audit, as defined in rules adopted under section 5165.02 of the 92584
Revised Code, of any cost report filed under section 5165.10 or 92585
5165.522 of the Revised Code. The decision whether to conduct an 92586
audit and the scope of the audit, which may be a desk or field 92587
audit, may be determined based on prior performance of the 92588
provider, a risk analysis, or other evidence that gives the 92589
department reason to believe that the provider has reported costs 92590
improperly. A desk or field audit may be performed annually, but 92591
is required whenever a provider does not pass the risk analysis 92592
tolerance factors. 92593

(B) Audits shall be conducted by auditors under contract with 92594
the department, auditors working for firms under contract with the 92595
department, or auditors employed by the department. 92596

The department may establish a contract for the auditing of 92597

nursing facilities by outside firms. Each contract entered into by 92598
bidding shall be effective for one to two years. 92599

(C) The department shall notify a provider of the findings of 92600
an audit of a cost report by issuing an audit report. The audit 92601
report shall include notice of any fine imposed under section 92602
5165.1010 of the Revised Code. The department shall issue the 92603
audit report not later than three years after the earlier of the 92604
following: 92605

(1) The date the cost report is filed; 92606

(2) The date a desk or field audit of the cost report or a 92607
cost report for a subsequent cost reporting period is completed. 92608

(D) The department shall prepare a written summary of any 92609
audit disallowance that is made after the effective date of the 92610
rate that is based on the cost. Where the provider is pursuing 92611
judicial or administrative remedies in good faith regarding the 92612
disallowance, the department shall not withhold from the 92613
provider's current payments any amounts the department claims to 92614
be due from the provider pursuant to section 5165.41 of the 92615
Revised Code. 92616

(E)(1) The department shall establish an audit manual and 92617
program for field audits conducted under this section. Each 92618
auditor conducting a field audit under this section shall follow 92619
the audit manual and program, regardless of whether the auditor is 92620
under contract with the department, works for a firm under 92621
contract with the department, or is employed by the department. 92622
The manual and program shall do both of the following: 92623

(a) Require each field audit to be conducted by an auditor to 92624
whom all of the following apply: 92625

(i) During the period of the auditor's contract, firm's 92626
contract, or auditor's employment with the department, the auditor 92627
or firm does not have and is not committed to acquire any direct 92628

or indirect financial interest in the ownership, financing, or operation of nursing facilities in this state. 92629
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(ii) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm. 92631
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(iii) The auditor is otherwise independent as determined by the standards of independence included in the government auditing standards produced by the United States government accountability office. 92633
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(b) Require each auditor conducting a field audit to do all of the following: 92637
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(i) Comply with applicable rules prescribed pursuant to Title XVIII and Title XIX; 92639
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(ii) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants; 92641
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(iii) Include a written summary as to whether the costs included in the cost report examined during the audit are allowable and are presented in accordance with state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care; 92644
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(iv) Complete the audit within the time period specified by the department; 92650
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(v) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's nursing facility is entitled. 92652
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(2) For the purpose of division (E)(1)(a)(i) of this section, 92659
employment of a member of an auditor's family by a nursing 92660
facility that the auditor does not audit does not constitute a 92661
direct or indirect financial interest in the ownership, financing, 92662
or operation of the nursing facility. 92663

Sec. ~~5111.271~~ 5165.1010. (A) Subject to division (D) of this 92664
section, the department of ~~job and family services~~ medicaid shall 92665
fine the provider of a nursing facility if the report of an audit 92666
conducted under ~~division (B) of section 5111.27~~ 5165.109 of the 92667
Revised Code regarding a cost report for the nursing facility 92668
includes either of the following: 92669

(1) Adverse findings that exceed three per cent of the total 92670
amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported 92671
in the cost report; 92672

(2) Adverse findings that exceed twenty per cent of 92673
~~medicaid-reimbursable~~ medicaid-allowable costs for a particular 92674
cost center reported in the cost report. 92675

(B) A fine issued under this section shall equal the greatest 92676
of the following: 92677

(1) If the adverse findings exceed three per cent but do not 92678
exceed ten per cent of the total amount of ~~medicaid-reimbursable~~ 92679
medicaid-allowable costs reported in the cost report, the greater 92680
of three per cent of those reported costs or ten thousand dollars; 92681

(2) If the adverse findings exceed ten per cent but do not 92682
exceed twenty per cent of the total amount of 92683
~~medicaid-reimbursable~~ medicaid-allowable costs reported in the 92684
cost report, the greater of six per cent of those reported costs 92685
or twenty-five thousand dollars; 92686

(3) If the adverse findings exceed twenty per cent of the 92687
total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs 92688

reported in the cost report, the greater of ten per cent of those 92689
reported costs or fifty thousand dollars; 92690

(4) If the adverse findings exceed twenty per cent but do not 92691
exceed twenty-five per cent of ~~medicaid-reimbursable~~ 92692
medicaid-allowable costs for a particular cost center reported in 92693
the cost report, the greater of three per cent of the total amount 92694
of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the 92695
cost report or ten thousand dollars; 92696

(5) If the adverse findings exceed twenty-five per cent but 92697
do not exceed thirty per cent of ~~medicaid-reimbursable~~ 92698
medicaid-allowable costs for a particular cost center reported in 92699
the cost report, the greater of six per cent of the total amount 92700
of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the 92701
cost report or twenty-five thousand dollars; 92702

(6) If the adverse findings exceed thirty per cent of 92703
~~medicaid-reimbursable~~ medicaid-allowable costs for a particular 92704
cost center reported in the cost report, the greater of ten per 92705
cent of the total amount of ~~medicaid-reimbursable~~ 92706
medicaid-allowable costs reported in the cost report or fifty 92707
thousand dollars. 92708

(C) Fines paid under this section shall be deposited into the 92709
health care services administration fund created under section 92710
~~5111.94~~ 5162.54 of the Revised Code. 92711

(D) The department may not collect a fine under this section 92712
until all appeal rights relating to the audit report that is the 92713
basis for the fine are exhausted. 92714

Sec. ~~5111.222~~ 5165.15. (A) ~~As used in this section, "low~~ 92715
~~resource utilization resident" means a medicaid recipient residing~~ 92716
~~in a nursing facility who, for purposes of calculating the nursing~~ 92717
~~facility's medicaid reimbursement rate for direct care costs, is~~ 92718

~~placed in either of the two lowest resource utilization groups, 92719
excluding any resource utilization group that is a default group 92720
used for residents with incomplete assessment data. 92721~~

~~(B) Except as otherwise provided by sections ~~5111.20~~ 5165.151 92722
to ~~5111.331~~ 5165.156 and 5165.34 of the Revised Code and by 92723
division (C) of this section, the total per medicaid day payment 92724
rate that the department of ~~job and family services~~ medicaid shall 92725
agree to pay for a fiscal year to the provider of a nursing 92726
facility pursuant to a provider agreement provider for nursing 92727
facility services the provider's nursing facility provides during 92728
a fiscal year shall equal the sum of all of the following: 92729~~

~~(1) The rate for direct care costs determined for the nursing 92730
facility under section ~~5111.231~~ of the Revised Code; 92731~~

~~(2) The per medicaid day payment rate for ancillary and 92732
support costs determined for the nursing ~~facility's ancillary and~~ 92733
~~support cost peer group~~ facility under section ~~5111.24~~ 5165.16 of 92734
the Revised Code; 92735~~

~~(3)(2) The per medicaid day payment rate for capital costs 92736
determined for the nursing facility under section 5165.17 of the 92737
Revised Code; 92738~~

~~(3) The per medicaid day payment rate for direct care costs 92739
determined for the nursing facility under section 5165.19 of the 92740
Revised Code; 92741~~

~~(4) The per medicaid day payment rate for tax costs 92742
determined for the nursing facility under section ~~5111.242~~ 5165.21 92743
of the Revised Code; 92744~~

~~(4) The quality incentive payment paid to the nursing 92745
facility under section ~~5111.244~~ of the Revised Code; 92746~~

~~(5) If the nursing facility qualifies as a critical access 92747
nursing facility, the nursing facility's critical access incentive 92748~~

payment paid to the nursing facility under section 5111.246 92749
5165.23 of the Revised Code; 92750

(6) The ~~rate for capital costs determined for the nursing~~ 92751
~~facility's capital costs peer group under section 5111.25~~ quality 92752
incentive payment paid to the nursing facility under section 92753
5165.25 of the Revised Code. 92754

~~(C) The total rate determined under division (B) of this~~ 92755
~~section shall not be paid for nursing facility services provided~~ 92756
~~to low resource utilization residents. Instead, the total rate for~~ 92757
~~nursing facility services that a nursing facility provides to low~~ 92758
~~resource utilization residents shall be one hundred thirty dollars~~ 92759
~~per medicaid day.~~ 92760

~~(D)~~(B) In addition to paying a nursing facility provider the 92761
nursing facility's total rate determined under division ~~(B)~~ ~~or~~ 92762
~~(C)~~(A) of this section for a fiscal year, the department shall pay 92763
the provider a quality bonus under section ~~5111.245~~ 5165.26 of the 92764
Revised Code for that fiscal year if the provider's nursing 92765
facility is a qualifying nursing facility, as defined in that 92766
section, for that fiscal year. The quality bonus shall not be part 92767
of the total rate. 92768

Sec. ~~5111.254~~ 5165.151. (A) The ~~department of job and family~~ 92769
~~services shall establish initial rates for a nursing facility with~~ 92770
~~a first date of licensure that is on or after July 1, 2006,~~ 92771
~~including a facility that replaces one or more existing~~ 92772
~~facilities, or for a nursing facility with a first date of~~ 92773
~~licensure before that date that was initially certified for the~~ 92774
~~medicaid program on or after that date, total per medicaid day~~ 92775
~~payment rate determined under section 5165.15 of the Revised Code~~ 92776
~~shall not be the initial rate for nursing facility services~~ 92777
~~provided by a new nursing facility. Instead, the initial total per~~ 92778
~~medicaid day payment rate for nursing facility services provided~~ 92779

by a new nursing facility shall be determined in the following 92780
manner: 92781

(1) The initial rate for ancillary and support costs shall be 92782
the rate for the new nursing facility's peer group determined 92783
under division (D) of section 5165.16 of the Revised Code. 92784

(2) The initial rate for capital costs shall be the rate for 92785
the new nursing facility's peer group determined under division 92786
(D) of section 5165.17 of the Revised Code; 92787

(3) The initial rate for direct care costs shall be the 92788
product of the cost per case-mix unit determined under division 92789
(D) of section ~~5111.231~~ 5165.19 of the Revised Code for the new 92790
nursing facility's peer group and the new nursing facility's 92791
case-mix score determined under division (B) of this section. ~~For~~ 92792
~~the purpose of division (A)(1) of this section, the nursing~~ 92793
~~facility's case mix score shall be the following:~~ 92794

~~(a) Unless the nursing facility replaces an existing nursing~~ 92795
~~facility that participated in the medicaid program immediately~~ 92796
~~before the replacement nursing facility begins participating in~~ 92797
~~the medicaid program, the median annual average case mix score for~~ 92798
~~the nursing facility's peer group;~~ 92799

~~(b) If the nursing facility replaces an existing nursing~~ 92800
~~facility that participated in the medicaid program immediately~~ 92801
~~before the replacement nursing facility begins participating in~~ 92802
~~the medicaid program, the semiannual case mix score most recently~~ 92803
~~determined under section 5111.232 of the Revised Code for the~~ 92804
~~replaced nursing facility as adjusted, if necessary, to reflect~~ 92805
~~any difference in the number of beds in the replaced and~~ 92806
~~replacement nursing facilities.~~ 92807

~~(2) The rate for ancillary and support costs shall be the~~ 92808
~~rate for the facility's peer group determined under division (D)~~ 92809
~~of section 5111.24 of the Revised Code.~~ 92810

~~(3) The rate for capital costs shall be the rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code.~~ 92811
92812
92813

(4) The initial rate for tax costs shall be the median rate for tax costs for the new nursing facility's peer group in which the nursing facility is placed under division (C) of section ~~5111.24~~ 5165.16 of the Revised Code. 92814
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92816
92817

(5) The quality incentive payment shall be the mean payment made to nursing facilities under section ~~5111.244~~ 5165.25 of the Revised Code. 92818
92819
92820

(B) For the purpose of division (A)(3) of this section, a new nursing facility's case-mix score shall be the following: 92821
92822

(1) Unless the new nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the median annual average case-mix score for the new nursing facility's peer group; 92823
92824
92825
92826
92827

(2) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5165.192 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and new nursing facilities. 92828
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(C) Subject to division ~~(C)~~(D) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under ~~sections 5111.20 to 5111.331~~ of the Revised Code this chapter. 92836
92837
92838
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92840

~~(C)~~(D) If a rate for direct care costs is determined under 92841

this section for a new nursing facility using the median annual 92842
average case-mix score for the new nursing facility's peer group, 92843
the rate shall be redetermined to reflect the ~~replacement~~ new 92844
nursing facility's actual semiannual average case-mix score 92845
determined under section ~~5111.232~~ 5165.192 of the Revised Code 92846
after the new nursing facility submits its first two quarterly 92847
assessment data that qualify for use in calculating a case-mix 92848
score in accordance with rules authorized by ~~division (E) of~~ 92849
section ~~5111.232~~ 5165.192 of the Revised Code. If the new nursing 92850
facility's quarterly submissions do not qualify for use in 92851
calculating a case-mix score, the department shall continue to use 92852
the median annual average case-mix score for the new nursing 92853
facility's peer group in lieu of the new nursing facility's 92854
semiannual case-mix score until the new nursing facility submits 92855
two consecutive quarterly assessment data that qualify for use in 92856
calculating a case-mix score. 92857

Sec. 5165.152. The total per medicaid day payment rate 92858
determined under section 5165.15 of the Revised Code shall not be 92859
paid for nursing facility services provided to low resource 92860
utilization residents. Instead, the total rate for such nursing 92861
facility services shall be one hundred thirty dollars per medicaid 92862
day. 92863

Sec. ~~5111.258~~ 5165.153. (A) ~~Notwithstanding sections 5111.20~~ 92864
~~to 5111.331 of the Revised Code (except section 5111.259 of the~~ 92865
~~Revised Code), the director of job and family services shall adopt~~ 92866
~~rules under section 5111.02 of the Revised Code that establish a~~ 92867
~~methodology for calculating the prospective rates that will be~~ 92868
~~paid each fiscal year to a provider for each of the provider's~~ 92869
~~eligible nursing facilities and intermediate care facilities for~~ 92870
~~the mentally retarded, and discrete units of the provider's~~ 92871
~~nursing facilities or intermediate care facilities for the~~ 92872

~~mentally retarded, that serve residents who have diagnoses~~ The 92873
total per medicaid day payment rate determined under section 92874
5165.15 of the Revised Code shall not be paid for nursing facility 92875
services provided by a nursing facility, or discrete unit of a 92876
nursing facility, designated by the department of medicaid as an 92877
outlier nursing facility or unit. Instead, the provider of a 92878
designated outlier nursing facility or unit shall be paid each 92879
fiscal year a total per medicaid day payment rate that the 92880
department shall prospectively determine in accordance with a 92881
methodology established in rules authorized by this section. 92882

(B) The department may designate a nursing facility, or 92883
discrete unit of a nursing facility, as an outlier nursing 92884
facility or unit if the nursing facility or unit serves residents 92885
who have either of the following: 92886

(1) Diagnoses or special care needs that require direct care 92887
resources that are not measured adequately by the ~~applicable~~ 92888
resident assessment instrument specified in rules authorized by 92889
section ~~5111.232~~ 5165.191 of the Revised Code, ~~or who have~~ 92890
diagnoses; 92891

(2) Diagnoses or special care needs specified in ~~the~~ rules 92892
authorized by this section as otherwise qualifying for 92893
consideration under this section. ~~The facilities and units of~~ 92894
~~facilities whose rates are established under this division may~~ 92895
~~include, but shall not be limited to, any of the following:~~ 92896

~~(1) In the case of nursing facilities, facilities and units~~ 92897
~~of facilities that serve medically fragile pediatric residents,~~ 92898
~~residents who are dependent on ventilators, or residents who have~~ 92899
~~severe traumatic brain injury, end stage Alzheimer's disease, or~~ 92900
~~end stage acquired immunodeficiency syndrome;~~ 92901

~~(2) In the case of intermediate care facilities for the~~ 92902
~~mentally retarded, facilities and units of facilities that serve~~ 92903

~~residents who have complex medical conditions or severe behavioral problems.~~ 92904
92905

~~The department shall use the methodology established under this division to pay for services rendered by such facilities and units after June 30, 1993.~~ 92906
92907
92908

(C) Notwithstanding any other provision of this chapter (except section 5165.156 of the Revised Code), the costs incurred by a designated outlier nursing facility or unit shall not be considered in establishing medicaid payment rates for other nursing facilities or units. 92909
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(D) The medicaid director shall adopt rules under section 5165.02 of the Revised Code as necessary to implement this section. 92914
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(1)(a) The rules authorized by this division shall specify do both of the following: 92917
92918

(i) Specify the criteria and procedures the department will apply when designating facilities and units that qualify for calculation of rates under this division a nursing facility, or discrete unit of a nursing facility, as an outlier nursing facility or unit; 92919
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92923

(ii) Establish a methodology for prospectively determining the total per medicaid day payment rate that will be paid each fiscal year for nursing facility services provided by a designated outlier nursing facility or unit. The criteria shall include 92924
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92927

(b) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier nursing facilities and units shall do both of the following: 92928
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92930

(i) Provide for consideration of whether all of the allowable costs of the a nursing facility, or discrete unit of a nursing facility, would be paid by rates established a rate determined 92931
92932
92933

under ~~sections 5111.20 to 5111.331~~ section 5165.15 of the Revised Code, ~~and shall establish a;~~

(ii) Specify the minimum bed size for a number of nursing facility beds that a nursing facility, or discrete unit to qualify to of a nursing facility, must have its rates established under this division to be designated an outlier nursing facility or unit, which may vary based on the diagnoses or special care needs of the residents served by the nursing facility or unit. The criteria shall not be designed to require that residents be served only in

(c) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier nursing facilities and units shall not limit the designation to nursing facilities, or discrete units of nursing facilities, located in large cities. The

(d) The rules authorized by division (D)(1)(a)(ii) of this section regarding the methodology for prospectively determining the rates of designated outlier nursing facilities and units shall provide for the methodology established by the rules shall to consider the historical costs of providing care nursing facility services to the residents of the designated outlier nursing facilities or and units.

(2)(a) The rules may require do both of the following:

(i) Include for designation as an outlier nursing facility or unit, a nursing facility, or discrete unit of a nursing facility, that serves medically fragile pediatric residents; residents who are dependent on ventilators; residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome; or residents with other diagnoses or special care needs specified in the rules;

(ii) Require that a designated outlier nursing facility

~~designated under this division or containing a unit designated 92965
under this division receive authorization from the department to 92966
admit before admitting or retain retaining a resident to the 92967
facility or unit and. 92968~~

~~(b) If the director adopts rules authorized by division 92969
(D)(2)(a)(ii) of this section regarding the authorization of a 92970
designated outlier nursing facility or unit to admit or retain a 92971
resident, the rules shall specify the criteria and procedures the 92972
department will apply when granting that authorization. 92973~~

~~Notwithstanding any other provision of sections 5111.20 to 92974
5111.331 of the Revised Code (except section 5111.259 of the 92975
Revised Code), the costs incurred by facilities or units whose 92976
rates are established under this division shall not be considered 92977
in establishing payment rates for other facilities or units. 92978~~

~~(B) The director may adopt rules under section 5111.02 of the 92979
Revised Code under which the department, notwithstanding any other 92980
provision of sections 5111.20 to 5111.331 of the Revised Code 92981
(except section 5111.259 of the Revised Code), may adjust the 92982
rates determined under sections 5111.20 to 5111.331 of the Revised 92983
Code for a facility that serves a resident who has a diagnosis or 92984
special care need that, in the rules authorized by division (A) of 92985
this section, would qualify a facility or unit of a facility to 92986
have its rate determined under that division, but who is not in 92987
such a unit. The rules may require that a facility that qualifies 92988
for a rate adjustment under this division receive authorization 92989
from the department to admit or retain a resident who qualifies 92990
the facility for the rate adjustment and shall specify the 92991
criteria and procedures the department will apply when granting 92992
that authorization. 92993~~

~~Sec. 5165.154. (A) To the extent, if any, provided for in 92994
rules authorized by this section, the total per medicaid day 92995~~

payment rate determined under section 5165.15 of the Revised Code 92996
shall not be paid for nursing facility services that a nursing 92997
facility not designated as an outlier nursing facility or unit 92998
provides to a resident who meets the criteria for admission to a 92999
designated outlier nursing facility or unit, as specified in rules 93000
authorized by section 5165.153 of the Revised Code. Instead, the 93001
provider of a nursing facility providing nursing facility services 93002
to such a resident shall be paid each fiscal year a total per 93003
medicaid day payment rate that the department of medicaid shall 93004
prospectively determine in accordance with a methodology 93005
established in rules authorized by this section. 93006

(B) The medicaid director may adopt rules under section 93007
5165.02 of the Revised Code to implement this section. The rules 93008
may require that a nursing facility receive authorization from the 93009
department before admitting or retaining a resident who meets the 93010
criteria for admission to a designated outlier nursing facility or 93011
unit. If the director adopts such rules, the rules shall specify 93012
the criteria and procedures the department will apply when 93013
granting the authorization. 93014

Sec. ~~5111.225~~ 5165.155. (A) As used in this section+ 93015

~~"Dual eligible individual" has the same meaning as in section~~ 93016
~~1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010),~~ 93017
~~42 U.S.C. 1396n(h)(2)(B).~~ 93018

~~"Medicaid, "medicaid maximum allowable amount" means one~~ 93019
~~hundred per cent of a nursing facility's total per diem medicaid~~ 93020
~~day payment rate for a medicaid day.~~ 93021

(B) ~~The~~ Instead of paying the total per medicaid day payment 93022
rate determined under section 5165.15 of the Revised Code, the 93023
department of ~~job and family services~~ medicaid shall pay the 93024
provider of a nursing facility the lesser of the following for 93025

nursing facility services the nursing facility provides on or 93026
after January 1, 2012, to a dual eligible individual who is 93027
eligible for nursing facility services under the medicaid program 93028
and post-hospital extended care services under Part A of Title 93029
XVIII: 93030

(1) The coinsurance amount for the services as provided under 93031
Part A of Title XVIII; 93032

(2) The medicaid maximum allowable amount for the services, 93033
less the amount paid under Part A of Title XVIII for the services. 93034

Sec. ~~5111.259~~ 5165.156. The medicaid director ~~of job and~~ 93035
~~family services~~ may ~~submit a request to the United States~~ 93036
~~secretary of health and human services for approval to~~ establish a 93037
centers of excellence component of the medicaid program. The 93038
purpose of the centers of excellence component is to increase the 93039
efficiency and quality of nursing facility services provided to 93040
medicaid recipients with complex nursing facility service needs. 93041
~~If federal approval for the centers of excellence component is~~ 93042
~~granted, the~~ The director may adopt rules under section ~~5111.02~~ 93043
5165.02 of the Revised Code governing the component, including 93044
rules that establish a method of determining the medicaid 93045
~~reimbursement~~ payment rates for nursing facilities providing 93046
nursing facility services to medicaid recipients participating in 93047
the component. The rules may specify the extent to which, if any, 93048
of the provisions of ~~section 5111.258~~ sections 5165.153 and 93049
5165.154 of the Revised Code are to apply to the centers of 93050
excellence component. If such rules are adopted, the nursing 93051
facilities that provide nursing facility services to medicaid 93052
recipients participating in the centers of excellence component 93053
shall be paid for those services in accordance with the method 93054
established in the rules ~~notwithstanding anything to the contrary~~ 93055
~~in sections 5111.20 to 5111.331~~ instead of the total per medicaid 93056

day payment rate determined under section 5165.15 of the Revised 93057
Code. 93058

Sec. ~~5111.24~~ 5165.16. (A) As used in this section: 93059

(1) "Applicable calendar year" means the following: 93060

(a) For the purpose of the department of ~~job and family~~ 93061
~~services~~ medicaid's initial determination under division (D) of 93062
this section of each peer group's rate for ancillary and support 93063
costs, calendar year 2003; 93064

(b) For the purpose of the department's rebasings, the 93065
calendar year the department selects. 93066

(2) "Rebasing" means a redetermination under division (D) of 93067
this section of each peer ~~groups~~ group's rate for ancillary and 93068
support costs using information from cost reports for an 93069
applicable calendar year that is later than the applicable 93070
calendar year used for the previous determination of such rates. 93071

(B) The department of ~~job and family services~~ medicaid shall 93072
~~pay a provider for~~ determine each of the provider's eligible 93073
~~nursing facilities~~ a facility's per ~~resident per~~ medicaid day 93074
payment rate for ancillary and support costs ~~determined for the.~~ A 93075
nursing facility's ~~peer group~~ rate shall be the rate determined 93076
under division (D) of this section for the nursing facility's peer 93077
group. However, for the period beginning October 1, 2013, and 93078
ending on the first day of the first rebasing, the rate for a 93079
nursing facility located in Mahoning or Stark county shall be the 93080
rate determined for the following: 93081

(1) If the nursing facility has fewer than one hundred beds, 93082
the nursing facilities in peer group three; 93083

(2) If the nursing facility has one hundred or more beds, the 93084
nursing facilities in peer group four. 93085

(C) For the purpose of determining nursing facilities' ~~rate~~ 93086
rates for ancillary and support costs, the department shall 93087
establish six peer groups. 93088

~~Each~~ (1) Until the first rebasing occurs, the peer groups 93089
shall be composed as follows: 93090

(a) Each nursing facility located in any of the following 93091
counties shall be placed in peer group one or two: Brown, Butler, 93092
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 93093
located in any of those counties that has fewer than one hundred 93094
beds shall be placed in peer group one. Each nursing facility 93095
located in any of those counties that has one hundred or more beds 93096
shall be placed in peer group two. 93097

(b) Each nursing facility located in any of the following 93098
counties shall be placed in peer group three or four: Ashtabula, 93099
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 93100
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 93101
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 93102
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 93103
Union, and Wood. Each nursing facility located in any of those 93104
counties that has fewer than one hundred beds shall be placed in 93105
peer group three. Each nursing facility located in any of those 93106
counties that has one hundred or more beds shall be placed in peer 93107
group four. 93108

(c) Each nursing facility located in any of the following 93109
counties shall be placed in peer group five or six: Adams, Allen, 93110
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 93111
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 93112
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 93113
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 93114
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 93115
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 93116
Washington, Wayne, Williams, and Wyandot. Each nursing facility 93117

located in any of those counties that has fewer than one hundred 93118
beds shall be placed in peer group five. Each nursing facility 93119
located in any of those counties that has one hundred or more beds 93120
shall be placed in peer group six. 93121

(2) Beginning with the first rebasing, the peer groups shall 93122
be composed as they are under division (C)(1) of this section 93123
except as follows: 93124

(a) Each nursing facility that has fewer than one hundred 93125
beds and is located in Mahoning or Stark county shall be placed in 93126
peer group three rather than peer group five. 93127

(b) Each nursing facility that has one hundred or more beds 93128
and is located in Mahoning or Stark county shall be placed in peer 93129
group four rather than peer group six. 93130

(D)(1) The department shall determine the rate for ancillary 93131
and support costs for each peer group established under division 93132
(C) of this section. The department is not required to conduct a 93133
rebasings more than once every ten years. Except as necessary to 93134
implement the amendments made to this section by Am. Sub. H.B. 153 93135
and Sub. H.B. 303, both of the 129th general assembly, the rate 93136
for ancillary and support costs determined under this division for 93137
a peer group shall be used for subsequent years until the 93138
department conducts a rebasing. To determine a peer group's rate 93139
for ancillary and support costs, the department shall do all of 93140
the following: 93141

(a) Subject to division (D)(2) of this section, determine the 93142
rate for ancillary and support costs for each nursing facility in 93143
the peer group for the applicable calendar year by using the 93144
greater of the nursing facility's actual inpatient days for the 93145
applicable calendar year or the inpatient days the nursing 93146
facility would have had for the applicable calendar year if its 93147
occupancy rate had been ninety per cent; 93148

(b) Subject to division (D)(3) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section;

(c) Multiply the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) Until the first rebasing occurs, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics, as that index existed on July 1, 2005;

(ii) Effective with the first rebasing and except as provided in division (D)(1)(c)(iii) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(c)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(d) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(c) of this section by five and eight hundredths per cent.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the

department shall include any beds that the nursing facility 93180
removes from its medicaid-certified capacity unless the nursing 93181
facility also removes the beds from its licensed bed capacity. 93182

(3) In making the identification under division (D)(1)(b) of 93183
this section, the department shall exclude both of the following: 93184

(a) Nursing facilities that participated in the medicaid 93185
program under the same provider for less than twelve months in the 93186
applicable calendar year; 93187

(b) Nursing facilities whose ancillary and support costs are 93188
more than one standard deviation from the mean desk-reviewed, 93189
actual, allowable, per diem ancillary and support cost for all 93190
nursing facilities in the nursing facility's peer group for the 93191
applicable calendar year. 93192

(4) The department shall not redetermine a peer group's rate 93193
for ancillary and support costs under this division based on 93194
additional information that it receives after the rate is 93195
determined. The department shall redetermine a peer group's rate 93196
for ancillary and support costs only if the department made an 93197
error in determining the rate based on information available to 93198
the department at the time of the original determination. 93199

Sec. ~~5111.25~~ 5165.17. (A) As used in this section: 93200

(1) "Applicable calendar year" means the following: 93201

(a) For the purpose of the department of ~~job and family~~ 93202
~~services~~ medicaid's initial determination under division (D) of 93203
this section of each peer group's rate for capital costs, calendar 93204
year 2003; 93205

(b) For the purpose of the department's rebasings, the 93206
calendar year the department selects. 93207

(2) "Rebasing" means a redetermination under division (D) of 93208
this section of each peer ~~groups~~ group's rate for capital costs 93209

using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of ~~job and family services~~ medicaid shall ~~pay a provider for~~ determine each of the provider's eligible nursing facilities ~~a facility's per resident per~~ medicaid day payment rate for capital costs ~~determined for the~~. A nursing facility's peer group rate shall be the rate determined under division (D) of this section. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be the rate determined for the following:

(1) If the nursing facility has fewer than one hundred beds, the nursing facilities in peer group three;

(2) If the nursing facility has one hundred or more beds, the nursing facilities in peer group four.

(C) For the purpose of determining nursing facilities' ~~rate~~ rates for capital costs, the department shall establish six peer groups.

~~Each~~ (1) Until the first rebasing occurs, the peer groups shall be composed as follows:

(a) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

(b) Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette,

Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 93241
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 93242
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 93243
Union, and Wood. Each nursing facility located in any of those 93244
counties that has fewer than one hundred beds shall be placed in 93245
peer group three. Each nursing facility located in any of those 93246
counties that has one hundred or more beds shall be placed in peer 93247
group four. 93248

(c) Each nursing facility located in any of the following 93249
counties shall be placed in peer group five or six: Adams, Allen, 93250
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 93251
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 93252
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 93253
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 93254
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 93255
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 93256
Washington, Wayne, Williams, and Wyandot. Each nursing facility 93257
located in any of those counties that has fewer than one hundred 93258
beds shall be placed in peer group five. Each nursing facility 93259
located in any of those counties that has one hundred or more beds 93260
shall be placed in peer group six. 93261

(2) Beginning with the first rebasing, the peer groups shall 93262
be composed as they are under division (C)(1) of this section 93263
except as follows: 93264

(a) Each nursing facility that has fewer than one hundred 93265
beds and is located in Mahoning or Stark county shall be placed in 93266
peer group three rather than peer group five. 93267

(b) Each nursing facility that has one hundred or more beds 93268
and is located in Mahoning or Stark county shall be placed in peer 93269
group four rather than peer group six. 93270

(D)(1) The department shall determine the rate for capital 93271

costs for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, the rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for capital costs, the department shall do both of the following:

(a) Determine the rate for capital costs for the nursing facility in the peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year;

(b) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(a) of this section by five and eight hundredths per cent.

(2) To identify the nursing facility in a peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year, the department shall do both of the following:

(a) Subject to division (D)(3) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent;

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing

facility's peer group for the applicable calendar year. 93303

(3) For the purpose of determining a nursing facility's 93304
occupancy rate under division (D)(2)(a) of this section, the 93305
department shall include any beds that the nursing facility 93306
removes from its medicaid-certified capacity after June 30, 2005, 93307
unless the nursing facility also removes the beds from its 93308
licensed bed capacity. 93309

(4) The department shall not redetermine a peer group's rate 93310
for capital costs under this division based on additional 93311
information that it receives after the rate is determined. The 93312
department shall redetermine a peer group's rate for capital costs 93313
only if the department made an error in determining the rate based 93314
on information available to the department at the time of the 93315
original determination. 93316

(E) Buildings shall be depreciated using the straight line 93317
method over forty years or over a different period approved by the 93318
department. Components and equipment shall be depreciated using 93319
the straight-line method over a period designated in rules adopted 93320
under section ~~5111.02~~ 5165.02 of the Revised Code, consistent with 93321
the guidelines of the American hospital association, or over a 93322
different period approved by the department. Any rules authorized 93323
by this division that specify useful lives of buildings, 93324
components, or equipment apply only to assets acquired on or after 93325
July 1, 1993. Depreciation for costs paid or reimbursed by any 93326
government agency shall not be included in capital costs unless 93327
that part of the payment under ~~sections 5111.20 to 5111.331 of the~~ 93328
~~Revised Code~~ this chapter is used to reimburse the government 93329
agency. 93330

(F) The capital cost basis of nursing facility assets shall 93331
be determined in the following manner: 93332

(1) Except as provided in division (F)(3) of this section, 93333

for purposes of calculating the rates to be paid for facilities 93334
with dates of licensure on or before June 30, 1993, the capital 93335
cost basis of each asset shall be equal to the desk-reviewed, 93336
actual, allowable, capital cost basis that is listed on the 93337
facility's cost report for the calendar year preceding the fiscal 93338
year during which the rate will be paid. 93339

(2) For facilities with dates of licensure after June 30, 93340
1993, the capital cost basis shall be determined in accordance 93341
with the principles of the medicare program ~~established under~~ 93342
~~Title XVIII~~, except as otherwise provided in ~~sections 5111.20 to~~ 93343
~~5111.331 of the Revised Code~~ this chapter. 93344

(3) Except as provided in division (F)(4) of this section, if 93345
a provider transfers an interest in a facility to another provider 93346
after June 30, 1993, there shall be no increase in the capital 93347
cost basis of the asset if the providers are related parties or 93348
the provider to which the interest is transferred authorizes the 93349
provider that transferred the interest to continue to operate the 93350
facility under a lease, management agreement, or other 93351
arrangement. If the previous sentence does not prohibit the 93352
adjustment of the capital cost basis under this division, the 93353
basis of the asset shall be adjusted by one-half of the change in 93354
the consumer price index for all items for all urban consumers, as 93355
published by the United States bureau of labor statistics, during 93356
the time that the transferor held the asset. 93357

(4) If a provider transfers an interest in a facility to 93358
another provider who is a related party, the capital cost basis of 93359
the asset shall be adjusted as specified in division (F)(3) of 93360
this section if all of the following conditions are met: 93361

(a) The related party is a relative of owner; 93362

(b) Except as provided in division (F)(4)(c)(ii) of this 93363
section, the provider making the transfer retains no ownership 93364

interest in the facility; 93365

(c) The department ~~of job and family services~~ determines that 93366
the transfer is an arm's length transaction pursuant to rules 93367
adopted under section ~~5111.02~~ 5165.02 of the Revised Code. The 93368
rules shall provide that a transfer is an arm's length transaction 93369
if all of the following apply: 93370

(i) Once the transfer goes into effect, the provider that 93371
made the transfer has no direct or indirect interest in the 93372
provider that acquires the facility or the facility itself, 93373
including interest as an owner, officer, director, employee, 93374
independent contractor, or consultant, but excluding interest as a 93375
creditor. 93376

(ii) The provider that made the transfer does not reacquire 93377
an interest in the facility except through the exercise of a 93378
creditor's rights in the event of a default. If the provider 93379
reacquires an interest in the facility in this manner, the 93380
department shall treat the facility as if the transfer never 93381
occurred when the department calculates its reimbursement rates 93382
for capital costs. 93383

(iii) The transfer satisfies any other criteria specified in 93384
the rules. 93385

(d) Except in the case of hardship caused by a catastrophic 93386
event, as determined by the department, or in the case of a 93387
provider making the transfer who is at least sixty-five years of 93388
age, not less than twenty years have elapsed since, for the same 93389
facility, the capital cost basis was adjusted most recently under 93390
division (F)(4) of this section or actual, allowable ~~cost of~~ 93391
~~ownership~~ capital costs was determined most recently under 93392
division (G)(9) of this section. 93393

(G) As used in this division: 93394

"Imputed interest" means the lesser of the prime rate plus 93395

two per cent or ten per cent. 93396

"Lease expense" means lease payments in the case of an 93397
operating lease and depreciation expense and interest expense in 93398
the case of a capital lease. 93399

"New lease" means a lease, to a different lessee, of a 93400
nursing facility that previously was operated under a lease. 93401

(1) Subject to division (B) of this section, for a lease of a 93402
facility that was effective on May 27, 1992, the entire lease 93403
expense is an actual, allowable capital cost during the term of 93404
the existing lease. The entire lease expense also is an actual, 93405
allowable capital cost if a lease in existence on May 27, 1992, is 93406
renewed under either of the following circumstances: 93407

(a) The renewal is pursuant to a renewal option that was in 93408
existence on May 27, 1992; 93409

(b) The renewal is for the same lease payment amount and 93410
between the same parties as the lease in existence on May 27, 93411
1992. 93412

(2) Subject to division (B) of this section, for a lease of a 93413
facility that was in existence but not operated under a lease on 93414
May 27, 1992, actual, allowable capital costs shall include the 93415
lesser of the annual lease expense or the annual depreciation 93416
expense and imputed interest expense that would be calculated at 93417
the inception of the lease using the lessor's entire historical 93418
capital asset cost basis, adjusted by one-half of the change in 93419
the consumer price index for all items for all urban consumers, as 93420
published by the United States bureau of labor statistics, during 93421
the time the lessor held each asset until the beginning of the 93422
lease. 93423

(3) Subject to division (B) of this section, for a lease of a 93424
facility with a date of licensure on or after May 27, 1992, that 93425
is initially operated under a lease, actual, allowable capital 93426

costs shall include the annual lease expense if there was a 93427
substantial commitment of money for construction of the facility 93428
after December 22, 1992, and before July 1, 1993. If there was not 93429
a substantial commitment of money after December 22, 1992, and 93430
before July 1, 1993, actual, allowable capital costs shall include 93431
the lesser of the annual lease expense or the sum of the 93432
following: 93433

(a) The annual depreciation expense that would be calculated 93434
at the inception of the lease using the lessor's entire historical 93435
capital asset cost basis; 93436

(b) The greater of the lessor's actual annual amortization of 93437
financing costs and interest expense at the inception of the lease 93438
or the imputed interest expense calculated at the inception of the 93439
lease using seventy per cent of the lessor's historical capital 93440
asset cost basis. 93441

(4) Subject to division (B) of this section, for a lease of a 93442
facility with a date of licensure on or after May 27, 1992, that 93443
was not initially operated under a lease and has been in existence 93444
for ten years, actual, allowable capital costs shall include the 93445
lesser of the annual lease expense or the annual depreciation 93446
expense and imputed interest expense that would be calculated at 93447
the inception of the lease using the entire historical capital 93448
asset cost basis of one-half of the change in the consumer price 93449
index for all items for all urban consumers, as published by the 93450
United States bureau of labor statistics, during the time the 93451
lessor held each asset until the beginning of the lease. 93452

(5) Subject to division (B) of this section, for a new lease 93453
of a facility that was operated under a lease on May 27, 1992, 93454
actual, allowable capital costs shall include the lesser of the 93455
annual new lease expense or the annual old lease payment. If the 93456
old lease was in effect for ten years or longer, the old lease 93457
payment from the beginning of the old lease shall be adjusted by 93458

one-half of the change in the consumer price index for all items 93459
for all urban consumers, as published by the United States bureau 93460
of labor statistics, from the beginning of the old lease to the 93461
beginning of the new lease. 93462

(6) Subject to division (B) of this section, for a new lease 93463
of a facility that was not in existence or that was in existence 93464
but not operated under a lease on May 27, 1992, actual, allowable 93465
capital costs shall include the lesser of annual new lease expense 93466
or the annual amount calculated for the old lease under division 93467
(G)(2), (3), (4), or (6) of this section, as applicable. If the 93468
old lease was in effect for ten years or longer, the lessor's 93469
historical capital asset cost basis shall be, for purposes of 93470
calculating the annual amount under division (G)(2), (3), (4), or 93471
(6) of this section, adjusted by one-half of the change in the 93472
consumer price index for all items for all urban consumers, as 93473
published by the United States bureau of labor statistics, from 93474
the beginning of the old lease to the beginning of the new lease. 93475

In the case of a lease under division (G)(3) of this section 93476
of a facility for which a substantial commitment of money was made 93477
after December 22, 1992, and before July 1, 1993, the old lease 93478
payment shall be adjusted for the purpose of determining the 93479
annual amount. 93480

(7) For any revision of a lease described in division (G)(1), 93481
(2), (3), (4), (5), or (6) of this section, or for any subsequent 93482
lease of a facility operated under such a lease, other than 93483
execution of a new lease, the portion of actual, allowable capital 93484
costs attributable to the lease shall be the same as before the 93485
revision or subsequent lease. 93486

(8) Except as provided in division (G)(9) of this section, if 93487
a provider leases an interest in a facility to another provider 93488
who is a related party or previously operated the facility, the 93489
related party's or previous operator's actual, allowable capital 93490

costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (G)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (G)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department ~~of job and family services~~ determines that the lease is an arm's length transaction pursuant to rules adopted under section ~~5111.02~~ 5165.02 of the Revised Code. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (G)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable capital costs were determined most recently under division (G)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

Sec. ~~5111.231~~ 5165.19. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of ~~job and family services~~ medicaid's initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer ~~groups~~ group's cost per case-mix unit using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such costs.

(B) ~~The~~ Semiannually, the department of ~~job and family services~~ medicaid shall ~~pay a provider for~~ determine each of the ~~provider's eligible nursing facilities~~ a facility's per resident ~~per medicaid day payment~~ rate for direct care costs ~~determined~~ determined semiannually by multiplying ~~the cost per case-mix unit determined~~ the cost per case-mix unit determined under ~~division (D) of this section for the facility's peer group~~ division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section ~~5111.232~~ 5165.192 of the Revised Code by the cost per

case-mix unit determined under division (D) of this section for 93551
the facility's peer group. However, for the period beginning 93552
October 1, 2013, and ending on the first day of the first 93553
rebasings, the rate for a nursing facility located in Mahoning or 93554
Stark county shall be determined semiannually by multiplying the 93555
facility's semiannual case-mix score determined under section 93556
5165.192 of the Revised Code by the cost per case-mix unit 93557
determined under division (D) of this section for the nursing 93558
facilities in peer group two. 93559

(C) For the purpose of determining nursing facilities' ~~rate~~ 93560
rates for direct care costs, the department shall establish three 93561
peer groups. 93562

Each (1) Until the first rebasing occurs, the peer groups 93563
shall be composed as follows: 93564

(a) Each nursing facility located in any of the following 93565
counties shall be placed in peer group one: Brown, Butler, 93566
Clermont, Clinton, Hamilton, and Warren. 93567

(b) Each nursing facility located in any of the following 93568
counties shall be placed in peer group two: Ashtabula, Champaign, 93569
Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, 93570
Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 93571
Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 93572
Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 93573
and Wood. 93574

(c) Each nursing facility located in any of the following 93575
counties shall be placed in peer group three: Adams, Allen, 93576
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 93577
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 93578
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 93579
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 93580
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 93581

Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 93582
Washington, Wayne, Williams, and Wyandot. 93583

(2) Beginning with the first rebasing, the peer groups shall 93584
be composed as they are under division (C)(1) of this section 93585
except that each nursing facility located in Mahoning or Stark 93586
county shall be placed in peer group two rather than peer group 93587
three. 93588

(D)(1) The department shall determine a cost per case-mix 93589
unit for each peer group established under division (C) of this 93590
section. The department is not required to conduct a rebasing more 93591
than once every ten years. Except as necessary to implement the 93592
amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 93593
303, both of the 129th general assembly, and H.B... of the 130th 93594
general assembly, the cost per case-mix unit determined under this 93595
division for a peer group shall be used for subsequent years until 93596
the department conducts a rebasing. To determine a peer group's 93597
cost per case-mix unit, the department shall do all of the 93598
following: 93599

(a) Determine the cost per case-mix unit for each nursing 93600
facility in the peer group for the applicable calendar year by 93601
dividing each facility's desk-reviewed, actual, allowable, per 93602
diem direct care costs for the applicable calendar year by the 93603
facility's annual average case-mix score determined under section 93604
~~5111.232~~ 5165.192 of the Revised Code for the applicable calendar 93605
year; 93606

(b) Subject to division (D)(2) of this section, identify 93607
which nursing facility in the peer group is at the twenty-fifth 93608
percentile of the cost per case-mix units determined under 93609
division (D)(1)(a) of this section; 93610

(c) Calculate the amount that is two per cent above the cost 93611
per case-mix unit determined under division (D)(1)(a) of this 93612

section for the nursing facility identified under division 93613
(D)(1)(b) of this section; 93614

(d) Using the index specified in division (D)(3) of this 93615
section, multiply the rate of inflation for the eighteen-month 93616
period beginning on the first day of July of the applicable 93617
calendar year and ending the last day of December of the calendar 93618
year immediately following the applicable calendar year by the 93619
amount calculated under division (D)(1)(c) of this section; 93620

(e) Until the first rebasing occurs, add one dollar and 93621
~~eighty-eight~~ fifty-six cents to the amount calculated under 93622
division (D)(1)(d) of this section; 93623

(f) Until the first rebasing occurs, increase the amount 93624
calculated under division (D)(1)(e) of this section by five and 93625
eight hundredths per cent. 93626

(2) In making the identification under division (D)(1)(b) of 93627
this section, the department shall exclude both of the following: 93628

(a) Nursing facilities that participated in the medicaid 93629
program under the same provider for less than twelve months in the 93630
applicable calendar year; 93631

(b) Nursing facilities whose cost per case-mix unit is more 93632
than one standard deviation from the mean cost per case-mix unit 93633
for all nursing facilities in the nursing facility's peer group 93634
for the applicable calendar year. 93635

(3) The following index shall be used for the purpose of the 93636
calculation made under division (D)(1)(d) of this section: 93637

(a) Until the first rebasing occurs, the employment cost 93638
index for total compensation, health services component, published 93639
by the United States bureau of labor statistics, as the index 93640
existed on July 1, 2005; 93641

(b) Effective with the first rebasing and except as provided 93642

in division (D)(3)(c) of this section, the employment cost index 93643
for total compensation, nursing and residential care facilities 93644
occupational group, published by the United States bureau of labor 93645
statistics; 93646

(c) If the United States bureau of labor statistics ceases to 93647
publish the index specified in division (D)(3)(b) of this section, 93648
the index the bureau subsequently publishes that covers nursing 93649
facilities' staff costs. 93650

(4) The department shall not redetermine a peer group's cost 93651
per case-mix unit under this division based on additional 93652
information that it receives after the peer group's per case-mix 93653
unit is determined. The department shall redetermine a peer 93654
group's cost per case-mix unit only if it made an error in 93655
determining the peer group's cost per case-mix unit based on 93656
information available to the department at the time of the 93657
original determination. 93658

Sec. 5165.191. Each calendar quarter, each nursing facility 93659
provider shall compile complete assessment data for each resident 93660
of each of the provider's nursing facilities, regardless of 93661
payment source, who is in the nursing facility, or on hospital or 93662
therapeutic leave from the nursing facility, on the last day of 93663
the quarter. A resident assessment instrument specified in rules 93664
authorized by this section shall be used to compile the resident 93665
assessment data. Each provider shall submit the resident 93666
assessment data to the department of health and, if required by 93667
the rules, the department of medicaid. The resident assessment 93668
data shall be submitted not later than fifteen days after the end 93669
of the calendar quarter for which the data is compiled. If the 93670
resident assessment data is to be submitted to the department of 93671
medicaid, it shall be submitted to the department through the 93672
medium or media specified in the rules. 93673

Rules adopted under section 5165.02 of the Revised Code shall 93674
do all of the following: 93675

(A) In a manner consistent with the "Social Security Act," 93676
section 1919(e)(5), 42 U.S.C. 1396r(e)(5), specify a resident 93677
assessment instrument to be used by nursing facility providers 93678
under this section; 93679

(B) Specify whether nursing facility providers must submit 93680
the resident assessment data to the department of medicaid; 93681

(C) If the rules specify that nursing facility providers must 93682
submit the resident assessment data to the department, specify the 93683
medium or media through which the data is to be submitted. 93684

Sec. ~~5111.232~~ 5165.192. (A)(1) The Except as provided in 93685
division (B) of this section and in accordance with the process 93686
specified in rules authorized by this section, the department of 93687
job and family services medicaid shall do all of the following: 93688

(a) Every quarter, determine the following two case-mix 93689
scores for each nursing facility: 93690

(i) A quarterly case-mix score that includes each resident 93691
who is a medicaid recipient and is not a low resource utilization 93692
resident; 93693

(ii) A quarterly case-mix score that includes each resident 93694
regardless of payment source. 93695

(b) Every six months, determine a semiannual and annual 93696
average case-mix scores score for each nursing facilities facility 93697
by using all of the following: quarterly case-mix scores 93698
determined for the nursing facility pursuant to division 93699
(A)(1)(a)(i) of this section; 93700

(c) After the end of each calendar year, determine an annual 93701
average case-mix score for each nursing facility by using the 93702
quarterly case-mix scores determined for the nursing facility 93703

pursuant to division (A)(1)(a)(ii) of this section. 93704

(2) When determining case-mix scores under division (A)(1) of this section, the department shall use all of the following: 93705
93706

(a) Data from a resident assessment instrument specified in rules ~~adopted under~~ authorized by section ~~5111.02~~ 5165.191 of the Revised Code ~~pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following residents:~~ 93707
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~~(i) When determining semiannual case mix scores for fiscal year 2012, each resident who is a medicaid recipient;~~ 93712
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~~(ii) When determining semiannual case mix scores for fiscal year 2013 and thereafter, each resident who is a medicaid recipient and not placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data;~~ 93714
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~~(iii) When determining annual average case mix scores, each resident regardless of payment source.~~ 93720
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(b) Except as provided in rules authorized by ~~divisions (A)(2)(a) and (b) of this section,~~ the case-mix values established by the United States department of health and human services; 93722
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(c) Except as modified in rules authorized by ~~division (A)(2)(e) of this section,~~ the grouper methodology used on June 30, 1999, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program ~~established by Title XVIII.~~ 93725
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~~(2) The director of job and family services may adopt rules under section 5111.02 of the Revised Code that do any of the following:~~ 93730
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~~(a) Adjust the case mix values specified in division~~ 93733

~~(A)(1)(b) of this section to reflect changes in relative wage differentials that are specific to this state; 93734
93735~~

~~(b) Express all of those case mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case mix values to one another; 93736
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93739~~

~~(c) Modify the grouper methodology specified in division (A)(1)(c) of this section as follows: 93740
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~~(i) Establish a different hierarchy for assigning residents to case mix categories under the methodology; 93742
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~~(ii) Prohibit the use of the index maximizer element of the methodology; 93744
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~~(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999; 93746
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~~(iv) Make other changes the department determines are necessary. 93749
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~~(B) The department shall determine case mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted under section 5111.02 of the Revised Code and expressed in case mix values established by the department in those rules. 93751
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~~(C) Each calendar quarter, each provider shall compile complete assessment data, from the resident assessment instrument specified in rules authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data 93757
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~~to the department of health and, if required by rules, the~~ 93764
~~department of job and family services. Providers of an~~ 93765
~~intermediate care facility for the mentally retarded shall submit~~ 93766
~~the data to the department of job and family services. The data~~ 93767
~~shall be submitted not later than fifteen days after the end of~~ 93768
~~the calendar quarter for which the data is compiled.~~ 93769

~~Except as provided in division (D) of this section, the~~ 93770
~~department, every six months and after the end of each calendar~~ 93771
~~year, shall calculate a semiannual and annual average case mix~~ 93772
~~score for each nursing facility using the facility's quarterly~~ 93773
~~case mix scores for that six month period or calendar year. Also~~ 93774
~~except as provided in division (D) of this section, the~~ 93775
~~department, after the end of each calendar year, shall calculate~~ 93776
~~an annual average case mix score for each intermediate care~~ 93777
~~facility for the mentally retarded using the facility's quarterly~~ 93778
~~case mix scores for that calendar year. The department shall make~~ 93779
~~the calculations pursuant to procedures specified in rules adopted~~ 93780
~~under section 5111.02 of the Revised Code.~~ 93781

~~(D)(1) If a Subject to division (B)(2) of this section, the~~ 93782
~~department, for one or more months of a calendar quarter, may~~ 93783
~~assign to a nursing facility a case-mix score that is five per~~ 93784
~~cent less than the nursing facility's case-mix score for the~~ 93785
~~immediately preceding calendar quarter if any of the following~~ 93786
~~apply:~~ 93787

~~(a) The provider does not timely submit information complete~~ 93788
~~and accurate resident assessment data necessary to determine the~~ 93789
~~nursing facility's case-mix score for a the calendar quarter~~ 93790
~~necessary to calculate a facility's case mix score, or submits~~ 93791
~~incomplete or inaccurate information for a calendar quarter, the~~ 93792
~~department may assign the facility a quarterly average case mix~~ 93793
~~score that is five per cent less than the facility's quarterly~~ 93794
~~average case mix score for the preceding calendar quarter. If the;~~ 93795

~~(b) The nursing facility was subject to an exception review under division (C) of section 5111.27 5165.193 of the Revised Code for the immediately preceding calendar quarter, the department may assign a quarterly average case mix score that is five per cent less than the score determined by the exception review. If the;~~ 93796
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~~(c) The nursing facility was assigned a quarterly average case-mix score for the immediately preceding calendar quarter, the department may assign a quarterly average case mix score that is five per cent less than that score assigned for the preceding quarter.~~ 93801
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~~The department may use a quarterly average case mix score assigned under division (D)(1) of this section, instead of a quarterly average case mix score calculated based on the provider's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 or 5111.231 of the Revised Code for one or more months, as specified in rules authorized by division (E) of this section, of the quarter for which the rate established under section 5111.23 or 5111.231 of the Revised Code will be paid.~~ 93806
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~~(2) Before taking action under division (D)(1) of this section assigning a case-mix score to a nursing facility due to the submission of incorrect resident assessment data, the department shall permit the provider a reasonable period of time, specified in rules authorized by division (E) of this section, to correct the information data. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the eighty first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the The department shall not may assign a quarterly average the case-mix score due to~~ 93815
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~~late submission of corrections to assessment information unless if~~ 93828
the provider fails to submit the corrected ~~information prior to~~ 93829
resident assessment data not later than the earlier of the 93830
~~forty-sixth~~ forty-fifth day after the end of the calendar quarter 93831
to which the ~~information~~ data pertains or the deadline for 93832
submission of such corrections established by regulations adopted 93833
by the United States department of health and human services under 93834
~~Titles~~ Title XVIII and Title XIX. 93835

~~(2)~~(3) If, for more than six months in a calendar year, a 93836
provider is paid a rate determined for a nursing facility 93837
~~calculated~~ using a ~~quarterly average~~ case-mix score assigned to 93838
the nursing facility under division ~~(D)~~(B)(1) of this section ~~for~~ 93839
~~more than six months in a calendar year, the department may assign~~ 93840
the nursing facility a cost per case-mix unit that is five per 93841
cent less than the nursing facility's actual or assigned cost per 93842
case-mix unit for the immediately preceding calendar year. The 93843
department may use the assigned cost per case-mix unit, instead of 93844
~~calculating~~ determining the nursing facility's actual cost per 93845
case-mix unit in accordance with section ~~5111.23 or 5111.231~~ 93846
5165.19 of the Revised Code, to establish the nursing facility's 93847
rate for direct care costs for the ~~following~~ fiscal year 93848
immediately following the calendar year for which the cost per 93849
case-mix unit is assigned. 93850

~~(3)~~(4) The department shall take action under division 93851
~~(D)~~(B)(1) ~~or, (2), or (3)~~ of this section only in accordance with 93852
rules authorized by ~~division (E) of~~ this section. The department 93853
shall not take an action that affects rates for prior payment 93854
periods except in accordance with sections ~~5111.27~~ 5165.41 and 93855
~~5111.28~~ 5165.42 of the Revised Code. 93856

~~(E)~~(C) The medicaid director shall adopt rules under section 93857
~~5111.02~~ 5165.02 of the Revised Code ~~that~~ as necessary to implement 93858
this section. 93859

(1) The rules shall do all of the following: 93860

~~(1) Specify whether providers of a nursing facility must submit the assessment data to the department of job and family services;~~ 93861
93862
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~~(2) Specify the medium or media through which the completed assessment data shall be submitted;~~ 93864
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(3)(a) Specify the process for determining the semiannual and annual average case-mix scores for nursing facilities; 93866
93867

(b) Adjust the case-mix values specified in division (A)(2)(b) of this section to reflect changes in relative wage differentials that are specific to this state; 93868
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(c) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another; 93871
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(d) Modify the grouper methodology specified in division (A)(2)(c) of this section as follows: 93875
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(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology; 93877
93878

(ii) Prohibit the use of the index maximizer element of the methodology; 93879
93880

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999; 93881
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(iv) Make other changes the department determines are necessary. 93884
93885

(e) Establish procedures under which the resident assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction; 93886
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~~(4)(f)~~ Establish procedures for providers to correct resident 93889
assessment data and specify a reasonable period of time by which 93890
providers shall submit the corrections. The procedures may limit 93891
the content of corrections ~~by providers of nursing facilities~~ in 93892
the manner required by regulations adopted by the United States 93893
department of health and human services under ~~Titles~~ Title XVIII 93894
and Title XIX. 93895

~~(5)(g)~~ Specify when and how the department will assign 93896
case-mix scores or costs per case-mix unit to a nursing facility 93897
under division ~~(D)~~ (B) of this section if information necessary to 93898
calculate the nursing facility's case-mix score is not provided or 93899
corrected in accordance with the procedures established by the 93900
rules. ~~Notwithstanding~~ 93901

(2) Notwithstanding any other provision of ~~sections 5111.20~~ 93902
~~to 5111.331 of the Revised Code~~ this chapter, the rules ~~also~~ may 93903
provide for the ~~following~~: 93904

~~(a) Exclusion of case-mix scores assigned under division (D)~~ 93905
~~of this section from calculation of an intermediate care facility~~ 93906
~~for the mentally retarded's annual average case mix score and the~~ 93907
~~maximum cost per case mix unit for the facility's peer group;~~ 93908

~~(b) Exclusion~~ exclusion of case-mix scores assigned to a 93909
nursing facility under division ~~(D)~~ (B) of this section from 93910
~~calculation~~ the determination of a the nursing facility's 93911
semiannual or annual average case-mix score and the cost per 93912
case-mix unit for the nursing facility's peer group. 93913

Sec. 5165.193. (A) The department of medicaid may, pursuant 93914
to rules authorized by this section, conduct an exception review 93915
of resident assessment data submitted by a nursing facility 93916
provider under section 5165.191 of the Revised Code. The 93917
department may conduct an exception review based on the findings 93918
of a medicaid certification survey conducted by the department of 93919

health, a risk analysis, or prior performance of the provider. 93920

Exception reviews shall be conducted at the nursing facility 93921
by appropriate health professionals under contract with or 93922
employed by the department. The professionals may review resident 93923
assessment forms and supporting documentation, conduct interviews, 93924
and observe residents to identify any patterns or trends of 93925
inaccurate resident assessments and resulting inaccurate case-mix 93926
scores. 93927

(B) If an exception review is conducted before the effective 93928
date of a nursing facility's rate for direct care costs that is 93929
based on the resident assessment data being reviewed and the 93930
review results in findings that exceed tolerance levels specified 93931
in the rules authorized by this section, the department, in 93932
accordance with those rules, may use the findings to redetermine 93933
individual resident case-mix scores, the nursing facility's 93934
case-mix score for the quarter, and the nursing facility's annual 93935
average case-mix score. The department may use the nursing 93936
facility's redetermined quarterly and annual average case-mix 93937
scores to determine the nursing facility's rate for direct care 93938
costs for the appropriate calendar quarter or quarters. 93939

(C) The department shall prepare a written summary of any 93940
exception review finding that is made after the effective date of 93941
a nursing facility's rate for direct care costs that is based on 93942
the resident assessment data that was reviewed. Where the provider 93943
is pursuing judicial or administrative remedies in good faith 93944
regarding the finding, the department shall not withhold from the 93945
provider's current payments any amounts the department claims to 93946
be due from the provider pursuant to section 5165.41 of the 93947
Revised Code. 93948

(D)(1) The medicaid director shall adopt rules under section 93949
5165.02 of the Revised Code as necessary to implement this 93950

section. The rules shall establish an exception review program 93951
that does all of the following: 93952

(a) Requires each exception review to comply with Title XVIII 93953
and Title XIX; 93954

(b) Requires a written summary for each exception review that 93955
states whether resident assessment forms have been completed 93956
accurately; 93957

(c) Prohibits each health professional who conducts an 93958
exception review from doing either of the following: 93959

(i) During the period of the professional's contract or 93960
employment with the department, having or being committed to 93961
acquire any direct or indirect financial interest in the 93962
ownership, financing, or operation of nursing facilities in this 93963
state; 93964

(ii) Reviewing any provider that has been a client of the 93965
professional. 93966

(2) For the purposes of division (D)(1)(c)(i) of this 93967
section, employment of a member of a health professional's family 93968
by a nursing facility that the professional does not review does 93969
not constitute a direct or indirect financial interest in the 93970
ownership, financing, or operation of the nursing facility. 93971

Sec. ~~5111.242~~ 5165.21. (A) As used in this section: 93972

(1) "Applicable calendar year" means the following: 93973

(a) For the purpose of the department of ~~job and family~~ 93974
~~services'~~ medicaid's initial determination under this section of 93975
nursing facilities' rate for tax costs, calendar year 2003; 93976

(b) For the purpose of the department's rebasings, the 93977
calendar year the department selects. 93978

(2) "Rebasing" means a redetermination under division ~~(C)~~(B) 93979

of this section of each nursing facility's rate for tax costs 93980
using information from cost reports for an applicable calendar 93981
year that is later than the applicable calendar year used for the 93982
previous determination of such rates. 93983

~~(B) The department of job and family services shall pay a 93984
provider for each of the provider's eligible nursing facilities a 93985
per resident per day rate for tax costs determined under division 93986
(C) of this section. 93987~~

~~(C)~~ The department of medicaid shall determine ~~the~~ each 93988
nursing facility's per medicaid day payment rate for tax costs ~~for~~ 93989
~~each nursing facility~~. The department is not required to conduct a 93990
rebasings more than once every ten years. Except as necessary to 93991
implement the amendments made to this section by Sub. H.B. 303 of 93992
the 129th general assembly, the rate for tax costs determined 93993
under this division for a nursing facility shall be used for 93994
subsequent years until the department conducts a rebasing. To 93995
determine a nursing facility's rate for tax costs and except as 93996
provided in division ~~(D)~~(C) of this section, the department shall 93997
do both of the following: 93998

(1) Divide the nursing facility's desk-reviewed, actual, 93999
allowable tax costs paid for the applicable calendar year by the 94000
number of inpatient days the nursing facility would have had if 94001
its occupancy rate had been one hundred per cent during the 94002
applicable calendar year; 94003

(2) Until the first rebasing occurs, increase the amount 94004
calculated under division ~~(C)~~(B)(1) of this section by five and 94005
eight hundredths per cent. 94006

~~(D)~~(C) If a nursing facility had a credit regarding its real 94007
estate taxes reflected on its cost report for calendar year 2003, 94008
the department shall determine, as follows, its rate for tax costs 94009
for the period beginning on July 1, 2010, and ending on the first 94010

day of the fiscal year for which the department first conducts a 94011
rebasings: 94012

(1) Divide the nursing facility's desk-reviewed, actual, 94013
allowable tax costs paid for calendar year 2004 by the number of 94014
inpatient days the nursing facility would have had if its 94015
occupancy rate had been one hundred per cent during calendar year 94016
2004; 94017

(2) Until the first rebasing occurs, increase the amount 94018
calculated under division ~~(D)~~(C)(1) of this section by five and 94019
eight hundredths per cent. 94020

Sec. ~~5111.246~~ 5165.23. (A) Each fiscal year, the department 94021
of ~~job and family services~~ medicaid shall ~~pay a~~ determine the 94022
critical access incentive payment ~~to the provider of~~ for each 94023
nursing facility that qualifies as a critical access nursing 94024
facility. To qualify as a critical access nursing facility for a 94025
fiscal year, a nursing facility must meet all of the following 94026
requirements: 94027

(1) The nursing facility must be located in an area that, on 94028
December 31, 2011, was designated an empowerment zone under 94029
~~section 1391~~ of the "Internal Revenue Code of 1986," ~~107 Stat. 543~~ 94030
section 1391, 26 U.S.C. 1391, ~~as amended.~~ 94031

(2) The nursing facility must have an occupancy rate of at 94032
least eighty-five per cent as of the last day of the calendar year 94033
immediately preceding the fiscal year. 94034

(3) The nursing facility must have a medicaid utilization 94035
rate of at least sixty-five per cent as of the last day of the 94036
calendar year immediately preceding the fiscal year. 94037

(4) The nursing facility must have been awarded at least five 94038
points for meeting accountability measures under section 5165.25 94039
of the Revised Code for the fiscal year and at least one of the 94040

five points must have been awarded for meeting the following: 94041

(a) For fiscal year 2014, the accountability measures identified in divisions (C)(10), (11), (12), and (13) of section 5165.25 of the Revised Code; 94042
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(b) For fiscal year 2015 and each fiscal year thereafter, the accountability measures identified in divisions (D)(9), (10), (11), (12), and (14) of section 5165.25 of the Revised Code. 94045
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(B) A critical access nursing facility's critical access incentive payment for a fiscal year shall equal five per cent of the portion of the nursing facility's total rate for the fiscal year that is the sum of the rates and payment identified in divisions ~~(B)~~(A)(1) to (4) and (6) of section ~~5111.222~~ 5165.15 of the Revised Code. 94048
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Sec. ~~5111.244~~ 5165.25. (A) As used in this section: 94054

~~(1) "Applicable percentage" means, for the accountability measures identified in divisions (C)(10) to (13) of this section, the following:~~ 94055
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94057

~~(a) For fiscal year 2013, whichever of the following applies:~~ 94058

~~(i) The percentage that the department of job and family services specifies for an accountability measure pursuant to division (E)(1)(b) or (E)(2)(a)(ii) of this section;~~ 94059
94060
94061

~~(ii) The percentage specified for an accountability measure in division (E)(2)(b), (ii), (iii), (iv), or (v) of this section.~~ 94062
94063

~~(b) For fiscal year 2014, whichever of the following applies:~~ 94064

~~(i) The percentage used pursuant to division (F)(2) of this section;~~ 94065
94066

~~(ii) The percentage that the department specifies for an accountability measure pursuant to division (F)(3)(a) of this section.~~ 94067
94068
94069

~~(c) For fiscal year 2015 and thereafter, whichever of the following applies:~~ 94070
94071

~~(i) The percentage used pursuant to division (F)(2) of this section;~~ 94072
94073

~~(ii) The percentage used pursuant to division (F)(3)(b) of this section.~~ 94074
94075

~~(2) "Complaint surveys" has the same meaning as in 42 C.F.R. 488.30.~~ 94076
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~~(3)(2) "Customer satisfaction survey" means the annual survey of long-term care facilities required by section 173.47 of the Revised Code.~~ 94078
94079
94080

~~(4)(3) "Deficiency" has the same meaning as in 42 C.F.R. 488.301.~~ 94081
94082

(4) "Exempted hospital discharge" has the same meaning as in 42 C.F.R. 483.106(b)(2)(i). 94083
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(5) "Family satisfaction survey" means a customer satisfaction survey, or part of a customer satisfaction survey, that contains the results of information obtained from the families of a nursing facility's residents. 94085
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(6) "Minimum data set" means the standardized, uniform comprehensive assessment of nursing facility residents that is used to identify potential problems, strengths, and preferences of residents and is part of the resident assessment instrument required by ~~section 1919(e)(5) of the "Social Security Act," 101 Stat. 1330-197 (1987)~~ section 1919(e)(5), 42 U.S.C. 1396r(e)(5), ~~as amended.~~ 94089
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~~(7) "National voluntary consensus standards for nursing homes" means measures used to determine the quality of care provided by nursing facilities as endorsed by the national quality forum.~~ 94096
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~~(8)~~ "Nurse aide" has the same meaning as in section 3721.21 of the Revised Code. 94100
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~~(9)~~(8) "Resident satisfaction survey" means a customer satisfaction survey, or part of a customer satisfaction survey, that contains the results of information obtained from a nursing facility's residents. 94102
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~~(10)~~(9) "Room mirror" means a mirror that is located in either of the following rooms: 94106
94107

(a) A resident bathroom if the sink used by a resident after the resident uses the resident bathroom is in the resident bathroom; 94108
94109
94110

(b) A resident's room if the sink used by a resident after the resident uses the resident bathroom is in the resident's room. 94111
94112

~~(11)~~(10) "Room sink" means a sink that is located in either of the following rooms: 94113
94114

(a) A resident bathroom if the sink used by a resident after the resident uses the resident bathroom is in the resident bathroom; 94115
94116
94117

(b) A resident's room if the sink used by a resident after the resident uses the resident bathroom is in the resident's room. 94118
94119

~~(12)~~(11) "Standard survey" has the same meaning as in 42 C.F.R. 488.301. 94120
94121

(12) "Special focus facility list" means the list of nursing facilities that the United States department of health and human services creates under the special focus facility program required by the "Social Security Act," section 1919(f)(10), 42 U.S.C. 1396r(f)(10). 94122
94123
94124
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(13) "Substantial wall" means a permanent structure that reaches from floor to ceiling and divides a semiprivate room into two distinct living spaces, each with its own window. 94127
94128
94129

(14) "Table B of the special focus facility list" means the table included in the special focus facility list that identifies nursing facilities that have not improved. 94130
94131
94132

(B)(1) Each fiscal year, the department of ~~job and family services~~ medicaid shall ~~pay a~~ determine each nursing facility's quality incentive payment ~~to the provider of each nursing facility that is awarded one or more points for meeting accountability measures under division (C) of this section.~~ Subject to ~~division divisions~~ (B)(2) and (3) of this section, the per medicaid day amount of a quality incentive payment paid to a nursing facility provider shall be the product of the following: 94133
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(a) The number of points the provider's nursing facility is awarded for meeting accountability measures under ~~division (C) of~~ this section; 94141
94142
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(b) Three dollars and twenty-nine cents. 94144

(2) The maximum quality incentive payment that may be paid to ~~the provider of~~ a nursing facility provider for a fiscal year 2014 shall be sixteen dollars and forty-four cents per medicaid day. 94145
94146
94147

(3) The maximum quality incentive payment that may be paid to a nursing facility provider for fiscal year 2015 and each fiscal year thereafter shall be the following: 94148
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94150

(a) Sixteen dollars and forty-four cents if at least one of the points awarded to the nursing facility for meeting accountability measures is for an accountability measure identified in division (D)(9), (10), (11), (12), or (14) of this section; 94151
94152
94153
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94155

(b) Thirteen dollars and sixteen cents if division (B)(3)(a) of this section does not apply. 94156
94157

(C) Subject For fiscal year 2014 only and subject to ~~divisions (D), division (E), and (F)~~ of this section, the 94158
94159

department shall award each nursing facility participating in the 94160
medicaid program one point for each of the following 94161
accountability measures the facility meets: 94162

(1) The facility's overall score on its resident satisfaction 94163
survey is at least eighty-six. 94164

(2) The facility's overall score on its family satisfaction 94165
survey is at least eighty-eight. 94166

(3) The facility satisfies the requirements for participation 94167
in the advancing excellence in America's nursing homes campaign. 94168

(4) The facility had neither of the following on the 94169
facility's most recent standard survey conducted not later than 94170
the last day of the calendar year immediately preceding the fiscal 94171
year for which the point is to be awarded or any complaint surveys 94172
conducted in the calendar year immediately preceding the fiscal 94173
year for which the point is to be awarded: 94174

(a) A health deficiency with a scope and severity level 94175
greater than F; 94176

(b) A deficiency that constitutes a substandard quality of 94177
care. 94178

(5) The facility offers at least fifty per cent of its 94179
residents at least one of the following dining choices for at 94180
least one meal each day: 94181

(a) Restaurant-style dining in which food is brought from the 94182
food preparation area to residents per the residents' orders; 94183

(b) Buffet-style dining in which residents obtain their own 94184
food, or have the facility's staff bring food to them per the 94185
residents' directions, from the buffet; 94186

(c) Family-style dining in which food is customarily served 94187
on a serving dish and shared by residents; 94188

(d) Open dining in which residents have at least a two-hour 94189

period to choose when to have a meal;	94190
(e) Twenty-four-hour dining in which residents may order meals from the facility any time of the day.	94191 94192
(6) At least fifty per cent of the facility's residents are able to take a bath or shower as often as they choose.	94193 94194
(7) The facility has at least both of the following scores on its resident satisfaction survey:	94195 94196
(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-nine;	94197 94198 94199
(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-six.	94200 94201 94202
(8) The facility has at least both of the following scores on its family satisfaction survey:	94203 94204
(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-eight;	94205 94206 94207
(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-five.	94208 94209 94210
(9) All of the following apply to the facility:	94211
(a) At least seventy-five per cent of the facility's residents have the opportunity, following admission to the facility and before completing or quarterly updating their individual plans of care, to discuss their goals for the care they are to receive at the facility, including their preferences for advance care planning, with a member of the residents' healthcare <u>health care</u> teams that the facility, residents, and residents' sponsors consider appropriate.	94212 94213 94214 94215 94216 94217 94218 94219

(b) The facility records the residents' care goals, including 94220
the residents' advance care planning preferences, in their medical 94221
records. 94222

(c) The facility uses the residents' care goals, including 94223
the residents' advance care planning preferences, in the 94224
development of the residents' individual plans of care. 94225

(10) Not more than ~~the applicable percentage~~ thirteen and 94226
thirty-five hundredths per cent of the facility's long-stay 94227
residents report severe to moderate pain during the minimum data 94228
set assessment process. 94229

(11) Not more than ~~the applicable percentage~~ five and 94230
seventy-three hundredths per cent of the facility's long-stay, 94231
high-risk residents have been assessed as having one or more stage 94232
two, three, or four pressure ulcers during the minimum data set 94233
assessment process. 94234

(12) Not more than ~~the applicable percentage~~ one and 94235
fifty-two hundredths per cent of the facility's long-stay 94236
residents were physically restrained as reported during the 94237
minimum data set assessment process. 94238

(13) Less than ~~the applicable percentage~~ seven and 94239
seventy-eight hundredths per cent of the facility's long-stay 94240
residents had a urinary tract infection as reported during the 94241
minimum data set assessment process. 94242

(14) The facility uses a tool for tracking residents' 94243
admissions to hospitals. 94244

(15) An average of at least fifty per cent of the facility's 94245
medicaid-certified beds are in private rooms. 94246

(16) The facility has accessible resident bathrooms, all of 94247
which meet at least two of the following standards and at least 94248
some of which meet all of the following standards: 94249

(a) There are room mirrors that are accessible to residents in wheelchairs, can be adjusted so as to be visible to residents who are seated or standing, or both.	94250 94251 94252
(b) There are room sinks that are accessible to residents in wheelchairs and have clearance for wheelchairs.	94253 94254
(c) There are room sinks that have faucets with adaptive or easy-to-use lever or paddle handles.	94255 94256
(17) The facility does both of the following:	94257
(a) Maintains a written policy that prohibits the use of overhead paging systems or limits the use of overhead paging systems to emergencies, as defined in the policy;	94258 94259 94260
(b) Communicates the policy to its staff, residents, and families of residents.	94261 94262
(18) The facility has a score of at least ninety on its resident satisfaction survey with regard to the question in the survey regarding residents' ability to personalize their rooms with personal belongings.	94263 94264 94265 94266
(19) The facility has a score of at least ninety-five on its family satisfaction survey with regard to the question in the survey regarding residents' ability to personalize their rooms with personal belongings.	94267 94268 94269 94270
(20) The facility does both of the following:	94271
(a) Maintains a written policy that requires consistent assignment of nurse aides and specifies the goal of having a resident receive nurse aide care from not more than eight different nurse aides during a thirty-day period;	94272 94273 94274 94275
(b) Communicates the policy to its staff, residents, and families of residents.	94276 94277
(21) The facility's staff retention rate is at least seventy-five per cent.	94278 94279

(22) The facility's turnover rate for nurse aides is not higher than sixty-five per cent. 94280
94281

(23) For at least fifty per cent of the resident care conferences in the facility, a nurse aide who is a primary caregiver for the resident attends and participates in the conference. 94282
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(D) For fiscal year 2015 and each fiscal year thereafter and subject to division (E) of this section, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets: 94286
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(1) The facility's overall score on its resident satisfaction survey is at least eighty-seven and five-tenths. 94291
94292

(2) The facility's overall score on its family satisfaction survey is at least eighty-five and nine-tenths. 94293
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(3) The facility satisfies the requirements for participation in the advancing excellence in America's nursing homes campaign. 94295
94296

(4) Both of the following apply to the facility: 94297

(a) The facility had not been listed on table B of the special focus facility list for eighteen or more consecutive months during any time during the calendar year immediately preceding the fiscal year for which the point is to be awarded. 94298
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(b) The facility had neither of the following on the facility's most recent standard survey conducted not later than the last day of the calendar year immediately preceding the fiscal year for which the point is to be awarded or any complaint surveys conducted in the calendar year immediately preceding the fiscal year for which the point is to be awarded: 94302
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(i) A health deficiency with a scope and severity level greater than F; 94308
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<u>(ii) A deficiency that constitutes a substandard quality of care.</u>	94310
	94311
<u>(5) The facility does all of the following:</u>	94312
<u>(a) Offers at least fifty per cent of its residents at least one of the following dining choices for at least two meals each day:</u>	94313
	94314
	94315
<u>(i) Restaurant-style dining in which food is brought from the food preparation area to residents per the residents' orders;</u>	94316
	94317
<u>(ii) Buffet-style dining in which residents obtain their own food, or have the facility's staff bring food to them per the residents' directions, from the buffet;</u>	94318
	94319
	94320
<u>(iii) Family-style dining in which food is customarily served on a serving dish and shared by residents;</u>	94321
	94322
<u>(iv) Open dining in which residents have at least a two-hour period to choose when to have a meal;</u>	94323
	94324
<u>(v) Twenty-four-hour dining in which residents may order meals from the facility any time of the day.</u>	94325
	94326
<u>(b) Maintains a written policy specifying the manner or manners in which residents' dining choices for meals are offered;</u>	94327
	94328
<u>(c) Communicates the policy to its staff, residents, and families of residents.</u>	94329
	94330
<u>(6) The facility does all of the following:</u>	94331
<u>(a) Enables at least fifty per cent of the facility's residents to take a bath or shower when they choose;</u>	94332
	94333
<u>(b) Maintains a written policy regarding residents' choices in bathing;</u>	94334
	94335
<u>(c) Communicates the policy to its staff, residents, and families of residents.</u>	94336
	94337
<u>(7) The facility has at least both of the following scores on</u>	94338

<u>its resident satisfaction survey:</u>	94339
<u>(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-nine;</u>	94340 94341 94342
<u>(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-six.</u>	94343 94344 94345
<u>(8) The facility has at least both of the following scores on its family satisfaction survey:</u>	94346 94347
<u>(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-eight;</u>	94348 94349 94350
<u>(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-five.</u>	94351 94352 94353
<u>(9) Not more than thirteen and thirty-five hundredths per cent of the facility's long-stay residents report severe to moderate pain during the minimum data set assessment process.</u>	94354 94355 94356
<u>(10) Not more than five and sixteen hundredths per cent of the facility's long-stay, high-risk residents have been assessed as having one or more stage two, three, or four pressure ulcers during the minimum data set assessment process.</u>	94357 94358 94359 94360
<u>(11) Not more than one and fifty-two hundredths per cent of the facility's long-stay residents were physically restrained as reported during the minimum data set assessment process.</u>	94361 94362 94363
<u>(12) Less than seven per cent of the facility's long-stay residents had a urinary tract infection as reported during the minimum data set assessment process.</u>	94364 94365 94366
<u>(13) The facility does all of the following:</u>	94367
<u>(a) Uses a tool for tracking residents' admissions to</u>	94368

hospitals; 94369

(b) Informs the department of the tool the facility uses to track residents' hospital admissions; 94370
94371

(c) Each month, reports to the department hospital admission data for all residents. 94372
94373

(14) Both of the following apply: 94374

(a) At least ninety-five per cent of the facility's long-stay residents are assessed for risk of pneumococcal pneumonia and, if appropriate as determined by the assessment, vaccinated against pneumococcal pneumonia. 94375
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(b) At least ninety-three per cent of the facility's long-stay residents are assessed for risk of seasonal influenza and, if appropriate as determined by the assessment, vaccinated against seasonal influenza. 94379
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(15) An average of at least fifty per cent of the facility's medicaid-certified beds are in either, or in a combination of both, of the following: 94383
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94385

(a) Private rooms; 94386

(b) Semiprivate rooms to which all of the following apply: 94387

(i) Each room provides a distinct territory for each resident occupying the room. 94388
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(ii) Each distinct territory has a window and is separated by a substantial wall from the other distinct territories in the room. 94390
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(iii) Each resident is able to enter and exit the distinct territory of the resident's room without entering or exiting another resident's distinct territory. 94393
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(iv) Complete visual privacy for each distinct territory may be obtained by drawing a curtain or other screen. 94396
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<u>(16) The facility does both of the following:</u>	94398
<u>(a) Obtains at least a ninety-five per cent compliance rate</u>	94399
<u>with requesting resident reviews required by 42 C.F.R.</u>	94400
<u>483.106(b)(2)(ii) for individuals who are exempted hospital</u>	94401
<u>discharges;</u>	94402
<u>(b) Reports to the department data demonstrating the</u>	94403
<u>facility's compliance with the resident review requirements.</u>	94404
<u>(17) The facility does both of the following:</u>	94405
<u>(a) Maintains a written policy that requires consistent</u>	94406
<u>assignment of nurse aides and specifies the goal of having a</u>	94407
<u>resident receive nurse aide care from not more than twelve</u>	94408
<u>different nurse aides during a thirty-day period;</u>	94409
<u>(b) Communicates the policy to its staff, residents, and</u>	94410
<u>families of residents.</u>	94411
<u>(18) The facility's staff retention rate is at least</u>	94412
<u>seventy-five per cent.</u>	94413
<u>(19) The facility's turnover rate for nurse aides is not</u>	94414
<u>higher than sixty-five per cent.</u>	94415
<u>(20) For at least fifty per cent of the resident care</u>	94416
<u>conferences in the facility, a nurse aide who is a primary</u>	94417
<u>caregiver for the resident attends and participates in the</u>	94418
<u>conference.</u>	94419
<u>(21) All of the following apply to the facility:</u>	94420
<u>(a) At least seventy-five per cent of the facility's</u>	94421
<u>residents have the opportunity, following admission to the</u>	94422
<u>facility and before completing or quarterly updating their</u>	94423
<u>individual plans of care, to discuss their goals for the care they</u>	94424
<u>are to receive at the facility, including their preferences for</u>	94425
<u>advance care planning, with a member of the residents' health care</u>	94426
<u>teams that the facility, residents, and residents' sponsors</u>	94427

consider appropriate. 94428

(b) The facility records the residents' care goals, including the residents' advance care planning preferences, in their medical records. 94429
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(c) The facility uses the residents' care goals, including the residents' advance care planning preferences, in the development of the residents' individual plans of care. 94432
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94434

(d) The facility maintains a written policy that encourages advance care planning. 94435
94436

(e) The facility communicates the policy to its staff, residents, and families of residents. 94437
94438

(22) The facility does both of the following: 94439

(a) Maintains a written policy that prohibits the use of overhead paging systems or limits the use of overhead paging systems to emergencies, as defined in the policy; 94440
94441
94442

(b) Communicates the policy to its staff, residents, and families of residents. 94443
94444

(E)(1) To be awarded a point for meeting an accountability measure under division (C) or (D) of this section other than the accountability measure identified in ~~division~~ divisions (C)(4) and (D)(4)(b) of this section, a nursing facility must meet the accountability measure in the calendar year immediately preceding the fiscal year for which the point is to be awarded. ~~However, a nursing facility must meet the accountability measures specified in divisions (C)(3), (5), (6), (9), (14) to (17), (20), (22), and (23) of this section in the period beginning January 1, 2012, and ending March 31, 2012, to be awarded points for those accountability measures for fiscal year 2013.~~

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(2) The department shall award points pursuant to ~~division~~ divisions (C)(1), (7), ~~or~~ and (18) and (D)(1) and (7) of this 94456
94457

section to a nursing facility only if a resident satisfaction 94458
survey was initiated under section 173.47 of the Revised Code for 94459
the nursing facility in the calendar year immediately preceding 94460
the fiscal year for which the points are to be awarded. 94461

(3) The department shall award points pursuant to ~~division~~ 94462
divisions (C)(2), (8), ~~or~~ and (19) and (D)(2) and (8) of this 94463
section to a nursing facility only if a family satisfaction survey 94464
was initiated under section 173.47 of the Revised Code for the 94465
nursing facility in the calendar year immediately preceding the 94466
fiscal year for which the points are to be awarded. 94467

(4) The department shall award points pursuant to divisions 94468
(D)(21) and (22) of this section only for fiscal year 2015. 94469

(5) Not later than July 1, 2013, the department shall adjust 94470
the score used for the purpose of division (C)(8)(b) of this 94471
section in a manner that causes at least fifty per cent of nursing 94472
facilities to meet division (C)(8)(b) of this section. 94473

~~(E) For the purposes of awarding points under divisions~~ 94474
~~(C)(10) to (13) of this section for fiscal year 2013, the~~ 94475
~~following apply:~~ 94476

~~(1) If, by July 1, 2012, the United States centers for~~ 94477
~~medicare and medicaid services makes calculations using the 3.0~~ 94478
~~version of the minimum data set that indicate whether nursing~~ 94479
~~facilities meet those accountability measures, the department~~ 94480
~~shall do both of the following:~~ 94481

~~(a) Rely on those calculations;~~ 94482

~~(b) Specify the percentages to be used for the purposes of~~ 94483
~~those accountability measures and, in specifying the percentages,~~ 94484
~~provide for at least fifty per cent of nursing facilities to earn~~ 94485
~~points for meeting those accountability measures.~~ 94486

~~(2) If, by July 1, 2012, the United States centers for~~ 94487

~~medicare and medicaid services does not make calculations using 94488~~
~~the 3.0 version of the minimum data set that indicate whether 94489~~
~~nursing facilities meet those accountability measures, the 94490~~
~~department shall do either of the following: 94491~~

~~(a) Do both of the following: 94492~~

~~(i) Make the calculations using the 3.0 version of the 94493~~
~~minimum data set in accordance with the national voluntary 94494~~
~~consensus standards for nursing homes: 94495~~

~~(ii) Specify the percentages to be used for the purposes of 94496~~
~~those accountability measures and, in specifying the percentages, 94497~~
~~provide for at least fifty per cent of nursing facilities to earn 94498~~
~~points for meeting those accountability measures. 94499~~

~~(b) Do all of the following: 94500~~

~~(i) Rely on the most recent calculations the United States 94501~~
~~centers for medicare and medicaid services made using the 2.0 94502~~
~~version of the minimum data set that indicate whether nursing 94503~~
~~facilities meet those accountability measures: 94504~~

~~(ii) Use four per cent as the applicable percentage for the 94505~~
~~accountability measure identified in division (C)(10) of this 94506~~
~~section: 94507~~

~~(iii) Use nine per cent as the applicable percentage for the 94508~~
~~accountability measure identified in division (C)(11) of this 94509~~
~~section: 94510~~

~~(iv) Use two per cent as the applicable percentage for the 94511~~
~~accountability measure identified in division (C)(12) of this 94512~~
~~section: 94513~~

~~(v) Use ten per cent as the applicable percentage for the 94514~~
~~accountability measure identified in division (C)(13) of this 94515~~
~~section. 94516~~

~~(F) For the purposes of awarding points under divisions 94517~~

~~(C)(10) to (13) of this section for fiscal year 2014 and
thereafter, the department shall do the following:~~ 94518
94519

~~(1) Rely on calculations the United States centers for
medicare and medicaid services makes using the 3.0 version of the
minimum data set that indicate whether nursing facilities meet
those accountability measures;~~ 94520
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~~(2) If the department takes action pursuant to division
(E)(1) of this section for fiscal year 2013, continue to use the
percentages the department specifies pursuant to division
(E)(1)(b) of this section for the purposes of those accountability
measures;~~ 94524
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~~(3) If the department takes action pursuant to division
(E)(2) of this section for fiscal year 2013, do the following:~~ 94529
94530

~~(a) For fiscal year 2014, specify the percentages to be used
for the purposes of those accountability measures and, in
specifying the percentages, provide for at least fifty per cent of
nursing facilities to earn points for meeting those accountability
measures;~~ 94531
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~~(b) For fiscal year 2015 and thereafter, continue to use the
percentages the department specifies pursuant to division
(F)(3)(a) of this section for the purposes of those accountability
measures.~~ 94536
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~~(G) The director of job and family services shall adopt rules
under section 5111.02 of the Revised Code as necessary to
implement this section.~~ 94540
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~~The rules~~ Rules adopted under section 5165.02 of the Revised
Code may specify what is meant by "some" as that word is used in
division (C)(16) of this section. 94543
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94545

Sec. 5111.245 5165.26. (A) As used in this section: 94546

(1) "Point days for a fiscal year" means the product of the 94547

following: 94548

(a) A qualifying nursing facility's quality bonus points for 94549
the fiscal year; 94550

(b) The number of the qualifying nursing facility's medicaid 94551
days in the fiscal year. 94552

(2) "Qualifying nursing facility" means a nursing facility 94553
that qualifies for a quality bonus for a fiscal year as determined 94554
under division (B) of this section. 94555

(3) "Quality bonus points for a fiscal year" means the amount 94556
determined by subtracting five from the number of points awarded 94557
to a qualifying nursing facility for meeting accountability 94558
measures under ~~division (C) of~~ section ~~5111.244~~ 5165.25 of the 94559
Revised Code for a fiscal year. 94560

(4) "Residual budgeted amount for quality incentive payments 94561
for a fiscal year" means the amount determined for a fiscal year 94562
as follows: 94563

(a) Multiply the total number of medicaid days in the fiscal 94564
year by sixteen dollars and forty-four cents; 94565

(b) Determine the total amount of quality incentive payments 94566
that was paid under section ~~5111.244~~ 5165.25 of the Revised Code 94567
to all nursing facility providers for the fiscal year; 94568

(c) Subtract the amount determined under division (A)(4)(b) 94569
of this section from the product calculated under division 94570
(A)(4)(a) of this section. 94571

(B) The department of ~~job and family services~~ medicaid shall 94572
pay a nursing facility provider a quality bonus for a fiscal year 94573
if both of the following apply: 94574

(1) The provider's nursing facility is awarded more than five 94575
points for meeting accountability measures under ~~division (C) of~~ 94576
section ~~5111.244~~ 5165.25 of the Revised Code for the fiscal year. 94577

(2) The residual budgeted amount for quality incentive payments for the fiscal year is greater than zero.	94578 94579
(C) The total quality bonus to be paid to the provider of a qualifying nursing facility for a fiscal year shall equal the product of the following:	94580 94581 94582
(1) The quality bonus per medicaid day for the fiscal year determined for the provider's qualifying nursing facility under division (D) of this section;	94583 94584 94585
(2) The number of the qualifying nursing facility's medicaid days in the fiscal year.	94586 94587
(D) A qualifying nursing facility's quality bonus per medicaid day for a fiscal year shall be the product of the following:	94588 94589 94590
(1) The nursing facility's quality bonus points for the fiscal year;	94591 94592
(2) The quality bonus per point for the fiscal year determined under division (E) of this section.	94593 94594
(E) The quality bonus per point for a fiscal year shall be determined as follows:	94595 94596
(1) Determine the number of each qualifying nursing facility's point days for the fiscal year;	94597 94598
(2) Determine the sum of all qualifying nursing facilities' point days for the fiscal year;	94599 94600
(3) Divide the residual budgeted amount for quality incentive payments for the fiscal year by the sum determined under division (E)(2) of this section.	94601 94602 94603
(F) The calculation of a qualifying nursing facility's bonus payment is not subject to appeal under Chapter 119. of the Revised Code.	94604 94605 94606

~~(G) The director of job and family services may adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.257~~ 5165.28. If a provider of a nursing facility adds or replaces one or more medicaid certified beds to or at the nursing facility, or renovates one or more of the nursing facility's beds, the medicaid payment rate for the added, replaced, or renovated beds shall be the same as the medicaid payment rate for the nursing facility's existing beds.

Sec. ~~5111.265~~ 5165.29. If one or more medicaid-certified beds are relocated from one nursing facility to another nursing facility owned by a different person or government entity and the application for the certificate of need authorizing the relocation is filed with the director of health on or after ~~the effective date of this section~~ July 1, 2005, amortization of the cost of acquiring operating rights for the relocated beds is not an allowable cost for the purpose of determining the nursing facility's medicaid ~~reimbursement~~ payment rate.

Sec. ~~5111.264~~ 5165.30. Except as provided in section ~~5111.25~~ ~~or 5111.251~~ 5165.17 of the Revised Code, the costs of goods, services, and facilities, furnished to a nursing facility provider by a related party are includable in the allowable costs of the provider at the reasonable cost to the related party.

Sec. 5165.32. The department of medicaid shall not reduce a nursing facility's medicaid payment rate determined under this chapter on the basis that the provider charges a lower rate to any resident who is not eligible for medicaid.

Sec. 5165.33. No medicaid payment shall be made to a nursing

facility provider for the day a medicaid recipient is discharged 94635
from the nursing facility. 94636

Sec. ~~5111.331~~ 5165.34. (A) The department of ~~job and family~~ 94637
~~services~~ medicaid may make medicaid payments to a nursing facility 94638
~~provider of a nursing facility~~ under ~~sections 5111.20 to 5111.331~~ 94639
~~of the Revised Code~~ this chapter to reserve a bed for a recipient 94640
during a temporary absence under conditions prescribed by the 94641
department, to include hospitalization for an acute condition, 94642
visits with relatives and friends, and participation in 94643
therapeutic programs outside the facility, when the resident's 94644
plan of care provides for such absence and federal financial 94645
participation ~~in~~ for the payments is available. 94646

(B) The maximum period for which payments may be made to 94647
reserve a bed in a nursing facility shall not exceed thirty days 94648
in a calendar year. 94649

(C) The department shall establish the per ~~diem~~ medicaid day 94650
payment rates ~~to be paid to providers of nursing facilities~~ for 94651
reserving beds under this section. In establishing the per ~~diem~~ 94652
medicaid day payment rates, the department shall ~~do the following:~~ 94653

~~(1) In the case of a payment to reserve a bed for a day~~ 94654
~~during calendar year 2011, set the per diem rate at an amount not~~ 94655
~~exceeding fifty per cent of the per diem rate the provider would~~ 94656
~~be paid if the recipient were not absent from the nursing facility~~ 94657
~~that day;~~ 94658

~~(2) In the case of a payment to reserve a bed for a day~~ 94659
~~during calendar year 2012 and each calendar year thereafter, set~~ 94660
the per ~~diem~~ medicaid day payment rate at an amount equal to the 94661
following: 94662

~~(a)(1)~~ (1) In the case of a nursing facility that had an 94663
occupancy rate ~~in the preceding calendar year~~ exceeding 94664

ninety-five per cent, an amount not exceeding fifty per cent of 94665
the per diem medicaid day payment rate the provider would be paid 94666
if the recipient were not absent from the nursing facility that 94667
day; 94668

~~(b)(2)~~ In the case of a nursing facility that had an 94669
occupancy rate ~~in the preceding calendar year~~ not exceeding 94670
ninety-five per cent, an amount not exceeding eighteen per cent of 94671
the per diem medicaid day payment rate the provider would be paid 94672
if the recipient were not absent from the nursing facility that 94673
day. 94674

(D) For the purpose of setting a nursing facility's per 94675
medicaid day payment rate to reserve a bed for a day during the 94676
period beginning on the effective date of this amendment and 94677
ending December 31, 2013, the department shall determine the 94678
nursing facility's occupancy rate by using information reported on 94679
the nursing facility's cost report for calendar year 2012. For the 94680
purpose of setting a nursing facility's per medicaid day payment 94681
rate to reserve a bed for January 1, 2014, or thereafter, the 94682
department shall determine the nursing facility's occupancy rate 94683
by using information reported on the nursing facility's cost 94684
report for the calendar year preceding the fiscal year in which 94685
the reservation falls. 94686

~~Sec. 5111.212 5165.35. As used in this section, "effective 94687
date of an involuntary termination" and "involuntary termination" 94688
have the same meanings as in section 5111.65 of the Revised Code. 94689~~

Medicaid payments may be made for nursing facility services 94690
~~and intermediate care facility for the mentally retarded services 94691~~
provided not later than thirty days after the effective date of an 94692
involuntary termination of the nursing facility that provides the 94693
services if the services are provided to a medicaid recipient who 94694
is eligible for the services and resided in the nursing facility 94695

before the effective date of the involuntary termination. 94696

Sec. ~~5111.221~~ 5165.37. The department of ~~job and family~~ 94697
~~services~~ medicaid shall make its best efforts each year to 94698
calculate nursing facilities' medicaid payment rates under 94699
~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter in 94700
time to ~~use them to make pay~~ the ~~payments due to providers~~ rates 94701
by the fifteenth day of August of each fiscal year. If the 94702
department is unable to calculate the rates so that they can be 94703
paid by that date, the department shall pay each provider the rate 94704
calculated for the provider's nursing facilities ~~and intermediate~~ 94705
~~care facilities for the mentally retarded~~ under those sections 94706
this chapter at the end of the previous fiscal year. If the 94707
department also is unable to calculate the rates to ~~make the~~ 94708
~~payments due~~ pay the rates by the fifteenth day of September and 94709
the fifteenth day of October, the department shall pay the 94710
previous fiscal year's rate to make those payments. The department 94711
may increase by five per cent the previous fiscal year's rate paid 94712
for any nursing facility pursuant to this section at the request 94713
of the provider. The department shall use rates calculated for the 94714
current fiscal year to make the payments due by the fifteenth day 94715
of November. 94716

If the rate paid to a provider for a nursing facility 94717
pursuant to this section is lower than the rate calculated for the 94718
nursing facility for the current fiscal year, the department shall 94719
pay the provider the difference between the two rates for the 94720
number of days for which the provider was paid for the nursing 94721
facility pursuant to this section. If the rate paid for a nursing 94722
facility pursuant to this section is higher than the rate 94723
calculated for it for the current fiscal year, the provider shall 94724
refund to the department the difference between the two rates for 94725
the number of days for which the provider was paid for the nursing 94726
facility pursuant to this section. 94727

~~Sec. 5111.29~~ 5165.38. (A) The medicaid director of ~~job and~~ 94728
~~family services~~ shall adopt rules under section 5111.02 5165.02 of 94729
the Revised Code that establish a process under which a nursing 94730
facility provider, or a group or association of nursing facility 94731
providers, may seek reconsideration of medicaid payment rates 94732
established under ~~sections 5111.20 to 5111.331 of the Revised Code~~ 94733
this chapter, including a rate for direct care costs recalculated 94734
before the effective date of the rate as a result of an exception 94735
review of resident assessment information data conducted under 94736
section 5111.27 5165.193 of the Revised Code. The 94737

~~(1) Except as provided in divisions (A)(2) to (4) of this~~ 94738
~~section, the only issue that a provider, group, or association may~~ 94739
raise in the rate reconsideration shall be whether the rate was 94740
calculated in accordance with ~~sections 5111.20 to 5111.331 of the~~ 94741
~~Revised Code~~ this chapter and the rules adopted under section 94742
5111.02 5165.02 of the Revised Code. The ~~rules shall permit a~~ 94743
provider, group, or association ~~to~~ may submit written arguments or 94744
other materials that support its position. The ~~rules shall specify~~ 94745
provider, group, or association and department of medicaid shall 94746
take actions regarding the rate reconsideration within time frames 94747
~~within which the provider, group, or association and the~~ 94748
~~department must act~~ specified in rules authorized by this section. 94749
if 94750

If the department determines, as a result of the rate 94751
reconsideration, that the rate ~~established~~ determined for one or 94752
more nursing facilities ~~of a provider~~ is less than the rate to 94753
which the nursing facility is entitled, the department shall 94754
increase the rate. If the department has paid the incorrect rate 94755
for a period of time, the department shall pay the provider the 94756
difference between the amount the provider was paid for that 94757
period for the nursing facility and the amount the provider should 94758
have been paid for the nursing facility. 94759

~~(2) The rules shall provide that during a fiscal year, the department, by means of the rate reconsideration process, may increase the rate determined for an intermediate care facility for the mentally retarded as calculated under sections 5111.20 to 5111.331 of the Revised Code if the provider of the facility demonstrates that the facility's actual, allowable costs have increased because of extreme circumstances. A facility may qualify for a rate increase only if the facility's per diem, actual, allowable costs have increased to a level that exceeds its total rate. The rules shall specify the circumstances that would justify a rate increase under division (A)(2) of this section. The rules shall provide that the extreme circumstances include natural disasters, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner city facility, and a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections 5111.20 to 5111.331 of the Revised Code for specific cost centers. Any rate increase granted under division (A)(2) of this section shall take effect on the first day of the first month after the department receives the request.~~

~~(3) The rules shall provide that the department, through the rate reconsideration process, may increase an intermediate care facility for the mentally retarded's rate as calculated under sections 5111.20 to 5111.331 of the Revised Code if the department, in the department's sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility.~~

~~(4) The rules shall provide that when beds certified for the
medicaid program are added to an existing intermediate care
facility for the mentally retarded or replaced at the same site,
the department, through the rate reconsideration process, shall
increase the intermediate care facility for the mentally
retarded's rate for capital costs proportionately, as limited by
any applicable limitation under section 5111.251 of the Revised
Code, to account for the costs of the beds that are added or
replaced. The department shall make this increase one month after
the first day of the month after the department receives
sufficient documentation of the costs. Any rate increase granted
under division (A)(4) of this section after June 30, 1993, shall
remain in effect until the effective date of a rate calculated
under section 5111.251 of the Revised Code that includes costs
incurred for a full calendar year for the bed addition or bed
replacement. The facility shall report double accumulated
depreciation in an amount equal to the depreciation included in
the rate adjustment on its cost report for the first year of
operation. During the term of any loan used to finance a project
for which a rate adjustment is granted under division (A)(4) of
this section, if the facility is operated by the same provider,
the provider shall subtract from the interest costs it reports on
its cost report an amount equal to the difference between the
following:~~

~~(a) The actual, allowable interest costs for the loan during
the calendar year for which the costs are being reported;~~

~~(b) The actual, allowable interest costs attributable to the
loan that were used to calculate the rates paid to the provider
for the facility during the same calendar year.~~

~~(5) The department's decision at the conclusion of the
reconsideration process shall not be subject to any administrative
proceedings under Chapter 119. or any other provision of the~~

Revised Code.	94824
(B) All of the following are subject to an adjudication	94825
conducted in accordance with Chapter 119. of the Revised Code;	94826
(1) Any audit disallowance that the department makes as the	94827
result of an audit under section 5111.27 of the Revised Code;	94828
(2) Any adverse finding that results from an exception review	94829
of resident assessment information conducted under section 5111.27	94830
of the Revised Code after the effective date of the facility's	94831
rate that is based on the assessment information;	94832
(3) Any medicaid payment deemed an overpayment under section	94833
5111.683 of the Revised Code;	94834
(4) Any penalty the department imposes under division (C) of	94835
section 5111.28 of the Revised Code or section 5111.683 of the	94836
Revised Code.	94837
Sec. 5111.28 <u>5165.40</u>. (A) If a <u>nursing facility</u> provider	94838
properly amends its <u>a cost report for the nursing facility</u> under	94839
section 5111.261 <u>5165.107</u> of the Revised Code and the amended	94840
report shows that the provider received a lower <u>medicaid payment</u>	94841
rate under the original cost report than it <u>the provider</u> was	94842
entitled to receive, the department of job and family services	94843
<u>medicaid</u> shall adjust the provider's rate <u>for the nursing facility</u>	94844
prospectively to reflect the corrected information. The department	94845
shall pay the adjusted rate beginning two months after the first	94846
day of the month after the provider files the amended cost report.	94847
if	94848
<u>If</u> the department finds, from an exception review of resident	94849
assessment information <u>data</u> conducted <u>pursuant to section 5165.193</u>	94850
<u>of the Revised Code</u> after the effective date of the <u>a nursing</u>	94851
<u>facility's</u> rate for direct care costs that is based on the	94852
<u>resident</u> assessment information <u>data</u> , that inaccurate <u>resident</u>	94853

assessment ~~information data~~ resulted in the provider receiving a 94854
lower rate ~~for the nursing facility~~ than it was entitled to 94855
receive, the department prospectively shall adjust the provider's 94856
rate accordingly ~~and. The department~~ shall make payments to the 94857
~~provider~~ using the adjusted rate for the remainder of the ~~calendar~~ 94858
~~quarter six-month period~~ for which the ~~resident~~ assessment 94859
~~information data~~ is used to determine the rate, beginning one 94860
month after the first day of the month after the exception review 94861
is completed. 94862

~~(B) If the provider properly amends its cost report under 94863
section 5111.261 of the Revised Code, the department makes a 94864
finding based on an audit under section 5111.27 of the Revised 94865
Code, or the department makes a finding based on an exception 94866
review of resident assessment information conducted under section 94867
5111.27 of the Revised Code after the effective date of the rate 94868
for direct care costs that is based on the assessment information, 94869
any of which results in a determination that the provider has 94870
received a higher rate than it was entitled to receive, the 94871
department shall recalculate the provider's rate using the revised 94872
information. The department shall apply the recalculated rate to 94873
the periods when the provider received the incorrect rate to 94874
determine the amount of the overpayment. The provider shall refund 94875
the amount of the overpayment. 94876~~

~~In addition to requiring a refund under this division, the 94877
department may charge the provider interest at the applicable rate 94878
specified in this division from the time the overpayment was made. 94879~~

~~(1) If the overpayment resulted from costs reported for 94880
calendar year 1993, the interest shall be no greater than one and 94881
one half times the average bank prime rate. 94882~~

~~(2) If the overpayment resulted from costs reported for 94883
subsequent calendar years: 94884~~

~~(a) The interest shall be no greater than two times the average bank prime rate if the overpayment was equal to or less than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.~~ 94885
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~~(b) The interest shall be no greater than two and one half times the current average bank prime rate if the overpayment was greater than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.~~ 94890
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~~(C) The department also may impose the following penalties:~~ 94895

~~(1) If a provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, no more than the greater of one thousand dollars per audit or twenty five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to establish a rate;~~ 94896
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~~(2) If an exiting operator or owner fails to provide notice of a facility closure, voluntary termination, or voluntary withdrawal of participation in the medicaid program as required by section 5111.66 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5111.67 of the Revised Code, no more than the current average bank prime rate plus four per cent of the last two monthly payments.~~ 94904
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~~(D) If the provider continues to participate in the medicaid program, the department shall deduct any amount that the provider is required to refund under this section, and the amount of any interest charged or penalty imposed under this section, from the~~ 94912
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~~next available payment from the department to the provider. The 94916
department and the provider may enter into an agreement under 94917
which the amount, together with interest, is deducted in 94918
installments from payments from the department to the provider. 94919~~

~~(E) The department shall transmit refunds and penalties to 94920
the treasurer of state for deposit in the general revenue fund. 94921~~

~~(F) For the purpose of this section, the department shall 94922
determine the average bank prime rate using statistical release 94923
H.15, "selected interest rates," a weekly publication of the 94924
federal reserve board, or any successor publication. If 94925
statistical release H.15, or its successor, ceases to contain the 94926
bank prime rate information or ceases to be published, the 94927
department shall request a written statement of the average bank 94928
prime rate from the federal reserve bank of Cleveland or the 94929
federal reserve board. 94930~~

Sec. 5165.41. (A) The department of medicaid shall 94931
redetermine a provider's medicaid payment rate for a nursing 94932
facility using revised information if any of the following results 94933
in a determination that the provider received a higher medicaid 94934
payment rate for the nursing facility than the provider was 94935
entitled to receive: 94936

(1) The provider properly amends a cost report for the 94937
nursing facility under section 5165.107 of the Revised Code; 94938

(2) The department makes a finding based on an audit under 94939
section 5165.109 of the Revised Code; 94940

(3) The department makes a finding based on an exception 94941
review of resident assessment data conducted under section 94942
5165.193 of the Revised Code after the effective date of the 94943
nursing facility's rate for direct care costs that is based on the 94944
resident assessment data; 94945

(4) The department makes a finding based on a post-payment review conducted under section 5165.49 of the Revised Code. 94946
94947

(B) The department shall apply the redetermined rate to the periods when the provider received the incorrect rate to determine the amount of the overpayment. The provider shall refund the amount of the overpayment. The department may charge the provider the following amount of interest from the time the overpayment was made: 94948
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(1) If the overpayment resulted from costs reported for calendar year 1993, the interest shall be no greater than one and one-half times the current average bank prime rate. 94954
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(2) If the overpayment resulted from costs reported for a subsequent calendar year: 94957
94958

(a) The interest shall be no greater than two times the current average bank prime rate if the overpayment was no more than one per cent of the total medicaid payments to the provider for the fiscal year for which the overpayment was made. 94959
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94962

(b) The interest shall be no greater than two and one-half times the current average bank prime rate if the overpayment was more than one per cent of the total medicaid payments to the provider for the fiscal year for which the overpayment was made. 94963
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Sec. 5165.42. In addition to the other penalties authorized by this chapter, the department of medicaid may impose the following penalties on a nursing facility provider: 94967
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(A) If the provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, a fine of no more than the greater of the following: 94970
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94972
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(1) One thousand dollars per audit; 94974

(2) Twenty-five per cent of the cumulative amount by which 94975

the costs for which documentation was not furnished increased the 94976
total medicaid payments to the provider during the fiscal year for 94977
which the costs were used to determine a rate. 94978

(B) If an exiting operator or owner fails to provide notice 94979
of a facility closure or voluntary withdrawal of participation in 94980
the medicaid program as required by section 5165.50 of the Revised 94981
Code, or an exiting operator or owner and entering operator fail 94982
to provide notice of a change of operator as required by section 94983
5165.51 of the Revised Code, a fine of not more than the current 94984
average bank prime rate plus four per cent of the last two monthly 94985
payments. 94986

Sec. 5165.43. For the purposes of sections 5165.41 and 94987
5165.42 of the Revised Code, the department of medicaid shall 94988
determine the current average bank prime rate using statistical 94989
release H.15, "selected interest rates," a weekly publication of 94990
the federal reserve board, or any successor publication. If 94991
statistical release H.15, or its successor, ceases to contain the 94992
bank prime rate information or ceases to be published, the 94993
department shall request a written statement of the average bank 94994
prime rate from the federal reserve bank of Cleveland or the 94995
federal reserve board. 94996

Sec. 5165.44. (A) Except as provided in division (B) of this 94997
section, the department of medicaid shall deduct the following 94998
from the next available medicaid payment the department makes to a 94999
nursing facility provider who continues to participate in 95000
medicaid: 95001

(1) Any amount the provider is required to refund, and any 95002
interest charged, under section 5165.41 of the Revised Code; 95003

(2) The amount of any penalty imposed on the provider under 95004
section 5165.42 of the Revised Code. 95005

(B) The department and a nursing facility provider may enter into an agreement under which a deduction required by division (A) of this section is taken in installments from payments the department makes to the provider. 95006
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Sec. 5165.45. The department of medicaid shall transmit to the treasurer of state for deposit in the general revenue fund amounts collected from the following: 95010
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95012

(A) Refunds required by, and interest charged under, section 5165.41 of the Revised Code; 95013
95014

(B) Amounts collected from penalties imposed under section 5165.42 of the Revised Code. 95015
95016

Sec. 5165.46. All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code: 95017
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95019

(A) Any audit disallowance that the department of medicaid makes as the result of an audit under section 5165.109 of the Revised Code; 95020
95021
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(B) Any adverse finding that results from an exception review of resident assessment data conducted for a nursing facility under section 5165.193 of the Revised Code after the effective date of the nursing facility's medicaid payment rate for direct care costs that is based on the resident assessment data; 95023
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95025
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(C) Any medicaid payment deemed an overpayment under section 5165.523 of the Revised Code; 95028
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(D) Any penalty the department imposes under section 5165.42 of the Revised Code or section 5165.523 of the Revised Code. 95030
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Sec. ~~5111.262~~ 5165.47. No person, other than the a nursing facility provider of a nursing facility, shall submit a claim for 95032
95033

medicaid ~~reimbursement~~ payment for a service provided to a nursing 95034
facility resident if the service is included in a medicaid payment 95035
made to the nursing facility provider ~~of a nursing facility~~ under 95036
~~sections 5111.20 to 5111.33 of the Revised Code~~ this chapter or in 95037
the ~~reimbursable~~ allowable expenses reported on a provider's cost 95038
report for a nursing facility. No nursing facility provider ~~of a~~ 95039
~~nursing facility~~ shall submit a separate claim for medicaid 95040
~~reimbursement~~ payment for a service provided to a resident of the 95041
nursing facility if the service is included in a medicaid payment 95042
made to the provider under ~~sections 5111.20 to 5111.331 of the~~ 95043
~~Revised Code~~ this chapter or in the ~~reimbursable~~ allowable 95044
expenses on the provider's cost report for the nursing facility. 95045
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Sec. ~~5111.0211~~ 5165.48. ~~As used in this section, "nursing~~ 95047
~~facility" and "provider" have the same meanings as in section~~ 95048
~~5111.20 of the Revised Code.~~ 95049

The provider of a nursing facility is not required to submit 95050
a claim to the department of ~~job and family services~~ medicaid 95051
regarding the medicare cost-sharing expenses of a resident of the 95052
nursing facility who, under federal law, is eligible to have the 95053
medicaid program pay for a part of the cost-sharing expenses if 95054
the provider determines that, under rules adopted under section 95055
~~5111.02~~ 5165.02 of the Revised Code, the nursing facility would 95056
not receive a medicaid payment for any part of the medicare 95057
cost-sharing expenses. In such a situation, a claim for the 95058
medicare cost-sharing expenses shall be considered to have been 95059
adjudicated at no payment. 95060

Sec. 5165.49. The department of medicaid may conduct a 95061
post-payment review of a claim submitted by a nursing facility 95062
provider and paid by the medicaid program to determine whether the 95063
provider was overpaid. The department shall provide the provider a 95064

written summary of the review's results. The review's results are 95065
not subject to an adjudication under Chapter 119. of the Revised 95066
Code; however, the provider may request that the medicaid director 95067
reconsider the review's results. The director shall reconsider the 95068
review's results on receipt of a request made in good faith. The 95069
department shall not deduct any amounts the department claims to 95070
be due from the provider as a result of the review from the 95071
provider's medicaid payments pursuant to section 5165.44 of the 95072
Revised Code until the conclusion of the director's 95073
reconsideration, if any, of the review. 95074

Sec. ~~5111.66~~ 5165.50. An exiting operator or owner of a 95075
nursing facility ~~or intermediate care facility for the mentally~~ 95076
~~retarded~~ participating in the medicaid program shall provide the 95077
department of ~~job and family services~~ medicaid written notice of a 95078
facility closure, ~~voluntary termination,~~ or voluntary withdrawal 95079
of participation not less than ninety days before the effective 95080
date of the facility closure, ~~voluntary termination,~~ or voluntary 95081
withdrawal of participation. The written notice shall be provided 95082
to the department in accordance with the method specified in rules 95083
~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the 95084
Revised Code. 95085

The written notice shall include all of the following: 95086

(A) The name of the exiting operator and, if any, the exiting 95087
operator's authorized agent; 95088

(B) The name of the nursing facility ~~or intermediate care~~ 95089
~~facility for the mentally retarded~~ that is the subject of the 95090
written notice; 95091

(C) The exiting operator's medicaid provider agreement number 95092
for the nursing facility that is the subject of the written 95093
notice; 95094

(D) The effective date of the facility closure, ~~voluntary termination,~~ or voluntary withdrawal of participation; 95095
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(E) The signature of the exiting operator's or owner's representative. 95097
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Sec. ~~5111.661~~ 5165.501. An operator shall comply with ~~section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965)~~ section 1919(c)(2)(F), 42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility undergoes a voluntary withdrawal of participation. 95099
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Sec. ~~5111.67~~ 5165.51. (A) An exiting operator or owner and entering operator shall provide the department of ~~job and family services~~ medicaid written notice of a change of operator if the nursing facility ~~or intermediate care facility for the mentally retarded~~ participates in the medicaid program and the entering operator seeks to continue the nursing facility's participation. 95104
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The written notice shall be provided to the department in 95110
accordance with the method specified in rules ~~adopted under~~ 95111
authorized by section ~~5111.689~~ 5165.53 of the Revised Code. The 95112
written notice shall be provided to the department not later than 95113
forty-five days before the effective date of the change of 95114
operator if the change of operator does not entail the relocation 95115
of residents. The written notice shall be provided to the 95116
department not later than ninety days before the effective date of 95117
the change of operator if the change of operator entails the 95118
relocation of residents. 95119

The written notice shall include all of the following: 95120

(1) The name of the exiting operator and, if any, the exiting operator's authorized agent; 95121
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(2) The name of the nursing facility ~~or intermediate care facility for the mentally retarded~~ that is the subject of the 95123
95124

change of operator;	95125
(3) The exiting operator's seven-digit medicaid legacy number	95126
and ten-digit national provider identifier number for the <u>nursing</u>	95127
facility that is the subject of the change of operator;	95128
(4) The name of the entering operator;	95129
(5) The effective date of the change of operator;	95130
(6) The manner in which the entering operator becomes the	95131
<u>nursing</u> facility's operator, including through sale, lease,	95132
merger, or other action;	95133
(7) If the manner in which the entering operator becomes the	95134
<u>nursing</u> facility's operator involves more than one step, a	95135
description of each step;	95136
(8) Written authorization from the exiting operator or owner	95137
and entering operator for the department to process a provider	95138
agreement for the entering operator;	95139
(9) The names and addresses of the persons to whom the	95140
department should send initial correspondence regarding the change	95141
of operator;	95142
(10) If the nursing facility also participates in the	95143
medicare program, notification of whether the entering operator	95144
intends to accept assignment of the exiting operator's medicare	95145
provider agreement;	95146
(11) The signature of the exiting operator's or owner's	95147
representative.	95148
(B) An exiting operator or owner and entering operator	95149
immediately shall provide the department written notice of any	95150
changes to information included in a written notice of a change of	95151
operator that occur after that notice is provided to the	95152
department. The notice of the changes shall be provided to the	95153
department in accordance with the method specified in rules	95154

~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the 95155
Revised Code. 95156

Sec. ~~5111.671~~ 5165.511. The department of ~~job and family~~ 95157
~~services~~ medicaid may enter into a provider agreement with an 95158
entering operator that goes into effect at 12:01 a.m. on the 95159
effective date of the change of operator if all of the following 95160
requirements are met: 95161

(A) The department receives a properly completed written 95162
notice required by section ~~5111.67~~ 5165.51 of the Revised Code on 95163
or before the date required by that section. 95164

(B) The department receives both of the following in 95165
accordance with the method specified in rules ~~adopted under~~ 95166
authorized by section ~~5111.689~~ 5165.53 of the Revised Code and not 95167
later than ten days after the effective date of the change of 95168
operator: 95169

(1) From the entering operator, a completed application for a 95170
provider agreement and all other forms and documents specified in 95171
rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the 95172
Revised Code; 95173

(2) From the exiting operator or owner, all forms and 95174
documents specified in rules ~~adopted under~~ authorized by section 95175
~~5111.689~~ 5165.53 of the Revised Code. 95176

(C) The entering operator is eligible for medicaid payments 95177
as provided in section ~~5111.21~~ 5165.06 of the Revised Code. 95178

Sec. ~~5111.672~~ 5165.512. (A) The department of ~~job and family~~ 95179
~~services~~ medicaid may enter into a provider agreement with an 95180
entering operator that goes into effect at 12:01 a.m. on the date 95181
determined under division (B) of this section if all of the 95182
following are the case: 95183

- (1) The department receives a properly completed written notice required by section ~~5111.67~~ 5165.51 of the Revised Code. 95184
95185
- (2) The department receives, from the entering operator and in accordance with the method specified in rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code, a completed application for a provider agreement and all other forms and documents specified in rules adopted under that section. 95186
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- (3) The department receives, from the exiting operator or owner and in accordance with the method specified in rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code, all forms and documents specified in rules adopted under that section. 95191
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- (4) One or more of the following apply: 95196
- (a) The requirement of division (A)(1) of this section is met after the time required by section ~~5111.67~~ 5165.51 of the Revised Code; 95197
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- (b) The requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator; 95200
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- (c) The requirement of division (A)(3) of this section is met more than ten days after the effective date of the change of operator. 95203
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- (5) The entering operator is eligible for medicaid payments as provided in section ~~5111.21~~ 5165.06 of the Revised Code. 95206
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- (B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows: 95208
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- (1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, and make the withholding required by section 95211
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95213

~~5111.681~~ 5165.521 of the Revised Code. 95214

(2) The effective date shall be not earlier than the latest 95215
of the following: 95216

(a) The effective date of the change of operator; 95217

(b) The date that the entering operator complies with section 95218
~~5111.67~~ 5165.51 of the Revised Code and division (A)(2) of this 95219
section; 95220

(c) The date that the exiting operator or owner complies with 95221
section ~~5111.67~~ 5165.51 of the Revised Code and division (A)(3) of 95222
this section. 95223

(3) The effective date shall be not later than the following 95224
after the later of the dates specified in division (B)(2) of this 95225
section: 95226

(a) Forty-five days if the change of operator does not entail 95227
the relocation of residents; 95228

(b) Ninety days if the change of operator entails the 95229
relocation of residents. 95230

Sec. ~~5111.673~~ 5165.513. A provider that enters into a 95231
provider agreement with the department of ~~job and family services~~ 95232
medicaid under section ~~5111.671~~ 5165.511 or ~~5111.672~~ 5165.512 of 95233
the Revised Code shall do all of the following: 95234

(A) Comply with all applicable federal statutes and 95235
regulations; 95236

(B) Comply with section ~~5111.22~~ 5165.07 of the Revised Code 95237
and all other applicable state statutes and rules; 95238

(C) Comply with all the terms and conditions of the exiting 95239
operator's provider agreement, including, but not limited to, all 95240
of the following: 95241

(1) Any plan of correction; 95242

(2) Compliance with health and safety standards;	95243
(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;	95244 95245
(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;	95246 95247
(5) Compliance with additional requirements imposed by the department;	95248 95249
(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.	95250 95251 95252 95253
Sec. 5111.674 <u>5165.514</u>. In the case of a change of operator, the exiting operator shall be considered to be the operator of the nursing facility or intermediate care facility for the mentally retarded for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under section 5111.671 <u>5165.511</u> or 5111.672 <u>5165.512</u> of the Revised Code.	95254 95255 95256 95257 95258 95259 95260 95261
Sec. 5111.675 <u>5165.515</u>. The department of job and family services <u>medicaid</u> may enter into a provider agreement as provided in section 5111.22 <u>5165.07</u> of the Revised Code, rather than section 5111.671 <u>5165.511</u> or 5111.672 <u>5165.512</u> of the Revised Code, with an entering operator if the entering operator does not agree to a provider agreement that satisfies the requirements of division (C) of section 5111.673 <u>5165.513</u> of the Revised Code. The department may not enter into the provider agreement unless the department of health certifies the nursing facility or intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.	95262 95263 95264 95265 95266 95267 95268 95269 95270 95271 95272

~~1396, as amended for participation in medicaid.~~ The effective date 95273
of the provider agreement shall not precede any of the following: 95274

(A) The date that the department of health certifies the 95275
nursing facility; 95276

(B) The effective date of the change of operator; 95277

(C) The date the requirement of section ~~5111.67~~ 5165.51 of 95278
the Revised Code is satisfied. 95279

Sec. ~~5111.676~~ 5165.516. The medicaid director ~~of job and~~ 95280
~~family services~~ may adopt rules ~~in accordance with Chapter 119.~~ 95281
under section 5165.02 of the Revised Code governing adjustments to 95282
the medicaid ~~reimbursement~~ payment rate for a nursing facility ~~or~~ 95283
~~intermediate care facility for the mentally retarded~~ that 95284
undergoes a change of operator. No rate adjustment resulting from 95285
a change of operator shall be effective before the effective date 95286
of the entering operator's provider agreement. This is the case 95287
regardless of whether the provider agreement is entered into under 95288
section ~~5111.671~~ 5165.511, section ~~5111.672~~ 5165.512, or, pursuant 95289
to section ~~5111.675~~ 5165.515, section ~~5111.22~~ 5165.07 of the 95290
Revised Code. 95291

Sec. ~~5111.677~~ 5165.517. ~~Neither of the following~~ The 95292
department of health's determination that a change of operator has 95293
or has not occurred for purposes of licensure under Chapter 3721. 95294
of the Revised Code shall not affect the department of ~~job and~~ 95295
~~family services'~~ medicaid's determination of whether or when a 95296
change of operator occurs or the effective date of an entering 95297
operator's provider agreement under section ~~5111.671~~ 5165.511, 95298
section ~~5111.672~~ 5165.512, or, pursuant to section ~~5111.675~~ 95299
5165.515, section ~~5111.22~~ 5165.07 of the Revised Code+ 95300

~~(A) The department of health's determination that a change of~~ 95301

~~operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code;~~ 95302
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~~(B) The department of developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code.~~ 95304
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Sec. ~~5111.68~~ 5165.52. (A) On receipt of a written notice under section ~~5111.66~~ 5165.50 of the Revised Code of a facility closure, ~~voluntary termination,~~ or voluntary withdrawal of participation, on receipt of a written notice under section ~~5111.67~~ 5165.51 of the Revised Code of a change of operator, or on the effective date of an involuntary termination, the department of ~~job and family services~~ medicaid shall estimate the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program, including a franchise permit fee. 95308
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(B) In estimating the exiting operator's other actual and potential debts to the department and the United States centers for medicare and medicaid services under the medicaid program, the department shall use a debt estimation methodology the medicaid director ~~of job and family services~~ shall establish in rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code. The methodology shall provide for estimating all of the following that the department determines are applicable: 95321
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(1) Refunds due the department under section ~~5111.27~~ 5165.41 of the Revised Code; 95329
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(2) Interest owed to the department and United States centers for medicare and medicaid services; 95331
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(3) Final civil monetary and other penalties for which all right of appeal has been exhausted; 95333
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(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program; 95335
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(5) Other amounts the department determines are applicable. 95340

(C) The department shall provide the exiting operator written notice of the department's estimate under division (A) of this section not later than thirty days after the department receives the notice under section ~~5111.66~~ 5165.50 of the Revised Code of the facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation; the department receives the notice under section ~~5111.67~~ 5165.51 of the Revised Code of the change of operator; or the effective date of the involuntary termination. The department's written notice shall include the basis for the estimate. 95341
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Sec. ~~5111.681~~ 5165.521. (A) Except as provided in divisions (B), (C), and (D) of this section, the department of ~~job and family services~~ medicaid may withhold from payment due an exiting operator under the medicaid program the total amount specified in the notice provided under division (C) of section ~~5111.68~~ 5165.52 of the Revised Code that the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program. 95351
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(B) In the case of a change of operator and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or entering operator or an affiliated operator executes a successor liability agreement meeting the requirements of division 95359
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(F) of this section: 95364

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section ~~5111.685~~ 5165.525 of the Revised Code, the department shall not make the withholding. 95365
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(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (B)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section ~~5111.68~~ 5165.52 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability. 95371
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(C) In the case of a ~~voluntary termination~~, voluntary withdrawal of participation, or facility closure and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section: 95380
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(1) If the exiting operator or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section ~~5111.685~~ 5165.525 of the Revised Code, the department shall not make the withholding. 95387
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(2) If the exiting operator or affiliated operator assumes liability for only the portion of the amount specified in division 95393
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(C)(1) of this section that represents the franchise permit fee 95395
the exiting operator owes, the department shall withhold not more 95396
than the difference between the total amount specified in the 95397
notice provided under division (C) of section ~~5111.68~~ 5165.52 of 95398
the Revised Code and the amount for which the exiting operator or 95399
affiliated operator assumes liability. 95400

(D) In the case of an involuntary termination and subject to 95401
division (E) of this section, the following shall apply regarding 95402
a withholding under division (A) of this section if the exiting 95403
operator, the entering operator, or an affiliated operator 95404
executes a successor liability agreement meeting the requirements 95405
of division (F) of this section and the department approves the 95406
successor liability agreement: 95407

(1) If the exiting operator, entering operator, or affiliated 95408
operator assumes liability for the total, actual amount of debt 95409
the exiting operator owes the department and the United States 95410
centers for medicare and medicaid services under the medicaid 95411
program as determined under section ~~5111.685~~ 5165.525 of the 95412
Revised Code, the department shall not make the withholding. 95413

(2) If the exiting operator, entering operator, or affiliated 95414
operator assumes liability for only the portion of the amount 95415
specified in division (D)(1) of this section that represents the 95416
franchise permit fee the exiting operator owes, the department 95417
shall withhold not more than the difference between the total 95418
amount specified in the notice provided under division (C) of 95419
section ~~5111.68~~ 5165.52 of the Revised Code and the amount for 95420
which the exiting operator, entering operator, or affiliated 95421
operator assumes liability. 95422

(E) For an exiting operator or affiliated operator to be 95423
eligible to enter into a successor liability agreement under 95424
division (B), (C), or (D) of this section, both of the following 95425
must apply: 95426

(1) The exiting operator or affiliated operator must have one 95427
or more valid provider agreements, other than the provider 95428
agreement for the nursing facility ~~or intermediate care facility~~ 95429
~~for the mentally retarded~~ that is the subject of the involuntary 95430
termination, ~~voluntary termination~~, voluntary withdrawal of 95431
participation, facility closure, or change of operator; 95432

(2) During the twelve-month period preceding either the 95433
effective date of the involuntary termination or the month in 95434
which the department receives the notice of the ~~voluntary~~ 95435
~~termination~~, voluntary withdrawal of participation, or facility 95436
closure under section ~~5111.66~~ 5165.50 of the Revised Code or the 95437
notice of the change of operator under section ~~5111.67~~ 5165.51 of 95438
the Revised Code, the average monthly medicaid payment made to the 95439
exiting operator or affiliated operator pursuant to the exiting 95440
operator's or affiliated operator's one or more provider 95441
agreements, other than the provider agreement for the nursing 95442
facility ~~or intermediate care facility for the mentally retarded~~ 95443
that is the subject of the involuntary termination, ~~voluntary~~ 95444
~~termination~~, voluntary withdrawal of participation, facility 95445
closure, or change of operator, must equal at least ninety per 95446
cent of the sum of the following: 95447

(a) The average monthly medicaid payment made to the exiting 95448
operator pursuant to the exiting operator's provider agreement for 95449
the nursing facility ~~or intermediate care facility for the~~ 95450
~~mentally retarded~~ that is the subject of the involuntary 95451
termination, ~~voluntary termination~~, voluntary withdrawal of 95452
participation, facility closure, or change of operator; 95453

(b) Whichever of the following apply: 95454

(i) If the exiting operator or affiliated operator has 95455
assumed liability under one or more other successor liability 95456
agreements, the total amount for which the exiting operator or 95457
affiliated operator has assumed liability under the other 95458

successor liability agreements; 95459

(ii) If the exiting operator or affiliated operator has not 95460
assumed liability under any other successor liability agreements, 95461
zero. 95462

(F) A successor liability agreement executed under this 95463
section must comply with all of the following: 95464

(1) It must provide for the operator who executes the 95465
successor liability agreement to assume liability for either of 95466
the following as specified in the agreement: 95467

(a) The total, actual amount of debt the exiting operator 95468
owes the department and the United States centers for medicare and 95469
medicaid services under the medicaid program as determined under 95470
section ~~5111.685~~ 5165.525 of the Revised Code; 95471

(b) The portion of the amount specified in division (F)(1)(a) 95472
of this section that represents the franchise permit fee the 95473
exiting operator owes. 95474

(2) It may not require the operator who executes the 95475
successor liability agreement to furnish a surety bond. 95476

(3) It must provide that the department, after determining 95477
under section ~~5111.685~~ 5165.525 of the Revised Code the actual 95478
amount of debt the exiting operator owes the department and United 95479
States centers for medicare and medicaid services under the 95480
medicaid program, may deduct the lesser of the following from 95481
medicaid payments made to the operator who executes the successor 95482
liability agreement: 95483

(a) The total, actual amount of debt the exiting operator 95484
owes the department and the United States centers for medicare and 95485
medicaid services under the medicaid program as determined under 95486
section ~~5111.685~~ 5165.525 of the Revised Code; 95487

(b) The amount for which the operator who executes the 95488

successor liability agreement assumes liability under the 95489
agreement. 95490

(4) It must provide that the deductions authorized by 95491
division (F)(3) of this section are to be made for a number of 95492
months, not to exceed six, agreed to by the operator who executes 95493
the successor liability agreement and the department or, if the 95494
operator who executes the successor liability agreement and 95495
department cannot agree on a number of months that is less than 95496
six, a greater number of months determined by the attorney general 95497
pursuant to a claims collection process authorized by statute of 95498
this state. 95499

(5) It must provide that, if the attorney general determines 95500
the number of months for which the deductions authorized by 95501
division (F)(3) of this section are to be made, the operator who 95502
executes the successor liability agreement shall pay, in addition 95503
to the amount collected pursuant to the attorney general's claims 95504
collection process, the part of the amount so collected that, if 95505
not for division (H) of this section, would be required by section 95506
109.081 of the Revised Code to be paid into the attorney general 95507
claims fund. 95508

(G) Execution of a successor liability agreement does not 95509
waive an exiting operator's right to contest the amount specified 95510
in the notice the department provides the exiting operator under 95511
division (C) of section ~~5111.68~~ 5165.52 of the Revised Code. 95512

(H) Notwithstanding section 109.081 of the Revised Code, the 95513
entire amount that the attorney general, whether by employees or 95514
agents of the attorney general or by special counsel appointed 95515
pursuant to section 109.08 of the Revised Code, collects under a 95516
successor liability agreement, other than the additional amount 95517
the operator who executes the agreement is required by division 95518
(F)(5) of this section to pay, shall be paid to the department of 95519
~~job and family services~~ medicaid for deposit into the appropriate 95520

fund. The additional amount that the operator is required to pay 95521
shall be paid into the state treasury to the credit of the 95522
attorney general claims fund created under section 109.081 of the 95523
Revised Code. 95524

Sec. ~~5111.682~~ 5165.522. (A) Except as provided in division 95525
(B) of this section, an exiting operator shall file with the 95526
department of ~~job and family services~~ medicaid a cost report not 95527
later than ninety days after the last day the exiting operator's 95528
provider agreement is in effect or, in the case of a voluntary 95529
withdrawal of participation, the effective date of the voluntary 95530
withdrawal of participation. The cost report shall cover the 95531
period that begins with the day after the last day covered by the 95532
operator's most recent previous cost report required by section 95533
~~5111.26~~ 5165.10 of the Revised Code and ends on the last day the 95534
exiting operator's provider agreement is in effect or, in the case 95535
of a voluntary withdrawal of participation, the effective date of 95536
the voluntary withdrawal of participation. The cost report shall 95537
include, as applicable, all of the following: 95538

(1) The sale price of the nursing facility ~~or intermediate~~ 95539
~~care facility for the mentally retarded~~; 95540

(2) A final depreciation schedule that shows which assets are 95541
transferred to the buyer and which assets are not transferred to 95542
the buyer; 95543

(3) Any other information the department requires. 95544

(B) The department, at its sole discretion, may waive the 95545
requirement that an exiting operator file a cost report in 95546
accordance with division (A) of this section. 95547

Sec. ~~5111.683~~ 5165.523. If an exiting operator required by 95548
section ~~5111.682~~ 5165.522 of the Revised Code to file a cost 95549
report with the department of ~~job and family services~~ medicaid 95550

fails to file the cost report in accordance with that section, all 95551
payments under the medicaid program for the period the cost report 95552
is required to cover are deemed overpayments until the date the 95553
department receives the properly completed cost report. The 95554
department may impose on the exiting operator a penalty of one 95555
hundred dollars for each calendar day the properly completed cost 95556
report is late. 95557

Sec. ~~5111.684~~ 5165.524. The department of ~~job and family~~ 95558
~~services~~ medicaid may not provide an exiting operator final 95559
payment under the medicaid program until the department receives 95560
all properly completed cost reports the exiting operator is 95561
required to file under sections ~~5111.26~~ 5165.10 and ~~5111.682~~ 95562
5165.522 of the Revised Code. 95563

Sec. ~~5111.685~~ 5165.525. The department of ~~job and family~~ 95564
~~services~~ medicaid shall determine the actual amount of debt an 95565
exiting operator owes the department and the United States centers 95566
for medicare and medicaid services under the medicaid program by 95567
completing all final fiscal audits not already completed and 95568
performing all other appropriate actions the department determines 95569
to be necessary. The department shall issue an initial debt 95570
summary report on this matter not later than sixty days after the 95571
date the exiting operator files the properly completed cost report 95572
required by section ~~5111.682~~ 5165.522 of the Revised Code with the 95573
department or, if the department waives the cost report 95574
requirement for the exiting operator, sixty days after the date 95575
the department waives the cost report requirement. The initial 95576
debt summary report becomes the final debt summary report 95577
thirty-one days after the department issues the initial debt 95578
summary report unless the exiting operator, or an affiliated 95579
operator who executes a successor liability agreement under 95580

section ~~5111.681~~ 5165.521 of the Revised Code, requests a review 95581
before that date. 95582

The exiting operator, and an affiliated operator who executes 95583
a successor liability agreement under section ~~5111.681~~ 5165.521 of 95584
the Revised Code, may request a review to contest any of the 95585
department's findings included in the initial debt summary report. 95586
The request for the review must be submitted to the department not 95587
later than thirty days after the date the department issues the 95588
initial debt summary report. The department shall conduct the 95589
review on receipt of a timely request and issue a revised debt 95590
summary report. If the department has withheld money from payment 95591
due the exiting operator under division (A) of section ~~5111.681~~ 95592
5165.521 of the Revised Code, the department shall issue the 95593
revised debt summary report not later than ninety days after the 95594
date the department receives the timely request for the review 95595
unless the department and exiting operator or affiliated operator 95596
agree to a later date. The exiting operator or affiliated operator 95597
may submit information to the department explaining what the 95598
operator contests before and during the review, including 95599
documentation of the amount of any debt the department owes the 95600
operator. The exiting operator or affiliated operator may submit 95601
additional information to the department not later than thirty 95602
days after the department issues the revised debt summary report. 95603
The revised debt summary report becomes the final debt summary 95604
report thirty-one days after the department issues the revised 95605
debt summary report unless the exiting operator or affiliated 95606
operator timely submits additional information to the department. 95607
If the exiting operator or affiliated operator timely submits 95608
additional information to the department, the department shall 95609
consider the additional information and issue a final debt summary 95610
report not later than sixty days after the department issues the 95611
revised debt summary report unless the department and exiting 95612
operator or affiliated operator agree to a later date. 95613

Each debt summary report the department issues under this 95614
section shall include the department's findings and the amount of 95615
debt the department determines the exiting operator owes the 95616
department and United States centers for medicare and medicaid 95617
services under the medicaid program. The department shall explain 95618
its findings and determination in each debt summary report. 95619

The exiting operator, and an affiliated operator who executes 95620
a successor liability agreement under section ~~5111.681~~ 5165.521 of 95621
the Revised Code, may request, in accordance with Chapter 119. of 95622
the Revised Code, an adjudication regarding a finding in a final 95623
debt summary report that pertains to an audit or alleged 95624
overpayment made under the medicaid program to the exiting 95625
operator. The adjudication shall be consolidated with any other 95626
uncompleted adjudication that concerns a matter addressed in the 95627
final debt summary report. 95628

Sec. ~~5111.686~~ 5165.526. The department of ~~job and family~~ 95629
~~services~~ medicaid shall release the actual amount withheld under 95630
division (A) of section ~~5111.681~~ 5165.521 of the Revised Code, 95631
less any amount the exiting operator owes the department and 95632
United States centers for medicare and medicaid services under the 95633
medicaid program, as follows: 95634

(A) Unless the department issues the initial debt summary 95635
report required by section ~~5111.685~~ 5165.525 of the Revised Code 95636
not later than sixty days after the date the exiting operator 95637
files the properly completed cost report required by section 95638
~~5111.682~~ 5165.522 of the Revised Code, sixty-one days after the 95639
date the exiting operator files the properly completed cost 95640
report; 95641

(B) If the department issues the initial debt summary report 95642
required by section ~~5111.685~~ 5165.525 of the Revised Code not 95643
later than sixty days after the date the exiting operator files a 95644

properly completed cost report required by section ~~5111.682~~ 95645
5165.522 of the Revised Code, not later than the following: 95646

(1) Thirty days after the deadline for requesting an 95647
adjudication under section ~~5111.685~~ 5165.525 of the Revised Code 95648
regarding the final debt summary report if the exiting operator, 95649
and an affiliated operator who executes a successor liability 95650
agreement under section ~~5111.681~~ 5165.521 of the Revised Code, 95651
fail to request the adjudication on or before the deadline; 95652

(2) Thirty days after the completion of an adjudication of 95653
the final debt summary report if the exiting operator, or an 95654
affiliated operator who executes a successor liability agreement 95655
under section ~~5111.681~~ 5165.521 of the Revised Code, requests the 95656
adjudication on or before the deadline for requesting the 95657
adjudication. 95658

(C) Unless the department issues the initial debt summary 95659
report required by section ~~5111.685~~ 5165.525 of the Revised Code 95660
not later than sixty days after the date the department waives the 95661
cost report requirement of section ~~5111.682~~ 5165.522 of the 95662
Revised Code, sixty-one days after the date the department waives 95663
the cost report requirement; 95664

(D) If the department issues the initial debt summary report 95665
required by section ~~5111.685~~ 5165.525 of the Revised Code not 95666
later than sixty days after the date the department waives the 95667
cost report requirement of section ~~5111.682~~ 5165.522 of the 95668
Revised Code, not later than the following: 95669

(1) Thirty days after the deadline for requesting an 95670
adjudication under section ~~5111.685~~ 5165.525 of the Revised Code 95671
regarding the final debt summary report if the exiting operator, 95672
and an affiliated operator who executes a successor liability 95673
agreement under section ~~5111.681~~ 5165.521 of the Revised Code, 95674
fail to request the adjudication on or before the deadline; 95675

(2) Thirty days after the completion of an adjudication of 95676
the final debt summary report if the exiting operator, or an 95677
affiliated operator who executes a successor liability agreement 95678
under section ~~5111.681~~ 5165.521 of the Revised Code, requests the 95679
adjudication on or before the deadline for requesting the 95680
adjudication. 95681

Sec. ~~5111.687~~ 5165.527. The department of ~~job and family~~ 95682
~~services~~ medicaid, at its sole discretion, may release the amount 95683
withheld under division (A) of section ~~5111.681~~ 5165.521 of the 95684
Revised Code if the exiting operator submits to the department 95685
written notice of a postponement of a change of operator, facility 95686
closure, ~~voluntary termination~~, or voluntary withdrawal of 95687
participation and the transactions leading to the change of 95688
operator, facility closure, ~~voluntary termination~~, or voluntary 95689
withdrawal of participation are postponed for at least thirty days 95690
but less than ninety days after the date originally proposed for 95691
the change of operator, facility closure, ~~voluntary termination~~, 95692
or voluntary withdrawal of participation as reported in the 95693
written notice required by section ~~5111.66~~ 5165.50 or ~~5111.67~~ 95694
5165.51 of the Revised Code. The department shall release the 95695
amount withheld if the exiting operator submits to the department 95696
written notice of a cancellation or postponement of a change of 95697
operator, facility closure, ~~voluntary termination~~, or voluntary 95698
withdrawal of participation and the transactions leading to the 95699
change of operator, facility closure, ~~voluntary termination~~, or 95700
voluntary withdrawal of participation are canceled or postponed 95701
for more than ninety days after the date originally proposed for 95702
the change of operator, facility closure, ~~voluntary termination~~, 95703
or voluntary withdrawal of participation as reported in the 95704
written notice required by section ~~5111.66~~ 5165.50 or ~~5111.67~~ 95705
5165.51 of the Revised Code. A written notice shall be provided to 95706
the department in accordance with the method specified in rules 95707

~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the 95708
Revised Code. 95709

After the department receives a written notice regarding a 95710
cancellation or postponement of a facility closure, ~~voluntary~~ 95711
~~termination~~, or voluntary withdrawal of participation, the exiting 95712
operator or owner shall provide new written notice to the 95713
department under section ~~5111.66~~ 5165.50 of the Revised Code 95714
regarding any transactions leading to a facility closure, 95715
~~voluntary termination~~, or voluntary withdrawal of participation at 95716
a future time. After the department receives a written notice 95717
regarding a cancellation or postponement of a change of operator, 95718
the exiting operator or owner and entering operator shall provide 95719
new written notice to the department under section ~~5111.67~~ 5165.51 95720
of the Revised Code regarding any transactions leading to a change 95721
of operator at a future time. 95722

Sec. ~~5111.688~~ 5165.528. (A) All amounts withheld under 95723
section ~~5111.681~~ 5165.521 of the Revised Code from payment due an 95724
exiting operator under the medicaid program shall be deposited 95725
into the medicaid payment withholding fund created by the 95726
controlling board pursuant to section 131.35 of the Revised Code. 95727
Money in the fund shall be used as follows: 95728

(1) To pay an exiting operator when a withholding is released 95729
to the exiting operator under section ~~5111.686~~ 5165.526 or 95730
~~5111.687~~ 5165.527 of the Revised Code; 95731

(2) To pay the department of ~~job and family services~~ medicaid 95732
and United States centers for medicare and medicaid services the 95733
amount an exiting operator owes the department and United States 95734
centers under the medicaid program. 95735

(B) Amounts paid from the medicaid payment withholding fund 95736
pursuant to division (A)(2) of this section shall be deposited 95737

into the appropriate department fund. 95738

Sec. ~~5111.689~~ 5165.53. The medicaid director ~~of job and~~ 95739
~~family services~~ shall adopt rules under section ~~5111.02~~ 5165.02 of 95740
the Revised Code to implement sections ~~5111.65~~ 5165.50 to ~~5111.689~~
5165.53 of the Revised Code, including rules applicable to an 95742
existing operator that provides written notification under section 95743
~~5111.66~~ 5165.50 of the Revised Code of a voluntary withdrawal of 95744
participation. Rules adopted under this section shall comply with 95745
~~section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286~~ 95746
~~(1965)~~ section 1919(c)(2)(F), 42 U.S.C. 1396r(c)(2)(F), regarding 95747
restrictions on transfers or discharges of nursing facility 95748
residents in the case of a voluntary withdrawal of participation. 95749
The rules may prescribe a medicaid ~~reimbursement~~ payment 95750
methodology and other procedures that are applicable after the 95751
effective date of a voluntary withdrawal of participation that 95752
differ from the ~~reimbursement~~ payment methodology and other 95753
procedures that would otherwise apply. The rules shall specify all 95754
of the following: 95755

(A) The method by which written notices to the department 95756
required by sections ~~5111.65~~ 5165.50 to ~~5111.689~~ 5165.53 of the 95757
Revised Code are to be provided; 95758

(B) The forms and documents that are to be provided to the 95759
department of medicaid under sections ~~5111.671~~ 5165.511 and 95760
~~5111.672~~ 5165.512 of the Revised Code, which shall include, in the 95761
case of such forms and documents provided by entering operators, 95762
all the fully executed leases, management agreements, merger 95763
agreements and supporting documents, and fully executed sales 95764
contracts and any other supporting documents culminating in the 95765
change of operator; 95766

(C) The method by which the forms and documents identified in 95767
division (B) of this section are to be provided to the department. 95768

~~Sec. 5111.35~~ 5165.60. As used in this section, "a resident's rights" means the rights of a nursing facility resident under sections 3721.10 to 3721.17 of the Revised Code ~~and subsection (e) of section 1819 or 1919 of~~, the "Social Security Act," ~~49 Stat. 620 (1935)~~ sections 1819(c) and 1919(c), 42 U.S.C.A. ~~301~~, as amended 1395i-3(c) and 1396r(c), and federal regulations issued under those ~~subsections~~ sections of the "Social Security Act."

As used in sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code:

(A) "Certification requirements" means the requirements for nursing facilities established under ~~sections 1819 and 1919 of the~~ "Social Security Act," sections 1819 and 1919, 42 U.S.C. 1395i-3 and 1396r.

(B) "Compliance" means substantially meeting all applicable certification requirements.

(C) "Contracting agency" means a state agency that has entered into a contract with the department of ~~job and family services~~ medicaid under section ~~5111.38~~ 5165.63 of the Revised Code.

(D)(1) "Deficiency" means a finding cited by the department of health during a survey, on the basis of one or more actions, practices, situations, or incidents occurring at a nursing facility, that constitutes a severity level three finding, severity level four finding, scope level three finding, or scope level four finding. Whenever the finding is a repeat finding, "deficiency" also includes any finding that is a severity level two and scope level one finding, a severity level two and scope level two finding, or a severity level one and scope level two finding.

(2) "Cluster of deficiencies" means deficiencies that result

from noncompliance with two or more certification requirements and 95799
are causing or resulting from the same action, practice, 95800
situation, or incident. 95801

(E) "Emergency" means either of the following: 95802

(1) A deficiency or cluster of deficiencies that creates a 95803
condition of immediate jeopardy; 95804

(2) An unexpected situation or sudden occurrence of a serious 95805
or urgent nature that creates a substantial likelihood that one or 95806
more residents of a nursing facility may be seriously harmed if 95807
allowed to remain in the facility, including the following: 95808

(a) A flood or other natural disaster, civil disaster, or 95809
similar event; 95810

(b) A labor strike that suddenly causes the number of staff 95811
members in a nursing facility to be below that necessary for 95812
resident care. 95813

(F) "Finding" means a finding of noncompliance with 95814
certification requirements determined by the department of health 95815
under section ~~5111.41~~ 5165.66 of the Revised Code. 95816

(G) "Immediate jeopardy" means that one or more residents of 95817
a nursing facility are in imminent danger of serious physical or 95818
life-threatening harm. 95819

(H) "Medicaid eligible resident" means a person who is a 95820
resident of a nursing facility, or is applying for admission to a 95821
nursing facility, and is eligible ~~to receive financial assistance~~ 95822
for nursing facility services under the ~~medical assistance~~ 95823
medicaid program ~~for the care the person receives in such a~~ 95824
facility. 95825

(I) "Noncompliance" means failure to substantially meet all 95826
applicable certification requirements. 95827

(J) "Nursing facility" ~~has the same meaning as in section~~ 95828

~~5111.20 of the Revised Code includes a skilled nursing facility to~~ 95829
~~the extent the context requires.~~ 95830

~~(K) "Provider" means a person, institution, or entity that~~ 95831
~~furnishes nursing facility services under a medical assistance~~ 95832
~~program provider agreement.~~ 95833

~~(L) "Provider agreement" means a contract between the~~ 95834
~~department of job and family services and a provider for the~~ 95835
~~provision of nursing facility services under the medicaid program.~~ 95836

~~(M) "Repeat finding" or "repeat deficiency" means a finding~~ 95837
~~or deficiency cited pursuant to a survey, to which both of the~~ 95838
~~following apply:~~ 95839

(1) The finding or deficiency involves noncompliance with the 95840
same certification requirement, and the same kind of actions, 95841
practices, situations, or incidents caused by or resulting from 95842
the noncompliance, as were cited in the immediately preceding 95843
standard survey or another survey conducted subsequent to the 95844
immediately preceding standard survey of the facility. For 95845
purposes of this division, actions, practices, situations, or 95846
incidents may be of the same kind even though they involve 95847
different residents, staff, or parts of the facility. 95848

(2) The finding or deficiency is cited subsequent to a 95849
determination by the department of health that the finding or 95850
deficiency cited on the immediately preceding standard survey, or 95851
another survey conducted subsequent to the immediately preceding 95852
standard survey, had been corrected. 95853

~~(N)~~(L)(1) "Scope level one finding" means a finding of 95854
noncompliance by a nursing facility in which the actions, 95855
situations, practices, or incidents causing or resulting from the 95856
noncompliance affect one or a very limited number of facility 95857
residents and involve one or a very limited number of facility 95858
staff members. 95859

(2) "Scope level two finding" means a finding of 95860
noncompliance by a nursing facility in which the actions, 95861
situations, practices, or incidents causing or resulting from the 95862
noncompliance affect more than a limited number of facility 95863
residents or involve more than a limited number of facility staff 95864
members, but the number or percentage of facility residents 95865
affected or staff members involved and the number or frequency of 95866
the actions, situations, practices, or incidents in short 95867
succession does not establish any reasonable degree of 95868
predictability of similar actions, situations, practices, or 95869
incidents occurring in the future. 95870

(3) "Scope level three finding" means a finding of 95871
noncompliance by a nursing facility in which the actions, 95872
situations, practices, or incidents causing or resulting from the 95873
noncompliance affect more than a limited number of facility 95874
residents or involve more than a limited number of facility staff 95875
members, and the number or percentage of facility residents 95876
affected or staff members involved or the number or frequency of 95877
the actions, situations, practices, or incidents in short 95878
succession establishes a reasonable degree of predictability of 95879
similar actions, situations, practices, or incidents occurring in 95880
the future. 95881

(4) "Scope level four finding" means a finding of 95882
noncompliance by a nursing facility causing or resulting from 95883
actions, situations, practices, or incidents that involve a 95884
sufficient number or percentage of facility residents or staff 95885
members or occur with sufficient regularity over time that the 95886
noncompliance can be considered systemic or pervasive in the 95887
facility. 95888

~~(O)~~(M)(1) "Severity level one finding" means a finding of 95889
noncompliance by a nursing facility that has not caused and, if 95890
continued, is unlikely to cause physical harm to a facility 95891

resident, mental or emotional harm to a resident, or a violation 95892
of a resident's rights that results in physical, mental, or 95893
emotional harm to the resident. 95894

(2) "Severity level two finding" means a finding of 95895
noncompliance by a nursing facility that, if continued over time, 95896
will cause, or is likely to cause, physical harm to a facility 95897
resident, mental or emotional harm to a resident, or a violation 95898
of a resident's rights that results in physical, mental, or 95899
emotional harm to the resident. 95900

(3) "Severity level three finding" means a finding of 95901
noncompliance by a nursing facility that has caused physical harm 95902
to a facility resident, mental or emotional harm to a resident, or 95903
a violation of a resident's rights that results in physical, 95904
mental, or emotional harm to the resident. 95905

(4) "Severity level four finding" means a finding of 95906
noncompliance by a nursing facility that has caused 95907
life-threatening harm to a facility resident or caused a 95908
resident's death. 95909

~~(P)~~(N) "State agency" has the same meaning as in section 1.60 95910
of the Revised Code. 95911

~~(Q)~~(O) "Substandard care" means care furnished in a facility 95912
in which the department of health has cited a deficiency or 95913
deficiencies that constitute one of the following: 95914

(1) A severity level four finding, regardless of scope; 95915

(2) A severity level three and scope level four finding, in 95916
the quality of care provided to residents; 95917

(3) A severity level three and scope level three finding, in 95918
the quality of care provided to residents. 95919

~~(R)~~(P)(1) "Survey" means a survey of a nursing facility 95920
conducted under section ~~5111.39~~ 5165.64 of the Revised Code. 95921

(2) "Standard survey" means a survey conducted by the 95922
department of health under division (A) of section ~~5111.39~~ 5165.64 95923
of the Revised Code and includes an extended survey. 95924

(3) "Follow-up survey" means a survey conducted by the 95925
department of health to determine whether a nursing facility has 95926
substantially corrected deficiencies cited in a previous survey. 95927

Sec. ~~5111.36~~ 5165.61. The medicaid director of ~~job and family~~ 95928
~~services~~ may adopt rules under ~~Chapter 119.~~ section 5165.02 of the 95929
Revised Code that are consistent with regulations, guidelines, and 95930
procedures issued by the United States secretary of health and 95931
human services under ~~sections 1819 and 1919~~ of the "Social 95932
Security Act," ~~49 Stat. 620 (1935)~~ sections 1819 and 1919, 42 95933
U.S.C.A. ~~301, as amended 1395i-3 and 1396r~~, and necessary for 95934
administration and enforcement of sections ~~5111.35~~ 5165.60 to 95935
~~5111.62~~ 5165.89 of the Revised Code. If the secretary does not 95936
issue appropriate regulations for enforcement of those sections 95937
~~1819 and 1919~~ of the "Social Security Act" on or before December 95938
13, 1990, the medicaid director of ~~job and family services~~ may 95939
adopt, under ~~Chapter 119.~~ section 5165.02 of the Revised Code, 95940
rules that are consistent with those sections and with sections 95941
~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. 95942

Sec. ~~5111.37~~ 5165.62. The department of ~~job and family~~ 95943
~~services~~ medicaid is hereby authorized to enforce sections ~~5111.35~~ 95944
5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. The department may 95945
enforce the sections directly or through contracting agencies. The 95946
department and agencies shall enforce the sections in accordance 95947
with the requirements of ~~sections 1819 and 1919~~ of the "Social 95948
Security Act," ~~49 Stat. 620 (1935)~~ sections 1819 and 1919, 42 95949
U.S.C.A. ~~301, as amended 1395i-3 and 1396r~~, that apply to nursing 95950
facilities; with regulations, guidelines, and procedures adopted 95951
by the United States secretary of health and human services for 95952

the enforcement of those sections ~~1819 and 1919~~ of the "Social Security Act"; and with the rules ~~adopted under~~ authorized by section ~~5111.36~~ 5165.61 of the Revised Code. The department and agencies shall enforce sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code for purposes of the medicare program, ~~Title XVIII of the "Social Security Act,"~~ only to the extent prescribed by the regulations, guidelines, and procedures issued by the secretary under ~~section 1819 of that act~~ the "Social Security Act," section 1819, 42 U.S.C. 1395i-3.

Sec. ~~5111.38~~ 5165.63. The department of ~~job and family services~~ medicaid may enter into contracts with other state agencies pursuant to section 5162.35 of the Revised Code that authorize the agencies to perform all or part of the duties assigned to the department of ~~job and family services~~ medicaid under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. Each contract shall specify the duties the agency is authorized to perform and the sections of the Revised Code under which the agency is authorized to perform those duties.

Sec. ~~5111.39~~ 5165.64. (A) The department of health shall conduct a survey, titled a standard survey, of every nursing facility in this state on a statewide average of not more than once every twelve months. Each nursing facility shall undergo a standard survey at least once every fifteen months as a condition of meeting certification requirements. The department may extend a standard survey; such a survey is titled an extended survey.

(B) The department may conduct surveys in addition to standard surveys when it considers them necessary.

(C) The department shall conduct surveys in accordance with the regulations, guidelines, and procedures issued by the United States secretary of health and human services under ~~Titles~~ Title

XVIII and Title XIX of the "~~Social Security Act,~~" 49 Stat. 620 95983
(1935), 42 U.S.C.A. 301, as amended, sections 5111.40 5165.65 to 95984
~~5111.42~~ 5165.68 of the Revised Code, and rules adopted under 95985
section 3721.022 of the Revised Code. 95986

Sec. ~~5111.40~~ 5165.65. (A) At the conclusion of each survey, 95987
the department of health survey team shall conduct an exit 95988
interview with the administrator or other person in charge of the 95989
nursing facility and any other facility staff members designated 95990
by the administrator or person in charge of the facility. During 95991
the exit interview, at the request of the administrator or other 95992
person in charge of the facility, the survey team shall provide 95993
one of the following, as selected by the survey team: 95994

(1) Copies of all survey notes and any other written 95995
materials created during the survey; 95996

(2) A written summary of the survey team's recommendations 95997
regarding findings of noncompliance with certification 95998
requirements; 95999

(3) An audio or audiovisual recording of the interview. If 96000
the survey team selects this option, at least two copies of the 96001
recording shall be made and the survey team shall select one copy 96002
to be kept by the survey team for use by the department of health. 96003

(B) All expenses of copying under division (A)(1) of this 96004
section or recording under division (A)(3) of this section, 96005
including the cost of the copy of the recording kept by the survey 96006
team, shall be paid by the facility. 96007

Sec. ~~5111.41~~ 5165.66. (A) Except as provided in section 96008
3721.17 of the Revised Code, a finding shall be cited only on the 96009
basis of a survey and a determination that one or more actions, 96010
practices, situations, or incidents at a nursing facility caused 96011
or resulted from the facility's failure to comply with one or more 96012

certification requirements. The department of health shall 96013
determine whether the actions, practices, situations, or incidents 96014
can be justified by either of the following: 96015

(1) The actions, practices, situations, or incidents resulted 96016
from a resident exercising the resident's rights guaranteed under 96017
the laws of the United States or of this state; 96018

(2) The actions, practices, situations, or incidents resulted 96019
from a facility following the orders of a person licensed under 96020
Chapter 4731. of the Revised Code to practice medicine or surgery 96021
or osteopathic medicine and surgery. 96022

(B) If the department of health determines both that the 96023
actions, practices, situations, or incidents cannot be justified 96024
by the factors identified in division (A) of this section and that 96025
one or more of the following are applicable, the department shall 96026
declare that the actions, practices, situations, or incidents 96027
constitute a finding: 96028

(1) The actions, practices, situations, or incidents could 96029
have been prevented by one or more persons involved in the 96030
facility's operation; 96031

(2) No person involved in the facility's operation identified 96032
the actions, practices, situations, or incidents prior to the 96033
survey; 96034

(3) Prior to the survey, no person involved in the facility's 96035
operation initiated action to correct the noncompliance caused by 96036
or resulting in the actions, practices, situations, or incidents; 96037

(4) The facility does not have in effect, if needed, a 96038
contingency plan that is reasonably calculated to prevent 96039
physical, mental, or emotional harm to residents while permanent 96040
corrective action is being taken. 96041

(C) The department of health shall determine the severity 96042

level and scope level of each finding. 96043

(D) A deficiency that is substantially corrected within the 96044
time limits specified in sections ~~5111.52~~ 5165.79 to 96045
~~5111.56~~5165.83 of the Revised Code and for which no remedy is 96046
imposed, shall be counted as a deficiency for the purpose of 96047
determining whether a deficiency is a repeat deficiency. 96048

(E) Whenever the department of health determines that during 96049
the period between two surveys a finding existed at the facility, 96050
but the facility substantially corrected it prior to the second 96051
survey, the department shall cite it. However, the department of 96052
~~job and family services~~ medicaid or a contracting agency shall 96053
impose a remedy only as provided in division (C) of section 96054
~~5111.46~~ 5165.72 of the Revised Code. 96055

(F) Immediately upon determining the severity and scope of a 96056
finding at a nursing facility, the department of health shall 96057
notify the department of ~~job and family services~~ medicaid and any 96058
contracting agency of the finding, the severity and scope of the 96059
finding, and whether the finding creates immediate jeopardy. 96060
Immediately upon determining that an emergency exists at a 96061
facility that does not result from a deficiency that creates 96062
immediate jeopardy, the department of health shall notify the 96063
department of ~~job and family services~~ medicaid and any contracting 96064
agency. 96065

Sec. ~~5111.411~~ 5165.67. The results of a survey of a nursing 96066
facility that is conducted under section ~~5111.39~~ 5165.64 of the 96067
Revised Code, including any statement of deficiencies and all 96068
findings and deficiencies cited in the statement on the basis of 96069
the survey, shall be used solely to determine the nursing 96070
facility's compliance with certification requirements or with this 96071
chapter or another chapter of the Revised Code. Those results of a 96072
survey, that statement of deficiencies, and the findings and 96073

deficiencies cited in that statement shall not be used in any 96074
court or in any action or proceeding that is pending in any court 96075
and are not admissible in evidence in any action or proceeding 96076
unless that action or proceeding is an appeal of an administrative 96077
action by the department of ~~job and family services~~ medicaid or 96078
contracting agency under this chapter or is an action by any 96079
department or agency of the state to enforce this chapter or 96080
another chapter of the Revised Code. 96081

Nothing in this section prohibits the results of a survey, a 96082
statement of deficiencies, or the findings and deficiencies cited 96083
in that statement on the basis of the survey under this section 96084
from being used in a criminal investigation or prosecution. 96085

Sec. ~~5111.42~~ 5165.68. (A) Not later than ten days after an 96086
exit interview, the department of health shall deliver to the 96087
nursing facility a detailed statement, titled a statement of 96088
deficiencies, setting forth all findings and deficiencies cited on 96089
the basis of the survey, including any finding cited pursuant to 96090
division (E) of section ~~5111.41~~ 5165.66 of the Revised Code. The 96091
statement shall indicate the severity and scope level of each 96092
finding and fully describe the incidents or other facts that form 96093
the basis of the department's determination of the existence of 96094
each finding and deficiency. A failure by the survey team to 96095
completely disclose in the exit interview every finding that may 96096
result from the survey does not affect the validity of any finding 96097
or deficiency cited in the statement of deficiencies. On request 96098
of the facility, the department shall provide a copy of any 96099
written worksheet or other document produced by the survey team in 96100
making recommendations regarding scope and severity levels of 96101
findings and deficiencies. 96102

(B) At the same time the department of health delivers a 96103
statement of deficiencies, it also shall deliver to the facility a 96104

separate written notice that states all of the following: 96105

(1) That the department of ~~job and family services~~ medicaid 96106
or a contracting agency will issue an order under section ~~5111.57~~ 96107
5165.84 of the Revised Code denying payment for any medicaid 96108
eligible residents admitted on and after the effective date of the 96109
order if the facility does not substantially correct, within 96110
ninety days after the exit interview, the deficiency or 96111
deficiencies cited in the statement of deficiencies in accordance 96112
with the plan of correction it submitted under section ~~5111.43~~ 96113
5165.69 of the Revised Code; 96114

(2) If a condition of substandard care has been cited on the 96115
basis of a standard survey and a condition of substandard care was 96116
also cited on the immediately preceding standard survey, that the 96117
department of ~~job and family services~~ medicaid or a contracting 96118
agency will issue an order under section ~~5111.57~~ 5165.84 of the 96119
Revised Code denying payment for any medicaid eligible residents 96120
admitted on and after the effective date of the order if a 96121
condition of substandard care is cited on the basis of the next 96122
standard survey; 96123

(3) That the department of ~~job and family services~~ medicaid 96124
or a contracting agency will issue an order under section ~~5111.58~~ 96125
5165.88 of the Revised Code terminating the facility's 96126
participation in the ~~medical assistance~~ medicaid program if either 96127
of the following applies: 96128

(a) The facility does not substantially correct the 96129
deficiency or deficiencies in accordance with the plan of 96130
correction it submitted under section ~~5111.43~~ 5165.69 of the 96131
Revised Code within six months after the exit interview. 96132

(b) The facility substantially corrects the deficiency or 96133
deficiencies within the six-month period, but after correcting it, 96134
the department of health, based on a follow-up survey conducted 96135

during the remainder of the six-month period, determines that the 96136
facility has failed to maintain compliance with certification 96137
requirements. 96138

Sec. ~~5111.43~~ 5165.69. (A) Whenever a nursing facility 96139
receives a statement of deficiencies under section ~~5111.42~~ 5165.68 96140
of the Revised Code, the facility shall submit to the department 96141
of health for its approval a plan of correction for each finding 96142
cited in the statement. The plan shall ~~describe~~ include all of the 96143
following: 96144

(1) Detailed descriptions of the actions the facility will 96145
take to correct each finding and specify the, including actions 96146
the facility will take to protect residents situated similarly to 96147
the residents affected by the causes of the findings; 96148

(2) The date by which each finding will be corrected. ~~In the~~ 96149
~~ease of;~~ 96150

(3) A detailed description of an ongoing monitoring and 96151
improvement process to be used at the facility that is focused on 96152
preventing any recurrence of the causes of the findings; 96153

(4) If the plan concerns a finding assigned a severity level 96154
indicating that a resident was harmed or immediate jeopardy 96155
exists, all of the following: 96156

(a) Detailed analyses of the facts and circumstances of the 96157
finding, including identification of its root cause; 96158

(b) A detailed explanation of how the corrective actions 96159
described pursuant to division (A)(1) of this section relate to 96160
the root cause of the finding identified pursuant to division 96161
(A)(4)(a) of this section; 96162

(c) A detailed explanation of the relationship between the 96163
ongoing monitoring and improvement process described pursuant to 96164
division (A)(3) of this section and the root cause of the finding 96165

identified pursuant to division (A)(4)(a) of this section. 96166

(5) If the plan concerns a finding cited pursuant to division 96167
(E) of section ~~5111.41~~ 5165.66 of the Revised Code, the plan shall 96168
describe a description of the actions the facility took to correct 96169
the finding and the date on which it was corrected. 96170

(B)(1) The department shall approve any plan, and any 96171
modification of an existing plan a nursing facility submits to the 96172
department, that conforms does both of the following: 96173

(a) Conforms to the requirements for approval of plans of 96174
corrections, and modifications, established in the regulations, 96175
guidelines, and procedures issued by the United States secretary 96176
of health and human services under ~~Titles~~ Title XVIII and Title 96177
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 96178
301, as amended; 96179

(b) Includes all the information required by division (A) of 96180
this section. The department also shall approve any modification 96181
of an existing plan submitted by a facility, if the plan as 96182
modified conforms to those regulations, guidelines, and 96183
procedures. The 96184

(2) The department shall consult with the department of 96185
medicaid, department of aging, and office of the state long-term 96186
care ombudsman program when determining whether a plan, or 96187
modification of an existing plan, to which division (A)(4) of this 96188
section applies conforms to the requirements for approval. The 96189
department shall not reject a facility's plan of correction or 96190
modification on the ground that the facility disputes the finding, 96191
if the plan or modification is reasonably calculated to correct 96192
the finding. 96193

(C) A facility that complies with this section shall not be 96194
considered to have admitted the existence of a finding cited by 96195
the department. 96196

Sec. ~~5111.44~~ 5165.70. The department of health may appoint 96197
employees of the department to conduct on-site monitoring of a 96198
nursing facility whenever a finding is cited, including any 96199
finding cited pursuant to division (E) of section ~~5111.41~~ 5165.66 96200
of the Revised Code, or an emergency is found to exist. 96201
Appointment of monitors under this section is not subject to 96202
appeal under section ~~5111.60~~ 5165.87 or any other section of the 96203
Revised Code. No employee of a facility for which monitors are 96204
appointed, no person employed by the facility within the previous 96205
two years, and no person who currently has a consulting or other 96206
contract with the department or the facility, shall be appointed 96207
as a monitor under this section. Every monitor appointed under 96208
this section shall have the professional qualifications necessary 96209
to monitor correction of the finding or elimination of the 96210
emergency. 96211

Sec. ~~5111.45~~ 5165.71. (A) If the department of health cites a 96212
deficiency or deficiencies that was not substantially corrected 96213
before a survey and that does not constitute a severity level four 96214
finding or create immediate jeopardy, the department of ~~job and~~ 96215
~~family services~~ medicaid or a contracting agency shall permit the 96216
nursing facility to continue participating in the ~~medical~~ 96217
~~assistance~~ medicaid program for up to six months after the exit 96218
interview, if all of the following apply: 96219

(1) The facility meets the requirements, established in 96220
regulations issued by the United States secretary of health and 96221
human services under Title XIX of the "~~Social Security Act,~~" 49 96222
Stat. 620 (1935), 42 U.S.C.A. 301, as amended, for certification 96223
of nursing facilities that have a deficiency. 96224

(2) The department of health has approved a plan of 96225
correction submitted by the facility under section ~~5111.43~~ 5165.69 96226
of the Revised Code for each deficiency. 96227

(3) The provider agrees to repay the department of ~~job and family services~~ medicaid, in accordance with section ~~5111.58~~ 5165.85 of the Revised Code, the federal share of all payments made by the department to the facility during the six-month period following the exit interview if the facility does not within the six-month period substantially correct the deficiency or deficiencies in accordance with the plan of correction submitted under section ~~5111.43~~ 5165.69 of the Revised Code.

(B) If any of the conditions in divisions (A)(1) to (3) of this section do not apply, the department of ~~job and family services~~ medicaid or contracting agency shall issue an order terminating the facility's participation in the ~~medical assistance~~ medicaid program. An order issued under this division is subject to appeal under Chapter 119. of the Revised Code. The order shall not take effect prior to the later of the thirtieth day after it is delivered to the facility or, if the order is appealed, the date on which a final adjudication order upholding the termination becomes effective pursuant to Chapter 119. of the Revised Code.

(C) At the time the department of ~~job and family services~~ medicaid or contracting agency issues an order under division (B) of this section terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program, it may also impose, subject to section ~~5111.50~~ 5165.76 of the Revised Code, other remedies under sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 of the Revised Code.

Sec. ~~5111.46~~ 5165.72. (A) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level four finding, the department of ~~job and family services~~ medicaid or contracting agency shall, subject to sections ~~5111.52~~ 5165.79 to ~~5111.56~~ 5165.83 of the Revised Code, impose a remedy for the

deficiency or cluster of deficiencies. The department or agency may act under either division (A)(1) or (2) of this section: 96259
96260
96261

(1) The department or agency may impose one or more of the following remedies: 96262
96263

(a) Issue an order terminating the nursing facility's participation in the ~~medical assistance~~ medicaid program. 96264
96265

(b) Do either of the following: 96266

(i) Regardless of whether the provider consents, appoint a temporary manager of the facility. 96267
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(ii) Apply to the common pleas court of the county in which the facility is located for such injunctive or other equitable relief as is necessary for the appointment of a special master with such powers and authority over the facility and length of appointment as the court considers necessary. 96269
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(c) Do either of the following: 96274

(i) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for all medicaid eligible residents admitted after the effective date of the order; 96275
96276
96277

(ii) Impose a fine. 96278

(d) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency. 96279
96280
96281
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(2) The department or agency may impose one or more of the following remedies: 96284
96285

(a) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility; 96286
96287

(b) Do either of the following: 96288

(i) Regardless of whether the provider consents, appoint a 96289
temporary manager of the facility; 96290

(ii) Apply to the common pleas court of the county in which 96291
the facility is located for such injunctive or other equitable 96292
relief as is necessary for the appointment of a special master 96293
with such powers and authority over the facility and length of 96294
appointment as the court considers necessary. 96295

(c) Do either of the following: 96296

(i) Issue an order denying ~~payment~~ medicaid payments to the 96297
facility ~~under the medical assistance program~~ for all medicaid 96298
eligible residents admitted after the effective date of the order; 96299

(ii) Impose a fine. 96300

(d) Issue an order denying ~~payment~~ medicaid payments to the 96301
facility ~~under the medical assistance program~~ for medicaid 96302
eligible residents admitted after the effective date of the order 96303
who have certain diagnoses or special care needs specified by the 96304
department or agency; 96305

(e) Issue an order requiring the facility to correct the 96306
deficiency or cluster of deficiencies under the plan of correction 96307
submitted by the facility and approved by the department of health 96308
under section ~~5111.43~~ 5165.69 of the Revised Code. 96309

(B) The department of ~~job and family services~~ medicaid or 96310
contracting agency shall deliver a written order issued under 96311
division (A)(1) of this section terminating a nursing facility's 96312
participation in the ~~medical assistance~~ medicaid program to the 96313
facility within five days after the exit interview. If the 96314
facility alleges, at any time prior to the later of the twentieth 96315
day after the exit interview or the fifteenth day after it 96316
receives the order, that the deficiency or cluster of deficiencies 96317

for which the order was issued has been substantially corrected, 96318
the department of health shall conduct a follow-up survey to 96319
determine whether the deficiency or cluster of deficiencies has 96320
been substantially corrected. The order shall take effect and the 96321
facility's participation shall terminate on the twentieth day 96322
after the exit interview, unless the facility has substantially 96323
corrected the deficiency or cluster of deficiencies that 96324
constituted a severity level four finding or did not receive 96325
notice from the department of ~~job and family services~~ medicaid or 96326
contracting agency within five days after the exit interview. In 96327
the latter case, the order shall take effect and the facility's 96328
participation shall terminate on the fifteenth day after the 96329
facility received the order. 96330

(C) If the department of health cites a deficiency or cluster 96331
of deficiencies pursuant to division (E) of section ~~5111.41~~ 96332
5165.66 of the Revised Code that constituted a severity level four 96333
finding, the department of ~~job and family services~~ medicaid or a 96334
contracting agency shall, subject to section ~~5111.56~~ 5165.83 of 96335
the Revised Code, impose a fine. The fine shall be in effect for a 96336
period equal to the number of days the deficiency or cluster of 96337
deficiencies existed at the facility. 96338

Sec. ~~5111.47~~ 5165.73. If the department of health cites a 96339
deficiency, or cluster of deficiencies, that was not substantially 96340
corrected before a survey and constitutes a severity level three 96341
and scope level three or four finding, the department of ~~job and~~ 96342
~~family services~~ medicaid or a contracting agency may, subject to 96343
sections ~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, 96344
impose one or more of the following remedies: 96345

(A) Do either of the following: 96346

(1) Issue an order denying ~~payment~~ medicaid payments to the 96347
facility ~~under the medical assistance program~~ for all medicaid 96348

eligible residents admitted after the effective date of the order; 96349

(2) Impose a fine. 96350

(B) Issue an order denying ~~payment~~ medicaid payments to the 96351
facility ~~under the medical assistance program~~ for medicaid 96352
eligible residents admitted after the effective date of the order 96353
who have certain diagnoses or special care needs specified by the 96354
department or agency; 96355

(C) Issue an order requiring the facility to correct the 96356
deficiency or cluster of deficiencies under the plan of correction 96357
submitted by the facility and approved by the department of health 96358
under section ~~5111.43~~ 5165.69 of the Revised Code. 96359

Sec. ~~5111.48~~ 5165.74. (A) If the department of health cites a 96360
deficiency, or cluster of deficiencies, that was not substantially 96361
corrected before a survey and constitutes a severity level three 96362
and scope level two finding, the department of ~~job and family~~ 96363
~~services~~ medicaid or a contracting agency may, subject to sections 96364
~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose 96365
one or more of the following remedies: 96366

(1) Do either of the following: 96367

(a) Issue an order denying ~~payment~~ medicaid payments to the 96368
facility ~~under the medical assistance program~~ for all medicaid 96369
eligible residents admitted after the effective date of the order; 96370

(b) Impose a fine. 96371

(2) Issue an order denying ~~payment~~ medicaid payments to the 96372
facility ~~under the medical assistance program~~ for medicaid 96373
eligible residents admitted after the effective date of the order 96374
who have certain diagnoses or special care needs specified by the 96375
department or agency; 96376

(3) Issue an order requiring the facility to correct the 96377
deficiency or cluster of deficiencies under the plan of correction 96378

proposed by the facility and approved by the department of health 96379
under section ~~5111.43~~ 5165.69 of the Revised Code. 96380

(B) If the department of health cites a deficiency, or 96381
cluster of deficiencies, that was not substantially corrected 96382
before a survey and constitutes a severity level three and scope 96383
level one finding, the department of ~~job and family services~~ 96384
medicaid or a contracting agency may, subject to sections ~~5111.55~~ 96385
5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose one or 96386
more of the following remedies: 96387

(1) Impose a fine; 96388

(2) Issue an order denying ~~payment~~ medicaid payments to the 96389
facility ~~under the medical assistance program~~ for medicaid 96390
eligible residents admitted after the effective date of the order 96391
who have certain diagnoses or special care needs specified by the 96392
department or agency; 96393

(3) Issue an order requiring the facility to correct the 96394
deficiency or cluster of deficiencies under the plan of correction 96395
proposed by the facility and approved by the department of health 96396
under section ~~5111.43~~ 5165.69 of the Revised Code. 96397

(C) If the department of health cites a deficiency, or 96398
cluster of deficiencies, that was not substantially corrected 96399
before a survey and constitutes a severity level two and a scope 96400
level three or four finding, the department of ~~job and family~~ 96401
~~services~~ medicaid or a contracting agency may, subject to sections 96402
~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose 96403
one or more of the following remedies: 96404

(1) Impose a fine; 96405

(2) Issue an order denying ~~payment~~ medicaid payments to the 96406
facility ~~under the medical assistance program~~ for medicaid 96407
eligible residents admitted after the effective date of the order 96408
who have certain diagnoses or special care needs specified by the 96409

department or agency; 96410

(3) Issue an order requiring the facility to correct the 96411
deficiency or cluster of deficiencies under the plan of correction 96412
submitted by the facility and approved by the department of health 96413
under section ~~5111.43~~ 5165.69 of the Revised Code. 96414

(D) If the department of health cites a deficiency, or 96415
cluster of deficiencies, that was not substantially corrected 96416
before a survey, constitutes a severity level two and scope level 96417
one or two finding, and is a repeat finding, the department of ~~job~~ 96418
~~and family services~~ medicaid or a contracting agency may issue an 96419
order requiring the facility to correct the deficiency or cluster 96420
of deficiencies under the plan of correction submitted by the 96421
facility and approved by the department of health under section 96422
~~5111.43~~ 5165.69 of the Revised Code. 96423

(E) If the department of health cites a deficiency, or 96424
cluster of deficiencies, that was not substantially corrected 96425
before a survey and constitutes a severity level one and scope 96426
level three or four finding, the department of ~~job and family~~ 96427
~~services~~ medicaid or a contracting agency may issue an order 96428
requiring the facility to correct the deficiency or cluster of 96429
deficiencies under the plan of correction submitted by the 96430
facility and approved by the department of health under section 96431
~~5111.43~~ 5165.69 of the Revised Code. 96432

(F) If the department of health cites a deficiency, or 96433
cluster of deficiencies, that was not substantially corrected 96434
before a survey, constitutes a severity level one and scope level 96435
two finding, and is a repeat finding, the department of ~~job and~~ 96436
~~family services~~ medicaid or a contracting agency may issue an 96437
order requiring the facility to correct the deficiency or cluster 96438
of deficiencies under the plan of correction submitted by the 96439
facility and approved by the department of health under section 96440
~~5111.43~~ 5165.69 of the Revised Code. 96441

Sec. ~~5111.49~~ 5165.75. (A) In determining which remedies to 96442
impose under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 96443
5165.74 of the Revised Code, including whether a fine should be 96444
imposed, the department of ~~job and family services~~ medicaid or a 96445
contracting agency shall do both of the following: 96446

(1) Impose the remedies that are most likely to achieve 96447
correction of deficiencies, encourage sustained compliance with 96448
certification requirements, and protect the health, safety, and 96449
rights of facility residents, but that are not directed at 96450
punishment of the facility; 96451

(2) Consider all of the following: 96452

(a) The presence or absence of immediate jeopardy; 96453

(b) The relationships of groups of deficiencies to each 96454
other; 96455

(c) The facility's history of compliance with certification 96456
requirements generally and in the specific area of the deficiency 96457
or deficiencies; 96458

(d) Whether the deficiency or deficiencies are directly 96459
related to resident care; 96460

(e) The corrective, long-term compliance, resident 96461
protective, and nonpunitive outcomes sought by the department or 96462
agency; 96463

(f) The nature, scope, and duration of the noncompliance with 96464
certification requirements; 96465

(g) The existence of repeat deficiencies; 96466

(h) The category of certification requirements with which the 96467
facility is out of compliance; 96468

(i) Any period of noncompliance with certification 96469
requirements that occurred between two certifications by the 96470

department of health that the facility was in compliance with certification requirements; 96471
96472

(j) The facility's degree of culpability; 96473

(k) The accuracy, extent, and availability of facility records; 96474
96475

(l) The facility's financial condition, exclusive of any moneys donated to a facility that is an organization described in subsection 501(c)(3) and is tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1; 96476
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(m) Any adverse effect that the action or fine would have on the health and safety of facility residents; 96481
96482

(n) If the noncompliance that resulted in the citation of a deficiency or cluster of deficiencies existed before a change in ownership of the facility, whether the new owner or owners have had sufficient time to correct the noncompliance. 96483
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(B) Whenever the department or agency imposes remedies under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code, it shall provide a written statement to the nursing facility that specifies all of the following: 96487
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(1) The effective date of each remedy; 96491

(2) The deficiency or cluster of deficiencies for which each remedy is imposed; 96492
96493

(3) The severity and scope of the deficiency or cluster of deficiencies; 96494
96495

(4) The rationale, including all applicable factors specified in division (A) of this section, for imposing the remedies. 96496
96497

Sec. ~~5111.50~~ 5165.76. At the time the department of ~~job and family services~~ medicaid or a contracting agency, under section 96498
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~~5111.45~~ 5165.71, ~~5111.46~~ 5165.72, or ~~5111.51~~ 5165.77 of the 96500
Revised Code, issues an order terminating a nursing facility's 96501
participation in the ~~medical assistance~~ medicaid program, the 96502
department or agency may also impose a fine, in accordance with 96503
sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 and ~~5111.56~~ 5165.83 of 96504
the Revised Code, to be collected in the event the termination 96505
order does not take effect. The department or agency shall not 96506
collect this fine if the termination order takes effect. 96507

Sec. ~~5111.51~~ 5165.77. (A) If the department of health finds 96508
during a survey that an emergency exists at a nursing facility, as 96509
the result of a deficiency or cluster of deficiencies that creates 96510
immediate jeopardy, the department of ~~job and family services~~ 96511
medicaid or a contracting agency shall impose one or more of the 96512
remedies described in division (A)(1) of this section and, in 96513
addition, may take one or both of the actions described in 96514
division (A)(2) of this section. 96515

(1) The department or agency shall impose one or more of the 96516
following remedies: 96517

(a) Appoint, subject to the continuing consent of the 96518
provider, a temporary manager of the facility; 96519

(b) Apply to the common pleas court of the county in which 96520
the facility is located for a temporary restraining order, 96521
preliminary injunction, or such other injunctive or equitable 96522
relief as is necessary to close the facility, transfer one or more 96523
residents to other nursing facilities or other appropriate care 96524
settings, or otherwise eliminate the condition of immediate 96525
jeopardy. If the court grants such an order, injunction, or 96526
relief, it may appoint a special master empowered to implement the 96527
court's judgment under the court's direct supervision. 96528

(c) Issue an order terminating the facility's participation 96529
in the ~~medical assistance~~ medicaid program; 96530

(d) Regardless of whether the provider consents, appoint a temporary manager of the facility. 96531
96532

(2) The department or agency may do one or both of the following: 96533
96534

(a) Issue an order denying ~~payment~~ medicaid payments to the facility for all medicaid eligible residents admitted after the effective date of the order; 96535
96536
96537

(b) Impose remedies under sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 of the Revised Code appropriate to the severity and scope of the deficiency or cluster of deficiencies, except that the department or agency shall not impose a fine for the same deficiency for which the department or agency has issued an order under division (A)(2)(a) of this section. 96538
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(B) If the department of health, department of ~~job and family services~~ medicaid, or a contracting agency finds on the basis of a survey or other visit to the facility by representatives of that department or agency that an emergency exists at a facility that is not the result of a deficiency or cluster of deficiencies that constitutes immediate jeopardy, the department of ~~job and family services~~ medicaid or contracting agency may do either of the following: 96544
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96551

(1) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility; 96552
96553

(2) Apply to the common pleas court of the county in which the facility is located for a temporary restraining order, preliminary injunction, or such other injunctive or equitable relief as is necessary to close the facility, transfer one or more residents to other nursing facilities or other appropriate care settings, or otherwise eliminate the emergency. If the court grants such an order, injunction, or relief, it may appoint a special master empowered to implement the court's judgment under 96554
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the court's direct supervision. 96562

(C)(1) Prior to acting under division (A)(1)(b), (c), (d), or 96563
(2), or (B)(2) of this section, the department of ~~job and family~~ 96564
~~services~~ medicaid or contracting agency shall give written notice 96565
to the facility specifying all of the following: 96566

(a) The nature of the emergency, including the nature of any 96567
deficiency or deficiencies that caused the emergency; 96568

(b) The nature of the action the department or agency intends 96569
to take unless the department of health determines that the 96570
facility, in the absence of state intervention, possesses the 96571
capacity to eliminate the emergency; 96572

(c) The rationale for taking the action. 96573

(2) If the department of health determines that the facility 96574
does not possess the capacity to eliminate the emergency in the 96575
absence of state intervention, the department of ~~job and family~~ 96576
~~services~~ medicaid or contracting agency may immediately take 96577
action under division (A) or (B) of this section. If the 96578
department of health determines that the facility possesses the 96579
capacity to eliminate the emergency, the department of ~~job and~~ 96580
~~family services~~ medicaid or contracting agency shall direct the 96581
facility to eliminate the emergency within five days after the 96582
facility's receipt of the notice. At the end of the five-day 96583
period, the department of health shall conduct a follow-up survey 96584
that focuses on the emergency. If the department of health 96585
determines that the facility has eliminated the emergency within 96586
the time period, the department of ~~job and family services~~ 96587
medicaid or contracting agency shall not act under division 96588
(A)(1)(b), (c), (d), or (2)(a), or (B)(2) of this section. If the 96589
department of health determines that the facility has failed to 96590
eliminate the emergency within the five-day period, the department 96591
of ~~job and family services~~ medicaid or contracting agency shall 96592

take appropriate action under division (A)(1)(b), (c), (d), or (2), or (B)(2) of this section. 96593
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(3) Until the written notice required by division (C)(1) of this section is actually delivered, no action taken by the department of ~~job and family services~~ medicaid or contracting agency under division (A)(1)(b), (c), (d), or (2), or (B)(2) of this section shall have any legal effect. In addition to the written notice, the department of health survey team shall give oral notice to the facility, at the time of the survey, concerning any recommendations the survey team intends to make that could form the basis of a determination that an emergency exists. 96595
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(D) The department of ~~job and family services~~ medicaid or contracting agency shall deliver a written order issued under division (A)(1) of this section terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program to the facility within five days after the exit interview. If the facility alleges, at any time prior to the later of the twentieth day after the exit interview or the fifteenth day after it receives the order, that the condition of immediate jeopardy for which the order was issued has been eliminated, the department of health shall conduct a follow-up survey to determine whether the immediate jeopardy has been eliminated. The order shall take effect and the facility's participation shall terminate on the twentieth day after the exit interview, unless the facility has eliminated the immediate jeopardy or did not receive notice from the department of ~~job and family services~~ medicaid or contracting agency within five days after the exit interview. In the latter case, the order shall take effect and the facility's participation shall terminate on the fifteenth day after the facility received the order. 96604
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(E) Any action taken by the department of ~~job and family services~~ medicaid or a contracting agency under division 96623
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(A)(1)(c), (d), or (2)(a) of this section is subject to appeal 96625
under Chapter 119. of the Revised Code, except that the department 96626
or agency may take such action prior to and during the pendency of 96627
any proceeding under that chapter. No action taken by a facility 96628
under division (C) of this section to eliminate an emergency cited 96629
by the department of health shall be considered an admission by 96630
the facility of the existence of an emergency. 96631

Sec. 5165.771. (A) As used in this section: 96632

"SFF list" means the list of nursing facilities that the 96633
United States department of health and human services creates 96634
under the special focus facility program. 96635

"Special focus facility program" means the program conducted 96636
by the United States secretary of health and human services 96637
pursuant to the "Social Security Act," section 1919(f)(10), 42 96638
U.S.C. 1396r(f)(10). 96639

"Table A" means the table included in the SFF list that 96640
identifies nursing facilities that are newly added to the SFF 96641
list. 96642

"Table B" means the table included in the SFF list that 96643
identifies nursing facilities that have not improved. 96644

"Table C" means the table included in the SFF list that 96645
identifies nursing facilities that have shown improvement. 96646

"Table D" means the table included in the SFF list that 96647
identifies nursing facilities that have recently graduated from 96648
the special focus facility program. 96649

(B) The department of medicaid shall issue an order 96650
terminating a nursing facility's participation in the medicaid 96651
program if any of the following apply: 96652

(1) The nursing facility is listed in table A or table B on 96653
the effective date of this section and fails to be placed in table 96654

C not later than twelve months after the effective date of this section; 96655
96656

(2) The nursing facility is listed in table A, table B, or table C on the effective date of this section and fails to be placed in table D not later than twenty-four months after the effective date of this section; 96657
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96659
96660

(3) The nursing facility is placed in table A after the effective date of this section and fails to be placed in table C not later than twelve months after the nursing facility is placed in table A; 96661
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(4) The nursing facility is placed in table A after the effective date of this section and fails to be placed in table D not later than twenty-four months after the nursing facility is placed in table A. 96665
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(C) An order issued under this section is not subject to appeal under Chapter 119. of the Revised Code. 96669
96670

(D) To help a nursing facility avoid having its participation in the medicaid program terminated pursuant to division (B) of this section, the department of aging shall provide the nursing facility technical assistance through the nursing home quality initiative established under section 173.60 of the Revised Code at least four months before the department of medicaid would be required to terminate the nursing facility's participation. 96671
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Sec. ~~5111.511~~ 5165.78. (A) If the department of ~~job and family services~~ medicaid determines that a nursing facility is experiencing or is likely to experience a serious financial loss or failure that jeopardizes or is likely to jeopardize the health, safety, and welfare of its residents, the department, subject to the provider's consent, may appoint a temporary resident safety assurance manager in the nursing facility to take actions the 96678
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department determines are appropriate to ensure the health, 96685
safety, and welfare of the residents. 96686

(B) A temporary resident safety assurance manager appointed 96687
under this section is vested with the authority necessary to take 96688
actions the department of ~~job and family services~~ medicaid 96689
determines are appropriate to ensure the health, safety, and 96690
welfare of the residents. 96691

(C) A temporary resident safety assurance manager appointed 96692
under this section may use any of the following funds to pay for 96693
costs the manager incurs on behalf of the nursing facility: 96694

(1) Medicaid payments made in accordance with the provider 96695
agreement for the nursing facility; 96696

(2) Funds from the residents protection fund that the 96697
department provides the manager under section ~~5111.62~~ 5162.66 of 96698
the Revised Code; 96699

(3) Other funds the department determines are appropriate if 96700
such use of the funds is consistent with the appropriations that 96701
authorize the use of the funds and all other state and federal 96702
laws governing the use of the funds. 96703

(D) The provider is liable to the department for the amount 96704
of any payments the department makes to the temporary resident 96705
safety assurance manager, other than payments specified in 96706
division (C)(1) of this section. The department may recover the 96707
amount the provider owes the department by doing any of the 96708
following: 96709

(1) Offsetting medicaid payments made to the provider in 96710
accordance with the provider agreement; 96711

(2) Placing a lien on any of the provider's real and personal 96712
property; 96713

(3) Initiating other collection actions. 96714

(E) No action the department takes under this section is subject to appeal under Chapter 119. of the Revised Code. 96715
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(F) In rules ~~adopted under~~ authorized by section ~~5111.36~~ 5165.61 of the Revised Code, the medicaid director ~~of job and family services~~ may establish all of the following: 96717
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(1) Qualifications persons must meet to be appointed temporary resident safety assurance managers under this section; 96720
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(2) Procedures for maintaining a list of qualified temporary resident safety assurance managers; 96722
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(3) Procedures consistent with federal law for paying for the services of temporary resident safety assurance managers; 96724
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(4) Accounting and reporting requirements for temporary resident safety assurance managers; 96726
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(5) Other procedures and requirements the director determines are necessary to implement this section. 96728
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Sec. ~~5111.52~~ 5165.79. (A) As used in this section, "terminating" includes not renewing. 96730
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(B) A nursing facility's participation in the ~~medical assistance~~ medicaid program shall be terminated under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code as follows: 96732
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(1) If the department of ~~job and family services~~ medicaid is terminating the facility's participation, it shall issue an order terminating the facility's provider agreement. 96736
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(2) If the department of health, acting as a contracting agency, is terminating the facility's participation, it shall issue an order terminating certification of the facility's compliance with certification requirements. When the department of health terminates certification, the department of ~~job and family~~ 96739
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~~services~~ medicaid shall terminate the facility's provider agreement. The department of ~~job and family services~~ medicaid is not required to provide an adjudication hearing when it terminates a provider agreement following termination of certification by the department of health.

(3) If a state agency other than the department of health, acting as a contracting agency, is terminating the facility's participation, it shall notify the department of ~~job and family services~~ medicaid, and the department of ~~job and family services~~ medicaid shall issue an order terminating the facility's provider agreement. The contracting agency shall conduct any administrative proceedings concerning the order.

(C) If the following conditions are met, the department of ~~job and family services~~ medicaid may make ~~medical assistance~~ medicaid payments to a nursing facility for a period not exceeding thirty days after the effective date of termination under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code of the facility's participation in the ~~medical assistance~~ medicaid program:

(1) The payments are for medicaid eligible residents admitted to the facility prior to the effective date of the termination;

(2) The provider is making reasonable efforts to transfer medicaid eligible residents to other care settings.

The period during which payments may be made under this division begins on the later of the effective date of the termination or, if the facility has appealed a termination order, the date of issuance of the adjudication order upholding termination.

Sec. ~~5111.53~~ 5165.80. (A) Whenever a nursing facility is closed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the

Revised Code, the department of ~~job and family services~~ medicaid 96774
or contracting agency shall arrange for the safe and orderly 96775
transfer of all residents, including residents who are not 96776
medicaid eligible residents, to other appropriate care settings. 96777
Whenever a nursing facility's participation in the ~~medical~~ 96778
~~assistance~~ medicaid program is terminated under sections ~~5111.35~~ 96779
5165.60 to ~~5111.62~~ 5165.89 of the Revised Code, the department or 96780
agency shall arrange for the safe and orderly transfer of all 96781
medicaid eligible residents or, if the termination results in the 96782
closure of the facility, of all residents. The provider and all 96783
persons involved in the facility's operation shall cooperate with 96784
and assist in the transfer of residents. 96785

(B) After a nursing facility's participation in the ~~medical~~ 96786
~~assistance~~ medicaid program is terminated under section ~~5111.45~~ 96787
5165.71, ~~5111.46~~ 5165.72, ~~5111.51~~ 5165.77, 5165.771, or ~~5111.58~~ 96788
5165.85 of the Revised Code, the department of ~~job and family~~ 96789
~~services~~ medicaid or contracting agency may appoint a temporary 96790
manager subject to the continuing consent of the provider, or may 96791
apply to the common pleas court of the county in which the 96792
facility is located for such injunctive relief as is necessary for 96793
the appointment of a special master, to ensure the transfer of 96794
medicaid eligible residents to other appropriate care settings 96795
and, if applicable, the orderly closure of the facility. 96796

Sec. ~~5111.54~~ 5165.81. (A) A temporary manager of a nursing 96797
facility appointed by the department of ~~job and family services~~ 96798
medicaid or a contracting agency under sections ~~5111.35~~ 5165.60 to 96799
~~5111.62~~ 5165.89 of the Revised Code shall meet all of the 96800
following qualifications: 96801

(1) Be licensed as a nursing home administrator under Chapter 96802
4751. of the Revised Code; 96803

(2) Have demonstrated competence as a nursing home 96804

administrator; 96805

(3) Have had no disciplinary action taken against the 96806
temporary manager by any licensing board or professional society 96807
in this state. 96808

(B) The salary of a temporary manager or special master 96809
appointed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the 96810
Revised Code shall be paid by the facility and set by the 96811
department of ~~job and family services~~ medicaid or contracting 96812
agency, in the case of a temporary manager, or by the court, in 96813
the case of a special master, at a rate not to exceed the maximum 96814
allowable compensation for an administrator under the ~~medical~~ 96815
~~assistance~~ medicaid program. The extent to which this compensation 96816
is allowable under the ~~medical assistance~~ medicaid program is 96817
subject to and limited by this chapter and rules ~~of the department~~ 96818
adopted under section 5165.02 of the Revised Code. 96819

Subject to division (C) of this section, any costs incurred 96820
on behalf of a nursing facility by a temporary manager or special 96821
master appointed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 96822
of the Revised Code shall be paid by the facility. The 96823
allowability of these costs under the ~~medical assistance~~ medicaid 96824
program shall be subject to and governed by this chapter and ~~the~~ 96825
~~rules of the department~~ adopted under section 5165.02 of the 96826
Revised Code. This division does not prohibit a facility from 96827
applying for or receiving any waiver of cost ceilings available 96828
under the ~~rules of the department.~~ 96829

(C) No temporary manager or special master appointed under 96830
sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code 96831
shall enter into any employment contract on behalf of a facility, 96832
or purchase any capital goods using facility funds totaling more 96833
than ten thousand dollars, unless the temporary manager or special 96834
master has obtained prior approval for the contract or purchase 96835
from either the provider or the court. 96836

(D)(1) A temporary manager appointed for a nursing facility 96837
under section ~~5111.46~~ 5165.72 of the Revised Code is hereby 96838
vested, subject to division (C) of this section, with the legal 96839
authority necessary to correct any deficiency or cluster of 96840
deficiencies at a facility, bring the facility into compliance 96841
with certification requirements, and otherwise ensure the health 96842
and safety of the residents. 96843

(2) A temporary manager appointed under section ~~5111.51~~ 96844
5165.77 of the Revised Code is hereby vested, subject to division 96845
(C) of this section, with the authority necessary to eliminate the 96846
emergency, bring the facility into compliance with certification 96847
requirements, and otherwise ensure the health and safety of the 96848
residents. 96849

(3) A temporary manager appointed under section ~~5111.53~~ 96850
5165.80 of the Revised Code is hereby vested, subject to division 96851
(C) of this section, with the authority necessary to ensure the 96852
transfer of medicaid eligible residents to other appropriate care 96853
settings and, if applicable, the orderly closure of the facility, 96854
and to otherwise ensure the health and safety of the residents. 96855

(E) Prior to acting under division (A)(1)(b) or (2)(b) of 96856
section ~~5111.46~~ 5165.72 of the Revised Code to appoint a temporary 96857
manager or apply for a special master, the department of ~~job and~~ 96858
~~family services~~ medicaid or contracting agency shall order the 96859
facility to substantially correct the deficiency or deficiencies 96860
within five days after receiving the statement and inform the 96861
facility, in the statement it provides pursuant to division (B) of 96862
section ~~5111.49~~ 5165.75 of the Revised Code, of the order and that 96863
it will not take that action unless the facility fails to 96864
substantially correct the deficiency or deficiencies within that 96865
five-day period. At the end of the five-day period, the department 96866
of health shall conduct a follow-up survey that focuses on the 96867
deficiency or deficiencies. If the department of health determines 96868

that the facility has substantially corrected the deficiency or 96869
deficiencies within that time, the department of ~~job and family~~ 96870
~~services~~ medicaid or contracting agency shall not appoint a 96871
temporary manager or apply for a special master. If the department 96872
of health determines that the facility has failed to substantially 96873
correct the deficiency or deficiencies within that time, the 96874
department of ~~job and family services~~ medicaid or contracting 96875
agency may proceed with appointment of the temporary manager or 96876
application for a special master. Until the statement required 96877
under division (B) of section ~~5111.49~~ 5165.75 of the Revised Code 96878
is actually delivered, no action taken by the department or agency 96879
to appoint a temporary manager or apply for a temporary manager 96880
under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 of 96881
the Revised Code shall have any legal effect. No action taken by a 96882
facility under this division to substantially correct a deficiency 96883
or deficiencies shall be considered an admission by the facility 96884
of the existence of a deficiency or deficiencies. 96885

(F) Appointment of a temporary manager under division 96886
(A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 or division 96887
(A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised Code shall 96888
expire at the end of the seventh day following the appointment. If 96889
the department of ~~job and family services~~ medicaid or contracting 96890
agency finds that the deficiency or deficiencies that prompted the 96891
appointment under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 96892
5165.72 of the Revised Code cannot be substantially corrected, or 96893
the condition of immediate jeopardy that prompted the appointment 96894
under division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised 96895
Code cannot be eliminated, prior to the expiration of the 96896
appointment, it may take one of the following actions: 96897

(1) Appoint, subject to the continuing consent of the 96898
provider, a temporary manager for the facility; 96899

(2) Apply to the common pleas court of the county in which 96900

the facility is located for an order appointing a special master 96901
who, under the authority and direct supervision of the court and 96902
subject to divisions (B) and (C) of this section, may take such 96903
additional actions as are necessary to correct the deficiency or 96904
deficiencies or eliminate the condition of immediate jeopardy and 96905
bring the facility into compliance with certification 96906
requirements. 96907

(G) The court, on finding that the deficiency or deficiencies 96908
for which a special master was appointed under division (F)(2) of 96909
this section or division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 96910
5165.72 of the Revised Code has been substantially corrected, or 96911
the emergency for which a special master was appointed under 96912
division (F)(2) of this section or division (A)(1)(b) or (B)(2) of 96913
section ~~5111.51~~ 5165.77 of the Revised Code has been eliminated, 96914
that the facility has been brought into compliance with 96915
certification requirements, and that the provider has established 96916
the management capability to ensure continued compliance with the 96917
certification requirements, shall immediately terminate its 96918
jurisdiction over the facility and return control and management 96919
of the facility to the provider. If the deficiency or deficiencies 96920
cannot be substantially corrected, or the emergency cannot be 96921
eliminated practicably within a reasonable time following 96922
appointment of the special master, the court may order the special 96923
master to close the facility and transfer all residents to other 96924
nursing facilities or other appropriate care settings. 96925

(H) This section does not apply to temporary resident safety 96926
assurance managers appointed under section ~~5111.511~~ 5165.78 of the 96927
Revised Code. 96928

Sec. ~~5111.55~~ 5165.82. (A) An order issued under section 96929
~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 96930
5165.77, or ~~5111.57~~ 5165.84 of the Revised Code denying ~~payment~~ 96931

medicaid payments to a nursing facility for all medicaid eligible residents admitted after its effective date, or an order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ medicaid payments to a nursing facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care needs, shall also apply to individuals admitted to the facility on and after the effective date of the order who are not medicaid eligible residents but become medicaid eligible residents after admission. Such an order shall not apply to any of the following:

(1) An individual who was a medicaid eligible resident of the facility on the day immediately preceding the effective date of the order and continues to be a medicaid eligible resident on and after that date;

(2) An individual who was a resident of the facility on the day immediately preceding the effective date of the order, continues to be a resident on and after that date, and becomes medicaid eligible on or after that date;

(3) An individual who was a medicaid eligible resident of the facility prior to the effective date of the order, is temporarily absent from the facility on that or a subsequent date due to hospitalization or participation in therapeutic programs outside the facility, and chooses to return to the facility;

(4) An individual who was a resident of the facility prior to the effective date of the order, is temporarily absent from the facility on that or a subsequent date due to hospitalization or participation in therapeutic programs outside the facility, becomes medicaid eligible on or after that date, and chooses to return to the facility.

(B) An order issued under section ~~5111.46~~ 5165.72 of the

Revised Code denying ~~payment~~ medicaid payments to a nursing 96963
facility for all medicaid eligible residents admitted after its 96964
effective date, or denying ~~payment~~ medicaid payments to a facility 96965
for medicaid eligible residents admitted after the effective date 96966
of the order who have specified diagnoses or special care needs 96967
shall not take effect prior to the fifth day after the order is 96968
delivered to the facility. Such an order issued under section 96969
~~5111.47~~ 5165.73 or ~~5111.48~~ 5165.74 of the Revised Code shall not 96970
take effect prior to the twentieth day after it is delivered to 96971
the facility. 96972

(C) No nursing facility that has received an order under 96973
section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 96974
5165.77, or ~~5111.57~~ 5165.84 of the Revised Code denying ~~payment~~ 96975
medicaid payments for all new admissions of medicaid eligible 96976
residents shall admit a medicaid eligible resident on or after the 96977
effective date of the order, unless the resident is described in 96978
division (A)(3) or (4) of this section, until the order is 96979
terminated pursuant to this section. No nursing facility that has 96980
received an order under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, 96981
or ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ medicaid 96982
payments to a nursing facility for new admissions of medicaid 96983
eligible residents with specified diagnoses or special care needs 96984
shall admit such a resident on or after the effective date of the 96985
order, unless the resident is described in division (A)(3) or (4) 96986
of this section, until the order is terminated pursuant to this 96987
section. 96988

(D) In the case of an order imposed under division (B) of 96989
section ~~5111.57~~ 5165.84 of the Revised Code, the department or 96990
agency shall appoint monitors in accordance with section ~~5111.44~~ 96991
5165.70 of the Revised Code to conduct on-site monitoring. 96992

(E)(1) A facility may give written notice to the department 96993
of health whenever any of the following apply: 96994

(a) With respect to an order denying payment issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code, either of the following is the case:

(i) The facility has completed implementation of the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(ii) The facility has reduced the severity or scope of all of the deficiencies to a level at which sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 of the Revised Code do not authorize the order.

(b) With respect to an order denying payment issued under section ~~5111.51~~ 5165.77 of the Revised Code, the facility has eliminated the immediate jeopardy.

(c) With respect to an order denying ~~payment~~ medicaid payments issued under division (A) of section ~~5111.57~~ 5165.84 of the Revised Code, the facility has completed implementation of the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(d) With respect to an order denying ~~payment~~ medicaid payments issued under division (B) of section ~~5111.57~~ 5165.84 of the Revised Code, both of the following are the case:

(i) The facility has completed implementation of the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(ii) The facility is in compliance with certification requirements and has provided adequate assurance that it will remain in compliance with them.

(2) Within ten working days after it receives the notice

under division (E)(1) of this section, the department of health 97025
shall conduct a follow-up survey that focuses on the cited 97026
deficiency or deficiencies, unless the department is able to 97027
determine, on the basis of documentation provided by the facility, 97028
that the facility has completed the applicable action described in 97029
divisions (E)(1)(a) to (d) of this section. If the department of 97030
health makes that determination on the basis of the documentation, 97031
the department of ~~job and family services~~ medicaid or contracting 97032
agency shall terminate the order denying ~~payment~~ medicaid payments 97033
as of the date the facility completed the applicable action, as 97034
subsequently verified by the department of health. If the 97035
department of health conducts a follow-up survey, the department 97036
of ~~job and family services~~ medicaid or contracting agency shall 97037
terminate the order denying ~~payment~~ medicaid payments as of the 97038
date the department of health makes the determination that the 97039
facility completed the applicable action. 97040

(F) The department of ~~job and family services~~ medicaid or 97041
contracting agency shall provide public notice implementing an 97042
order under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 97043
5165.74, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of the Revised Code 97044
denying ~~payment~~ medicaid payments to a nursing facility ~~under the~~ 97045
~~medical assistance program~~ for all medicaid eligible residents by 97046
publishing in a newspaper of general circulation in the county in 97047
which the facility is located an announcement stating: "By order 97048
of the (Ohio Department of ~~Job and Family Services~~ Medicaid or 97049
name of contracting agency), effective on and after (effective 97050
date of order), (name of facility) is no longer authorized to 97051
admit Medicaid eligible residents." Immediately following 97052
termination of any such order, the department or agency shall 97053
publish in a newspaper of general circulation in the county in 97054
which the facility is located an announcement stating: "By order 97055
of the (Ohio Department of ~~Job and Family Services~~ Medicaid or 97056
name of contracting agency), effective on and after (effective 97057

date of termination), (name of facility) is hereby authorized to 97058
admit Medicaid eligible residents." Neither the department nor the 97059
contracting agency shall issue public notice of an order under 97060
section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of 97061
the Revised Code denying payment to a nursing facility for 97062
Medicaid eligible residents with specified diagnoses or special 97063
care needs; public notice is not required for such an order to 97064
take effect. 97065

(G) A facility that complies with division (E) of this 97066
section shall not be considered to have admitted to the existence 97067
of the deficiency that constitutes the basis of the department's 97068
or agency's order. 97069

Sec. ~~5111.56~~ 5165.83. (A) As used in this section, "certified 97070
beds" means beds certified under Title XVIII or Title XIX ~~of the~~ 97071
~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as~~ 97072
~~amended.~~ 97073

(B) If the department of ~~job and family services~~ Medicaid or 97074
a contracting agency imposes a fine on a nursing facility under 97075
section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of 97076
the Revised Code, it may impose one or more of the following: 97077

(1) One hundred sixty per cent of the amount calculated under 97078
division (C) of this section for any deficiency or cluster of 97079
deficiencies that constitutes a severity level four and scope 97080
level four finding; 97081

(2) One hundred forty per cent of the amount calculated under 97082
division (C) of this section for any deficiency or cluster of 97083
deficiencies that constitutes a severity level four and scope 97084
level three finding; 97085

(3) One hundred twenty per cent of the amount calculated 97086
under division (C) of this section for any deficiency or cluster 97087

of deficiencies that constitutes a severity level four and scope level two finding; 97088
97089

(4) The amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level one finding or any deficiency or cluster of deficiencies that constitutes a severity level three and scope level four finding; 97090
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(5) Ninety per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level three finding; 97095
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(6) Eighty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level two finding; 97099
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(7) Seventy per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level one finding; 97103
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(8) Fifty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level two and scope level four finding; 97107
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(9) Forty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level two and scope level three finding. 97111
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(C) The amount subject to division (B) of this section shall be the product of multiplying two dollars and fifty cents for each day the fine is in effect by the total number of licensed nursing home beds or certified beds, whichever is greater, in the facility 97115
97116
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as of the date the deficiency or cluster of deficiencies that is 97119
the reason for the fine was cited. 97120

(D)(1) The department of ~~job and family services~~ medicaid or 97121
contracting agency shall not impose on a facility, at any one 97122
time, more than four fines as a result of any one survey. 97123

(2) The department of ~~job and family services~~ medicaid or 97124
contracting agency shall not impose more than one fine based on a 97125
deficiency or cluster of deficiencies. However, if the department 97126
of health, in a follow-up or other subsequent survey, finds a 97127
change in the scope or severity of the deficiency or cluster of 97128
deficiencies, the department of ~~job and family services~~ medicaid 97129
or contracting agency may increase or decrease the fine in 97130
accordance with division (B) of this section to reflect the change 97131
in scope or severity. The department or agency shall give the 97132
facility written notice of the change in the amount of the fine. 97133
The change shall take effect on the date the follow-up or other 97134
subsequent survey is completed. 97135

If the department of health finds that a deficiency is a 97136
repeat deficiency, the department of ~~job and family services~~ 97137
medicaid or contracting agency may impose a fine that is one 97138
hundred per cent greater than the fine specified in division (B) 97139
of this section for the deficiency. 97140

(E) The total amount of fines the department of ~~job and~~ 97141
~~family services~~ medicaid or contracting agency may impose on a 97142
facility in a single calendar year shall not exceed five hundred 97143
dollars for each licensed nursing home bed or certified bed, 97144
whichever is greater in number, in the facility. 97145

(F)(1) Except as provided in division (F)(2) of this section, 97146
the department of ~~job and family services~~ medicaid or contracting 97147
agency shall not impose a fine under section ~~5111.46~~ 5165.72, 97148
~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code if the 97149

deficiency or cluster of deficiencies is substantially corrected 97150
within twenty days after the nursing facility receives the 97151
statement provided under division (B) of section ~~5111.49~~ 5165.75 97152
of the Revised Code. The department or agency shall inform the 97153
nursing facility in that statement that the fine will not be 97154
imposed if the deficiency or cluster of deficiencies is 97155
substantially corrected within the twenty-day period. 97156

(2) If a nursing facility has substantially corrected a 97157
deficiency or cluster of deficiencies within six months after the 97158
exit interview of a survey that was the basis for citing a 97159
deficiency or cluster of deficiencies, but after correcting it has 97160
been cited for the same deficiency or cluster of deficiencies by 97161
the department of health on the basis of a subsequent survey 97162
conducted during the remainder of the six-month period, the 97163
department of ~~job and family services~~ medicaid or contracting 97164
agency may impose a fine beginning on the date of the exit 97165
interview of the subsequent survey. 97166

(G) Whenever a facility believes that it has completed 97167
implementation of the plan of correction it submitted under 97168
section ~~5111.43~~ 5165.69 of the Revised Code and substantially 97169
corrected the cited deficiency or cluster of deficiencies that is 97170
the basis for a fine, it may give written notice to that effect to 97171
the department of health. After receiving the notice, the 97172
department shall conduct a follow-up survey of the facility that 97173
focuses on the deficiency or cluster, unless the department is 97174
able to determine, on the basis of documentation provided by the 97175
facility, that the facility has substantially corrected the 97176
deficiency or cluster. If, based on the follow-up survey, the 97177
department establishes that the facility had not completed 97178
implementation of the plan of correction at the time the 97179
department received the notice, any fine based on the deficiency 97180
or cluster shall be doubled effective from the date the department 97181

received the notice. A facility that complies with this division 97182
shall not be considered to have admitted the existence of the 97183
deficiency or cluster that is the basis for the fine. 97184

(H) Except for a fine imposed under division (C) of section 97185
~~5111.46~~ 5165.72 of the Revised Code and as provided in division 97186
(F)(2) of this section, the department of ~~job and family services~~ 97187
medicaid or contracting agency shall impose a fine only if the 97188
facility fails to give notice under division (G) of this section 97189
within twenty days after it receives the statement required by 97190
division (B) of section ~~5111.49~~ 5165.75 of the Revised Code or if 97191
the department of health determines, based on a follow-up survey, 97192
that the deficiency or cluster of deficiencies for which the fine 97193
is proposed has not been substantially corrected within the 97194
twenty-day period. The fine shall be imposed effective on the 97195
twenty-first day after the facility receives the statement under 97196
division (B) of section ~~5111.49~~ 5165.75 of the Revised Code. The 97197
fine shall remain in effect until the earliest of the following: 97198

(1) The date the department of health receives notice under 97199
division (G) of this section, unless the department determines, on 97200
the basis of a follow-up survey, that the deficiency or cluster of 97201
deficiencies that is the basis for the fine has not been 97202
substantially corrected as of that date; 97203

(2) The date on which the department of health makes a 97204
determination, on the basis of a follow-up survey, that the 97205
deficiency or cluster of deficiencies has been substantially 97206
corrected; 97207

(3) The date the facility substantially corrected the 97208
deficiency or cluster, as subsequently determined by the 97209
department of health on the basis of documentation provided by the 97210
facility. 97211

(I) Any fine imposed by the department of ~~job and family~~ 97212

~~services~~ medicaid or contracting agency under this section is 97213
subject to appeal under Chapter 119. of the Revised Code. If the 97214
facility does not request a hearing under Chapter 119. of the 97215
Revised Code and either pays or agrees in writing to pay the fine 97216
when payment becomes due under division (J) of this section, the 97217
department or agency shall reduce the fine by fifty per cent. The 97218
department or agency may compromise any claim for payment of a 97219
fine under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the 97220
Revised Code. 97221

(J) The department of ~~job and family services~~ medicaid or 97222
contracting agency shall collect interest on fines, at the rate 97223
per calendar month that equals one-twelfth of the rate per year 97224
prescribed by section 5703.47 of the Revised Code for the calendar 97225
year that includes the month for which the interest charge 97226
accrues. Payment of a fine is due, and interest begins to accrue 97227
on the unpaid fine or balance, on the thirty-first day after the 97228
department or agency issues a final adjudication order imposing 97229
the fine. If the deficiency or deficiencies on which the fine is 97230
based have not been corrected when the final adjudication order is 97231
issued, the payment is due, and interest begins to accrue on the 97232
unpaid fine or balance, on the thirty-first day after the 97233
deficiency or deficiencies are corrected and the department or 97234
agency mails a notice specifying the amount of the fine to the 97235
facility. 97236

(K) The department of ~~job and family services~~ medicaid or 97237
contracting agency shall collect fines and interest imposed under 97238
this section through one of the following means: 97239

(1) A lump sum payment from the provider; 97240

(2) Periodic payments for a period not to exceed twelve 97241
months, in accordance with a schedule approved by the department 97242
or agency; 97243

(3) Appropriately reducing the amounts of medicaid payments 97244
made to the facility for ~~care~~ nursing facility services provided 97245
to medicaid eligible residents for a period not to exceed twelve 97246
months following the date on which payment of the fine becomes due 97247
under division (J) of this section. An amount equal to the amount 97248
by which each payment is reduced shall be deposited to the credit 97249
of the residents protection fund in accordance with section 97250
~~5111.62~~ 5162.66 of the Revised Code. 97251

Sec. ~~5111.57~~ 5165.84. (A) The department of ~~job and family~~ 97252
~~services~~ medicaid or a contracting agency shall issue an order 97253
denying ~~payment~~ medicaid payments to a nursing facility for all 97254
medicaid eligible residents admitted to the facility on or after 97255
the effective date of the order, if the facility has failed to 97256
substantially correct within ninety days after the exit interview 97257
a deficiency or cluster of deficiencies in accordance with the 97258
plan of correction it submitted under section ~~5111.43~~ 5165.69 of 97259
the Revised Code, as determined by the department of health on the 97260
basis of a follow-up survey. 97261

(B) The department of ~~job and family services~~ medicaid or 97262
contracting agency shall issue an order denying ~~payment~~ medicaid 97263
payments to a nursing facility for all medicaid eligible residents 97264
admitted to the facility on or after the effective date of the 97265
order, if during three consecutive standard surveys conducted 97266
after December 13, 1990, the department of health has found a 97267
condition of substandard care in a facility. 97268

(C) An order issued under division (A) or (B) of this section 97269
shall take effect on the later of the date the facility receives 97270
the order or the date the public notice required under division 97271
(F) of section ~~5111.55~~ 5165.82 of the Revised Code is published. 97272
The order is subject to appeal under Chapter 119. of the Revised 97273
Code; however the order may take effect prior to or during the 97274

pendency of any hearing under that chapter. In that case, the 97275
department or agency shall provide the facility an opportunity for 97276
a hearing in accordance with section ~~5111.60~~ 5165.87 of the 97277
Revised Code. 97278

Sec. ~~5111.58~~ 5165.85. (A) If a nursing facility notifies the 97279
department of ~~job and family services~~ medicaid or a contracting 97280
agency, at any time during the six-month period following the exit 97281
interview of a survey that was the basis for citing a deficiency 97282
or deficiencies, that the deficiency or deficiencies have been 97283
substantially corrected in accordance with the plan of correction 97284
submitted and approved under section ~~5111.43~~ 5165.69 of the 97285
Revised Code, the department of health shall conduct a follow-up 97286
survey to determine whether the deficiency or deficiencies have 97287
been substantially corrected in accordance with the plan. 97288

(B) The department of ~~job and family services~~ medicaid or a 97289
contracting agency shall terminate a nursing facility's 97290
participation in the ~~medical assistance~~ medicaid program whenever 97291
the facility has not substantially corrected, within six months 97292
after the exit interview of the survey on the basis of which it 97293
was cited, a deficiency or deficiencies in accordance with the 97294
plan of correction submitted under section ~~5111.43~~ 5165.69 of the 97295
Revised Code, as determined by the department of health on the 97296
basis of a follow-up survey. 97297

(C) Unless the facility has substantially corrected the 97298
deficiency or deficiencies in accordance with the plan of 97299
correction, as determined by the department of health on the basis 97300
of a follow-up survey, the department of ~~job and family services~~ 97301
medicaid or contracting agency shall deliver to the facility, at 97302
least thirty days prior to the day that is six months after the 97303
exit interview, a written order terminating the facility's 97304
participation in the ~~medical assistance~~ medicaid program. The 97305

order shall take effect and the facility's participation shall 97306
terminate on the day that is six months after the exit interview. 97307
The order shall not take effect if, after it is delivered to the 97308
facility and prior to the effective date of the order, the 97309
department of health determines on the basis of a follow-up survey 97310
that the facility has corrected the deficiency or deficiencies. 97311

An order issued under this section is subject to appeal under 97312
Chapter 119. of the Revised Code; however, the order may take 97313
effect prior to or during the pendency of any hearing under that 97314
chapter. In that case, the department of ~~job and family services~~ 97315
medicaid or contracting agency shall provide the facility an 97316
opportunity for a hearing in accordance with section ~~5111.60~~ 97317
5165.87 of the Revised Code. 97318

(D) Except as provided in division (E) of this section, 97319
whenever the department of ~~job and family services~~ medicaid or a 97320
contracting agency terminates a facility's participation in the 97321
~~medical assistance~~ medicaid program pursuant to this section, the 97322
provider shall repay the department the federal share of all 97323
medicaid payments made by the department to the facility ~~under the~~ 97324
~~medical assistance program~~ during the six-month period following 97325
the exit interview of the survey that was the basis for citing the 97326
deficiency or cluster of deficiencies. The provider shall repay 97327
the department within thirty days after the department repays to 97328
the federal government the federal share of medicaid payments made 97329
to the facility during that six-month period. 97330

(E) A provider is not required to repay the department of ~~job~~ 97331
~~and family services~~ medicaid if either of the following is the 97332
case: 97333

(1) The facility has brought an appeal under Chapter 119. of 97334
the Revised Code of termination of its participation in the 97335
~~medical assistance~~ medicaid program, except that the provider 97336
shall repay the department of ~~job and family services~~ medicaid 97337

within thirty days after the facility exhausts its right to appeal 97338
under that chapter. 97339

(2) The facility complied with the plan of correction 97340
approved by the department of health and the obligation to repay 97341
resulted from the department's failure to provide timely 97342
verification to the United States department of health and human 97343
services of the facility's compliance with the plan of correction. 97344

(F) If a provider's obligation to repay the department of ~~job~~ 97345
~~and family services~~ medicaid under division (D) of this section 97346
results from disallowance of federal financial participation by 97347
the United States department of health and human services, the 97348
provider shall not be required to repay the department of ~~job and~~ 97349
~~family services~~ medicaid until the federal disallowance becomes 97350
final. 97351

(G) Any fines paid under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 97352
5165.89 of the Revised Code during any period for which the 97353
facility is required to repay the department of ~~job and family~~ 97354
~~services~~ medicaid under division (D) of this section shall be 97355
offset against the amount the provider is required to repay the 97356
department for that period. 97357

(H) Prior to a change of ownership of a facility for which a 97358
provider has an obligation to repay the department of ~~job and~~ 97359
~~family services~~ medicaid under division (D) of this section that 97360
has not become final, or has become final but not been paid, the 97361
department may do one or more of the following: 97362

(1) Require the provider to place money in escrow, or obtain 97363
a bond, in sufficient amount to indemnify the state against the 97364
provider's failure to repay the department after the change of 97365
ownership occurs; 97366

(2) Place a lien on the facility's real property; 97367

(3) Use any method to recover the medicaid payments that is 97368

available to the attorney general to recover payments on behalf of 97369
the department of ~~job and family services~~ medicaid. 97370

Sec. ~~5111.59~~ 5165.86. The department of ~~job and family~~ 97371
~~services~~ medicaid, the department of health, and any contracting 97372
agency shall deliver a written notice, statement, or order to a 97373
nursing facility under sections ~~5111.35~~ 5165.60 to ~~5111.41~~ 5165.66 97374
and ~~5111.43~~ 5165.69 to ~~5111.62~~ 5165.89 of the Revised Code by 97375
certified mail or hand delivery. If the notice, statement, or 97376
order is mailed, it shall be addressed to the administrator of the 97377
facility as indicated in the department's or agency's records. If 97378
it is hand delivered, it shall be delivered to a person at the 97379
facility who would appear to the average prudent person to have 97380
authority to accept it. 97381

Delivery of written notice by a nursing facility to the 97382
department of health, the department of ~~job and family services~~ 97383
medicaid, or a contracting agency under sections ~~5111.35~~ 5165.60 97384
to ~~5111.62~~ 5165.89 of the Revised Code shall be by certified mail 97385
or hand delivery to the appropriate department or the agency. 97386

Sec. ~~5111.60~~ 5165.87. (A) Except as provided in division (B) 97387
of this section, the following remedies are subject to appeal 97388
under Chapter 119. of the Revised Code: 97389

(1) An order issued under section ~~5111.45~~ 5165.71, ~~5111.46~~ 97390
5165.72, ~~5111.51~~ 5165.77, or ~~5111.58~~ 5165.85 of the Revised Code 97391
terminating a nursing facility's participation in the ~~medical~~ 97392
~~assistance~~ medicaid program; 97393

(2) Appointment of a temporary manager of a facility under 97394
division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72, or 97395
division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised Code; 97396

(3) An order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 97397
5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of 97398

the Revised Code denying ~~payment~~ medicaid payments to a facility 97399
~~under the medical assistance program~~ for all medicaid eligible 97400
residents admitted after the effective date of the order; 97401

(4) An order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 97402
5165.73, or ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ 97403
medicaid payments to a facility ~~under the medical assistance~~ 97404
~~program~~ for medicaid eligible residents admitted after the 97405
effective date of the order who have certain diagnoses or special 97406
care needs specified by the department or agency; 97407

(5) A fine imposed under section ~~5111.46~~ 5165.72, ~~5111.47~~ 97408
5165.73, or ~~5111.48~~ 5165.74 of the Revised Code. 97409

(B) The department of ~~job and family services~~ medicaid or 97410
contracting agency may do any of the following prior to or during 97411
the pendency of any proceeding under Chapter 119. of the Revised 97412
Code: 97413

(1) Issue and execute an order under section ~~5111.46~~ 5165.72, 97414
~~5111.51~~ 5165.77, or ~~5111.58~~ 5165.85 of the Revised Code 97415
terminating a nursing facility's participation in the ~~medical~~ 97416
~~assistance~~ medicaid program; 97417

(2) Appoint a temporary manager under division (A)(1)(b) or 97418
(2)(b) of section ~~5111.46~~ 5165.72 or division (A)(1)(d) of section 97419
~~5111.51~~ 5165.77 of the Revised Code; 97420

(3) Issue and execute an order under section ~~5111.46~~ 5165.72, 97421
~~5111.47~~ 5165.73, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of the 97422
Revised Code denying ~~payment~~ medicaid payments to a facility for 97423
all medicaid eligible residents admitted after the effective date 97424
of the order; 97425

(4) Issue and execute an order under section ~~5111.46~~ 5165.72 97426
or ~~5111.47~~ 5165.73 or division (A), (B), or (C) of section ~~5111.48~~ 97427
5165.74 of the Revised Code denying ~~payment~~ medicaid payments to a 97428
facility for medicaid eligible residents admitted after the 97429

effective date of the order who have specified diagnoses or 97430
special care needs. 97431

(C) Whenever the department or agency imposes a remedy listed 97432
in division (B) of this section prior to or during the pendency of 97433
a proceeding, all of the following apply: 97434

(1) The provider against whom the action is taken shall have 97435
ten days after the date the facility actually receives the notice 97436
specified in section 119.07 of the Revised Code to request a 97437
hearing. 97438

(2) The hearing shall commence within thirty days after the 97439
date the department or agency receives the provider's request for 97440
a hearing. 97441

(3) The hearing shall continue uninterrupted from day to day, 97442
except for Saturdays, Sundays, and legal holidays, unless other 97443
interruptions are agreed to by the provider and the department or 97444
agency. 97445

(4) If the hearing is conducted by a hearing examiner, the 97446
hearing examiner shall file a report and recommendations within 97447
ten days after the close of the hearing. 97448

(5) The provider shall have five days after the date the 97449
hearing officer files the report and recommendations within which 97450
to file objections to the report and recommendations. 97451

(6) Not later than fifteen days after the date the hearing 97452
officer files the report and recommendations, the medicaid 97453
~~director of job and family services~~ or the director of the 97454
contracting agency shall issue an order approving, modifying, or 97455
disapproving the report and recommendations of the hearing 97456
examiner. 97457

(D) If the department or agency imposes more than one remedy 97458
as the result of deficiencies cited in a single survey, the 97459

proceedings for all of the remedies shall be consolidated. If any 97460
of the remedies are imposed during the pendency of a hearing, as 97461
permitted by division (B) of this section, the consolidated 97462
hearing shall be conducted in accordance with division (C) of this 97463
section. The consolidation of the remedies for purposes of a 97464
hearing does not affect the effective dates prescribed in sections 97465
~~5111.35~~ 5165.60 to ~~5111.58~~ 5168.85 of the Revised Code. 97466

(E) If a contracting agency conducts administrative 97467
proceedings pertaining to remedies imposed under sections ~~5111.35~~ 97468
5165.60 to ~~5111.62~~ 5165.89 of the Revised Code, the department of 97469
~~job and family services~~ medicaid shall not be considered a party 97470
to the proceedings. 97471

Sec. ~~5111.61~~ 5165.88. (A)(1) Except as required by court 97472
order, as necessary for the administration or enforcement of any 97473
statute relating to nursing facilities, or as provided in division 97474
(C) of this section, the department of ~~job and family services~~ 97475
medicaid and any contracting agency shall not release any of the 97476
following information without the permission of the individual or 97477
the individual's legal representative: 97478

(a) The identity of any resident of a nursing facility; 97479

(b) The identity of any individual who submits a complaint 97480
about a nursing facility; 97481

(c) The identity of any individual who provides the 97482
department or agency with information about a nursing facility and 97483
has requested confidentiality; 97484

(d) Any information that reasonably would tend to disclose 97485
the identity of any individual described in division (A)(1)(a) to 97486
(c) of this section. 97487

(2) An agency or individual to whom the department or 97488
contracting agency is required, by court order or for the 97489

administration or enforcement of a statute relating to nursing 97490
facilities, to release information described in division (A)(1) of 97491
this section shall not release the information without the 97492
permission of the individual who would be or would reasonably tend 97493
to be identified, or of the individual's legal representative, 97494
unless the agency or individual is required to release it by 97495
division (C) of this section, by court order, or for the 97496
administration or enforcement of a statute relating to nursing 97497
facilities. 97498

(B) Except as provided in division (C) of this section, any 97499
record that identifies an individual described in division (A)(1) 97500
of this section or that reasonably would tend to identify such an 97501
individual is not a public record for the purposes of section 97502
149.43 of the Revised Code, and is not subject to inspection and 97503
copying under section 1347.08 of the Revised Code. 97504

(C) If the department or a contracting agency, or an agency 97505
or individual to whom the department or contracting agency was 97506
required by court order or for administration or enforcement of a 97507
statute relating to nursing facilities to release information 97508
described in division (A)(1) of this section, uses information in 97509
any administrative or judicial proceeding against a facility that 97510
reasonably would tend to identify an individual described in 97511
division (A)(1) of this section, the department, agency, or 97512
individual shall disclose that information to the facility. 97513
However, the department, agency, or individual shall not disclose 97514
information that directly identifies an individual described in 97515
divisions (A)(1)(a) to (c) of this section, unless the individual 97516
is to testify in the proceedings. 97517

(D) No person shall knowingly register a false complaint 97518
about a nursing facility with the department or a contracting 97519
agency, or knowingly swear or affirm the truth of a false 97520
complaint, when the allegation is made for the purpose of 97521

incriminating another. 97522

~~Sec. 5111.63 5165.89. For the purposes of this section, "facility," "medicare," and "medicaid" have the same meanings as in section 3721.10 of the Revised Code.~~ 97523
97524
97525

The department of health shall be the designee of the 97526
department of ~~job and family services~~ medicaid for the purpose of 97527
conducting a hearing pursuant to section 3721.162 of the Revised 97528
Code concerning a nursing facility's decision to transfer or 97529
discharge a resident if the resident is a medicaid recipient or 97530
medicare beneficiary. 97531

~~Sec. 5111.99 5165.99.~~ (A) Whoever violates ~~division (B) of~~ 97532
section ~~5111.26~~ 5165.102 or division (E) of section ~~5111.31~~ 97533
5165.08 of the Revised Code shall be fined not less than five 97534
hundred dollars nor more than one thousand dollars for the first 97535
offense and not less than one thousand dollars nor more than five 97536
thousand dollars for each subsequent offense. Fines paid under 97537
this section shall be deposited in the state treasury to the 97538
credit of the general revenue fund. 97539

(B) Whoever violates division (D) of section ~~5111.61~~ 5165.88 97540
of the Revised Code is guilty of registering a false complaint, a 97541
misdemeanor of the first degree. 97542

Sec. 5166.01. As used in this chapter: 97543

"Administrative agency" means, with respect to a home and 97544
community-based services medicaid waiver component, the department 97545
of medicaid or, if a state agency or political subdivision 97546
contracts with the department under section 5162.35 of the Revised 97547
Code to administer the component, that state agency or political 97548
subdivision. 97549

"Dual eligible individual" has the same meaning as in section 97550

5160.01 of the Revised Code. 97551

"Home and community-based services medicaid waiver component" 97552
means a medicaid waiver component under which home and 97553
community-based services are provided as an alternative to 97554
hospital services, nursing facility services, or ICF/MR services. 97555

"Hospital" has the same meaning as in section 3727.01 of the 97556
Revised Code. 97557

"Hospital long-term care unit" has the same meaning as in 97558
section 5168.40 of the Revised Code. 97559

"ICDS participant" means a dual eligible individual who 97560
participates in the integrated care delivery system. 97561

"ICF/MR" and "ICF/MR services" have the same meanings as in 97562
section 5124.01 of the Revised Code. 97563

"Integrated care delivery system" and "ICDS" mean the 97564
demonstration project authorized by section 5164.91 of the Revised 97565
Code. 97566

"Level of care determination" means a determination of 97567
whether an individual needs the level of care provided by a 97568
hospital, nursing facility, or ICF/MR and whether the individual, 97569
if determined to need that level of care, would receive hospital 97570
services, nursing facility services, or ICF/MR services if not for 97571
a home and community-based services medicaid waiver component. 97572

"Medicaid services" has the same meaning as in section 97573
5164.01 of the Revised Code. 97574

"Medicaid waiver component" means a component of the medicaid 97575
program authorized by a waiver granted by the United States 97576
department of health and human services under the "Social Security 97577
Act," section 1115 or 1915, 42 U.S.C. 1315 or 1396n. "Medicaid 97578
waiver component" does not include a care management system 97579
established under section 5167.03 of the Revised Code. 97580

"Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code. 97581
97582

"Ohio home care waiver program" means the home and community-based services medicaid waiver component that is known as Ohio home care and was created pursuant to section 5166.11 of the Revised Code. 97583
97584
97585
97586

"Ohio transitions II aging carve-out program" means the home and community-based services medicaid waiver component that is known as Ohio transitions II aging carve-out and was created pursuant to section 5166.11 of the Revised Code. 97587
97588
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97590

"Provider agreement" has the same meaning as in section 5164.01 of the Revised Code. 97591
97592

"Residential treatment facility" means a residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds. 97593
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"Skilled nursing facility" has the same meaning as in section 5165.01 of the Revised Code. 97601
97602

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5166.14 of the Revised Code. 97603
97604
97605

~~Sec. 5111.85 5166.02. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code:~~ 97606
97607

~~"Home and community based services medicaid waiver component" means a medicaid waiver component under which home and community based services are provided as an alternative to~~ 97608
97609
97610

~~hospital, nursing facility, or intermediate care facility for the~~ 97611
~~mentally retarded services.~~ 97612

~~"Hospital" has the same meaning as in section 3727.01 of the~~ 97613
~~Revised Code.~~ 97614

~~"Intermediate care facility for the mentally retarded" has~~ 97615
~~the same meaning as in section 5111.20 of the Revised Code.~~ 97616

~~"Medicaid waiver component" means a component of the medicaid~~ 97617
~~program authorized by a waiver granted by the United States~~ 97618
~~department of health and human services under section 1115 or 1915~~ 97619
~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.~~ 97620
~~1315 or 1396n. "Medicaid waiver component" does not include a care~~ 97621
~~management system established under section 5111.16 of the Revised~~ 97622
~~Code.~~ 97623

~~"Nursing facility" has the same meaning as in section 5111.20~~ 97624
~~of the Revised Code.~~ 97625

~~(B) The medicaid director of job and family services may~~ 97626
~~shall adopt rules ~~under~~ in accordance with Chapter 119. of the~~ 97627
~~Revised Code governing medicaid waiver components ~~that~~. The rules~~ 97628
~~may establish all of the following:~~ 97629

(1) Eligibility requirements for the medicaid waiver 97630
components; 97631

(2) The type, amount, duration, and scope of medicaid 97632
services the medicaid waiver components provide cover; 97633

(3) The conditions under which the medicaid waiver components 97634
cover medicaid services; 97635

(4) The ~~amount~~ amounts the medicaid waiver components pay for 97636
medicaid services or the ~~method~~ methods by which the ~~amount is~~ 97637
amounts are determined; 97638

(5) The ~~manner~~ manners in which the medicaid waiver 97639
components pay for medicaid services; 97640

(6) Safeguards for the health and welfare of medicaid recipients receiving medicaid services under a medicaid waiver component; 97641
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(7) Procedures for prioritizing and approving for enrollment individuals who are eligible for a home and community-based services medicaid waiver component and choose to be enrolled in the component; 97644
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(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating ~~medicaid~~ provider agreements. The procedures shall include due process protections. 97648
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(9) Other policies necessary for the efficient administration of the medicaid waiver components. 97654
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~~(C)~~(B) The director of ~~job and family services~~ may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component. 97656
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~~(D)~~(C) The following apply to procedures established under division ~~(B)~~(A)(7) of this section: 97660
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(1) Any such procedures established for the medicaid-funded component of the PASSPORT program shall be consistent with section ~~173.401~~ 173.521 of the Revised Code. 97662
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(2) Any such procedures established for the medicaid-funded component of the assisted living program shall be consistent with section 173.542 of the Revised Code. 97665
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(3) Any such procedures established for the Ohio home care waveur program shall be consistent with section ~~5111.862~~ 5166.121 of the Revised Code. 97668
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~~(3)(4)~~ Any such procedures established for the unified 97671
long-term services and support medicaid waiver program shall be 97672
consistent with section ~~5111.865~~ 5166.141 of the Revised Code. 97673

~~(4)~~ Any such procedures established for the medicaid funded 97674
component of the assisted living program shall be consistent with 97675
section ~~5111.894~~ of the Revised Code. 97676

Sec. ~~5111.84~~ 5166.03. The medicaid director of ~~job and family~~ 97677
~~services~~ may not submit a request to the United States secretary 97678
of health and human services for a medicaid waiver under ~~section~~ 97679
~~1115~~ of the "Social Security Act of ~~1935~~," section 1115, 42 U.S.C. 97680
1315, unless the director provides the speaker of the house of 97681
representatives and president of the senate written notice of the 97682
director's intent to submit the request at least ten days before 97683
the date the director submits the request to the United States 97684
secretary. The notice shall include a detailed explanation of the 97685
medicaid waiver the director proposes to seek. 97686

Sec. ~~5111.851~~ 5166.04. ~~(A) As used in sections 5111.851 to~~ 97687
~~5111.855 of the Revised Code:~~ 97688

~~"Administrative agency" means, with respect to a home and~~ 97689
~~community based services medicaid waiver component, the department~~ 97690
~~of job and family services or, if a state agency or political~~ 97691
~~subdivision contracts with the department under section 5111.91 of~~ 97692
~~the Revised Code to administer the component, that state agency or~~ 97693
~~political subdivision.~~ 97694

~~"Level of care determination" means a determination of~~ 97695
~~whether an individual needs the level of care provided by a~~ 97696
~~hospital, nursing facility, or intermediate care facility for the~~ 97697
~~mentally retarded and whether the individual, if determined to~~ 97698
~~need that level of care, would receive hospital, nursing facility,~~ 97699
~~or intermediate care facility for the mentally retarded services~~ 97700

~~if not for a home and community based services medicaid waiver component.~~ 97701
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~~"Medicaid buy in for workers with disabilities program" means the component of the medicaid program established under sections 5111.70 to 5111.7011 of the Revised Code.~~ 97703
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~~"Skilled nursing facility" means a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.~~ 97706
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~~(B)~~ The following requirements apply to each home and community-based services medicaid waiver component: 97709
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~~(1)(A)~~ Only an individual who qualifies for a component shall receive that component's medicaid services. 97711
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~~(2)(B)~~ A level of care determination shall be made as part of the process of determining whether an individual qualifies for a component and shall be made each year after the initial determination if, during such a subsequent year, the administrative agency determines there is a reasonable indication that the individual's needs have changed. 97713
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~~(3)(C)~~ A written plan of care or individual service plan based on an individual assessment of the medicaid services that an individual needs to avoid needing admission to a hospital, nursing facility, or ~~intermediate care facility for the mentally retarded~~ ICF/MR shall be created for each individual determined eligible for a component. 97719
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~~(4)(D)~~ Each individual determined eligible for a component shall receive that component's medicaid services in accordance with the individual's level of care determination and written plan of care or individual service plan. 97725
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~~(5)(E)~~ No individual may receive medicaid services under a component while the individual is a hospital inpatient or resident 97729
97730

of a skilled nursing facility, nursing facility, or ~~intermediate~~ 97731
~~care facility for the mentally retarded~~ ICF/MR. 97732

~~(6)~~(F) No individual may receive prevocational, educational, 97733
or supported employment services under a component if the 97734
individual is eligible for such services that are funded with 97735
federal funds provided under 29 U.S.C. 730 or the "Individuals 97736
with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 97737
1400, as amended. 97738

~~(7)~~(G) Safeguards shall be taken to protect the health and 97739
welfare of individuals receiving medicaid services under a 97740
component, including safeguards established in rules adopted under 97741
section ~~5111.85~~ 5166.02 of the Revised Code and safeguards 97742
established by licensing and certification requirements that are 97743
applicable to the providers of that component's medicaid services. 97744

~~(8)~~(H) No medicaid services may be provided under a component 97745
by a provider that is subject to standards that the "Social 97746
Security Act," section 1616(e)(1), 42 U.S.C. 1382e(e)(1), requires 97747
be established if the provider fails to comply with the standards 97748
applicable to the provider. 97749

~~(9)~~(I) Individuals determined to be eligible for a component, 97750
or such individuals' representatives, shall be informed of that 97751
component's medicaid services, including any choices that the 97752
individual or representative may make regarding the component's 97753
medicaid services, and given the choice of either receiving 97754
medicaid services under that component or, as appropriate, 97755
hospital services, nursing facility services, or ~~intermediate care~~ 97756
~~facility for the mentally retarded~~ ICF/MR services. 97757

~~(10)~~ No individual shall lose eligibility for services under 97758
a component, or have the services reduced or otherwise disrupted, 97759
on the basis that the individual also receives services under the 97760
medicaid buy in for workers with disabilities program. 97761

~~(11) No individual shall lose eligibility for services under a component, or have the services reduced or otherwise disrupted, on the basis that the individual's income or resources increase to an amount above the eligibility limit for the component if the individual is participating in the medicaid buy in for workers with disabilities program and the amount of the individual's income or resources does not exceed the eligibility limit for the medicaid buy in for workers with disabilities program.~~

~~(12) No individual receiving services under a component shall be required to pay any cost sharing expenses for the services for any period during which the individual also participates in the medicaid buy in for workers with disabilities program.~~

Sec. 5111.852 5166.05. The department of ~~job and family services~~ medicaid may review and approve, modify, or deny written plans of care and individual service plans that section ~~5111.851~~ 5166.04 of the Revised Code requires be created for individuals determined eligible for a home and community-based services medicaid waiver component. If a state agency or political subdivision contracts with the department under section ~~5111.91~~ 5162.35 of the Revised Code to administer a home and community-based services medicaid waiver component and approves, modifies, or denies a written plan of care or individual service plan pursuant to the agency's or subdivision's administration of the component, the department may review the agency's or subdivision's approval, modification, or denial and order the agency or subdivision to reverse or modify the approval, modification, or denial. The state agency or political subdivision shall comply with the department's order.

The department of ~~job and family services~~ medicaid shall be granted full and immediate access to any records the department needs to implement its duties under this section.

Sec. ~~5111.853~~ 5166.06. Each administrative agency shall 97793
maintain, for a period of time the department of ~~job and family~~ 97794
~~services~~ medicaid shall specify, financial records documenting the 97795
costs of medicaid services provided under the home and 97796
community-based services medicaid waiver components that the 97797
agency administers, including records of independent audits. The 97798
administrative agency shall make the financial records available 97799
on request to the United States secretary of health and human 97800
services, United States comptroller general, and their designees. 97801

Sec. ~~5111.854~~ 5166.07. Each administrative agency is 97802
financially accountable for funds expended for medicaid services 97803
~~provided under~~ covered by the home and community-based services 97804
medicaid waiver components that the agency administers. 97805

Sec. ~~5111.855~~ 5166.08. Each state agency and political 97806
subdivision that enters into a contract with the department of ~~job~~ 97807
~~and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the 97808
Revised Code to administer a home and community-based services 97809
medicaid waiver component, or one or more aspects of such a 97810
component, shall provide the department a written assurance that 97811
the agency or subdivision will not violate any of the requirements 97812
of sections ~~5111.85~~ 5166.01 to ~~5111.854~~ 5166.07 of the Revised 97813
Code. 97814

Sec. ~~5111.856~~ 5166.10. To the extent necessary for the 97815
efficient and economical administration of medicaid waiver 97816
components, the department of ~~job and family services~~ medicaid may 97817
transfer an individual enrolled in a medicaid waiver component 97818
administered by the department to another medicaid waiver 97819
component the department administers if the individual is eligible 97820
for the medicaid waiver component and the transfer does not 97821
jeopardize the individual's health or safety. 97822

~~Sec. 5111.86~~ 5166.11. (A) As used in this section+ 97823

~~(1) "Hospital" has the same meaning as in section 3727.01 of~~ 97824
~~the Revised Code.~~ 97825

~~(2) "Medicaid waiver component" has the same meaning as in~~ 97826
~~section 5111.85 of the Revised Code.~~ 97827

~~(3) "Nursing facility" has the same meaning as in section~~ 97828
~~5111.20 of the Revised Code.~~ 97829

~~(4),~~ "Ohio home care program" means the program the 97830
department of ~~job and family services~~ medicaid administers that 97831
provides state plan services and medicaid waiver component 97832
services pursuant to rules adopted ~~under sections 5111.01 and~~ 97833
~~5111.02 of the Revised Code~~ for the medicaid program and a 97834
medicaid waiver that went into effect July 1, 1998. 97835

(B) The ~~director~~ department of ~~job and family services~~ 97836
medicaid may ~~submit requests to the United States secretary of~~ 97837
~~health and human services pursuant to section 1915 of the "Social~~ 97838
~~Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended,~~ 97839
~~to obtain waivers of federal medicaid requirements that would~~ 97840
~~otherwise be violated in the creation and implementation of~~ create 97841
and administer two or more medicaid waiver components under which 97842
home and community-based services are provided to eligible 97843
individuals who need the level of care provided by a nursing 97844
facility or hospital. In administering the ~~requests~~ medicaid 97845
waiver components, the ~~director~~ department may specify the 97846
following: 97847

(1) The maximum number of individuals who may be enrolled in 97848
each of the medicaid waiver components ~~included in the requests;~~ 97849

(2) The maximum amount the medicaid program may expend each 97850
year for each individual enrolled in the medicaid waiver 97851
components; 97852

(3) The maximum amount the medicaid program may expend each year for all individuals enrolled in the medicaid waiver components; 97853
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(4) Any other requirements the ~~director~~ department selects for the medicaid waiver components. 97856
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~~(C) If the secretary approves the medicaid waivers requested under this section, the director may create and implement the medicaid waiver components in accordance with the provisions of the approved waivers. The department of job and family services shall administer the medicaid waiver components.~~ 97858
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~~(D) After the first of any of the medicaid waiver components created that the department administers under this section begins to enroll eligible individuals, the ~~director~~ department may ~~submit to the United States secretary of health and human services an amendment to a medicaid waiver component of the Ohio home care program authorizing the department to cease enrolling~~ to enroll additional individuals in ~~that a~~ a medicaid waiver component of the Ohio home care program. ~~If the secretary approves the amendment, the director may cease to enroll additional individuals in that medicaid waiver component of the Ohio home care program.~~~~ 97863
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Sec. ~~5111.861~~ 5166.12. ~~(A) As used in this section:~~ 97873

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 97874
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~~"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~ 97876
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~~(B) Subject to division (C) of this section, there is hereby created the Ohio home care program. The program shall provide home and community based services. The department of job and family services medicaid shall administer the program.~~ 97879
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~~(C)~~ If the unified long-term services and support medicaid waiver component is created, the departments of aging and ~~job and family services~~ medicaid shall ~~work together~~ collaborate to determine whether the Ohio home care waiver program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio home care waiver program should be terminated, the program shall cease to exist on a date the departments shall specify.

Sec. ~~5111.862~~ 5166.121. (A) ~~As used in this section:~~

~~"Hospital long term care unit" has the same meaning as in section 3721.50 of the Revised Code.~~

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~"Ohio home care program" means the medicaid waiver component created under section 5111.861 of the Revised Code.~~

~~"Residential treatment facility" means a residential facility licensed by the department of mental health under section 5119.22 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds.~~

~~(B)~~ Subject to division ~~(C)~~ of Unless the Ohio home care waiver program is terminated pursuant to section 5111.861 5165.12 of the Revised Code, the department of ~~job and family services~~ medicaid shall establish a home first component for the Ohio home care waiver program. An individual is eligible for the Ohio home care waiver program's home first component if the individual has been determined to be eligible for the Ohio home care waiver program and at least one of the following applies:

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care waiver program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care waiver program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care waiver program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual applies for the Ohio home care waiver program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time the individual applies for the Ohio home care waiver program.

(6) At the time the individual applies for the Ohio home care waiver program, the individual participates in the money follows the person demonstration project authorized by section 6071 of the "Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, and either resides in a residential treatment facility or inpatient hospital setting.

~~(C)~~(B) An individual determined to be eligible for the home first component of the Ohio home care waiver program shall be enrolled in the ~~Ohio home care~~ program in accordance with rules adopted under section ~~5111.85~~ 5166.02 of the Revised Code.

~~Sec. 5111.863 5166.13. (A) As used in this section:~~ 97944

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 97945
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~~"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~ 97947
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~~(B) Subject to division (C) of this section, there is hereby created the Ohio transitions II aging carve out program. The program shall provide home and community based services. The department of job and family services shall administer the program.~~ 97950
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~~(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services medicaid shall ~~work together~~ collaborate to determine whether the Ohio transitions II aging carve-out program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio transitions II aging carve-out program should be terminated, the program shall cease to exist on a date the departments shall specify.~~ 97955
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~~Sec. 5111.864 5166.14. (A) As used in this section:~~ 97964

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 97965
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~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 97967
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~~(B) The director department of job and family services medicaid shall submit a request to the United States secretary of health and human services pursuant to section 1915n of the "Social Security Act," 95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended,~~ 97969
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~~to obtain approval to create a unified long-term services and support medicaid waiver component to provide home and community-based services to eligible individuals of any age who require the level of care provided by nursing facilities. The director department of job and family services medicaid shall work collaborate with the director department of aging in seeking approval of the unified long term services and support medicaid waiver component and, if the approval is obtained, in creating and implementing the component.~~ 97973
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~~If the request to create the unified long term services and support medicaid waiver component is approved, the The medicaid director of job and family services, working shall collaborate with the director of aging, shall adopt when adopting rules under section 5111.85 5166.02 of the Revised Code to implement the component. The rules may authorize the director of aging to adopt rules in accordance with Chapter 119. of the Revised Code governing aspects of the unified long term services and support medicaid waiver component.~~ 97982
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Sec. 5111.865 5166.141. ~~(A) As used in this section, "unified long term services and support medicaid waiver program" or "program" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~ 97991
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~~(B) If the United States secretary of health and human services approves the request submitted under section 5111.864 of the Revised Code to create the unified long term services and support medicaid waiver program, the The department of job and family services medicaid shall establish a home first component for the unified long-term services and support medicaid waiver program. The home first component shall be similar to the home first component of the medicaid-funded component of the PASSPORT program established under section 173.401 173.521 of the Revised~~ 97995
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~~Code, the home first component of the Ohio home care program~~ 98004
~~established under section 5111.862 of the Revised Code, and the~~ 98005
home first component of the medicaid-funded component of the 98006
assisted living program established under section ~~5111.894~~ 173.542 98007
of the Revised Code, and the home first component of the Ohio home 98008
care waiver program established under section 5166.121 of the 98009
Revised Code. 98010

Sec. 5166.16. (A) As used in this section, "ODA or MCD 98011
medicaid waiver component" means all of the following: 98012

(1) The medicaid-funded component of the PASSPORT program, 98013
unless it is terminated pursuant to division (C) of section 173.52 98014
of the Revised Code; 98015

(2) The choices program, unless it is terminated pursuant to 98016
division (B) of section 173.53 of the Revised Code; 98017

(3) The medicaid-funded component of the assisted living 98018
program, unless it is terminated pursuant to division (C) of 98019
section 173.54 of the Revised Code; 98020

(4) The Ohio home care waiver program, unless it is 98021
terminated pursuant to section 5166.12 of the Revised Code; 98022

(5) The Ohio transitions II aging carve-out program, unless 98023
it is terminated pursuant to section 5166.13 of the Revised Code. 98024

(B) The medicaid director may create a home and 98025
community-based services medicaid waiver component as part of the 98026
integrated care delivery system. If the ICDS medicaid waiver 98027
component is created, both of the following apply: 98028

(1) The department of medicaid shall administer it; 98029

(2) When it begins to accept enrollments, no ICDS participant 98030
who is eligible for the ICDS medicaid waiver component shall be 98031
enrolled in an ODA or MCD medicaid waiver component regardless of 98032
whether the participant prefers to remain or be enrolled in an ODA 98033

or MCD medicaid waiver component. 98034

(C) A dual eligible individual who is eligible for an ODA or MCD medicaid waiver component may enroll in the component before the individual becomes an ICDS participant. The dual eligible individual shall disenroll from the ODA or MCD medicaid waiver component and enroll in the ICDS medicaid waiver component once the individual becomes an ICDS participant and it is possible to enroll the individual in the ICDS medicaid waiver component. The disenrollment from the ODA or MCD medicaid waiver component and enrollment into the ICDS medicaid waiver component shall occur regardless of whether the individual prefers to remain enrolled in the ODA or MCD medicaid waiver component. 98035
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(D) An ICDS participant's disenrollment from an ODA or MCD medicaid waiver component and enrollment in the ICDS medicaid waiver component resulting from division (B)(2) or (C) of this section shall be accomplished without a disruption in the participant's services under the components. 98046
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~~Sec. 5111.87 5166.20.~~ (A) ~~As used in this section and section 5111.871 of the Revised Code:~~ 98051
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~~(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.~~ 98053
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~~(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 98055
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~~(B) The director department of job and family services medicaid may apply to the United States secretary of health and human services for both of create the following:~~ 98057
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(1) One or more medicaid waiver components under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the 98060
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mentally retarded ICFs/MR; 98064

(2) One or more medicaid waiver components under which home 98065
and community-based services are provided in the form of any of 98066
the following: 98067

(a) Early intervention and supportive services for children 98068
under three years of age who have developmental delays or 98069
disabilities the ~~director~~ department determines are significant; 98070

(b) Therapeutic services for children who have autism; 98071

(c) Specialized habilitative services for individuals who are 98072
eighteen years of age or older and have autism. 98073

~~(C)~~(B) No medicaid waiver component ~~authorized by~~ created 98074
pursuant to division ~~(B)~~(A)(2)(b) or (c) of this section shall 98075
provide services that are available under another medicaid waiver 98076
component. No medicaid waiver component ~~authorized by~~ created 98077
pursuant to division ~~(B)~~(A)(2)(b) of this section shall provide 98078
services to an individual that the individual is eligible to 98079
receive through an individualized education program as defined in 98080
section 3323.01 of the Revised Code. 98081

~~(D)~~(C) The director of developmental disabilities ~~or~~ and 98082
director of health may request that the ~~director~~ department of ~~job~~ 98083
~~and family services~~ ~~apply for~~ medicaid ~~create~~ one or more medicaid 98084
~~waivers~~ waiver components under this section. 98085

~~(E)~~(D) Before ~~applying for~~ creating a medicaid waiver 98086
component under this section, the ~~director~~ department of ~~job and~~ 98087
~~family services~~ medicaid shall seek, accept, and consider public 98088
comments. 98089

Sec. ~~5111.871~~ 5166.21. The department of ~~job and family~~ 98090
~~services~~ medicaid shall enter into a contract with the department 98091
of developmental disabilities under section ~~5111.91~~ 5162.35 of the 98092
Revised Code with regard to one or more of the medicaid waiver 98093

~~components established~~ created by the department of ~~job and family~~ 98094
~~services~~ medicaid under section ~~5111.87~~ 5166.20 of the Revised 98095
Code. ~~Subject, if needed, to the approval of the United States~~ 98096
~~secretary of health and human services, the~~ The contract shall 98097
include the medicaid waiver component known as the transitions 98098
developmental disabilities waiver. The contract shall provide for 98099
the department of developmental disabilities to administer the 98100
components in accordance with the terms of the federal medicaid 98101
waivers authorizing the components. The contract shall include a 98102
schedule for the department of developmental disabilities to begin 98103
administering the transitions developmental disabilities waiver. 98104
~~The directors of job and family services and developmental~~ 98105
~~disabilities shall adopt rules in accordance with Chapter 119. of~~ 98106
~~the Revised Code governing the components.~~ 98107

If the department of developmental disabilities or the 98108
department of ~~job and family services~~ medicaid denies an 98109
individual's application for home and community-based services 98110
provided under any of these medicaid components, the department 98111
that denied the services shall give timely notice to the 98112
individual that the individual may ~~request a hearing under~~ appeal 98113
pursuant to section ~~5101.35~~ 5160.31 of the Revised Code. 98114

The departments of developmental disabilities and ~~job and~~ 98115
~~family services~~ medicaid may approve, reduce, deny, or terminate a 98116
medicaid service included in the individualized service plan 98117
developed for a medicaid recipient eligible for home and 98118
community-based services provided under any of these medicaid 98119
components. The departments shall consider the recommendations a 98120
county board of developmental disabilities makes under division 98121
(A)(1)(c) of section 5126.055 of the Revised Code. If either 98122
department approves, reduces, denies, or terminates a medicaid 98123
service, that department shall give timely notice to the medicaid 98124
recipient that the recipient may ~~request a hearing under~~ appeal 98125

pursuant to section ~~5101.35~~ 5160.31 of the Revised Code. 98126

If supported living, as defined in section 5126.01 of the 98127
Revised Code, is to be provided as a medicaid service under any of 98128
these components, any person or government entity with a current, 98129
valid ~~medicaid~~ provider agreement and a current, valid certificate 98130
under section 5123.161 of the Revised Code may provide the 98131
medicaid service. 98132

If a medicaid service is to be provided under any of these 98133
components by a residential facility, as defined in section 98134
5123.19 of the Revised Code, any person or government entity with 98135
a current, valid ~~medicaid~~ provider agreement and a current, valid 98136
license under section 5123.19 of the Revised Code may provide the 98137
medicaid service. 98138

Sec. ~~5111.872~~ 5166.22. (A) Subject to division (B) of this 98139
section, when the department of developmental disabilities 98140
allocates enrollment numbers to a county board of developmental 98141
disabilities for home and community-based services specified in 98142
division ~~(B)~~(A)(1) of section ~~5111.87~~ 5166.20 of the Revised Code 98143
and provided under any of the medicaid waiver components that the 98144
department administers under section ~~5111.871~~ 5166.21 of the 98145
Revised Code, the department shall consider all of the following: 98146

(1) The number of individuals with mental retardation or 98147
other developmental disability who are on a waiting list the 98148
county board establishes under section 5126.042 of the Revised 98149
Code for those services and are given priority on the waiting 98150
list; 98151

(2) The implementation component required by division (A)(3) 98152
of section 5126.054 of the Revised Code of the county board's plan 98153
approved under section 5123.046 of the Revised Code; 98154

(3) Anything else the department considers necessary to 98155

enable county boards to provide those services to individuals in 98156
accordance with the priority requirements for waiting lists 98157
established under section 5126.042 of the Revised Code for those 98158
services. 98159

(B) Division (A) of this section applies to home and 98160
community-based services provided under the medicaid waiver 98161
component known as the transitions developmental disabilities 98162
waiver only to the extent, if any, provided by the contract 98163
required by section ~~5111.871~~ 5166.21 of the Revised Code regarding 98164
the ~~waiver~~ component. 98165

Sec. ~~5111.873~~ 5166.23. (A) Subject to division (D) of this 98166
section, the medicaid director ~~of job and family services~~ shall 98167
adopt rules ~~in accordance with Chapter 119.~~ under section 5166.02 98168
of the Revised Code establishing the ~~amount of reimbursement~~ 98169
payment amounts or the methods by which the payment amounts ~~of~~ 98170
~~reimbursement~~ are to be determined for home and community-based 98171
services specified in division ~~(B)~~(A)(1) of section ~~5111.87~~ 98172
5166.20 of the Revised Code and provided under the components of 98173
the medicaid program that the department of developmental 98174
disabilities administers under section ~~5111.871~~ 5166.21 of the 98175
Revised Code. With respect to these rules, all of the following 98176
apply: 98177

(1) The rules shall establish procedures for the department 98178
of developmental disabilities to follow in arranging for the 98179
initial and ongoing collection of cost information from a 98180
comprehensive, statistically valid sample of persons and 98181
government entities providing the services at the time the 98182
information is obtained. 98183

(2) The rules shall establish procedures for the collection 98184
of consumer-specific information through an assessment instrument 98185
the department of developmental disabilities shall provide to the 98186

department of ~~job and family services~~ medicaid. 98187

(3) With the information collected pursuant to divisions 98188
(A)(1) and (2) of this section, an analysis of that information, 98189
and other information the director determines relevant, the rules 98190
shall establish ~~reimbursement~~ payment standards that do all of the 98191
following: 98192

(a) Assure that ~~reimbursement is~~ payment amounts are 98193
consistent with efficiency, economy, and quality of care; 98194

(b) Consider the intensity of consumer resource need; 98195

(c) Recognize variations in different geographic areas 98196
regarding the resources necessary to assure the health and welfare 98197
of consumers; 98198

(d) Recognize variations in environmental supports available 98199
to consumers. 98200

(B) As part of the process of adopting rules ~~under~~ authorized 98201
by this section, the director shall consult with the director of 98202
developmental disabilities, representatives of county boards of 98203
developmental disabilities, persons who provide the home and 98204
community-based services, and other persons and government 98205
entities the director identifies. 98206

(C) The ~~directors of job and family services~~ medicaid 98207
director and director of developmental disabilities shall review 98208
the rules ~~adopted under~~ authorized by this section at times they 98209
determine are necessary to ensure that the ~~amount of reimbursement~~ 98210
payment amounts or the methods by which the payment amounts ~~of~~ 98211
~~reimbursement~~ are to be determined continue to meet the 98212
~~reimbursement~~ payment standards established under division (A)(3) 98213
of this section. 98214

(D) This section applies to home and community-based services 98215
provided under the medicaid waiver component known as the 98216

transitions developmental disabilities waiver only to the extent, 98217
if any, provided by the contract required by section ~~5111.871~~ 98218
5166.21 of the Revised Code regarding the ~~waiver~~ component. 98219

Sec. ~~5111.88~~ 5166.30. (A) As used in sections ~~5111.88~~ 5166.30 98220
to ~~5111.8811~~ 5166.3010 of the Revised Code: 98221

(1) "Adult" means an individual at least eighteen years of 98222
age. 98223

(2) "Appropriate director" means the following: 98224

(a) The medicaid director in the context of all of the 98225
following: 98226

(i) The Ohio home care waiver program, unless it is 98227
terminated pursuant to section 5166.12 of the Revised Code; 98228

(ii) The Ohio transitions II aging carve-out program, unless 98229
it is terminated pursuant to section 5166.13 of the Revised Code; 98230

(iii) The integrated care delivery system medicaid waiver 98231
component authorized by section 5166.16 of the Revised Code. 98232

(b) The director of aging in the context of the 98233
medicaid-funded component of the PASSPORT program, unless it is 98234
terminated pursuant to division (C) of section 173.52 of the 98235
Revised Code. 98236

(3) "Authorized representative" means the following: 98237

(a) In the case of a consumer who is a minor, the consumer's 98238
parent, custodian, or guardian; 98239

(b) In the case of a consumer who is an adult, an individual 98240
selected by the consumer pursuant to section ~~5111.8810~~ 5166.3010 98241
of the Revised Code to act on the consumer's behalf for purposes 98242
regarding home care attendant services. 98243

~~(3)~~(4) "Authorizing health care professional" means a health 98244
care professional who, pursuant to section ~~5111.887~~ 5166.307 of 98245

the Revised Code, authorizes a home care attendant to assist a 98246
consumer with self-administration of medication, nursing tasks, or 98247
both. 98248

~~(4)~~(5) "Consumer" means an individual to whom all of the 98249
following apply: 98250

(a) The individual is enrolled in a participating medicaid 98251
waiver component. 98252

(b) The individual has a medically determinable physical 98253
impairment to which both of the following apply: 98254

(i) It is expected to last for a continuous period of not 98255
less than twelve months. 98256

(ii) It causes the individual to require assistance with 98257
activities of daily living, self-care, and mobility, including 98258
either assistance with self-administration of medication or the 98259
performance of nursing tasks, or both. 98260

(c) In the case of an individual who is an adult, the 98261
individual is mentally alert and is, or has an authorized 98262
representative who is, capable of selecting, directing the actions 98263
of, and dismissing a home care attendant. 98264

(d) In the case of an individual who is a minor, the 98265
individual has an authorized representative who is capable of 98266
selecting, directing the actions of, and dismissing a home care 98267
attendant. 98268

~~(5)~~(6) "Controlled substance" has the same meaning as in 98269
section 3719.01 of the Revised Code. 98270

~~(6)~~(7) "Custodian" has the same meaning as in section 98271
2151.011 of the Revised Code. 98272

~~(7)~~(8) "Gastrostomy tube" means a percutaneously inserted 98273
catheter that terminates in the stomach. 98274

~~(8)~~(9) "Guardian" has the same meaning as in section 2111.01 98275

of the Revised Code. 98276

~~(9)~~(10) "Health care professional" means a physician or 98277
registered nurse. 98278

~~(10)~~(11) "Home care attendant" means an individual holding a 98279
valid ~~medicaid~~ provider agreement in accordance with section 98280
~~5111.881~~ 5166.301 of the Revised Code that authorizes the 98281
individual to provide home care attendant services to consumers. 98282

~~(11)~~(12) "Home care attendant services" means all of the 98283
following as provided by a home care attendant: 98284

(a) Personal care aide services; 98285

(b) Assistance with the self-administration of medication; 98286

(c) Assistance with nursing tasks. 98287

~~(12)~~(13) "Jejunostomy tube" means a percutaneously inserted 98288
catheter that terminates in the jejunum. 98289

~~(13) "Medicaid waiver component" has the same meaning as in~~ 98290
~~section 5111.85 of the Revised Code.~~ 98291

(14) "Medication" means a drug as defined in section 4729.01 98292
of the Revised Code. 98293

(15) "Minor" means an individual under eighteen years of age. 98294

(16) "Participating medicaid waiver component" means ~~both~~ all 98295
of the following: 98296

(a) The medicaid-funded component of the PASSPORT program, 98297
unless it is terminated pursuant to division (C) of section 173.52 98298
of the Revised Code; 98299

(b) The Ohio home care waiver program created under, unless 98300
it is terminated pursuant to section ~~5111.861~~ 5166.12 of the 98301
Revised Code; 98302

~~(b)~~(c) The Ohio transitions II aging carve-out program 98303
created under, unless it is terminated pursuant to section 98304

5111.863 5166.13 of the Revised Code; 98305

(d) The integrated care delivery system medicaid waiver component authorized by section 5166.16 of the Revised Code. 98306
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(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 98308
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(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. 98311
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"Registered nurse" includes an advanced practice registered nurse, as defined in section 4723.01 of the Revised Code. 98314
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(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code. 98316
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(B) ~~The director of job and family services may submit requests to the United States secretary of health and human services to amend the federal medicaid waivers authorizing the participating~~ Participating medicaid waiver components ~~to have those components~~ may cover home care attendant services in accordance with sections ~~5111.88~~ 5166.30 to ~~5111.8810~~ 5166.3010 of the Revised Code and rules adopted under section ~~5111.8811~~ 5166.02 of the Revised Code. ~~Notwithstanding sections 5111.881 to 5111.8811 of the Revised Code, those sections shall be implemented regarding a participating medicaid waiver component only if the secretary approves a waiver amendment for the component.~~ 98319
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Sec. ~~5111.881~~ 5166.301. The medicaid director ~~of job and family services~~ shall enter into a medicaid provider agreement with an individual to authorize the individual to provide home care attendant services to consumers if the individual does both of the following: 98330
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(A) Agrees to comply with the requirements of sections	98335
5111.88 <u>5166.30</u> to 5111.8810 <u>5166.3010</u> and rules adopted under	98336
section 5111.8811 <u>5166.02</u> of the Revised Code;	98337
(B) Provides the director evidence satisfactory to the	98338
director of all of the following:	98339
(1) That the individual either meets the personnel	98340
qualifications specified in 42 C.F.R. 484.4 for home health aides	98341
or has successfully completed at least one of the following:	98342
(a) A competency evaluation program or training and	98343
competency evaluation program approved or conducted by the	98344
director of health under section 3721.31 of the Revised Code;	98345
(b) A training program approved by the department of job and	98346
family services <u>appropriate director</u> that includes training in at	98347
least all of the following and provides training equivalent to a	98348
training and competency evaluation program specified in division	98349
(B)(1)(a) of this section or meets the requirements of 42 C.F.R.	98350
484.36(a):	98351
(i) Basic home safety;	98352
(ii) Universal precautions for the prevention of disease	98353
transmission, including hand-washing and proper disposal of bodily	98354
waste and medical instruments that are sharp or may produce sharp	98355
pieces if broken;	98356
(iii) Personal care aide services;	98357
(iv) The labeling, counting, and storage requirements for	98358
schedule II, III, IV, and V medications.	98359
(2) That the individual has obtained a certificate of	98360
completion of a course in first aid from a first aid course to	98361
which all of the following apply:	98362
(a) It is not provided solely through the internet.	98363
(b) It includes hands-on training provided by a first aid	98364

instructor who is qualified to provide such training according to 98365
standards set in rules adopted under section ~~5111.8811~~ 5166.02 of 98366
the Revised Code. 98367

(c) It requires the individual to demonstrate successfully 98368
that the individual has learned the first aid taught in the 98369
course. 98370

(3) That the individual meets any other requirements for the 98371
medicaid provider agreement specified in rules adopted under 98372
section ~~5111.8811~~ 5166.02 of the Revised Code. 98373

Sec. ~~5111.882~~ 5166.302. A home care attendant shall complete 98374
not less than twelve hours of in-service continuing education 98375
regarding home care attendant services each year and provide the 98376
appropriate director ~~of job and family services~~ evidence 98377
satisfactory to the appropriate director that the attendant 98378
satisfied this requirement. The evidence shall be submitted to the 98379
appropriate director not later than the annual anniversary of the 98380
issuance of the home care attendant's initial ~~medicaid~~ provider 98381
agreement. 98382

Sec. ~~5111.883~~ 5166.303. A home care attendant shall do all of 98383
the following: 98384

(A) Maintain a clinical record for each consumer to whom the 98385
attendant provides home care attendant services in a manner that 98386
protects the consumer's privacy; 98387

(B) Participate in a face-to-face visit every ninety days 98388
with all of the following to monitor the health and welfare of 98389
each of the consumers to whom the attendant provides home care 98390
attendant services: 98391

(1) The consumer; 98392

(2) The consumer's authorized representative, if any; 98393

(3) A registered nurse who agrees to answer any questions that the attendant, consumer, or authorized representative has about consumer care needs, medications, and other issues. 98394
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(C) Document the activities of each visit required by division (B) of this section in the consumer's clinical record with the assistance of the registered nurse. 98397
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Sec. ~~5111.884~~ 5166.304. (A) A home care attendant may assist a consumer with nursing tasks or self-administration of medication only after the attendant does both of the following: 98400
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(1) Subject to division (B) of this section, completes consumer-specific training in how to provide the assistance that the authorizing health care professional authorizes the attendant to provide to the consumer; 98403
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(2) At the request of the consumer, consumer's authorized representative, or authorizing health care professional, successfully demonstrates that the attendant has learned how to provide the authorized assistance to the consumer. 98407
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(B) The training required by division (A)(1) of this section shall be provided by either of the following: 98411
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(1) The authorizing health care professional; 98413

(2) The consumer or consumer's authorized representative in cooperation with the authorizing health care professional. 98414
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Sec. ~~5111.885~~ 5166.305. A home care attendant shall comply with both of the following when assisting a consumer with nursing tasks or self-administration of medication: 98416
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(A) The written consent of the consumer or consumer's authorized representative provided to the appropriate director ~~of job and family services~~ under section ~~5111.886~~ 5166.306 of the Revised Code; 98419
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(B) The authorizing health care professional's written 98423
authorization provided to the appropriate director under section 98424
~~5111.887~~ 5166.307 of the Revised Code. 98425

Sec. ~~5111.886~~ 5166.306. To consent to a home care attendant 98426
assisting a consumer with nursing tasks or self-administration of 98427
medication, the consumer or consumer's authorized representative 98428
shall provide the appropriate director ~~of job and family services~~ 98429
a written statement signed by the consumer or authorized 98430
representative under which the consumer or authorized 98431
representative consents to both of the following: 98432

(A) Having the attendant assist the consumer with nursing 98433
tasks or self-administration of medication; 98434

(B) Assuming responsibility for directing the attendant when 98435
the attendant assists the consumer with nursing tasks or 98436
self-administration of medication. 98437

Sec. ~~5111.887~~ 5166.307. To authorize a home care attendant to 98438
assist a consumer with nursing tasks or self-administration of 98439
medication, a health care professional shall provide the 98440
appropriate director ~~of job and family services~~ a written 98441
statement signed by the health care professional that includes all 98442
of the following: 98443

(A) The consumer's name and address; 98444

(B) A description of the nursing tasks or self-administration 98445
of medication with which the attendant is to assist the consumer, 98446
including, in the case of assistance with self-administration of 98447
medication, the name and dosage of the medication; 98448

(C) The times or intervals when the attendant is to assist 98449
the consumer with the self-administration of each dosage of the 98450
medication or nursing tasks; 98451

(D) The dates the attendant is to begin and cease providing the assistance; 98452
98453

(E) A list of severe adverse reactions the attendant must report to the health care professional should the consumer experience one or more of the reactions; 98454
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98456

(F) At least one telephone number at which the attendant can reach the health care professional in an emergency; 98457
98458

(G) Instructions the attendant is to follow when assisting the consumer with nursing tasks or self-administration of medication, including instructions for maintaining sterile conditions and for storage of task-related equipment and supplies; 98459
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(H) The health care professional's attestation of both of the following: 98463
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(1) That the consumer or consumer's authorized representative has demonstrated to the health care professional the ability to direct the attendant; 98465
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98467

(2) That the attendant has demonstrated to the health care professional the ability to provide the consumer assistance with nursing tasks or self-administration of medication that the health care professional has specifically authorized the attendant to provide and that the consumer or consumer's authorized representative has indicated to the health care professional that the consumer or authorized representative is satisfied with the attendant's demonstration. 98468
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Sec. ~~5111.888~~ 5166.308. When authorizing a home care attendant to assist a consumer with nursing tasks or self-administration of medication, a health care professional may not authorize a home care attendant to do any of the following: 98476
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98479

(A) Perform a task that is outside of the health care professional's scope of practice; 98480
98481

(B) Assist the consumer with the self-administration of a medication, including a schedule II, schedule III, schedule IV, or schedule V drug unless both of the following apply:

(1) The medication is administered orally, topically, or via a gastrostomy tube or jejunostomy tube, including through any of the following:

(a) In the case of an oral medication, a metered dose inhaler;

(b) In the case of a topical medication, including a transdermal medication, either of the following:

(i) An eye, ear, or nose drop or spray;

(ii) A vaginal or rectal suppository.

(c) In the case of a gastrostomy tube or jejunostomy tube, only through a pre-programmed pump.

(2) The medication is in its original container and the label attached to the container displays all of the following:

(a) The consumer's full name in print;

(b) The medication's dispensing date, which must not be more than twelve months before the date the attendant assists the consumer with self-administration of the medication;

(c) The exact dosage and means of administration that match the health care professional's authorization to the attendant.

(C) Assist the consumer with the self-administration of a schedule II, schedule III, schedule IV, or schedule V medication unless, in addition to meeting the requirements of division (B) of this section, all of the following apply:

(1) The medication has a warning label on its container.

(2) The attendant counts the medication in the consumer's or authorized representative's presence when the medication is

administered to the consumer and records the count on a form used 98511
for the count as specified in rules adopted under section 98512
~~5111.8811~~ 5166.02 of the Revised Code. 98513

(3) The attendant recounts the medication in the consumer's 98514
or authorized representative's presence at least monthly and 98515
reconciles the recount on a log located in the consumer's clinical 98516
record. 98517

(4) The medication is stored separately from all other 98518
medications and is secured and locked at all times when not being 98519
administered to the consumer to prevent unauthorized access. 98520

(D) Perform an intramuscular injection; 98521

(E) Perform a subcutaneous injection unless it is for a 98522
routine dose of insulin; 98523

(F) Program a pump used to deliver a medication unless the 98524
pump is used to deliver a routine dose of insulin; 98525

(G) Insert, remove, or discontinue an intravenous access 98526
device; 98527

(H) Engage in intravenous medication administration; 98528

(I) Insert or initiate an infusion therapy; 98529

(J) Perform a central line dressing change. 98530

Sec. ~~5111.889~~ 5166.309. A home care attendant who provides 98531
home care attendant services to a consumer in accordance with the 98532
authorizing health care professional's authorization does not 98533
engage in the practice of nursing as a registered nurse or in the 98534
practice of nursing as a licensed practical nurse in violation of 98535
section 4723.03 of the Revised Code. 98536

A consumer or the consumer's authorized representative shall 98537
report to the appropriate director ~~of job and family services~~ if a 98538
home care attendant engages in the practice of nursing as a 98539

registered nurse or the practice of nursing as a licensed 98540
practical nurse beyond the authorizing health care professional's 98541
authorization. The appropriate director shall forward a copy of 98542
each report to the board of nursing. 98543

Sec. ~~5111.8810~~ 5166.3010. A consumer who is an adult may 98544
select an individual to act on the consumer's behalf for purposes 98545
regarding home care attendant services by submitting a written 98546
notice of the consumer's selection of an authorized representative 98547
to the appropriate director ~~of job and family services~~. The notice 98548
shall specifically identify the individual the consumer selects as 98549
authorized representative and may limit what the authorized 98550
representative may do on the consumer's behalf regarding home care 98551
attendant services. A consumer may not select the consumer's home 98552
care attendant to be the consumer's authorized representative. 98553
98554

Sec. ~~5111.97~~ 5166.35. (A) ~~As used in this section:~~ 98555

~~(1) "Home and community based services medicaid waiver 98556
component" has the same meaning as in section 5111.85 of the 98557
Revised Code.~~ 98558

~~(2) "Nursing facility" has the same meaning as in section 98559
5111.20 of the Revised Code.~~ 98560

~~(B) To the extent funds are available, the The medicaid 98561
director ~~of job and family services~~ may establish the Ohio access 98562
success project to help medicaid recipients make the transition 98563
from residing in a nursing ~~facility~~ facilities to residing in a 98564
community ~~setting~~ settings. The project may be established as a 98565
separate nonmedicaid program or integrated into a new or existing 98566
home and community-based services medicaid waiver component. The 98567
director shall permit any medicaid recipient ~~of medicaid funded~~ 98568
receiving nursing facility services to apply for participation in 98569~~

the project, but may limit the number of project participants. 98570

The director shall ensure that an assessment of an applicant 98571
is conducted as soon as practicable to determine whether the 98572
applicant is eligible for participation in the project. To the 98573
maximum extent possible, the assessment and eligibility 98574
determination shall be completed not later than the date that 98575
occurs six months after the applicant ~~became a recipient of~~ 98576
~~medicaid-funded~~ begins to receive nursing facility services. 98577

~~(C)~~(B) To be eligible for benefits under the project, a 98578
medicaid recipient must satisfy all of the following requirements: 98579

(1) The medicaid recipient must be ~~a recipient of~~ 98580
~~medicaid-funded~~ receiving nursing facility services, at the time 98581
of applying for the project benefits. 98582

(2) If the project is established as a nonmedicaid program, 98583
the medicaid recipient must be able to remain in the community as 98584
a result of receiving project benefits and the projected cost of 98585
the benefits to the project does not exceed eighty per cent of the 98586
average monthly medicaid cost of a medicaid recipient in a nursing 98587
facility. 98588

(3) If the project is integrated into a home and 98589
community-based services medicaid waiver component, the medicaid 98590
recipient must meet the waiver component's enrollment criteria. 98591

~~(D)~~(C) If the director establishes the Ohio access success 98592
project, the benefits provided under the project may include 98593
payment of all of the following: 98594

(1) The first month's rent in a community setting; 98595

(2) Rental deposits; 98596

(3) Utility deposits; 98597

(4) Moving expenses; 98598

(5) Other expenses not covered by the medicaid program that 98599

facilitate a medicaid recipient's move from a nursing facility to a community setting. 98600
98601

~~(E)~~(D) If the project is established as a nonmedicaid program, no participant may receive more than two thousand dollars' worth of benefits under the project. 98602
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~~(F)~~(E) If the department of ~~job and family services~~ medicaid enters into a contract with an entity to provide fiscal management services regarding the project, the contract may provide for a portion of a participant's benefits under the project to be paid to the contracting entity. The contract shall specify the portion to be paid to the contracting entity. 98605
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~~(G) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to create a home and community based services medicaid waiver component to serve individuals who meet the criteria for participation in the Ohio access success project.~~ 98611
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~~(H)~~(F) The director may adopt rules in accordance with Chapter 119. of the Revised Code for the administration and operation of the project. If the project is integrated into a home and community-based services medicaid waiver component, the rules shall be adopted under section ~~5111.85~~ 5166.02 of the Revised Code. 98617
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Sec. 5167.01. As used in this chapter: 98623

(A) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 98624
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(B) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code. 98626
98627

(C) "Emergency services" has the same meaning as in the "Social Security Act," section 1932(b)(2), 42 U.S.C. 98628
98629

<u>1396u-2(b)(2).</u>	98630
<u>(D) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.</u>	98631 98632 98633
<u>(E) "Medicaid managed care organization" means a managed care organization under contract with the department of medicaid pursuant to section 5167.10 of the Revised Code.</u>	98634 98635 98636
<u>(F) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.</u>	98637 98638
<u>(G) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.</u>	98639 98640
<u>(H) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.</u>	98641 98642
<u>(I) "Provider" means any person or government entity that furnishes services to a medicaid recipient enrolled in a medicaid managed care organization, regardless of whether the person or entity has a provider agreement.</u>	98643 98644 98645 98646
<u>(J) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.</u>	98647 98648
<u>Sec. 5167.02. The medicaid director shall adopt rules as necessary to implement this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.</u>	98649 98650 98651
<u>Sec. 5111.16 5167.03. (A) As part of the medicaid program, the department of job and family services medicaid shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.</u>	98652 98653 98654 98655 98656 98657 98658

(B) The department shall implement the care management system 98659
in some or all counties and shall designate the medicaid 98660
recipients who are required or permitted to participate in the 98661
system. In the department's implementation of the system and 98662
designation of participants, all of the following apply: 98663

(1) In the case of individuals who receive medicaid on the 98664
basis of being included in the category identified by the 98665
department as covered families and children, the department shall 98666
implement the care management system in all counties. All 98667
individuals included in the category shall be designated for 98668
participation, except for individuals included in one or more of 98669
the medicaid recipient groups specified in 42 C.F.R. 438.50(d). 98670
The department shall ensure that all participants are enrolled in 98671
medicaid managed care organizations that are health insuring 98672
~~corporations under contract with the department pursuant to~~ 98673
~~section 5111.17 of the Revised Code.~~ 98674

(2) In the case of individuals who receive medicaid on the 98675
basis of being aged, blind, or disabled, ~~as specified in division~~ 98676
~~(C)(2) of section 5111.01 of the Revised Code,~~ the department 98677
shall implement the care management system in all counties. Except 98678
as provided in division (C) of this section, all individuals 98679
included in the category shall be designated for participation. 98680
The department shall ensure that all participants are enrolled in 98681
medicaid managed care organizations that are health insuring 98682
~~corporations under contract with the department pursuant to~~ 98683
~~section 5111.17 of the Revised Code.~~ 98684

(3) Alcohol, drug addiction, and mental health services 98685
covered by medicaid shall not be included in any component of the 98686
care management system when the nonfederal share of the cost of 98687
those services is provided by a board of alcohol, drug addiction, 98688
and mental health services or a state agency other than the 98689
department of ~~job and family services~~ medicaid, but the recipients 98690

of those services may otherwise be designated for participation in the system. 98691
98692

(C)(1) In designating participants who receive medicaid on the basis of being aged, blind, or disabled, the department shall not include any of the following, except as provided under division (C)(2) of this section: 98693
98694
98695
98696

(a) Individuals who are under twenty-one years of age; 98697

(b) Individuals who are institutionalized; 98698

(c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements; 98699
98700
98701

(d) ~~Individuals who are dually Dual eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended individuals;~~ 98702
98703
98704
98705

(e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component, ~~as defined in section 5111.85 of the Revised Code.~~ 98706
98707
98708

(2) ~~If any necessary waiver of federal medicaid requirements is granted, the The department may designate any of the following individuals who receive medicaid on the basis of being aged, blind, or disabled as individuals who are permitted or required to participate in the care management system:~~ 98709
98710
98711
98712
98713

(a) Individuals who are under twenty-one years of age; 98714

(b) ~~Individuals who reside in a nursing facility, as defined in section 5111.20 of the Revised Code;~~ 98715
98716

(c) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component, ~~as defined in section 5111.85 of the Revised Code;~~ 98717
98718
98719
98720

~~(d) Individuals who are dually Dual eligible under the
medicaid program and the medicare program individuals.~~ 98721
98722

~~(D) Subject to division (B) of this section, the department
may do both of the following under the care management system:~~ 98723
98724

~~(1) Require or permit participants in the system to obtain
health care services from providers designated by the department;~~ 98725
98726

~~(2) Require or permit participants in the system to obtain
health care services through medicaid managed care organizations
under contract with the department pursuant to section 5111.17 of
the Revised Code.~~ 98727
98728
98729
98730

~~(E)(1) The department shall prepare an annual report on the
care management system. The report shall address the department's
ability to implement the system, including all of the following
components:~~ 98731
98732
98733
98734

~~(a) The required designation of participants included in the
category identified by the department as covered families and
children;~~ 98735
98736
98737

~~(b) The required designation of participants included in the
aged, blind, or disabled category of medicaid recipients;~~ 98738
98739

~~(c) The use of any programs for enhanced care management.~~ 98740

~~(2) The department shall submit each annual report to the
general assembly. The first report shall be submitted not later
than October 1, 2007.~~ 98741
98742
98743

~~(F) The director of job and family services may adopt rules
in accordance with Chapter 119. of the Revised Code to implement
this section.~~ 98744
98745
98746

Sec. ~~5111.161~~ 5167.031. (A) As used in this section: 98747

(1) "Children's care network" means any of the following: 98748

(a) A children's hospital; 98749

(b) A group of children's hospitals; 98750

(c) A group of pediatric physicians. 98751

(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code. 98752
98753

(B) If the department of ~~job and family services~~ medicaid 98754
includes in the care management system, pursuant to section 98755
~~5111.16~~ 5167.03 of the Revised Code, individuals under twenty-one 98756
years of age who are included in the category of individuals who 98757
receive medicaid on the basis of being aged, blind, or disabled, 98758
~~as specified in division (C)(2) of section 5111.01 of the Revised~~ 98759
~~Code,~~ the department ~~shall develop a system to~~ may recognize 98760
entities as pediatric accountable care organizations. ~~The purpose~~ 98761
~~of the recognition system shall be to meet the complex medical and~~ 98762
~~behavioral needs of disabled children through new approaches to~~ 98763
~~care coordination. The department shall implement the recognition~~ 98764
~~system not later than July 1, 2012.~~ 98765

An entity recognized by the department as a pediatric 98766
accountable care organization may develop innovative partnerships 98767
between relevant groups and may contract directly or subcontract 98768
with the state to provide care coordination and other services to 98769
the medicaid recipients under twenty-one years of age described in 98770
this division who are permitted or required to participate in the 98771
care management system. 98772

(C)(1) To be recognized by the department as a pediatric 98773
accountable care organization, an entity shall meet the standards 98774
established ~~in rules adopted under this section by the department.~~ 98775
Unless required by ~~sections~~ section 2706 ~~and 3022~~ of the "Patient 98776
Protection and Affordable Care Act," 124 Stat. 325 (2010) and 98777
~~Title XVIII of the "Social Security Act," 124 Stat. 395 (2010)~~ 98778
section 1895, 42 U.S.C. 1395jjj, the regulations adopted pursuant 98779
to those sections, and the laws of this state, the department 98780

shall not require that an entity be a health insuring corporation 98781
as a condition of receiving the department's recognition. 98782

(2) Any of the following entities may receive the 98783
department's recognition, if the standards for recognition have 98784
been met: 98785

(a) A children's care network; 98786

(b) A children's care network that may include one or more 98787
other entities, including, but not limited to, health insuring 98788
corporations or other managed care organizations; 98789

(c) Any other entity the department determines is qualified. 98790

(D) The ~~department~~ medicaid director shall consult with all 98791
of the following in adopting rules ~~under~~ authorized by division 98792
(E) of this section necessary for an entity to be recognized by 98793
the department as a pediatric accountable care organization: 98794

(1) The superintendent of insurance; 98795

(2) Children's hospitals; 98796

(3) ~~Managed Medicaid managed~~ care organizations ~~under~~ 98797
~~contract pursuant to section 5111.17 of the Revised Code;~~ 98798

(4) Any other relevant entities, as determined necessary by 98799
the department, with interests in pediatric accountable care 98800
organizations. 98801

(E) ~~The department shall adopt rules in accordance with~~ 98802
~~Chapter 119. of the Revised Code as necessary to implement this~~ 98803
~~section.~~ In adopting the rules under section 5167.02 of the 98804
Revised Code, the ~~department~~ medicaid director shall do all of the 98805
following: 98806

(1) Establish application procedures to be followed by an 98807
entity seeking recognition as a pediatric accountable care 98808
organization; 98809

(2) Ensure that the standards for recognition as a pediatric 98810
accountable care organization are the same as and do not conflict 98811
with those specified in ~~sections~~ section 2706 ~~and 3022~~ of the 98812
"Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) 98813
and ~~Title XVIII~~ of the "Social Security Act," ~~124 Stat. 395 (2010)~~ 98814
section 1895, 42 U.S.C. 1395jjj or the regulations adopted 98815
pursuant to those sections; 98816

(3) Establish requirements regarding the access to pediatric 98817
specialty care provided through or by a pediatric accountable care 98818
organization; 98819

(4) Establish accountability and financial requirements for 98820
an entity recognized as a pediatric accountable care organization; 98821

(5) Establish quality improvement initiatives consistent with 98822
any state medicaid quality plan established by the department; 98823

(6) Establish transparency and consumer protection 98824
requirements for an entity recognized as a pediatric accountable 98825
care organization; 98826

(7) Establish a process for sharing data. 98827

(F) This section does not limit the authority of the 98828
department of insurance to regulate the business of insurance in 98829
this state. 98830

Sec. 5167.032. (A) The department of medicaid shall prepare 98831
an annual report on the care management system established under 98832
this chapter. The report shall address the department's ability to 98833
implement the system, including all of the following components: 98834

(1) The required designation of participants included in the 98835
category identified by the department as covered families and 98836
children; 98837

(2) The required designation of participants included in the 98838
aged, blind, or disabled category of medicaid recipients; 98839

(3) The use of any programs for enhanced care management. 98840

(B) The department shall submit each annual report to the 98841
general assembly in accordance with section 101.68 of the Revised 98842
Code. 98843

Sec. ~~5111.17~~ 5167.10. (A) The department of ~~job and family~~ 98844
~~services~~ medicaid may enter into contracts with managed care 98845
organizations, including health insuring corporations, under which 98846
the organizations are authorized to provide, or arrange for the 98847
provision of, health care services to ~~medical assistance~~ medicaid 98848
recipients who are required or permitted to obtain health care 98849
services through managed care organizations as part of the care 98850
management system established under section ~~5111.16~~ 5167.03 of the 98851
Revised Code. 98852

(B) The (1) Subject to division (B)(2)(a) of this section, 98853
the department or its actuary shall base the hospital inpatient 98854
capital payment portion of the payment made to managed care 98855
organizations on data for services provided to all recipients 98856
enrolled in managed care organizations with which the department 98857
contracts, as reported by hospitals on relevant cost reports 98858
submitted pursuant to rules adopted under ~~this~~ section 5167.02 of 98859
the Revised Code. 98860

(2)(a) The hospital inpatient capital payment portion of the 98861
payment made to medicaid managed care organizations shall not 98862
exceed any maximum rate established by the department pursuant to 98863
rules adopted under this section. 98864

(b) If a maximum rate is established, a medicaid managed care 98865
organization shall not compensate hospitals for inpatient capital 98866
costs in an amount that exceeds that rate. 98867

(C) ~~The director of job and family services may adopt rules~~ 98868
~~in accordance with Chapter 119. of the Revised Code to implement~~ 98869

~~this section.~~ 98870

(D) The department of ~~job and family services~~ medicaid shall 98871
allow a medicaid managed care organization to use providers to 98872
render care upon completion of the medicaid managed care 98873
organization's credentialing process. 98874

Sec. ~~5111.177~~ 5167.11. When contracting under section ~~5111.17~~ 98875
5167.10 of the Revised Code with a health insuring corporation 98876
that holds a certificate of authority under Chapter 1751. of the 98877
Revised Code, the department of ~~job and family services~~ medicaid 98878
shall require the health insuring corporation to provide a 98879
grievance process for medicaid recipients in accordance with 42 98880
C.F.R. 438, subpart F. 98881

Sec. ~~5111.172~~ 5167.12. (A) When contracting under section 98882
~~5111.17~~ 5167.10 of the Revised Code with a managed care 98883
organization that is a health insuring corporation, the department 98884
of ~~job and family services~~ medicaid shall require the health 98885
insuring corporation to provide coverage of ~~prescription~~ 98886
prescribed drugs for medicaid recipients enrolled in the health 98887
insuring corporation. In providing the required coverage, the 98888
health insuring corporation may, subject to the department's 98889
approval and the limitations specified in division (B) of this 98890
section, use strategies for the management of drug utilization. 98891

(B) The department shall not permit a health insuring 98892
corporation to impose a prior authorization requirement in the 98893
case of a drug to which all of the following apply: 98894

(1) The drug is an antidepressant or antipsychotic. 98895

(2) The drug is administered or dispensed in a standard 98896
tablet or capsule form, except that in the case of an 98897
antipsychotic, the drug also may be administered or dispensed in a 98898
long-acting injectable form. 98899

(3) The drug is prescribed by either of the following: 98900

(a) A physician whom the health insuring corporation, 98901
pursuant to division (C) of section ~~5111.17~~ 5167.10 of the Revised 98902
Code, has credentialed to provide care as a psychiatrist; 98903

(b) A psychiatrist practicing at a community mental health 98904
~~agency services provider~~ certified by the department of ~~mental~~ 98905
~~health~~ mental health and addiction services under section ~~5119.611~~ 98906
5119.36 of the Revised Code. 98907

(4) The drug is prescribed for a use that is indicated on the 98908
drug's labeling, as approved by the federal food and drug 98909
administration. 98910

(C) ~~As used in this division, "controlled substance" has the~~ 98911
~~same meaning as in section 3719.01 of the Revised Code.~~ 98912

The department shall permit a health insuring corporation to 98913
develop and implement a pharmacy utilization management program 98914
under which prior authorization through the program is established 98915
as a condition of obtaining a controlled substance pursuant to a 98916
prescription. 98917

Sec. 5167.121. If a medicaid managed care organization 98918
intends to terminate a pharmacy's status as a provider of pharmacy 98919
services for the organization, it shall notify the pharmacy not 98920
less than ninety days before the termination takes effect. The 98921
notice shall be sent by regular mail to the pharmacy's address on 98922
record with the organization. 98923

~~Sec. 5111.179~~ 5167.13. Each contract the department of ~~job~~ 98924
~~and family services~~ medicaid enters into with a managed care 98925
organization under section ~~5111.17~~ 5167.10 of the Revised Code 98926
shall require the managed care organization to implement a 98927
coordinated services program for medicaid recipients enrolled in 98928
the organization who are found to have obtained ~~prescription~~ 98929

prescribed drugs under the medicaid program at a frequency or in 98930
an amount that is not medically necessary. The program shall be 98931
implemented in a manner that is consistent with ~~section 1915(a)(2)~~ 98932
~~of the "Social Security Act," 95 Stat. 810 (1981)~~ section 98933
1915(a)(2), 42 U.S.C. 1396n(a)(2), ~~as amended~~, and 42 C.F.R. 98934
431.54(e). 98935

Sec. ~~5111.1710~~ 5167.14. Each contract the department of ~~job~~ 98936
~~and family services~~ medicaid enters into with a managed care 98937
organization under section ~~5111.17~~ 5167.10 of the Revised Code 98938
shall require the managed care organization to enter into a data 98939
security agreement with the state board of pharmacy governing the 98940
managed care organization's use of the board's drug database 98941
established and maintained under section 4729.75 of the Revised 98942
Code. 98943

This section does not apply if the board no longer maintains 98944
the drug database. 98945

Sec. ~~5111.162~~ 5167.20. (A) ~~As used in this section:~~ 98946
~~(1) "Emergency services" has the same meaning as in section~~ 98947
~~1932(b)(2) of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 98948
~~U.S.C. 1396u-2(b)(2), as amended.~~ 98949

~~(2) "Medicaid managed care organization" means a managed care~~ 98950
~~organization that has entered into a contract with the department~~ 98951
~~of job and family services pursuant to section 5111.17 of the~~ 98952
~~Revised Code.~~ 98953

~~(B)~~ Except as provided in division ~~(C)~~ (B) of this section, 98954
when a participant in the care management system established under 98955
~~section 5111.16 of the Revised Code~~ this chapter is enrolled in a 98956
medicaid managed care organization and the organization refers the 98957
participant to receive services, other than emergency services 98958
provided on or after January 1, 2007, at a hospital that 98959

participates in the medicaid program but is not under contract 98960
with the organization, the hospital shall provide the service for 98961
which the referral was made and shall accept from the 98962
organization, as payment in full, the amount derived from the 98963
~~reimbursement~~ payment rate used by the department to ~~reimburse~~ pay 98964
other hospitals of the same type for providing the same service to 98965
a medicaid recipient who is not enrolled in a medicaid managed 98966
care organization. 98967

~~(C)~~(B) A hospital is not subject to division ~~(B)~~(A) of this 98968
section if all of the following are the case: 98969

(1) The hospital is located in a county in which participants 98970
in the care management system are required before January 1, 2006, 98971
to be enrolled in a medicaid managed care organization that is a 98972
health insuring corporation; 98973

(2) The hospital has entered into a contract before January 98974
1, 2006, with at least one health insuring corporation serving the 98975
participants specified in division ~~(C)~~(B)(1) of this section; 98976

(3) The hospital remains under contract with at least one 98977
health insuring corporation serving participants in the care 98978
management system who are required to be enrolled in a health 98979
insuring corporation. 98980

~~(D)~~(C) The medicaid director ~~of job and family services~~ shall 98981
adopt rules under section 5167.02 of the Revised Code specifying 98982
the circumstances under which a medicaid managed care organization 98983
is permitted to refer a participant in the care management system 98984
to a hospital that is not under contract with the organization. 98985
~~The director may adopt any other rules necessary to implement this~~ 98986
~~section. All rules adopted under this section shall be adopted in~~ 98987
~~accordance with Chapter 119. of the Revised Code.~~ 98988

Sec. ~~5111.163~~ 5167.201. ~~(A) As used in this section:~~ 98989

~~(1) "Emergency services" has the same meaning as in section 1932(b)(2) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-2(b)(2), as amended.~~

~~(2) "Medicaid managed care organization" has the same meaning as in section 5111.162 of the Revised Code.~~

~~(3) "Provider" means any person, institution, or entity that furnishes emergency services to a medicaid recipient enrolled in a medicaid managed care organization, regardless of whether the person, institution, or entity has a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act."~~

~~(B) When a participant in the care management system established under section 5111.16 of the Revised Code this chapter is enrolled in a medicaid managed care organization and receives emergency services on or after January 1, 2007, from a provider that is not under contract with the organization, the provider shall accept from the organization, as payment in full, not more than the amounts (less any payments for indirect costs of medical education and direct costs of graduate medical education) that the provider could collect if the participant received medicaid other than through enrollment in a managed care organization.~~

~~An agreement entered into by a participant, a participant's parent, or a participant's legal guardian that requires payment for emergency services in violation of this section is void and unenforceable.~~

Sec. ~~5111.982~~ 5167.21. (A) As used in this section:

(1) "Covered skilled nursing facility services" has the same meaning as in the "Social Security Act," section 1888(e)(2)(A), 42 U.S.C. 1395yy(e)(2)(A).

(2) "Current medicare fee-for-service rate" means the

fee-for-service rate in effect for a covered skilled nursing 99020
facility service under medicare at the time the service is 99021
provided. 99022

(3) "Skilled nursing facility" has the same meaning as in the 99023
"Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a). 99024

(B) Except as provided in division (C) of this section, a 99025
medicaid managed care organization shall pay a skilled nursing 99026
facility at least the current medicare fee-for-service rate, 99027
without deduction for any coinsurance, for covered skilled nursing 99028
facility services that the skilled nursing facility provides to a 99029
dual eligible individual if the medicaid managed care organization 99030
is responsible for the payment under the terms of a contract that 99031
the medicaid managed care organization, ~~medical assistance~~ 99032
medicaid director, and United States secretary of health and human 99033
services jointly enter into under the integrated care delivery 99034
system authorized by section ~~5111.981~~ 5164.91 of the Revised Code. 99035

(C) A medicaid managed care organization is required to pay 99036
the rate specified in division (B) of this section for covered 99037
skilled nursing facility services only if all of the following 99038
apply: 99039

(1) The United States secretary agrees to the payment rate as 99040
part of the contract that the medicaid managed care organization, 99041
~~medical assistance~~ medicaid director, and United States secretary 99042
jointly enter into under the integrated care delivery system; 99043

(2) The medicaid managed care organization receives a federal 99044
capitation payment that is an actuarially sufficient amount for 99045
the costs that the medicaid managed care organization incurs in 99046
paying the rate; 99047

(3) No state funds are used for any part of the costs that 99048
the medicaid managed care organization incurs in paying the rate; 99049

(4) The integrated care delivery system provides for dual 99050

eligible individuals to receive the covered skilled nursing 99051
facility services as part of the system. 99052

Sec. ~~5111.178~~ 5167.25. (A) The medicaid director ~~of job and~~ 99053
~~family services~~ shall determine whether a waiver of federal 99054
medicaid requirements is necessary to fulfill the requirements of 99055
section 3901.3814 of the Revised Code. If the director determines 99056
a waiver is necessary, the department of ~~job and family services~~ 99057
medicaid shall apply to the United States secretary of health and 99058
human services for the waiver. 99059

(B)(1) If the director determines that section 3901.3814 of 99060
the Revised Code can be implemented without a waiver or a waiver 99061
is granted, the department shall notify the department of 99062
insurance that the section can be implemented. Implementation of 99063
the section shall be effective eighteen months after the notice is 99064
sent. 99065

(2) At the time the notice is given under division (B)(1) of 99066
this section, the department shall also give notice to each health 99067
insuring corporation that provides coverage to medicaid 99068
recipients. The notice shall inform the corporation that sections 99069
3901.38 and 3901.381 to 3901.3814 of the Revised Code apply to 99070
claims for services rendered to recipients on the date determined 99071
under division (B)(1) of this section, instead of the prompt 99072
payment requirements of 42 C.F.R. 447.46. That date shall be 99073
specified in the notice. 99074

Sec. ~~5111.175~~ 5167.26. For the purpose of determining the 99075
amount the department of ~~job and family services~~ medicaid pays 99076
hospitals under section ~~5112.08~~ 5168.09 of the Revised Code and 99077
the amount of disproportionate share hospital payments paid by the 99078
medicare program ~~established under Title XVIII of~~ pursuant to the 99079
"Social Security Act," ~~79 Stat. 286 (1965)~~ section 1915, 42 U.S.C. 99080

1396n, ~~as amended,~~ a medicaid managed care organization ~~under~~ 99081
~~contract with the department pursuant to section 5111.17 of the~~ 99082
~~Revised Code authorizing the organization to provide, or arrange~~ 99083
~~for the provision of, hospital services to medicaid recipients~~ 99084
shall keep detailed records for each hospital with which it 99085
contracts ~~about,~~ including records regarding the cost to the 99086
hospital of providing ~~the~~ hospital services for the organization, 99087
payments made by the organization to the hospital for the 99088
services, utilization of hospital services by medicaid recipients 99089
enrolled in the organization, and other utilization data required 99090
by the department. 99091

Sec. ~~5111.1711~~ 5167.30. (A)(1) The department of ~~job and~~ 99092
~~family services~~ medicaid shall establish a managed care 99093
performance payment program. Under the program, the department may 99094
provide payments to medicaid managed care organizations ~~under~~ 99095
~~contract with the department pursuant to section 5111.17 of the~~ 99096
~~Revised Code~~ that meet performance standards established by the 99097
department. 99098

(2) In establishing performance standards, the department may 99099
consult any of the following: 99100

(a) Any quality measurements developed under the pediatric 99101
quality measures program established pursuant to the "Social 99102
Security Act," section 1139A, 42 U.S.C. 1320b-9a; 99103

(b) Any core set of adult health quality measures for 99104
medicaid eligible adults used for purposes of the "Social Security 99105
Act," section 1139A, 42 U.S.C. 1320b-9b, and any adult health 99106
quality used for purposes of the medicaid quality measurement 99107
program when the program is established under ~~42 U.S.C. 1320b-9b~~ 99108
that section of the "Social Security Act"; 99109

(c) The most recent healthcare effectiveness data and 99110
information set and quality measurement tool established by the 99111

national committee for quality assurance. 99112

(3) The standards that must be met to receive the payments 99113
may be specified in the contract the department enters into with a 99114
medicaid managed care organization. 99115

(4) If a medicaid managed care organization meets the 99116
performance standards established by the department, the 99117
department shall make one or more performance payments to the 99118
organization. The amount of each performance payment, the number 99119
of payments, and the schedule for making the payments shall be 99120
established by the department. The payments shall be discontinued 99121
if the department determines that the organization no longer meets 99122
the performance standards. The department shall not make or 99123
discontinue payments based on any performance standard that has 99124
been in effect as part of the organization's contract for less 99125
than six months. 99126

(B) For purposes of the program, the department shall 99127
establish an amount that is to be withheld each time a premium 99128
payment is made to a medicaid managed care organization. The 99129
amount shall be established as a percentage of each premium 99130
payment. The percentage shall be the same for all medicaid managed 99131
care organizations ~~under contract with the department~~. The sum of 99132
all withholdings under this division shall not exceed ~~one~~ two per 99133
cent of the total of all premium payments made to all medicaid 99134
managed care organizations ~~under contract with the department~~. 99135

Each medicaid managed care organization shall agree to the 99136
withholding as a condition of receiving or maintaining its 99137
~~medicaid~~ provider agreement with the department. 99138

When the amount is established and each time the amount is 99139
modified thereafter, the department shall certify the amount to 99140
the director of budget and management and begin withholding the 99141
amount from each premium the department pays to a medicaid managed 99142

care organization. 99143

~~(C) There is hereby created in the state treasury the managed 99144
care performance payment fund. The fund shall consist of amounts 99145
transferred to it by the director of budget and management for the 99146
purpose of the program. All investment earnings of the fund shall 99147
be credited to the fund. Amounts in the fund shall be used solely 99148
to make performance payments to managed care organizations in 99149
accordance with this section. 99150~~

~~(D) The department may adopt rules as necessary to implement 99151
this section. The rules shall be adopted in accordance with 99152
Chapter 119. of the Revised Code. 99153~~

Sec. ~~5111.171~~ 5167.31. The department of ~~job and family 99154
services~~ medicaid may provide financial incentive awards to 99155
medicaid managed care organizations ~~under contract with the 99156
department pursuant to section 5111.17 of the Revised Code that 99157
meet or exceed performance standards specified in provider 99158
agreements or rules adopted by the ~~department~~ medicaid director 99159
under section 5167.02 of the Revised Code. The department may 99160
specify in a contract with a medicaid managed care organization 99161
the amounts of financial incentive awards, methodology for 99162
distributing awards, types of awards, and standards for 99163
administration by the department. 99164~~

Sec. ~~5111.173~~ 5167.40. The department of ~~job and family 99165
services~~ medicaid shall appoint a temporary manager for a medicaid 99166
managed care organization under contract with the department 99167
pursuant to section 5111.17 of the Revised Code if the department 99168
determines that the medicaid managed care organization has 99169
repeatedly failed to meet substantive requirements specified in 99170
~~section 1903(m) of the "Social Security Act," 79 Stat. 286 (1965)~~ 99171
sections 1903(m) and 1932, 42 U.S.C. 1396b(m), as amended; section 99172

~~1932 of the Social Security Act, 42 U.S.C. and 1396u-2, as~~ 99173
~~amended; or 42 C.F.R. 438 Part I. The appointment of a temporary~~ 99174
~~manager does not preclude the department from imposing other~~ 99175
~~sanctions available to the department against the medicaid managed~~ 99176
~~care organization.~~ 99177

The medicaid managed care organization shall pay all costs of 99178
having the temporary manager perform the temporary manager's 99179
duties, including all costs the temporary manager incurs in 99180
performing those duties. If the temporary manager incurs costs or 99181
liabilities on behalf of the medicaid managed care organization, 99182
the medicaid managed care organization shall pay those costs and 99183
be responsible for those liabilities. 99184

The appointment of a temporary manager is not subject to 99185
Chapter 119. of the Revised Code, but the managed care 99186
organization may request a reconsideration of the appointment. 99187
Reconsiderations shall be requested and conducted in accordance 99188
with rules the ~~director of job and family services~~ medicaid 99189
director shall adopt ~~in accordance with Chapter 119. of~~ under 99190
section 5167.02 of the Revised Code. 99191

The appointment of a temporary manager does not cause the 99192
medicaid managed care organization to lose the right to appeal, in 99193
accordance with Chapter 119. of the Revised Code, any proposed 99194
termination or any decision not to ~~renew~~ revalidate the medicaid 99195
managed care organization's ~~medicaid~~ provider agreement or the 99196
right to initiate the sale of the medicaid managed care 99197
organization or its assets. 99198

~~In addition to the rules required to be adopted under this~~ 99199
~~section, the director may adopt any other rules necessary to~~ 99200
~~implement this section. The rules shall be adopted in accordance~~ 99201
~~with Chapter 119. of the Revised Code.~~ 99202

~~Sec. 5111.174~~ 5167.41. The department of ~~job and family~~ 99203
~~services~~ medicaid may disenroll some or all medicaid recipients 99204
enrolled in a medicaid managed care organization ~~under contract~~ 99205
~~with the department pursuant to section 5111.17 of the Revised~~ 99206
~~Code~~ if the department proposes to terminate or not to ~~renew~~ 99207
revalidate the contract and determines that the recipients' access 99208
to medically necessary services is jeopardized by the proposal to 99209
terminate or not to ~~renew~~ revalidate the contract. The 99210
disenrollment is not subject to Chapter 119. of the Revised Code, 99211
but the medicaid managed care organization may request a 99212
reconsideration of the disenrollment. Reconsiderations shall be 99213
requested and conducted in accordance with rules the medicaid 99214
~~director of job and family services~~ shall adopt ~~in accordance with~~ 99215
~~Chapter 119. under section 5167.02~~ of the Revised Code. The 99216
request for, or conduct of, a reconsideration regarding a proposed 99217
disenrollment shall not delay the disenrollment. 99218

~~In addition to the rules required to be adopted under this~~ 99219
~~section, the director may adopt any other rules necessary to~~ 99220
~~implement this section. The rules shall be adopted in accordance~~ 99221
~~with Chapter 119. of the Revised Code.~~ 99222

~~Sec. 5112.01~~ 5168.01. As used in sections ~~5112.03~~ 5168.01 to 99223
~~5112.21~~ 5168.14 of the Revised Code: 99224

(A) "Bad debt," "charity care," "courtesy care," and 99225
"contractual allowances" have the same meanings given these terms 99226
in regulations adopted under Title XVIII of the "Social Security 99227
Act," 42 U.S.C. 1395 et seq. 99228

(B) "Cost reporting period" means the twelve-month period 99229
used by a hospital in reporting costs for purposes of Title XVIII 99230
of the "Social Security Act," 42 U.S.C. 1395 et seq. 99231

(C) "Disproportionate share hospital" means a hospital that 99232

meets the definition of a disproportionate share hospital in rules 99233
adopted under section 5168.02 of the Revised Code. 99234

(D) "Federal poverty line" means the official poverty line 99235
defined by the United States office of management and budget based 99236
on the most recent data available from the United States bureau of 99237
the census and revised by the United States secretary of health 99238
and human services pursuant to the "Omnibus Budget Reconciliation 99239
Act of 1981," section 673(2), 42 U.S.C. 9902(2). 99240

(E) "Governmental hospital" means a county hospital with more 99241
than five hundred registered beds or a state-owned and -operated 99242
hospital with more than five hundred registered beds. 99243

(F)(1) "Hospital" means a nonfederal hospital to which either 99244
of the following applies: 99245

(a) The hospital is registered under section 3701.07 of the 99246
Revised Code as a general medical and surgical hospital or a 99247
pediatric general hospital, and provides inpatient hospital 99248
services, as defined in 42 C.F.R. 440.10; 99249

(b) The hospital is recognized under the medicare program 99250
established by Title XVIII of the "Social Security Act," 49 Stat. 99251
620 (1935), 42 U.S.C.A. 301, as amended, as a cancer hospital and 99252
is exempt from the medicare prospective payment system. 99253

(2) "Hospital" does not include a hospital operated by a 99254
health insuring corporation that has been issued a certificate of 99255
authority under section 1751.05 of the Revised Code or a hospital 99256
that does not charge patients for services. 99257

~~(2) "Disproportionate share hospital" means a hospital that~~ 99258
~~meets the definition of a disproportionate share hospital in rules~~ 99259
~~adopted under section 5112.03 of the Revised Code.~~ 99260

~~(B) "Bad debt," "charity care," "courtesy care," and~~ 99261
~~"contractual allowances" have the same meanings given these terms~~ 99262

~~in regulations adopted under Title XVIII of the "Social Security Act."~~ 99263
99264

~~(C) "Cost reporting period" means the twelve month period used by a hospital in reporting costs for purposes of Title XVIII of the "Social Security Act."~~ 99265
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99267

~~(D) "Governmental hospital" means a county hospital with more than five hundred registered beds or a state owned and operated hospital with more than five hundred registered beds.~~ 99268
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~~(E)~~(G) "Indigent care pool" means the sum of the following: 99271

(1) The total of assessments to be paid in a program year by all hospitals under section ~~5112.06~~ 5168.06 of the Revised Code, less the assessments deposited into the legislative budget services fund under section ~~5112.19~~ 5168.12 of the Revised Code and into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code; 99272
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(2) The total amount of intergovernmental transfers required to be made in the same program year by governmental hospitals under section ~~5112.07~~ 5168.07 of the Revised Code, less the amount of transfers deposited into the legislative budget services fund under section ~~5112.19~~ 5168.12 of the Revised Code and into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code; 99278
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(3) The total amount of federal matching funds that will be made available in the same program year as a result of funds distributed by the department of ~~job and family services~~ medicaid to hospitals under section ~~5112.08~~ 5168.09 of the Revised Code. 99285
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~~(F)~~(H) "Intergovernmental transfer" means any transfer of money by a governmental hospital under section ~~5112.07~~ 5168.07 of the Revised Code. 99289
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99291

~~(G) "Medical assistance program" means the program of medical~~ 99292

~~assistance established under section 5111.01 of the Revised Code~~ 99293
~~and Title XIX of the "Social Security Act."~~ 99294

~~(H)~~(I) "Medicaid services" has the same meaning as in section 99295
5164.01 of the Revised Code. 99296

(J) "Program year" means a period beginning the first day of 99297
October, or a later date designated in rules adopted under section 99298
~~5112.03~~ 5168.02 of the Revised Code, and ending the thirtieth day 99299
of September, or an earlier date designated in rules adopted under 99300
that section. 99301

~~(I)~~(K) "Registered beds" means the total number of hospital 99302
beds registered with the department of health, as reported in the 99303
most recent "directory of registered hospitals" published by the 99304
department of health. 99305

~~(J)~~(L) "Third-party payer" means any person or government 99306
entity that may be liable by law or contract to make payment to or 99307
on behalf of an individual for health care services. "Third-party 99308
payer" does not include a hospital. 99309

(M) "Total facility costs" means the total costs for all 99310
services rendered to all patients, including the direct, indirect, 99311
and overhead cost to the hospital of all services, supplies, 99312
equipment, and capital related to the care of patients, regardless 99313
of whether patients are enrolled in a health insuring corporation, 99314
excluding costs associated with providing skilled nursing services 99315
in distinct-part nursing facility units, as shown on the 99316
hospital's cost report filed under section ~~5112.04~~ 5168.05 of the 99317
Revised Code. Effective October 1, 1993, if rules adopted under 99318
section ~~5112.03~~ 5168.02 of the Revised Code so provide, "total 99319
facility costs" may exclude costs associated with providing care 99320
to recipients of any of the governmental programs listed in 99321
division (B) of that section. 99322

~~(K)~~(N) "Uncompensated care" means bad debt and charity care. 99323

~~Sec. 5112.03~~ 5168.02. (A) The ~~director of job and family~~ 99324
~~services shall adopt, and may amend and rescind, medicaid director~~ 99325
shall adopt rules in accordance with Chapter 119. of the Revised 99326
Code for the purpose of administering sections ~~5112.01~~ 5168.01 to 99327
~~5112.21~~ 5168.14 of the Revised Code, including rules that do all 99328
of the following: 99329

(1) Define as a "disproportionate share hospital" any 99330
hospital included under ~~subsection (b) of section 1923 of the~~ 99331
"Social Security Act," ~~49 Stat. 620 (1935)~~ section 1923(b), 42 99332
U.S.C.A. 1396r-4(b), ~~as amended~~, and any other hospital the 99333
director determines appropriate; 99334

(2) Prescribe the form for submission of cost reports under 99335
section ~~5112.04~~ 5168.05 of the Revised Code; 99336

(3) Establish, in accordance with division (A) of section 99337
~~5112.06~~ 5168.06 of the Revised Code, the assessment rate or rates 99338
to be applied to hospitals under that section; 99339

(4) Establish schedules for hospitals to pay installments on 99340
their assessments under section ~~5112.06~~ 5168.06 of the Revised 99341
Code and for governmental hospitals to pay installments on their 99342
intergovernmental transfers under section ~~5112.07~~ 5168.07 of the 99343
Revised Code; 99344

(5) Establish procedures to notify hospitals of adjustments 99345
made under division (B)(2)(b) of section ~~5112.06~~ 5168.06 of the 99346
Revised Code in the amount of installments on their assessment; 99347

(6) Establish procedures to notify hospitals of adjustments 99348
made under division (D) of section ~~5112.09~~ 5168.08 of the Revised 99349
Code in the total amount of their assessment and to adjust for the 99350
remainder of the program year the amount of the installments on 99351
the assessments; 99352

(7) Establish, in accordance with section ~~5112.08~~ 5168.09 of 99353

the Revised Code, the methodology for paying hospitals under that section. 99354
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The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties. 99356
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(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following: 99359
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(1) ~~Recipients of the medical assistance program~~ Medicaid recipients; 99362
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(2) Recipients of disability financial assistance provided under Chapter 5115. of the Revised Code; 99364
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(3) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code; 99366
99367

(4) ~~Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~ Medicare beneficiaries; 99368
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(5) Recipients of Title V of the "Social Security Act," 42 U.S.C. 701 et seq.,; 99371
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(6) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., and the rules adopted under that title. 99373
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Sec. ~~5112.05~~ 5168.03. The requirements of sections ~~5112.06~~ 5168.06 to ~~5112.09~~ 5168.09 of the Revised Code apply only as long as the United States health care financing administration determines that the assessment imposed under section ~~5112.06~~ 5168.06 of the Revised Code is a permissible health care-related tax pursuant to ~~section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1903(w), 42 U.S.C.A. 1396b(w), as 99377
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~~amended.~~ Whenever the department of ~~job and family services~~ medicaid is informed that the assessment is an impermissible health care-related tax, the department shall promptly refund to each hospital the amount of money currently in the hospital care assurance program fund created by section ~~5112.18~~ 5168.11 of the Revised Code that has been paid by the hospital under section ~~5112.06~~ 5168.06 or ~~5112.07~~ 5168.07 of the Revised Code, plus any investment earnings on that amount.

Sec. ~~5112.10~~ 5168.04. The department of ~~job and family services~~ medicaid shall operate the hospital care assurance program established by sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code on a program year basis. The department shall complete all program requirements on or before the thirtieth day of September each year.

Sec. ~~5112.04~~ 5168.05. (A) Except as provided in division (C) of this section, each hospital, on or before the first day of July of each year or at a later date approved by the medicaid director ~~of job and family services~~, shall submit to the department of ~~job and family services~~ medicaid a financial statement for the preceding calendar year that accurately reflects the income, expenses, assets, liabilities, and net worth of the hospital, and accompanying notes. A hospital that has a fiscal year different from the calendar year shall file its financial statement within one hundred eighty days of the end of its fiscal year or at a later date approved by the director ~~of job and family services~~. The financial statement shall be prepared by an independent certified public accountant and reflect an official audit report prepared in a manner consistent with generally accepted accounting principles. The financial statement shall, to the extent that the hospital has sufficient financial records, show bad debt and charity care separately from courtesy care and contractual

allowances. 99415

(B) Except as provided in division (C) of this section, each 99416
hospital, within one hundred eighty days after the end of the 99417
hospital's cost reporting period, shall submit to the department a 99418
cost report in a format prescribed in rules adopted ~~by the~~ 99419
~~director of job and family services~~ under section ~~5112.03~~ 5168.02 99420
of the Revised Code. The department shall grant a hospital an 99421
extension of the one hundred eighty day period if the health care 99422
financing administration of the United States department of health 99423
and human services extends the date by which the hospital must 99424
submit its cost report for the hospital's cost reporting period. 99425

(C) The director ~~of job and family services~~ may adopt rules 99426
under section ~~5112.03~~ 5168.02 of the Revised Code specifying 99427
financial information that must be submitted by hospitals for 99428
which no financial statement or cost report is available. The 99429
rules shall specify deadlines for submitting the information. Each 99430
such hospital shall submit the information specified in the rules 99431
not later than the deadline specified in the rules. 99432

Sec. ~~5112.06~~ 5168.06. (A) For the purpose of distributing 99433
funds to hospitals under the ~~medical assistance~~ medicaid program 99434
pursuant to sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the 99435
Revised Code and depositing funds into the legislative budget 99436
services fund under section ~~5112.19~~ 5168.12 of the Revised Code 99437
and into the health care services administration fund created 99438
under section ~~5111.94~~ 5162.54 of the Revised Code, there is hereby 99439
imposed an assessment on all hospitals. Each hospital's assessment 99440
shall be based on total facility costs. All hospitals shall be 99441
assessed according to the rate or rates established each program 99442
year ~~by the department of job and family services~~ in rules adopted 99443
under section ~~5112.03~~ 5168.02 of the Revised Code. The department 99444
shall assess all hospitals uniformly and in a manner consistent 99445

with federal statutes and regulations. During any program year, 99446
the department shall not assess any hospital more than two per 99447
cent of the hospital's total facility costs. 99448

The department shall establish an assessment rate or rates 99449
each program year that will do both of the following: 99450

(1) Yield funds that, when combined with intergovernmental 99451
transfers and federal matching funds, will produce a program of 99452
sufficient size to pay a substantial portion of the indigent care 99453
provided by hospitals; 99454

(2) Yield funds that, when combined with intergovernmental 99455
transfers and federal matching funds, will produce amounts for 99456
distribution to disproportionate share hospitals that do not 99457
exceed, in the aggregate, the limits prescribed by the United 99458
States health care financing administration under ~~subsection (f)~~ 99459
~~of section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ 99460
section 1923(f), 42 U.S.C.A. 1396r-4(f), as amended. 99461

(B)(1) Except as provided in division (B)(3) of this section, 99462
each hospital shall pay its assessment in periodic installments in 99463
accordance with a schedule established ~~by the director of job and~~ 99464
~~family services~~ in rules adopted under section ~~5112.03~~ 5168.02 of 99465
the Revised Code. 99466

(2) The installments shall be equal in amount, unless either 99467
of the following applies: 99468

(a) The department makes adjustments during a program year 99469
under division (D) of section ~~5112.09~~ 5168.08 of the Revised Code 99470
in the total amount of hospitals' assessments; 99471

(b) The medicaid director ~~of job and family services~~ 99472
determines that adjustments in the amounts of installments are 99473
necessary for the administration of sections ~~5112.01~~ 5168.01 to 99474
~~5112.21~~ 5168.14 of the Revised Code and that unequal installments 99475
will not create cash flow difficulties for hospitals. 99476

(3) The director may adopt rules under section ~~5112.03~~ 99477
5168.02 of the Revised Code establishing alternate schedules for 99478
hospitals to pay assessments under this section in order to reduce 99479
hospitals' cash flow difficulties. 99480

Sec. ~~5112.07~~ 5168.07. (A) The department of ~~job and family~~ 99481
~~services~~ medicaid may require governmental hospitals to make 99482
intergovernmental transfers each program year for the purpose of 99483
distributing funds to hospitals under the ~~medical assistance~~ 99484
medicaid program pursuant to sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 99485
5168.14 of the Revised Code and depositing funds into the 99486
legislative budget services fund under section ~~5112.19~~ 5168.12 of 99487
the Revised Code and into the health care services administration 99488
fund created under section ~~5111.94~~ 5162.54 of the Revised Code. 99489
The department shall not require transfers in an amount that, when 99490
combined with hospital assessments paid under section ~~5112.06~~ 99491
5168.06 of the Revised Code and federal matching funds, produce 99492
amounts for distribution to disproportionate share hospitals that, 99493
in the aggregate, exceed limits prescribed by the United States 99494
health care financing administration under ~~subsection (f) of~~ 99495
~~section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ 99496
section 1923(f), 42 U.S.C.A. 1396r-4(f), ~~as amended.~~ 99497

(B) Before or during each program year, the department shall 99498
notify each governmental hospital of the amount of the 99499
intergovernmental transfer it is required to make during the 99500
program year. Each governmental hospital shall make 99501
intergovernmental transfers as required by the department under 99502
this section in periodic installments, executed by electronic fund 99503
transfer, in accordance with a schedule established in rules 99504
adopted under section ~~5112.03~~ 5168.02 of the Revised Code. 99505

Sec. ~~5112.09~~ 5168.08. (A) Before or during each program year, 99506
the department of ~~job and family services~~ medicaid shall mail to 99507

each hospital by certified mail, return receipt requested, the 99508
preliminary determination of the amount that the hospital is 99509
assessed under section ~~5112.06~~ 5168.06 of the Revised Code during 99510
the program year. The preliminary determination of a hospital's 99511
assessment shall be calculated for a cost-reporting period that is 99512
specified in rules adopted under section ~~5112.03~~ 5168.02 of the 99513
Revised Code. 99514

The department shall consult with hospitals each year when 99515
determining the date on which it will mail the preliminary 99516
determinations in order to minimize hospitals' cash flow 99517
difficulties. 99518

If no hospital submits a request for reconsideration under 99519
division (B) of this section, the preliminary determination 99520
constitutes the final reconciliation of each hospital's assessment 99521
under section ~~5112.06~~ 5168.06 of the Revised Code. The final 99522
reconciliation is subject to adjustments under division (D) of 99523
this section. 99524

(B) Not later than fourteen days after the preliminary 99525
determinations are mailed, any hospital may submit to the 99526
department a written request to reconsider the preliminary 99527
determinations. The request shall be accompanied by written 99528
materials setting forth the basis for the reconsideration. If one 99529
or more hospitals submit a request, the department shall hold a 99530
public hearing not later than thirty days after the preliminary 99531
determinations are mailed to reconsider the preliminary 99532
determinations. The department shall mail to each hospital a 99533
written notice of the date, time, and place of the hearing at 99534
least ten days prior to the hearing. On the basis of the evidence 99535
submitted to the department or presented at the public hearing, 99536
the department shall reconsider and may adjust the preliminary 99537
determinations. The result of the reconsideration is the final 99538
reconciliation of the hospital's assessment under section ~~5112.06~~ 99539

5168.06 of the Revised Code. The final reconciliation is subject 99540
to adjustments under division (D) of this section. 99541

(C) The department shall mail to each hospital a written 99542
notice of its assessment for the program year under the final 99543
reconciliation. A hospital may appeal the final reconciliation of 99544
its assessment to the court of common pleas of Franklin county. 99545
While a judicial appeal is pending, the hospital shall pay, in 99546
accordance with the schedules required by division (B) of section 99547
~~5112.06~~ 5168.06 of the Revised Code, any amount of its assessment 99548
that is not in dispute into the hospital care assurance program 99549
fund created in section ~~5112.18~~ 5168.11 of the Revised Code. 99550

(D) In the course of any program year, the department may 99551
adjust the assessment rate or rates established in rules pursuant 99552
to section ~~5112.06~~ 5168.06 of the Revised Code or adjust the 99553
amounts of intergovernmental transfers required under section 99554
~~5112.07~~ 5168.07 of the Revised Code and, as a result of the 99555
adjustment, adjust each hospital's assessment and 99556
intergovernmental transfer, to reflect refinements made by the 99557
United States health care financing administration during that 99558
program year to the limits it prescribed under ~~subsection (f) of~~ 99559
~~section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ 99560
section 1923(f), 42 U.S.C.A. 1396r-4(f), ~~as amended~~. When 99561
adjusted, the assessment rate or rates must comply with division 99562
(A) of section ~~5112.06~~ 5168.06 of the Revised Code. An adjusted 99563
intergovernmental transfer must comply with division (A) of 99564
section ~~5112.07~~ 5168.07 of the Revised Code. The department shall 99565
notify hospitals of adjustments made under this division and 99566
adjust for the remainder of the program year the installments paid 99567
by hospitals under sections ~~5112.06~~ 5168.06 and ~~5112.07~~ 5168.07 of 99568
the Revised Code in accordance with rules adopted under section 99569
~~5112.03~~ 5168.02 of the Revised Code. 99570

~~Sec. 5112.08~~ 5168.09. The medicaid director ~~of job and family~~ 99571
~~services~~ shall adopt rules under section ~~5112.03~~ 5168.02 of the 99572
Revised Code establishing a methodology to pay hospitals that is 99573
sufficient to expend all money in the indigent care pool. Under 99574
the rules: 99575

(A) The department of ~~job and family services~~ medicaid may 99576
classify similar hospitals into groups and allocate funds for 99577
distribution within each group. 99578

(B) The department shall establish a method of allocating 99579
funds to hospitals, taking into consideration the relative amount 99580
of indigent care provided by each hospital or group of hospitals. 99581
The amount to be allocated shall be based on any combination of 99582
the following indicators of indigent care that the director 99583
considers appropriate: 99584

(1) Total costs, volume, or proportion of services to 99585
recipients of the medical assistance program, including recipients 99586
enrolled in health insuring corporations; 99587

(2) Total costs, volume, or proportion of services to 99588
low-income patients in addition to medicaid recipients ~~of the~~ 99589
~~medical assistance program~~, which may include recipients of Title 99590
V of the "Social Security Act," ~~49 Stat. 620 (1935)~~, 42 U.S.C.A. 99591
~~301 701 et seq., as amended~~, and recipients of disability 99592
financial assistance provided under Chapter 5115. of the Revised 99593
Code; 99594

(3) The amount of uncompensated care provided by the hospital 99595
or group of hospitals; 99596

(4) Other factors that the director considers to be 99597
appropriate indicators of indigent care. 99598

(C) The department shall distribute funds to each hospital or 99599
group of hospitals in a manner that first may provide for an 99600

additional distribution to individual hospitals that provide a 99601
high proportion of indigent care in relation to the total care 99602
provided by the hospital or in relation to other hospitals. The 99603
department shall establish a formula to distribute the remainder 99604
of the funds. The formula shall be consistent with ~~section 1923~~ of 99605
the "Social Security Act," section 1923, 42 U.S.C.A. 1396r-4, ~~as~~ 99606
~~amended~~, and shall be based on any combination of the indicators 99607
of indigent care listed in division (B) of this section that the 99608
director considers appropriate. 99609

(D) The department shall distribute funds to each hospital in 99610
installments not later than ten working days after the deadline 99611
established in rules for each hospital to pay an installment on 99612
its assessment under section ~~5112.06~~ 5168.06 of the Revised Code. 99613
In the case of a governmental hospital that makes 99614
intergovernmental transfers, the department shall pay an 99615
installment under this section not later than ten working days 99616
after the earlier of that deadline or the deadline established in 99617
rules for the governmental hospital to pay an installment on its 99618
intergovernmental transfer. If the amount in the hospital care 99619
assurance program fund created under section ~~5112.18~~ 5168.11 of 99620
the Revised Code and the portion of the health care - federal fund 99621
created under section ~~5111.943~~ 5162.50 of the Revised Code that is 99622
credited to that fund pursuant to division (B) of section ~~5112.18~~ 99623
5168.11 of the Revised Code are insufficient to make the total 99624
distributions for which hospitals are eligible to receive in any 99625
period, the department shall reduce the amount of each 99626
distribution by the percentage by which the amount and portion are 99627
insufficient. The department shall distribute to hospitals any 99628
amounts not distributed in the period in which they are due as 99629
soon as moneys are available in the funds. 99630

Sec. ~~5112.11~~ 5168.10. Except for moneys deposited into the 99631
legislative budget services fund under section ~~5112.19~~ 5168.12 of 99632

the Revised Code and the health care services administration fund 99633
created under section ~~5111.94~~ 5162.54 of the Revised Code, the 99634
department of ~~job and family services~~ medicaid shall not use money 99635
paid to the department under sections ~~5112.06~~ 5168.06 and ~~5112.07~~ 99636
5168.07 of the Revised Code or money that the department pays to 99637
hospitals under section ~~5112.08~~ 5168.09 of the Revised Code to 99638
replace any funds appropriated by the general assembly for the 99639
~~medical assistance~~ medicaid program. 99640

Sec. ~~5112.18~~ 5168.11. (A) Except as provided in section 99641
~~5112.19~~ 5168.12 of the Revised Code, all payments of assessments 99642
by hospitals under section ~~5112.06~~ 5168.06 of the Revised Code and 99643
all intergovernmental transfers under section ~~5112.07~~ 5168.07 of 99644
the Revised Code shall be deposited in the state treasury to the 99645
credit of the hospital care assurance program fund, hereby 99646
created. All investment earnings of the hospital care assurance 99647
program fund shall be credited to the fund. The department of ~~job~~ 99648
~~and family services~~ medicaid shall maintain records that show the 99649
amount of money in the hospital care assurance program fund at any 99650
time that has been paid by each hospital and the amount of any 99651
investment earnings on that amount. All moneys credited to the 99652
hospital care assurance program fund shall be used solely to make 99653
payments to hospitals under division (D) of this section and 99654
section ~~5112.08~~ 5168.09 of the Revised Code. 99655

(B) All federal matching funds received as a result of the 99656
department distributing funds from the hospital care assurance 99657
program fund to hospitals under section ~~5112.08~~ 5168.09 of the 99658
Revised Code shall be credited to the health care - federal fund 99659
created under section ~~5111.943~~ 5162.50 of the Revised Code. 99660

(C) All distributions of funds to hospitals under section 99661
~~5112.08~~ 5168.09 of the Revised Code are conditional on: 99662

(1) Expiration of the time for appeals under section ~~5112.09~~ 99663

5168.08 of the Revised Code without the filing of an appeal, or on court determinations, in the event of appeals, that the hospital is entitled to the funds;

(2) The sum of the following being sufficient to distribute the funds after the final determination of any appeals:

(a) The available money in the hospital care assurance program fund;

(b) The available portion of the money in the health care - federal fund that is credited to that fund pursuant to division (B) of this section.

(3) The hospital's compliance with section ~~5112.17~~ 5168.14 of the Revised Code.

(D) If an audit conducted by the department of the amounts of payments made and funds received by hospitals under sections ~~5112.06~~ 5168.06, ~~5112.07~~ 5168.07, and ~~5112.08~~ 5168.09 of the Revised Code identifies amounts that, due to errors by the department, a hospital should not have been required to pay but did pay, should have been required to pay but did not pay, should not have received but did receive, or should have received but did not receive, the department shall:

(1) Make payments to any hospital that the audit reveals paid amounts it should not have been required to pay or did not receive amounts it should have received;

(2) Take action to recover from a hospital any amounts that the audit reveals it should have been required to pay but did not pay or that it should not have received but did receive.

Payments made under division (D)(1) of this section shall be made from the hospital care assurance program fund. Amounts recovered under division (D)(2) of this section shall be deposited to the credit of that fund. Any hospital may appeal the amount the

hospital is to be paid under division (D)(1) or the amount that is 99694
to be recovered from the hospital under division (D)(2) of this 99695
section to the court of common pleas of Franklin county. 99696

Sec. ~~5112.19~~ 5168.12. From the first installment of 99697
assessments paid under section ~~5112.06~~ 5168.06 of the Revised Code 99698
and intergovernmental transfers made under section ~~5112.07~~ 5168.07 99699
of the Revised Code during each program year beginning in an 99700
odd-numbered calendar year, the department of ~~job and family~~
~~services~~ medicaid shall deposit into the state treasury to the 99701
credit of the legislative budget services fund, which is hereby 99702
created, a total amount equal to the amount by which the biennial 99703
appropriation from that fund exceeds the amount of unexpended, 99704
unencumbered moneys in that fund. All investment earnings of the 99705
legislative budget services fund shall be credited to that fund. 99706
Money in the legislative budget services fund shall be used solely 99707
to pay the expenses of the legislative budget office of the 99708
legislative service commission. 99709
99710

Sec. ~~5112.21~~ 5168.13. Except as specifically required by 99711
sections ~~5112.01~~ 5168.01 to ~~5112.19~~ 5168.14 of the Revised Code, 99712
information filed under those sections shall not include any 99713
patient-identifying material. Information that includes 99714
patient-identifying material is not a public record under section 99715
149.43 of the Revised Code, and no patient-identifying material 99716
shall be released publicly by the department of ~~job and family~~
~~services~~ medicaid or by any person under contract with the 99717
department who has access to such information. 99718
99719

Sec. ~~5112.17~~ 5168.14. (A) ~~As used in this section:~~ 99720

~~(1) "Federal poverty guideline" means the official poverty~~ 99721
~~guideline as revised annually by the United States secretary of~~ 99722
~~health and human services in accordance with section 673 of the~~ 99723

~~"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.~~

~~(2) "Third party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third party payer" does not include a hospital.~~

~~(B) Each hospital that receives funds distributed under sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not medicaid recipients ~~of the medical assistance program~~, and whose income is at or below the federal poverty ~~guideline~~ line. Recipients of disability financial assistance provided under Chapter 5115. of the Revised Code qualify for services under this section. The medicaid director ~~of job and family services~~ shall adopt rules under section ~~5112.03~~ 5168.02 of the Revised Code specifying the hospital services to be provided under this section.~~

~~(C)~~(B) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for ~~eligibility under the medical assistance~~ medicaid program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the ~~medical assistance~~ medicaid program, in accordance with ~~Chapter 5111. of the Revised Code~~ state statutes governing the medicaid program and ~~the rules adopted under that chapter~~ those statutes, for medicaid services rendered under this section if the individual becomes a medicaid recipient ~~of the program~~. Hospitals may bill individuals for services under this section if all of the following apply:

(1) The hospital has an established post-billing procedure

for determining the individual's income and canceling the charges 99756
if the individual is found to qualify for services under this 99757
section. 99758

(2) The initial bill, and at least the first follow-up bill, 99759
is accompanied by a written statement that does all of the 99760
following: 99761

(a) Explains that individuals with income at or below the 99762
federal poverty ~~guideline~~ line are eligible for services without 99763
charge; 99764

(b) Specifies the federal poverty ~~guideline~~ line for 99765
individuals and families of various sizes at the time the bill is 99766
sent; 99767

(c) Describes the procedure required by division (C)(1) of 99768
this section. 99769

(3) The hospital complies with any additional rules ~~the~~ 99770
~~department adopts~~ adopted under section ~~5112.03~~ 5168.02 of the 99771
Revised Code. 99772

Notwithstanding division (B) of this section, a hospital 99773
providing care to an individual under this section is subrogated 99774
to the rights of any individual to receive compensation or 99775
benefits from any person or governmental entity for the hospital 99776
goods and services rendered. 99777

~~(D)~~(C) Each hospital shall collect and report to the 99778
department of medicaid, in the form and manner prescribed by the 99779
department, information on the number and identity of patients 99780
served pursuant to this section. 99781

~~(E)~~(D) This section applies beginning May 22, 1992, 99782
regardless of whether ~~the department has adopted~~ rules specifying 99783
the services to be provided have been adopted. Nothing in this 99784
section alters the scope or limits the obligation of any 99785

governmental entity or program, including the program awarding 99786
reparations to victims of crime under sections 2743.51 to 2743.72 99787
of the Revised Code and the program for medically handicapped 99788
children established under section 3701.023 of the Revised Code, 99789
to pay for hospital services in accordance with state or local 99790
law. 99791

Sec. ~~5112.40~~ 5168.20. As used in sections ~~5112.40~~ 5168.20 to 99792
~~5112.48~~ 5168.28 of the Revised Code: 99793

(A) "Applicable assessment percentage" means the percentage 99794
specified in rules adopted under section ~~5112.46~~ 5168.26 of the 99795
Revised Code that is used in calculating a hospital's assessment 99796
under section ~~5112.41~~ 5168.21 of the Revised Code. 99797

(B) "Assessment program year" means the twelve-month period 99798
beginning the first day of October of a calendar year and ending 99799
the last day of September of the following calendar year. 99800

(C) "Cost reporting period" means the period of time used by 99801
a hospital in reporting costs for purposes of the medicare 99802
program. 99803

(D) "Federal fiscal year" means the twelve-month period 99804
beginning the first day of October of a calendar year and ending 99805
the last day of September of the following calendar year. 99806

(E)(1) Except as provided in division (E)(2) of this section, 99807
"hospital" means a hospital to which any of the following applies: 99808

(a) The hospital is registered under section 3701.07 of the 99809
Revised Code as a general medical and surgical hospital or a 99810
pediatric general hospital and provides inpatient hospital 99811
services, as defined in 42 C.F.R. 440.10. 99812

(b) The hospital is recognized under the medicare program as 99813
a cancer hospital and is exempt from the medicare prospective 99814
payment system. 99815

(c) The hospital is a psychiatric hospital licensed under section ~~5119.20~~ 5119.33 of the Revised Code. 99816
99817

(2) "Hospital" does not include either of the following: 99818

(a) A federal hospital; 99819

(b) A hospital that does not charge any of its patients for its services. 99820
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(F) "Hospital care assurance program" means the program established under sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code. 99822
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99824

~~(G) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~ 99825
99826

~~(H) "Medicare" means the program established under Title XVIII of the Social Security Act.~~ 99827
99828

~~(I)~~ "State fiscal year" means the twelve-month period beginning the first day of July of a calendar year and ending the last day of June of the following calendar year. 99829
99830
99831

~~(J)~~(H)(1) Except as provided in divisions ~~(J)~~(H)(2) and (3) of this section, "total facility costs" means the total costs to a hospital for all care provided to all patients, including the direct, indirect, and overhead costs to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation. 99832
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(2) "Total facility costs" excludes all of the following of a hospital's costs as shown on the cost-reporting data used for purposes of determining the hospital's assessment under section ~~5112.41~~ 5168.21 of the Revised Code: 99839
99840
99841
99842

(a) Skilled nursing services provided in distinct-part nursing facility units; 99843
99844

(b) Home health services; 99845

(c) Hospice services;	99846
(d) Ambulance services;	99847
(e) Renting durable medical equipment;	99848
(f) Selling durable medical equipment.	99849
(3) "Total facility costs" excludes any costs excluded from a hospital's total facility costs pursuant to rules, if any, adopted under division (B)(1) of section 5112.46 <u>5168.26</u> of the Revised Code.	99850 99851 99852 99853
Sec. 5112.41 <u>5168.21</u>. (A) For the purposes specified in section 5112.45 <u>5168.25</u> of the Revised Code and subject to section 5112.48 <u>5168.28</u> of the Revised Code, there is hereby imposed an assessment on all hospitals each assessment program year. The amount of a hospital's assessment for an assessment program year shall equal the applicable assessment percentage of the hospital's total facility costs for the period of time specified in division (B) of this section. The amount of a hospital's total facility costs shall be derived from cost-reporting data for the hospital submitted to the department of job and family services <u>medicaid</u> for purposes of the hospital care assurance program. If a hospital has not submitted that cost-reporting data to the department, the amount of a hospital's total facility costs shall be derived from other financial statements that the hospital shall provide to the department as directed by the department. The cost-reporting data or financial statements used to determine a hospital's assessment is subject to the same type of adjustments made to the cost-reporting data under the hospital care assurance program.	99854 99855 99856 99857 99858 99859 99860 99861 99862 99863 99864 99865 99866 99867 99868 99869 99870 99871 99872
(B) The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the	99873 99874 99875

federal fiscal year that precedes the assessment program year for 99876
which the assessment is imposed. 99877

(C) The assessment imposed by this section on a hospital is 99878
in addition to the assessment imposed by section ~~5112.06~~ 5168.06 99879
of the Revised Code. 99880

Sec. ~~5112.42~~ 5168.22. (A) Before or during each assessment 99881
program year, the department of ~~job and family services~~ medicaid 99882
shall mail to each hospital by certified mail, return receipt 99883
requested, the preliminary determination of the amount that the 99884
hospital is assessed under section ~~5112.41~~ 5168.21 of the Revised 99885
Code for the assessment program year. Except as provided in 99886
division (B) of this section, the preliminary determination 99887
becomes the final determination for the assessment program year 99888
fifteen days after the preliminary determination is mailed to the 99889
hospital. 99890

(B) A hospital may request that the department reconsider the 99891
preliminary determination mailed to the hospital under division 99892
(A) of this section by submitting to the department a written 99893
request for a reconsideration not later than fourteen days after 99894
the hospital's preliminary determination is mailed to the 99895
hospital. The request must be accompanied by written materials 99896
setting forth the basis for the reconsideration. On receipt of the 99897
timely request, the department shall reconsider the preliminary 99898
determination and may adjust the preliminary determination on the 99899
basis of the written materials accompanying the request. The 99900
result of the reconsideration is the final determination of the 99901
hospital's assessment under section ~~5112.41~~ 5168.21 of the Revised 99902
Code for the assessment program year. 99903

(C) The department shall mail to each hospital a written 99904
notice of the final determination of its assessment for the 99905
assessment program year. A hospital may appeal the final 99906

determination to the court of common pleas of Franklin county. 99907
While a judicial appeal is pending, the hospital shall pay, in 99908
accordance with section ~~5112.43~~ 5168.23 of the Revised Code, any 99909
amount of its assessment that is not in dispute. 99910

Sec. ~~5112.43~~ 5168.23. Unless rules adopted under section 99911
~~5112.46~~ 5168.26 of the Revised Code establish a different payment 99912
schedule, each hospital shall pay the amount it is assessed under 99913
section ~~5112.41~~ 5168.21 of the Revised Code in accordance with the 99914
following payment schedule: 99915

(A) Twenty-eight per cent of a hospital's assessment is due 99916
on the last business day of October of each assessment program 99917
year. 99918

(B) Thirty-one per cent of a hospital's assessment is due on 99919
the last business day of February of each assessment program year. 99920

(C) Forty-one per cent of a hospital's assessment is due on 99921
the last business day of May of each assessment program year. 99922

Sec. ~~5112.44~~ 5168.24. The department of ~~job and family~~ 99923
~~services~~ medicaid may audit a hospital to ensure that the hospital 99924
properly pays the amount it is assessed under section ~~5112.41~~ 99925
5168.21 of the Revised Code. The department shall take action to 99926
recover from a hospital any amount the audit reveals that the 99927
hospital should have paid but did not pay. 99928

Sec. ~~5112.45~~ 5168.25. There is hereby created in the state 99929
treasury the hospital assessment fund. All installment payments 99930
made by hospitals under section ~~5112.43~~ 5168.23 of the Revised 99931
Code and all recoveries the department of ~~job and family services~~ 99932
medicaid makes under section ~~5112.44~~ 5168.24 of the Revised Code 99933
shall be deposited into the fund. All investment earnings of the 99934
fund shall be credited to the fund. The department shall use money 99935

in the fund to pay for the costs of the medicaid program, 99936
including the program's administrative costs. 99937

Sec. ~~5112.46~~ 5168.26. (A) ~~The director of job and family~~ 99938
~~services shall adopt, amend, and rescind~~ medicaid director shall 99939
adopt rules in accordance with Chapter 119. of the Revised Code as 99940
necessary to implement sections ~~5112.40~~ 5168.20 to ~~5112.48~~ 5168.28 99941
of the Revised Code, including rules that specify the percentage 99942
of hospitals' total facility costs to be used in calculating 99943
hospitals' assessments under section ~~5112.41~~ 5168.21 of the 99944
Revised Code. 99945

(B) The rules adopted under this section may do the 99946
following: 99947

(1) Provide that a hospital's total facility costs for the 99948
purpose of the assessment under section ~~5112.41~~ 5168.21 of the 99949
Revised Code exclude any of the following: 99950

(a) A hospital's costs associated with providing care to 99951
recipients of any of the following: 99952

(i) The medicaid program; 99953

(ii) The medicare program; 99954

(iii) The disability financial assistance program established 99955
under Chapter 5115. of the Revised Code; 99956

(iv) The program for medically handicapped children 99957
established under section 3701.023 of the Revised Code; 99958

(v) Services provided under the maternal and child health 99959
services block grant established under Title V of the "Social 99960
Security Act," 42 U.S.C. 701 et seq. 99961

(b) Any other category of hospital costs the director deems 99962
appropriate under federal law and regulations governing the 99963
medicaid program. 99964

(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals;

(3) To reduce hospitals' cash flow difficulties, establish a schedule for hospitals to pay their assessments that is different from the schedule established under section ~~5112.43~~ 5168.23 of the Revised Code.

(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under ~~section 1903(w)(3)(E) of the "Social Security Act," 105 Stat. 1796 (1991)~~ section 1903(w)(3)(E), 42 U.S.C. 1396b(w)(3)(E), as amended, if the varied percentages would cause the assessments to not be imposed uniformly.

Sec. ~~5112.47~~ 5168.27. The medicaid director ~~of job and family services~~ shall implement the assessment imposed by section ~~5112.41~~ 5168.21 of the Revised Code in a manner that does not cause a reduction in federal financial participation for the medicaid program under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w).

Sec. ~~5112.48~~ 5168.28. If the United States secretary of health and human services determines that the assessment imposed by section ~~5112.41~~ 5168.21 of the Revised Code is an impermissible health care-related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w), the medicaid director ~~of job and family services~~ shall take all necessary actions to cease implementation of sections ~~5112.40~~ 5168.20 to ~~5112.47~~ 5168.27 of the Revised Code and shall promptly refund to each hospital the amount of money in the hospital assessment fund at the time the

refund is to be made that the hospital paid under section ~~5112.43~~ 99995
5168.23 of the Revised Code, plus any corresponding investment 99996
earnings on that amount. 99997

Sec. ~~3721.50~~ 5168.40. As used in sections ~~3721.50~~ 5168.40 to 99998
~~3721.58~~ 5168.56 of the Revised Code: 99999

(A) "Bed surrender" means the following: 100000

(1) In the case of a nursing home, the removal of a bed from 100001
a nursing home's licensed capacity in a manner that reduces the 100002
total licensed capacity of all nursing homes; 100003

(2) In the case of a hospital, the removal of a hospital bed 100004
from registration under section 3701.07 of the Revised Code as a 100005
skilled nursing facility bed or long-term care bed in a manner 100006
that reduces the total number of hospital beds registered under 100007
that section as skilled nursing facility beds or long-term care 100008
beds. 100009

(B) "Change of operator" means an entering operator becoming 100010
the operator of a nursing home or hospital in the place of the 100011
exiting operator. 100012

(1) Actions that constitute a change of operator include the 100013
following: 100014

(a) A change in an exiting operator's form of legal 100015
organization, including the formation of a partnership or 100016
corporation from a sole proprietorship; 100017

(b) A transfer of all the exiting operator's ownership 100018
interest in the operation of the nursing home or hospital to the 100019
entering operator, regardless of whether ownership of any or all 100020
of the real property or personal property associated with the 100021
nursing home or hospital is also transferred; 100022

(c) A lease of the nursing home or hospital to the entering 100023

operator or the exiting operator's termination of the exiting operator's lease;	100024
	100025
(d) If the exiting operator is a partnership, dissolution of the partnership;	100026
	100027
(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:	100028
	100029
(i) The change in composition does not cause the partnership's dissolution under state law.	100030
	100031
(ii) The partners agree that the change in composition does not constitute a change in operator.	100032
	100033
(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.	100034
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(2) The following, alone, do not constitute a change of operator:	100038
	100039
(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;	100040
	100041
	100042
(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;	100043
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(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.	100047
	100048
	100049
	100050
(C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.	100051
	100052
	100053

(D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.

(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the ~~following~~:

~~(1) For fiscal year 2012, eleven dollars and forty seven cents;~~

~~(2) For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty seven cents rate determined in accordance with section 5168.41 of the Revised Code.~~

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(I) "Indirect guarantee percentage" means the percentage specified in ~~section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006)~~ section 1903(w)(4)(C)(ii), 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes

effect, the percentage in effect before the change; 100084

(2) For the part of the fiscal year beginning with the date 100085
the indirect guarantee percentage changes, the new percentage. 100086

(J) "Medicaid days" ~~has the same meaning as in section~~ 100087
~~5111.01 of the Revised Code.~~ 100088

~~(K) "Medicare" means the program established by Title XVIII.~~ 100089

~~(L) and "Nursing nursing facility" has have the same meaning~~ 100090
~~meanings~~ as in section ~~5111.20~~ 5165.01 of the Revised Code. 100091

~~(M)~~(K)(1) "Nursing home" means all of the following: 100092

(a) A nursing home licensed under section 3721.02 or 3721.09 100093
of the Revised Code, including any part of a home for the aging 100094
licensed as a nursing home; 100095

(b) A facility or part of a facility, other than a hospital, 100096
that is certified as a skilled nursing facility under Title XVIII; 100097

(c) A nursing facility, other than a portion of a hospital 100098
certified as a nursing facility. 100099

(2) "Nursing home" does not include either of the following: 100100

(a) A county home, county nursing home, or district home 100101
operated pursuant to Chapter 5155. of the Revised Code; 100102

(b) A nursing home maintained and operated by the department 100103
of veterans services under section 5907.01 of the Revised Code. 100104

~~(N)~~(L) "Operator" means the person or government entity 100105
responsible for the daily operating and management decisions for a 100106
nursing home or hospital. 100107

~~(O)~~(M) "Title XIX" means Title XIX of the "Social Security 100108
Act," ~~79 Stat. 286 (1965),~~ 42 U.S.C. 1396, ~~as amended~~ et seq. 100109

~~(P)~~(N) "Title XVIII" means Title XVIII of the "Social 100110
Security Act," ~~79 Stat. 286 (1965),~~ 42 U.S.C. 1395, ~~as amended~~ et
seq. 100111
100112

<u>Sec. 5168.41. (A) The franchise permit fee rate shall be</u>	100113
<u>determined for each fiscal year as follows:</u>	100114
<u>(1) Determine the estimated total net patient revenues for</u>	100115
<u>all nursing homes and hospital long-term care units for the fiscal</u>	100116
<u>year;</u>	100117
<u>(2) Multiply the estimated total net patient revenues</u>	100118
<u>determined under division (A)(1) of this section by the lesser of</u>	100119
<u>the following:</u>	100120
<u>(a) The indirect guarantee percentage;</u>	100121
<u>(b) Six per cent.</u>	100122
<u>(3) Divide the product determined under division (A)(2) of</u>	100123
<u>this section by the number of days in the fiscal year;</u>	100124
<u>(4) Determine the sum of the following:</u>	100125
<u>(a) The total number of beds in all nursing homes and</u>	100126
<u>hospital long-term care units that are subject to the franchise</u>	100127
<u>permit fee for the fiscal year;</u>	100128
<u>(b) The total number of nursing home beds that are exempt</u>	100129
<u>from the franchise permit fee for the fiscal year because of the</u>	100130
<u>waiver obtained pursuant to section 5168.43 of the Revised Code.</u>	100131
<u>(5) Divide the quotient determined under division (A)(3) of</u>	100132
<u>this section by the sum determined under division (A)(4) of this</u>	100133
<u>section.</u>	100134
<u>(B) In determining the estimated total net patient revenues</u>	100135
<u>for all nursing homes and hospital long-term care units for a</u>	100136
<u>fiscal year, the department of medicaid shall use at least all of</u>	100137
<u>the following:</u>	100138
<u>(1) Information from medicaid cost reports filed under</u>	100139
<u>section 5165.10 of the Revised Code that are the most recent at</u>	100140
<u>the time the determination is made;</u>	100141

<u>(2) The projected total medicaid payment rates for nursing facility services for the fiscal year;</u>	100142
	100143
<u>(3) The projected total number of medicaid days for the fiscal year.</u>	100144
	100145
Sec. 3721.51 <u>5168.42</u>. The department of job and family services <u>medicaid</u> shall do all of the following:	100146
	100147
(A) Subject to sections 3721.512 <u>5168.44</u> , 3721.513 <u>5168.45</u> , and 3721.531 <u>5168.48</u> of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 <u>5168.54</u> of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following:	100148
	100149
	100150
	100151
	100152
	100153
(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 <u>5168.47</u> of the Revised Code;	100154
	100155
	100156
	100157
	100158
	100159
(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 <u>5168.47</u> of the Revised Code.	100160
	100161
	100162
	100163
(B) Subject to sections 3721.512 <u>5168.44</u> , 3721.513 <u>5168.45</u> , and 3721.531 <u>5168.48</u> of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 <u>5168.54</u> of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to the franchise permit fee rate multiplied by the product of the following:	100164
	100165
	100166
	100167
	100168
	100169
(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term	100170
	100171

care beds, plus any other beds licensed as nursing home beds under 100172
section 3721.02 or 3721.09 of the Revised Code, on the first day 100173
of May of the calendar year in which the fee is determined 100174
pursuant to division (A) of section ~~3721.53~~ 5168.47 of the Revised 100175
Code; 100176

(2) The number of days in the fiscal year beginning on the 100177
first day of July of the calendar year in which the fee is 100178
determined pursuant to division (A) of section ~~3721.53~~ 5168.47 of 100179
the Revised Code. 100180

(C) If the total amount of the franchise permit fee assessed 100181
under divisions (A) and (B) of this section for a fiscal year 100182
exceeds the indirect guarantee percentage of the actual net 100183
patient revenue for all nursing homes and hospital long-term care 100184
units for that fiscal year and seventy-five per cent or more of 100185
the combined total number of nursing homes and hospital long-term 100186
care units receive enhanced medicaid payments or other state 100187
payments equal to seventy-five per cent or more of their total 100188
franchise permit fee assessments, do both of the following: 100189

(1) Recalculate the assessments under divisions (A) and (B) 100190
of this section using a per bed per day rate equal to the indirect 100191
guarantee percentage of actual net patient revenue for all nursing 100192
homes and hospital long-term care units for that fiscal year; 100193

(2) Refund the difference between the amount of the franchise 100194
permit fee assessed for that fiscal year under divisions (A) and 100195
(B) of this section and the amount recalculated under division 100196
(C)(1) of this section as a credit against the assessments imposed 100197
under divisions (A) and (B) of this section for the subsequent 100198
fiscal year. 100199

(D) If the United States centers for medicare and medicaid 100200
services determines that the franchise permit fee established by 100201
sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code is 100202

an impermissible health care-related tax under ~~section 1903(w)~~ of 100203
the "Social Security Act," ~~49 Stat. 620 (1935)~~ section 1903(w), 42 100204
U.S.C. 1396b(w), ~~as amended~~, take all necessary actions to cease 100205
implementation of sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of 100206
the Revised Code in accordance with rules adopted under section 100207
~~3721.58~~ 5168.56 of the Revised Code. 100208

Sec. ~~3721.511~~ 5168.43. (A) Not later than four months after 100209
July 17, 2009, the department of ~~job and family services~~ medicaid 100210
shall apply to the United States secretary of health and human 100211
services for a waiver under the "Social Security Act," section 100212
1903(w)(3)(E), 42 U.S.C. 1396b(w)(3)(E), as necessary to do both 100213
of the following regarding the franchise permit fee assessed under 100214
section ~~3721.51~~ 5168.42 of the Revised Code: 100215

(1) Reduce the franchise permit fee rate to zero dollars for 100216
each nursing home licensed under section 3721.02 or 3721.09 of the 100217
Revised Code to which either of the following applies: 100218

(a) The nursing home: 100219

(i) Is exempt from state taxation under section 140.08 of the 100220
Revised Code or is exempt from state taxation as a home for the 100221
aged as defined in section 5701.13 of the Revised Code; 100222

(ii) Is exempt from federal income taxation under section 501 100223
of the Internal Revenue Code of 1986; 100224

(iii) Does not participate in medicaid or medicare; and 100225

(iv) Provides services for the life of each resident without 100226
regard to the resident's ability to secure payment for the 100227
services. 100228

(b) The nursing home: 100229

(i) Has had a written affiliation agreement with a university 100230
in this state for education and research related to Alzheimer's 100231
disease for each of the twenty years preceding July 17, 2009, and 100232

has such an agreement on July 17, 2009; 100233

(ii) Was constructed pursuant to a certificate of need 100234
granted under Section 3 of Am. Sub. S.B. 256 of the 116th general 100235
assembly; and 100236

(iii) Does not participate in medicaid or medicare. 100237

(2) For each nursing facility with more than two hundred beds 100238
certified as nursing facility beds under Title XIX, reduce the 100239
franchise permit fee rate for a number of the nursing facility's 100240
beds specified by the department to the amount necessary to obtain 100241
approval of the waiver sought under this section. 100242

(B) The effective date of the waiver sought under this 100243
section shall be the first day of the quarter beginning after the 100244
United States secretary approves the waiver. 100245

Sec. ~~3721.512~~ 5168.44. If the United States secretary of 100246
health and human services approves the waiver sought under section 100247
~~3721.511~~ 5168.43 of the Revised Code, the department of ~~job and~~ 100248
~~family services~~ medicaid shall, for each nursing home and hospital 100249
that qualifies for a reduction of its franchise permit fee rate 100250
under the waiver, reduce the franchise permit fee rate in 100251
accordance with the terms of the waiver. For purposes of the first 100252
fiscal year during which the waiver takes effect, the department 100253
shall determine the amount of the reduction not later than the 100254
effective date of the waiver and shall mail to each nursing home 100255
and hospital qualifying for the reduction notice of the reduction 100256
not later than the last day of the first month of the quarter that 100257
begins after the United States secretary approves the waiver. For 100258
purposes of subsequent fiscal years, the department shall make 100259
such determinations and mail such notices in accordance with 100260
section ~~3721.53~~ 5168.47 of the Revised Code. 100261

Sec. ~~3721.513~~ 5168.45. (A) If the United States secretary of 100262

health and human services approves the waiver sought under section 100263
~~3721.511~~ 5168.43 of the Revised Code, the department of ~~job and~~ 100264
~~family services~~ medicaid may do both of the following regarding 100265
the franchise permit fee assessed under section ~~3721.51~~ 5168.42 of 100266
the Revised Code: 100267

(1) Determine how much money the franchise permit fee would 100268
have raised in a fiscal year if not for the waiver; 100269

(2) For each nursing home and hospital subject to the 100270
franchise permit fee, other than a nursing home or hospital that 100271
has its franchise permit fee rate reduced under section ~~3721.512~~ 100272
5168.44 of the Revised Code, uniformly increase the amount of the 100273
franchise permit fee rate for a fiscal year to an amount that will 100274
have the franchise permit fee raise an amount of money that does 100275
not exceed the amount determined under division (A)(1) of this 100276
section for that fiscal year. 100277

(B) If the department increases the franchise permit fee rate 100278
in accordance with division (A) of this section for the first 100279
fiscal year during which the waiver takes effect, the department 100280
shall determine the amount of the increase not later than the 100281
effective date of the waiver and shall mail to each nursing home 100282
and hospital subject to the increase notice of the increase not 100283
later than the last day of the first month of the quarter that 100284
begins after the United States secretary approves the waiver. If 100285
the department increases the franchise permit fee rate in 100286
accordance with division (A) of this section for a subsequent 100287
fiscal year, the department shall make such determinations and 100288
mail such notices in accordance with section ~~3721.53~~ 5168.47 of 100289
the Revised Code. 100290

Sec. ~~3721.52~~ 5168.46. The department of health shall do all 100291
of the following: 100292

(A) For the purpose of the determinations made under 100293
divisions (A) and (B) of section ~~3721.51~~ 5168.42 of the Revised 100294
Code and not later than the first day of each June, report to the 100295
department of ~~job and family services~~ medicaid the following: 100296

(1) For each nursing home, the number of beds in the nursing 100297
home licensed on the preceding first day of May under section 100298
3721.02 or 3721.09 of the Revised Code or certified on that date 100299
under Title XVIII or Title XIX; 100300

(2) For each hospital, the number of beds in the hospital 100301
registered on the preceding first day of May pursuant to section 100302
3701.07 of the Revised Code as skilled nursing facility or 100303
long-term care beds or licensed on that date under section 3721.02 100304
or 3721.09 of the Revised Code as nursing home beds. 100305

(B) For the purpose of the redetermination under section 100306
~~3721.531~~ 5168.48 of the Revised Code and not later than the 100307
fifteenth day of each January, report to the department of ~~job and~~ 100308
~~family services~~ medicaid, for each nursing home and hospital, the 100309
number of beds for which a bed surrender occurred during the 100310
period beginning on the first day of May of the preceding calendar 100311
year and ending on the first day of January of the calendar year 100312
in which the redetermination is made. 100313

Sec. ~~3721.53~~ 5168.47. (A) Not later than the fifteenth day of 100314
September of each year, the department of ~~job and family services~~ 100315
medicaid shall determine the annual franchise permit fee for each 100316
nursing home and hospital in accordance with section ~~3721.51~~ 100317
5168.42 of the Revised Code and any adjustments made in accordance 100318
with sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the Revised 100319
Code. 100320

(B) Not later than the first day of October of each year, the 100321
department shall mail to each nursing home and hospital notice of 100322
the amount of the franchise permit fee that has been determined 100323

for the nursing home or hospital. 100324

(C) Subject to section ~~3721.531~~ 5168.48 of the Revised Code, 100325
each nursing home and hospital shall pay its fee under section 100326
~~3721.51~~ 5168.42 of the Revised Code, as adjusted in accordance 100327
with sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the Revised 100328
Code, to the department in four installment payments not later 100329
than forty-five days after the last day of each October, December, 100330
March, and June. 100331

Sec. ~~3721.531~~ 5168.48. (A) Not later than the last day of 100332
February of each year, the department of ~~job and family services~~ 100333
medicaid shall redetermine each nursing home's and hospital's 100334
franchise permit fee if one or more bed surrenders occur during 100335
the period beginning on the first day of May of the preceding 100336
calendar year and ending on the first day of January of the 100337
calendar year in which the redetermination is made. 100338

(B) In redetermining nursing homes' and hospitals' franchise 100339
permit fees under this section, the department shall do both of 100340
the following: 100341

(1) Provide for the redetermination to be conducted in a 100342
manner consistent with the terms of the waiver sought under 100343
section ~~3721.511~~ 5168.43 of the Revised Code; 100344

(2) Recalculate each nursing home's and hospital's franchise 100345
permit fee in accordance with division (A) or (B) of section 100346
~~3721.51~~ 5168.42 of the Revised Code with the following changes: 100347

(a) In the case of a nursing home or hospital for which one 100348
or more bed surrenders occurred during the period beginning on the 100349
first day of May of the preceding calendar year and ending on the 100350
first day of January of the calendar year in which the 100351
redetermination is made, the number of beds included in the 100352
calculation for the purpose of division (A)(1) or (B)(1) of 100353

section ~~3721.51~~ 5168.42 of the Revised Code shall exclude the beds 100354
for which bed surrenders occurred during that period. 100355

(b) The number of days used in the calculation under division 100356
(A)(2) or (B)(2) of section ~~3721.51~~ 5168.42 of the Revised Code 100357
shall be the number of days in the first half of the calendar year 100358
in which the redetermination is made. 100359

(c) The franchise permit fee rate shall reflect adjustments 100360
made under sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the 100361
Revised Code. 100362

(C) Not later than the first day of March of each year, the 100363
department shall mail to each nursing home and hospital notice of 100364
the amount of its redetermined franchise permit fee. 100365

(D) Each nursing home and hospital shall pay its redetermined 100366
fee to the department in two installment payments not later than 100367
forty-five days after the last day of March and June of the 100368
calendar year in which the redetermination is made. 100369

Sec. ~~3721.532~~ 5168.49. If a nursing home or hospital 100370
undergoes a change of operator during a fiscal year, the 100371
responsibility for paying the franchise permit fee that was 100372
determined for the nursing home or hospital under section ~~3721.53~~ 100373
5168.47 of the Revised Code, or redetermined for the nursing home 100374
or hospital under section ~~3721.531~~ 5168.48 of the Revised Code, 100375
for that fiscal year shall be divided proportionally. The exiting 100376
operator shall be responsible for paying the amount of the fee 100377
that is for the part of the fiscal year that ends on the day 100378
before the effective date of the change of operator. The entering 100379
operator shall be responsible for paying the amount of the fee 100380
that is for the part of the fiscal year that begins on the 100381
effective date of the change of operator. The department of ~~job~~ 100382
~~and family services~~ medicaid is not required to mail a notice to 100383
the entering operator regarding the amount of that fiscal year's 100384

fee for which the entering operator is responsible. 100385

Sec. ~~3721.533~~ 5168.50. No nursing home or hospital shall 100386
directly bill its residents for the franchise permit fee paid 100387
under section ~~3721.53~~ 5168.47 or ~~3721.531~~ 5168.48 of the Revised 100388
Code or otherwise directly pass the fee through to its residents. 100389

Sec. ~~3721.54~~ 5168.51. If a nursing home or hospital fails to 100390
pay the full amount of a franchise permit fee installment when 100391
due, the department of ~~job and family services~~ medicaid may assess 100392
a five per cent penalty on the amount due for each month or 100393
fraction thereof the installment is overdue. 100394

Sec. ~~3721.541~~ 5168.52. (A) In addition to assessing a penalty 100395
pursuant to section ~~3721.54~~ 5168.51 of the Revised Code, the 100396
department of ~~job and family services~~ medicaid may do any of the 100397
following if a nursing facility or hospital fails to pay the full 100398
amount of a franchise permit fee installment when due: 100399

(1) Withhold an amount less than or equal to the installment 100400
and penalty assessed under section ~~3721.54~~ 5168.51 of the Revised 100401
Code from a ~~medicaid~~ medicaid payment due the nursing facility or hospital 100402
until the nursing facility or hospital pays the installment and 100403
penalty; 100404

(2) Offset an amount less than or equal to the installment 100405
and penalty assessed under section ~~3721.54~~ 5168.51 of the Revised 100406
Code from a ~~Medicaid~~ medicaid payment due the nursing facility or 100407
hospital; 100408

(3) Terminate the nursing facility or hospital's ~~medicaid~~ 100409
provider agreement. 100410

(B) The department may offset a ~~medicaid~~ medicaid payment under 100411
division (A) of this section without providing notice to the 100412

nursing facility or hospital and without conducting an 100413
adjudication under Chapter 119. of the Revised Code. 100414

Sec. ~~3721.55~~ 5168.53. (A) A nursing home or hospital may 100415
appeal the fee assessed under section ~~3721.51~~ 5168.42 of the 100416
Revised Code, as adjusted under section ~~3721.512~~ 5168.44 or 100417
~~3721.513~~ 5168.45 of the Revised Code, and redetermined under 100418
section ~~3721.531~~ 5168.48 of the Revised Code solely on the grounds 100419
that the department of ~~job and family services~~ medicaid committed 100420
a material error in determining or redetermining the amount of the 100421
fee. A request for an appeal must be received by the department 100422
not later than fifteen days after the date the department mails 100423
the notice of the fee and must include written materials setting 100424
forth the basis for the appeal. 100425

(B) If a nursing home or hospital submits a request for an 100426
appeal within the time required under division (A) of this 100427
section, the department of ~~job and family services~~ shall hold a 100428
public hearing in Columbus not later than thirty days after the 100429
date the department receives the request for an appeal. The 100430
department shall, not later than ten days before the date of the 100431
hearing, mail a notice of the date, time, and place of the hearing 100432
to the nursing home or hospital. The department may hear all the 100433
requested appeals in one public hearing. 100434

(C) On the basis of the evidence presented at the hearing or 100435
any other evidence submitted by the nursing home or hospital, the 100436
department may adjust a fee. The department's decision is final. 100437

Sec. ~~3721.56~~ 5168.54. (A) There is hereby created in the 100438
state treasury the nursing home franchise permit fee fund. All 100439
payments and penalties paid by nursing homes and hospitals under 100440
sections ~~3721.53~~ 5168.47, ~~3721.531~~ 5168.48, and ~~3721.54~~ 5168.51 of 100441
the Revised Code shall be deposited into the fund. The fund shall 100442

also consist of money deposited into it pursuant to sections 100443
3769.08 and 3769.26 of the Revised Code. Subject to division (B) 100444
of section 3769.08 of the Revised Code, the department of ~~job and~~ 100445
~~family services~~ medicaid shall use the money in the fund to make 100446
medicaid payments to providers of nursing facility services and 100447
providers of home and community-based services. Money in the fund 100448
may also be used for the residential state supplement program 100449
established under section ~~5119.69~~ 5119.41 of the Revised Code. 100450

(B) Any money remaining in the nursing home franchise permit 100451
fee fund after payments specified in division (A) of this section 100452
are made shall be retained in the fund. Any interest or other 100453
investment proceeds earned on money in the fund shall be credited 100454
to the fund and used to make medicaid payments in accordance with 100455
division (A) of this section. 100456

Sec. ~~3721.57~~ 5168.55. The department of ~~job and family~~ 100457
~~services~~ medicaid may make any investigation it considers 100458
appropriate to obtain information necessary to fulfill its duties 100459
under sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised 100460
Code. At the request of the department, the attorney general shall 100461
aid in any such investigations. The attorney general shall 100462
institute and prosecute all necessary actions for the enforcement 100463
of sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised 100464
Code, except that at the request of the attorney general, the 100465
county prosecutor of the county in which a nursing home or 100466
hospital that has failed to comply with sections ~~3721.50~~ 5168.40 100467
to ~~3721.58~~ 5168.56 of the Revised Code is located shall institute 100468
and prosecute any necessary action against the nursing home or 100469
hospital. 100470

Sec. ~~3721.58~~ 5168.56. The medicaid director of ~~job and family~~ 100471
~~services~~ shall adopt rules in accordance with Chapter 119. of the 100472

Revised Code to do both of the following: 100473

(A) Prescribe the actions the department of ~~job and family~~ 100474
~~services~~ medicaid will take to cease implementation of sections 100475
~~3721.50 through 3721.57~~ 5168.40 to 5168.56 of the Revised Code if 100476
the United States centers for medicare and medicaid services 100477
determines that the franchise permit fee established by those 100478
sections is an impermissible health-care related tax under ~~section~~ 100479
~~1903(w) of the "Social Security Act," 105 Stat. 1793 (1991)~~ 100480
section 1903(w), 42 U.S.C. 1396b(w), ~~as amended;~~ 100481

(B) Establish any requirements or procedures the director 100482
considers necessary to implement sections ~~3721.50~~ 5168.40 to 100483
~~3721.58~~ 5168.56 of the Revised Code. 100484

Sec. ~~5112.30~~ 5168.60. As used in sections ~~5112.30~~ 5168.60 to 100485
~~5112.39~~ 5168.71 of the Revised Code: 100486

(A) "Franchise permit fee rate" means the following: 100487

(1) For fiscal year ~~2012~~ 2014, ~~seventeen~~ eighteen dollars and 100488
~~ninety-nine~~ twenty-four cents; 100489

(2) For fiscal year ~~2013~~ 2015 and each fiscal year 100490
thereafter, eighteen dollars and ~~thirty-two~~ seventeen cents. 100491

(B) "Indirect guarantee percentage" means the percentage 100492
specified in ~~section 1903(w)(4)(C)(ii) of the "Social Security~~ 100493
~~Act," 120 Stat. 2994 (2006)~~ section 1903(w)(4)(C)(ii), 42 U.S.C. 100494
1396b(w)(4)(C)(ii), ~~as amended~~, that is to be used in determining 100495
whether a class of providers is indirectly held harmless for any 100496
portion of the costs of a broad-based health-care-related tax. If 100497
the indirect guarantee percentage changes during a fiscal year, 100498
the indirect guarantee percentage is the following: 100499

(1) For the part of the fiscal year before the change takes 100500
effect, the percentage in effect before the change; 100501

(2) For the part of the fiscal year beginning with the date 100502

the indirect guarantee percentage changes, the new percentage. 100503

(C) "~~Intermediate care facility for the mentally retarded~~ 100504
ICF/MR" has the same meaning as in section ~~5111.20~~ 5124.01 of the 100505
Revised Code, ~~except that, until August 1, 2009, it does not~~ 100506
~~include any such facility operated by the department of~~ 100507
~~developmental disabilities.~~ 100508

(D) "~~Medicaid~~ Medicaid-certified capacity" has the same 100509
meaning as in section ~~5111.01~~ 5124.01 of the Revised Code. 100510

(E) "Provider agreement" has the same meaning as in section 100511
5124.01 of the Revised Code. 100512

Sec. ~~5112.31~~ 5168.61. The department of ~~job and family~~ 100513
~~services~~ developmental disabilities shall do all of the following: 100514
100515

(A) Subject to section ~~5112.331~~ 5168.64 of the Revised Code 100516
and divisions (B) and (C) of this section and for the purposes 100517
specified in section ~~5112.371~~ 5168.69 of the Revised Code, assess 100518
for each fiscal year each ~~intermediate care facility for the~~ 100519
~~mentally retarded~~ ICF/MR a franchise permit fee equal to the 100520
franchise permit fee rate multiplied by the product of the 100521
following: 100522

(1) The ~~number of beds certified under Title XIX of the~~ 100523
~~"Social Security Act"~~ ICF/MR's medicaid-certified capacity on the 100524
first day of May of the calendar year in which the assessment is 100525
determined pursuant to division (A) of section ~~5112.33~~ 5168.63 of 100526
the Revised Code; 100527

(2) The number of days in the fiscal year. 100528

(B) If the total amount of the franchise permit fee assessed 100529
under division (A) of this section for a fiscal year exceeds the 100530
indirect guarantee percentage of the actual net patient revenue 100531
for all ~~intermediate care facilities for the mentally retarded~~ 100532

ICFs/MR for that fiscal year and seventy-five per cent or more of 100533
the total number of ~~intermediate care facilities for the mentally~~ 100534
~~retarded~~ ICFs/MR receive enhanced medicaid payments or other state 100535
payments equal to seventy-five per cent or more of their total 100536
franchise permit fee assessments, do both of the following: 100537

(1) Recalculate the assessments under division (A) of this 100538
section using a per bed per day rate equal to the indirect 100539
guarantee percentage of actual net patient revenue for all 100540
~~intermediate care facilities for the mentally retarded~~ ICFs/MR for 100541
that fiscal year; 100542

(2) Refund the difference between the amount of the franchise 100543
permit fee assessed for that fiscal year under division (A) of 100544
this section and the amount recalculated under division (B)(1) of 100545
this section as a credit against the assessments imposed under 100546
division (A) of this section for the subsequent fiscal year. 100547

(C) If the United States secretary of health and human 100548
services determines that the franchise permit fee established by 100549
sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of the Revised Code 100550
would be an impermissible health care-related tax under ~~section~~ 100551
~~1903(w)~~ of the "Social Security Act," ~~105 Stat. 1793 (1991)~~ 100552
section 1903(w), 42 U.S.C. 1396b(w), ~~as amended~~, take all 100553
necessary actions to cease implementation of those sections in 100554
accordance with rules adopted under section ~~5112.39~~ 5168.71 of the 100555
Revised Code. 100556

Sec. ~~5112.32~~ 5168.62. For the purpose of the franchise permit 100557
fee imposed under section ~~5112.31~~ 5168.61 of the Revised Code and 100558
not later than the first day of each June, the department of 100559
developmental disabilities shall: 100560

~~(A) Not later than August 1, 1993, report to the department~~ 100561
~~of job and family services the number of beds in each intermediate~~ 100562
~~care facility for the mentally retarded certified on July 1, 1993,~~ 100563

~~under Title XIX of the "Social Security Act," 49 Stat. 620 (1935),~~ 100564
~~42 U.S.C.A. 301, as amended;~~ 100565

~~(B) Not later than June 1, 1994, and the first day of each~~ 100566
~~June thereafter,~~ report to the department of ~~job and family~~ 100567
~~services~~ medicaid the number of beds in each ~~such facility~~ 100568
~~certified ICF/MR~~ on the preceding first day of May ~~under that~~ 100569
~~title.~~ 100570

Sec. ~~5112.33~~ 5168.63. (A) Not later than the fifteenth day of 100571
August of each year, the department of ~~job and family services~~ 100572
developmental disabilities shall determine the annual franchise 100573
permit fee for each ~~intermediate care facility for the mentally~~ 100574
~~retarded ICF/MR~~ in accordance with section ~~5112.31~~ 5168.61 of the 100575
Revised Code. 100576

(B) Not later than the first day of September of each year, 100577
the department shall mail to each ~~intermediate care facility for~~ 100578
~~the mentally retarded ICF/MR~~ notice of the amount of the franchise 100579
permit fee the ~~facility~~ ICF/MR has been assessed under section 100580
~~5112.31~~ 5168.61 of the Revised Code. 100581

(C) Subject to section ~~5112.331~~ 5168.64 of the Revised Code, 100582
each ~~intermediate care facility for the mentally retarded ICF/MR~~ 100583
shall pay its fee under section ~~5112.31~~ 5168.61 of the Revised 100584
Code to the department in quarterly installment payments not later 100585
than forty-five days after the last day of each September, 100586
December, March, and June. 100587

Sec. ~~5112.331~~ 5168.64. (A) If, during the period beginning on 100588
the first day of May of a calendar year and ending on the first 100589
day of January of the immediately following calendar year, the 100590
operator of an ~~intermediate care facility for the mentally~~ 100591
~~retarded ICF/MR~~ converts, pursuant to section ~~5111.874~~ 5124.60 of 100592
the Revised Code, one or more of the ~~facility's~~ ICF/MR's beds to 100593

providing home and community-based services, the department of ~~job~~ 100594
~~and family services~~ developmental disabilities shall do the 100595
following: 100596

(1) If the ~~facility's~~ ICF/MR's medicaid certification is 100597
terminated because of the conversion, terminate the ~~facility's~~ 100598
ICF/MR's franchise permit fee effective on the first day of the 100599
quarter immediately following the quarter in which the department 100600
receives the notice of the conversion from the director of health; 100601

(2) If the ~~facility's certified~~ ICF/MR's medicaid-certified 100602
capacity ~~under medicaid~~ is reduced because of the conversion, 100603
redetermine the ~~facility's~~ ICF/MR's franchise permit fee in 100604
accordance with division (B) of this section for the second half 100605
of the fiscal year for which the fee is assessed. 100606

(B)(1) To redetermine an ~~intermediate care facility for the~~ 100607
~~mentally retarded's~~ ICF/MR's franchise permit fee, the department 100608
shall multiply the franchise permit fee rate by the product of the 100609
following: 100610

(a) The ~~number of the facility's beds that remain certified~~ 100611
~~under Title XIX of the "Social Security Act"~~ ICF/MR's 100612
medicaid-certified capacity as of the date the conversion takes 100613
effect; 100614

(b) The number of days in the second half of the fiscal year 100615
for which the redetermination is made. 100616

(2) The ~~intermediate care facility for the mentally retarded~~ 100617
ICF/MR shall pay its franchise permit fee as redetermined under 100618
division (B)(1) of this section in installment payments not later 100619
than forty-five days after the last day of March and June of the 100620
fiscal year for which the redetermination is made. 100621

Sec. 5112.34 5168.65. If an ~~intermediate care facility for~~ 100622
~~the mentally retarded~~ ICF/MR fails to pay the full amount of an 100623

installment when due, the department of ~~job and family services~~ 100624
developmental disabilities may assess a five per cent penalty on 100625
the amount due for each month or fraction thereof the installment 100626
is overdue. 100627

Sec. ~~5112.341~~ 5168.66. (A) In addition to assessing a penalty 100628
pursuant to section ~~5112.34~~ 5168.65 of the Revised Code, the 100629
department of ~~job and family services~~ developmental disabilities 100630
may do any of the following if an ~~intermediate care facility for~~ 100631
~~the mentally retarded~~ ICF/MR fails to pay the full amount of a 100632
franchise permit fee installment when due: 100633

(1) Withhold an amount less than or equal to the installment 100634
and penalty assessed under section ~~5112.34~~ 5168.65 of the Revised 100635
Code from a medicaid payment due the ~~facility~~ ICF/MR until the 100636
~~facility~~ ICF/MR pays the installment and penalty; 100637

(2) Offset an amount less than or equal to the installment 100638
and penalty assessed under section ~~5112.34~~ 5168.65 of the Revised 100639
Code from a medicaid payment due the ~~facility~~ ICF/MR; 100640

(3) ~~Terminate~~ Provide for the department of medicaid to 100641
terminate the ~~facility's medicaid~~ ICF/MR's provider agreement. 100642

(B) The department may offset a medicaid payment under 100643
division (A) of this section without providing notice to the 100644
~~intermediate care facility for the mentally retarded~~ ICF/MR and 100645
without conducting an adjudication under Chapter 119. of the 100646
Revised Code. 100647

Sec. ~~5112.35~~ 5168.67. (A) An ~~intermediate care facility for~~ 100648
~~the mentally retarded~~ ICF/MR may appeal the franchise permit fee 100649
imposed under section ~~5112.31~~ 5168.61 of the Revised Code solely 100650
on the grounds that the department of ~~job and family services~~ 100651
developmental disabilities committed a material error in 100652
determining the amount of the fee. A request for an appeal must be 100653

received by the department not later than fifteen days after the 100654
date the department mails the notice of the fee and must include 100655
written materials setting forth the basis for the appeal. 100656

(B) If an ~~intermediate care facility for the mentally~~ 100657
~~retarded~~ ICF/MR submits a request for an appeal within the time 100658
required under division (A) of this section, the department shall 100659
hold a public hearing in Columbus not later than thirty days after 100660
the date the department receives the request for an appeal. The 100661
department shall, not later than ten days before the date of the 100662
hearing, mail a notice of the date, time, and place of the hearing 100663
to the ~~facility~~ ICF/MR. The department may hear all requested 100664
appeals in one public hearing. 100665

(C) On the basis of the evidence presented at the hearing or 100666
any other evidence submitted by the ~~intermediate care facility for~~ 100667
~~the mentally retarded~~ ICF/MR, the department may adjust a fee. The 100668
department's decision is final. 100669

Sec. ~~5112.37~~ 5168.68. There is hereby created in the state 100670
treasury the home and community-based services for the mentally 100671
retarded and developmentally disabled fund. All installment 100672
payments and penalties paid by an ~~intermediate care facility for~~ 100673
~~the mentally retarded~~ ICF/MR under sections ~~5112.33~~ 5168.63 and 100674
~~5112.34~~ 5168.65 of the Revised Code shall be deposited into the 100675
fund. As soon as possible after the end of each quarter, the 100676
medicaid director ~~of job and family services~~ shall certify to the 100677
director of budget and management the amount of money that is in 100678
the fund as of the last day of that quarter. On receipt of a 100679
certification, the director of budget and management shall 100680
transfer the amount so certified from the home and community-based 100681
services for the mentally retarded and developmentally disabled 100682
fund to the department of developmental disabilities operating and 100683
services fund created under section ~~5112.371~~ 5168.69 of the 100684

Revised Code. 100685

Sec. ~~5112.371~~ 5168.69. There is hereby created in the state 100686
treasury the department of developmental disabilities operating 100687
and services fund. The fund shall consist of the money transferred 100688
to it under section ~~5112.37~~ 5168.68 of the Revised Code. The money 100689
in the fund shall be used for the expenses of the programs that 100690
the department of developmental disabilities administers and the 100691
department's administrative expenses. 100692

Sec. ~~5112.38~~ 5168.70. The department of ~~job and family~~ 100693
~~services~~ developmental disabilities may make any investigation it 100694
considers appropriate to obtain information necessary to fulfill 100695
its duties under sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of 100696
the Revised Code. At the request of the department, the attorney 100697
general shall aid in any such investigations. The attorney general 100698
shall institute and prosecute all necessary actions for the 100699
enforcement of sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of the 100700
Revised Code, except that at the request of the attorney general, 100701
the county prosecutor of the county in which an ~~intermediate care~~ 100702
~~facility for the mentally retarded~~ ICF/MR that has failed to 100703
comply with those sections is located shall institute and 100704
prosecute any necessary action against the ~~facility~~ ICF/MR. 100705

Sec. ~~5112.39~~ 5168.71. ~~The~~ To the extent authorized by rules 100706
authorized by section 5162.021 of the Revised Code, the director 100707
of ~~job and family services~~ developmental disabilities shall adopt 100708
rules in accordance with Chapter 119. of the Revised Code to do 100709
both of the following: 100710

(A) Prescribe the actions the department of developmental 100711
disabilities will take to cease implementation of sections ~~5112.30~~ 100712
5168.60 to ~~5112.39~~ 5168.71 of the Revised Code if the United 100713
States secretary of health and human services determines that the 100714

franchise permit fee imposed under section ~~5112.31~~ 5168.61 of the 100715
Revised Code is an impermissible health care-related tax under 100716
~~section 1903(w)~~ of the "Social Security Act," ~~105 Stat. 1793~~ 100717
(~~1991~~) section 1903(w), 42 U.S.C. 1396b(w), ~~as amended~~; 100718

(B) Establish any other requirements or procedures the 100719
director considers necessary to implement sections ~~5112.30~~ 5168.60 100720
to ~~5112.39~~ 5168.71 of the Revised Code. 100721

Sec. ~~5112.99~~ 5168.99. (A) The medicaid director ~~of job and~~ 100722
~~family services~~ shall impose a penalty for each day that a 100723
hospital fails to report the information required under section 100724
~~5112.04~~ 5168.05 of the Revised Code on or before the dates 100725
specified in that section. The amount of the penalty shall be 100726
established by the director in rules adopted under section ~~5112.03~~ 100727
5168.02 of the Revised Code. 100728

(B) In addition to any other remedy available to the 100729
department of ~~job and family services~~ medicaid under law to 100730
collect unpaid assessments and transfers under sections ~~5112.01~~ 100731
5168.01 to ~~5112.21~~ 5168.14 of the Revised Code, the director shall 100732
impose a penalty of ten per cent of the amount due on any hospital 100733
that fails to pay assessments or make intergovernmental transfers 100734
by the dates required by rules adopted under section ~~5112.03~~ 100735
5168.02 of the Revised Code. 100736

(C) In addition to any other remedy available to the 100737
department of ~~job and family services~~ medicaid under law to 100738
collect unpaid assessments imposed under section ~~5112.41~~ 5168.21 100739
of the Revised Code, the director shall impose a penalty of ten 100740
per cent of the amount due on any hospital that fails to pay the 100741
assessment by the date it is due. 100742

(D) The director shall waive the penalties provided for in 100743
this section for good cause shown by the hospital. 100744

(E) All penalties imposed under this section shall be 100745
deposited into the health care administration fund created by 100746
section ~~5111.94~~ 5162.54 of the Revised Code. 100747

Sec. ~~5112.991~~ 5168.991. The department of ~~job and family~~ 100748
~~services~~ medicaid may offset the amount of a hospital's unpaid 100749
penalty imposed under section ~~5112.99~~ 5168.99 of the Revised Code 100750
from one or more payments due the hospital under the medicaid 100751
program. The total amount that may be offset from one or more 100752
payments shall not exceed the amount of the unpaid penalty. 100753

Sec. 5302.221. (A) As used in this section: 100754

"Estate" has the same meaning as in section ~~5111.11~~ 5162.21 100755
of the Revised Code. 100756

"Medicaid estate recovery program" means the program 100757
instituted under section ~~5111.11~~ 5162.21 of the Revised Code. 100758

(B) The administrator of the medicaid estate recovery program 100759
shall prescribe a form on which a beneficiary of a transfer on 100760
death designation affidavit as provided in section 5302.22 of the 100761
Revised Code, who survives the deceased owner of the real property 100762
or an interest in the real property or that is in existence on the 100763
date of death of the deceased owner, or that beneficiary's 100764
representative is to indicate both of the following: 100765

(1) Whether the deceased owner was either of the following: 100766

(a) A decedent subject to the medicaid estate recovery 100767
program; 100768

(b) The spouse of a decedent subject to the medicaid estate 100769
recovery program. 100770

(2) Whether the real property or interest in the real 100771
property was part of the estate of a decedent subject to the 100772
medicaid estate recovery program. 100773

(C) A county recorder shall obtain a properly completed form 100774
prescribed under division (B) of this section from the beneficiary 100775
of a transfer on death designation affidavit or the beneficiary's 100776
representative and send a copy of the form to the administrator of 100777
the medicaid estate recovery program before recording the transfer 100778
of the real property or interest in the real property under 100779
section 5302.222 of the Revised Code. 100780

Sec. 5309.082. (A) As used in this section: 100781

"Estate" has the same meaning as in section ~~5111.11~~ 5162.21 100782
of the Revised Code. 100783

"Medicaid estate recovery program" means the program 100784
instituted under section ~~5111.11~~ 5162.21 of the Revised Code. 100785

(B) The administrator of the medicaid estate recovery program 100786
shall prescribe a form on which a surviving tenant under a 100787
survivorship tenancy or such a surviving tenant's representative 100788
is to indicate both of the following: 100789

(1) Whether the deceased survivorship tenant was either of 100790
the following: 100791

(a) A decedent subject to the medicaid estate recovery 100792
program; 100793

(b) The spouse of a decedent subject to the medicaid estate 100794
recovery program. 100795

(2) Whether the registered land under a survivorship tenancy 100796
was part of the estate of a decedent subject to the medicaid 100797
estate recovery program. 100798

(C) A county recorder shall obtain a properly completed form 100799
prescribed under division (B) of this section from the surviving 100800
tenant under a survivorship tenancy or the surviving tenant's 100801
representative and send a copy of the form to the administrator of 100802
the medicaid estate recovery program before registering the title 100803

in the surviving tenants under section 5309.081 of the Revised Code. 100804
100805

Sec. 5505.12. (A) The state highway patrol retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the state highway patrol retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following: 100806
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(1) A summary of the benefit provisions evaluated; 100815

(2) A summary of the census data and financial information used in the valuation; 100816
100817

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system; 100818
100819
100820
100821
100822

(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities; 100823
100824
100825

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation; 100826
100827
100828

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board. 100829
100830
100831

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the 100832
100833

standing committees of the house of representatives and the senate 100834
with primary responsibility for retirement legislation immediately 100835
upon its availability and not later than the first day of July 100836
following the year for which the valuation was made. 100837

(B) At such times as the state highway patrol retirement 100838
board determines, and at least once in each five-year period after 100839
January 1, 1966, the board shall have prepared by or under the 100840
supervision of an actuary an actuarial investigation of the 100841
mortality, service, and other experience of the members, 100842
retirants, and beneficiaries to update the actuarial assumptions 100843
used in the actuarial valuation required by division (A) of this 100844
section. The actuary shall prepare a report of the actuarial 100845
investigation. The report shall be prepared and any recommended 100846
changes in actuarial assumptions shall be made in accordance with 100847
the actuarial standards of practice promulgated by the actuarial 100848
standards board of the American academy of actuaries. The report 100849
shall include all of the following: 100850

(1) A summary of relevant decrement and economic assumption 100851
experience observed over the period of the investigation; 100852

(2) Recommended changes in actuarial assumptions to be used 100853
in subsequent actuarial valuations required by division (A) of 100854
this section; 100855

(3) A measurement of the financial effect of the recommended 100856
changes in actuarial assumptions; 100857

(4) If the investigation required by this division includes 100858
the investigation required by division (F) of this section, a 100859
report of the result of that investigation. 100860

The board shall submit the report to the Ohio retirement 100861
study council and the standing committees of the house of 100862
representatives and the senate with primary responsibility for 100863
retirement legislation not later than the first day of November 100864

following the last fiscal year of the period the report covers. 100865

(C) The board may at any time request the actuary to make any 100866
studies or actuarial valuations to determine the adequacy of the 100867
rates of contributions provided by section 5505.15 of the Revised 100868
Code. 100869

(D) The board shall have prepared by or under the supervision 100870
of an actuary an actuarial analysis of any introduced legislation 100871
expected to have a measurable financial impact on the retirement 100872
system. The actuarial analysis shall be completed in accordance 100873
with the actuarial standards of practice promulgated by the 100874
actuarial standards board of the American academy of actuaries. 100875
The actuary shall prepare a report of the actuarial analysis, 100876
which shall include all of the following: 100877

(1) A summary of the statutory changes that are being 100878
evaluated; 100879

(2) A description of or reference to the actuarial 100880
assumptions and actuarial cost method used in the report; 100881

(3) A description of the participant group or groups included 100882
in the report; 100883

(4) A statement of the financial impact of the legislation, 100884
including the resulting increase, if any, in the employer normal 100885
cost percentage; the increase, if any, in actuarial accrued 100886
liabilities; and the per cent of payroll that would be required to 100887
amortize the increase in actuarial accrued liabilities as a level 100888
per cent of covered payroll for all active members over a period 100889
not to exceed thirty years; 100890

(5) A statement of whether the scheduled contributions to the 100891
system after the proposed change is enacted are expected to be 100892
sufficient to satisfy the funding objectives established by the 100893
board. 100894

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 5505.28 of the Revised Code. The report shall be made as of December 31, 1997, and the thirty-first day of December of each year thereafter. The report shall include the following:

(1) A description of the statutory authority for the benefits provided;

(2) A summary of the benefits;

(3) A summary of the eligibility requirements for the benefits;

(4) A statement of the number of participants eligible for the benefits;

(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;

(6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;

(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;

(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of

benefits, administrative expenses incurred, and annual employer 100925
contributions allocated for the provision of benefits; 100926

(9) A description of any significant changes that affect the 100927
comparability of the report required under this division; 100928

(10) A statement of the amount paid under division (B) of 100929
section 5505.28 of the Revised Code. 100930

The board shall submit the report to the Ohio retirement 100931
study council, the director of budget and management, and the 100932
standing committees of the house of representatives and the senate 100933
with primary responsibility for retirement legislation immediately 100934
upon its availability and not later than the thirtieth day of June 100935
following the year for which the report was made. 100936

(F) At least once in each five-year period, the board shall 100937
have prepared by or under the supervision of an actuary an 100938
actuarial investigation of the deferred retirement option plan 100939
established under section 5505.50 of the Revised Code. The 100940
investigation shall include an examination of the financial 100941
impact, if any, on the retirement system of offering the plan to 100942
members. 100943

The actuary shall prepare a report of the actuarial 100944
investigation. The report shall include a determination of whether 100945
the plan, as established or modified, has a negative financial 100946
impact on the retirement system and, if so, recommendations on how 100947
to modify the plan to eliminate the negative financial impact. If 100948
the actuarial report indicates that the plan has a negative 100949
financial impact on the retirement system, the board shall modify 100950
the plan. If the board modifies the plan, the rights and 100951
obligations of members who have already elected to participate 100952
shall not be altered. 100953

The state's contributions to the employer accumulation fund 100954
shall not be increased to offset any negative financial impact of 100955

the deferred retirement option plan. 100956

The board may include the actuarial investigation required 100957
under this division as part of the actuarial investigation 100958
required under division (B) of this section. If the report of the 100959
actuarial investigation required by this division is not included 100960
in the report required by division (B) of this section, the board 100961
shall submit the report required by this division to the Ohio 100962
retirement study council and the standing committees of the house 100963
of representatives and the senate with primary responsibility for 100964
retirement legislation not later than the first day of November 100965
following the last fiscal year of the period the report covers. 100966

Sec. 5507.46. (A) Prior to January 1, 2014: 100967

(1) A wireless service provider or reseller, not later than 100968
the last day of each month, shall remit the full amount of all 100969
wireless 9-1-1 charges it collected under division (A) of section 100970
5507.42 of the Revised Code for the second preceding calendar 100971
month to the Ohio 9-1-1 coordinator, with the exception of charges 100972
equivalent to the amount authorized as a billing and collection 100973
fee under division (A)(2) of this section. In doing so, the 100974
provider or reseller may remit the requisite amount in any 100975
reasonable manner consistent with its existing operating or 100976
technological capabilities, such as by customer address, location 100977
associated with the wireless telephone number, or another 100978
allocation method based on comparable, relevant data. If the 100979
wireless service provider or reseller receives a partial payment 100980
for a bill from a wireless service subscriber, the wireless 100981
service provider or reseller shall apply the payment first against 100982
the amount the subscriber owes the wireless service provider or 100983
reseller and shall remit to the coordinator such lesser amount, if 100984
any, as results from that invoice. 100985

(2) A wireless service provider or reseller may retain as a 100986

billing and collection fee two per cent of the total wireless 100987
9-1-1 charges it collects in a month and shall account to the 100988
coordinator for the amount retained. 100989

(3) The coordinator shall return to, or credit against the 100990
next month's remittance of, a wireless service provider or 100991
reseller the amount of any remittances the coordinator determines 100992
were erroneously submitted by the provider or reseller. 100993

(B) Beginning January 1, 2014: 100994

(1) Each seller of a prepaid wireless calling service, 100995
wireless service provider, and reseller shall, on or before the 100996
twenty-third day of each month, except as provided in divisions 100997
(B)(2) and (3) of this section, do both of the following: 100998

(a) Make and file a return for the preceding month, in the 100999
form prescribed by the tax commissioner, showing the amount of the 101000
wireless 9-1-1 charges due under section 5507.42 of the Revised 101001
Code for that month; 101002

(b) Remit the full amount due, as shown on the return, with 101003
the exception of charges equivalent to the amount authorized as a 101004
collection fee under division (B)(4) of this section. 101005

(2) The commissioner may grant one or more thirty-day 101006
extensions for making and filing returns and remitting amounts 101007
due. 101008

(3) If a seller is required to collect prepaid wireless 9-1-1 101009
charges in amounts that do not merit monthly returns, the 101010
commissioner may authorize the seller to make and file returns 101011
less frequently. The commissioner shall ascertain whether this 101012
authorization is warranted upon the basis of administrative costs 101013
to the state. 101014

(4) A wireless service provider, reseller, and seller may 101015
each retain as a collection fee three per cent of the total 101016

wireless 9-1-1 charges required to be collected under section 101017
5507.42 of the Revised Code, and shall account to the tax 101018
commissioner for the amount retained. 101019

(5) The return required under division (B)(1)(a) of this 101020
section shall be filed electronically using the Ohio business 101021
gateway, as defined in section 718.051 of the Revised Code, the 101022
Ohio telefile system, or any other electronic means prescribed by 101023
the tax commissioner. Remittance of the amount due shall be made 101024
electronically in a manner approved by the commissioner. A 101025
wireless service provider, reseller, or seller may apply to the 101026
commissioner on a form prescribed by the commissioner to be 101027
excused from either electronic requirement of this division. For 101028
good cause shown, the commissioner may excuse the provider, 101029
reseller, or seller from either or both of the requirements and 101030
may permit the provider, reseller, or seller to file returns or 101031
make remittances by nonelectronic means. 101032

(C)(1) Prior to January 1, 2014, each subscriber on which a 101033
wireless 9-1-1 charge is imposed under division (A) of section 101034
5507.42 of the Revised Code is liable to the state for the amount 101035
of the charge. If a wireless service provider or reseller fails to 101036
collect the charge under that division from a subscriber of 101037
prepaid wireless service, or fails to bill any other subscriber 101038
for the charge, the wireless service provider or reseller is 101039
liable to the state for the amount not collected or billed. If a 101040
wireless service provider or reseller collects charges under that 101041
division and fails to remit the money to the coordinator, the 101042
wireless service provider or reseller is liable to the state for 101043
any amount collected and not remitted. 101044

(2) Beginning January 1, 2014: 101045

(a) Each subscriber or consumer on which a wireless 9-1-1 101046
charge is imposed under section 5507.42 of the Revised Code is 101047
liable to the state for the amount of the charge. If a wireless 101048

service provider or reseller fails to bill or collect the charge, 101049
or if a seller fails to collect the charge, the provider, 101050
reseller, or seller is liable to the state for the amount not 101051
billed or collected. If a provider, reseller, or seller fails to 101052
remit money to the tax commissioner as required under this 101053
section, the provider, reseller, or seller is liable to the state 101054
for the amount not remitted, regardless of whether the amount was 101055
collected. 101056

(b) No provider of a prepaid wireless calling service shall 101057
be liable to the state for any wireless 9-1-1 charge imposed under 101058
division (B)(1) of section 5507.42 of the Revised Code that was 101059
not collected or remitted. 101060

(D) Prior to January 1, 2014: 101061

(1) If the public utilities commission has reason to believe 101062
that a wireless service provider or reseller has failed to bill, 101063
collect, or remit the wireless 9-1-1 charge as required by 101064
divisions (A)(1) and (C)(1) of this section or has retained more 101065
than the amount authorized under division (A)(2) of this section, 101066
and after written notice to the provider or reseller, the 101067
commission may audit the provider or reseller for the sole purpose 101068
of making such a determination. The audit may include, but is not 101069
limited to, a sample of the provider's or reseller's billings, 101070
collections, remittances, or retentions for a representative 101071
period, and the commission shall make a good faith effort to reach 101072
agreement with the provider or reseller in selecting that sample. 101073

(2) Upon written notice to the wireless service provider or 101074
reseller, the commission, by order after completion of the audit, 101075
may make an assessment against the provider or reseller if, 101076
pursuant to the audit, the commission determines that the provider 101077
or reseller has failed to bill, collect, or remit the wireless 101078
9-1-1 charge as required by divisions (A)(1) and (C)(1) of this 101079
section or has retained more than the amount authorized under 101080

division (A)(2) of this section. The assessment shall be in the amount of any remittance that was due and unpaid on the date notice of the audit was sent by the commission to the provider or reseller or, as applicable, in the amount of the excess amount under division (A)(2) of this section retained by the provider or reseller as of that date.

(3) The portion of any assessment not paid within sixty days after the date of service by the commission of the assessment notice under division (D)(2) of this section shall bear interest from that date until paid at the rate per annum prescribed by section 5703.47 of the Revised Code. That interest may be collected by making an assessment under division (D)(2) of this section. An assessment under this division and any interest due shall be remitted in the same manner as the wireless 9-1-1 charge imposed under division (A) of section 5507.42 of the Revised Code.

(4) An assessment is final and due and payable and shall be remitted to the commission unless the assessed party petitions for rehearing under section 4903.10 of the Revised Code. The proceedings of the commission specified in division (D)(4) of this section are subject to and governed by Chapter 4903. of the Revised Code, except that the court of appeals of Franklin county has exclusive, original jurisdiction to review, modify, or vacate an order of the commission under division (D)(2) of this section. The court shall hear and determine such appeal in the same manner and under the same standards as the Ohio supreme court hears and determines appeals under Chapter 4903. of the Revised Code.

The judgment of the court of appeals is final and conclusive unless reversed, vacated, or modified on appeal. Such an appeal may be made by the commission or the person to whom the order under division (D)(2) of this section was issued and shall proceed as in the case of appeals in civil actions as provided in Chapter 2505. of the Revised Code.

(5) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commission's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the place of business of the assessed party is located. If the party maintains no place of business in this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county. Immediately upon the filing, the clerk shall enter a judgment for the state against the assessed party in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for wireless 9-1-1 charges" and shall have the same effect as other judgments. The judgment shall be executed upon the request of the commission.

(6) An assessment under this division does not discharge a subscriber's liability to reimburse the provider or reseller for the wireless 9-1-1 charge imposed under division (A) of section 5507.42 of the Revised Code. If, after the date of service of the audit notice under division (D)(1) of this section, a subscriber pays a wireless 9-1-1 charge for the period covered by the assessment, the payment shall be credited against the assessment.

(7) All money collected by the commission under division (D) of this section shall be paid to the treasurer of state, for deposit to the credit of the wireless 9-1-1 government assistance fund.

(E) Beginning January 1, 2014:

(1) If the tax commissioner has reason to believe that a wireless service provider, reseller, or seller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by this section and section 5507.42 of the Revised Code or has retained more than the amount authorized under division (B)(4) of this section, and after written notice to the provider, reseller, or

seller, the tax commissioner may audit the provider, reseller, or 101145
seller for the sole purpose of making such a determination. The 101146
audit may include, but is not limited to, a sample of the 101147
provider's, reseller's, or seller's billings, collections, 101148
remittances, or retentions for a representative period, and the 101149
tax commissioner shall make a good faith effort to reach agreement 101150
with the provider, reseller, or seller in selecting that sample. 101151

(2) Upon written notice to the wireless service provider, 101152
reseller, or seller, the tax commissioner, after completion of the 101153
audit, may make an assessment against the provider, reseller, or 101154
seller if, pursuant to the audit, the tax commissioner determines 101155
that the provider, reseller, or seller has failed to bill, 101156
collect, or remit the wireless 9-1-1 charge as required by this 101157
section and section 5507.42 of the Revised Code or has retained 101158
more than the amount authorized under division (B)(4) of this 101159
section. The assessment shall be in the amount of any remittance 101160
that was due and unpaid on the date notice of the audit was sent 101161
by the tax commissioner to the provider, reseller, or seller or, 101162
as applicable, in the amount of the excess amount under division 101163
(B)(4) of this section retained by the provider, reseller, or 101164
seller as of that date. 101165

(3) The portion of any assessment consisting of wireless 101166
9-1-1 charges due and not paid within sixty days after the date ~~of~~ 101167
~~service by the tax commissioner of that~~ the assessment notice was 101168
made under division (E)(2) of this section shall bear interest 101169
from that date until paid at the rate per annum prescribed by 101170
section 5703.47 of the Revised Code. That interest may be 101171
collected by making an assessment under division (E)(2) of this 101172
section. ~~An assessment under this division and any interest due~~ 101173
~~shall be remitted in the same manner as the wireless 9-1-1 charges~~ 101174
~~imposed under section 5507.42 of the Revised Code.~~ 101175

(4) ~~The portion of the assessment not paid within sixty days~~ 101176

~~after the day the assessment was issued shall bear interest at the 101177
rate per annum prescribed by section 5703.47 of the Revised Code 101178
from the day the commissioner issues the assessment until it is 101179
paid. Interest shall be remitted in the same manner as the 9-1-1 101180
charges and may be collected by the issuance of an assessment 101181
under division (E) of this section. 101182~~

(5) Unless the provider, reseller, or seller assessed files 101183
with the tax commissioner within sixty days after service of the 101184
notice of assessment, either personally or by certified mail, a 101185
written petition for reassessment, signed by the party assessed or 101186
that party's authorized agent having knowledge of the facts, the 101187
assessment shall become final and the amount of the assessment 101188
shall be due and payable from the party assessed to the treasurer 101189
of state, for deposit to the next generation 9-1-1 fund, which is 101190
created under section 5507.54 of the Revised Code. The petition 101191
shall indicate the objections of the party assessed, but 101192
additional objections may be raised in writing if received by the 101193
commissioner prior to the date shown on the final determination. 101194
If the petition has been properly filed, the commissioner shall 101195
proceed under section 5703.60 of the Revised Code. 101196

(6)(5) After an assessment becomes final, if any portion of 101197
the assessment remains unpaid, including accrued interest, a 101198
certified copy of the final assessment may be filed in the office 101199
of the clerk of the court of common pleas in the county in which 101200
the business of the assessed party is conducted. If the party 101201
assessed maintains no place of business in this state, the 101202
certified copy of the final assessment may be filed in the office 101203
of the clerk of the court of common pleas of Franklin county. 101204
Immediately upon the filing, the clerk shall enter a judgment for 101205
the state against the assessed party in the amount shown on the 101206
final assessment. The judgment may be filed by the clerk in a 101207
loose-leaf book entitled "special judgments for wireless 9-1-1 101208

charges" and shall have the same effect as other judgments. The 101209
judgment shall be executed upon the request of the tax 101210
commissioner. 101211

~~(7)~~(6) If the commissioner determines that the commissioner 101212
erroneously has refunded a wireless 9-1-1 charge to any person, 101213
the commissioner may make an assessment against that person for 101214
recovery of the erroneously refunded charge. 101215

~~(8)~~(7) An assessment under division (E) of this section does 101216
not discharge a subscriber's or consumer's liability to reimburse 101217
the provider, reseller, or seller for a wireless 9-1-1 charge. If, 101218
after the date of service of the audit notice under division 101219
(E)(1) of this section, a subscriber or consumer pays a wireless 101220
9-1-1 charge for the period covered by the assessment, the payment 101221
shall be credited against the assessment. 101222

Sec. 5511.03. The director of transportation shall examine 101223
the existing highway facilities serving the several hospitals, 101224
educational institutions, and correctional and other similar 101225
institutions belonging to the state, and located outside municipal 101226
corporations. Where the director finds that any such state 101227
institution is not located on a state highway or connected with a 101228
highway by a suitable road, affording in its present condition 101229
adequate transportation facilities to those having occasion to 101230
visit such institution, the director may establish a state highway 101231
leading to such institution from a convenient point on an existing 101232
highway. Where the director finds that any such institution is not 101233
served by adequate highway facilities connecting it with the 101234
railroad delivery point from which it principally obtains fuel, 101235
provisions, and supplies, the director may establish a highway 101236
connecting such institution and railroad delivery point. 101237
Limitations imposed on the mileage of state highways shall not 101238
apply to highways established under this section. 101239

The director may construct at state expense all highways established under authority of this section and pay the entire cost thereof from the state highway operating fund. Such highways shall be maintained by the department of transportation and the cost shall be paid from the highway operating fund of the department.

The directors of transportation, ~~mental health~~ mental health and addiction services, developmental disabilities, and rehabilitation and correction may cooperate in the establishment, construction, reconstruction, maintenance, and repair of roads within the limits of state institutions. The cost shall be paid from funds appropriated for highway purposes and from the funds appropriated to the department of ~~mental health~~ mental health and addiction services, department of developmental disabilities, or the department of rehabilitation and correction for capital improvements or maintenance in such proportion as may be agreed upon by the directors of transportation, ~~mental health~~ mental health and addiction services, developmental disabilities, and rehabilitation and correction.

Sec. 5701.13. (A) As used in this section:

(1) "Nursing home" means a nursing home or a home for the aging, as those terms are defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(2) "Residential care facility" means a residential care facility, as defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(3) "Residential facility" means a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services

for three to sixteen unrelated adults. 101271

(B) As used in Title LVII of the Revised Code, and for the 101272
purpose of other sections of the Revised Code that refer 101273
specifically to Chapter 5701. or section 5701.13 of the Revised 101274
Code, a "home for the aged" means either of the following: 101275

(1) A place of residence for aged and infirm persons that 101276
satisfies divisions (B)(1)(a) to (e) of this section: 101277

(a) It is a nursing home, residential care facility, or 101278
residential facility. 101279

(b) It is owned by a corporation, unincorporated nonprofit 101280
association, or trust of a charitable, religious, or fraternal 101281
nature, that is organized and operated not for profit, is not 101282
formed for the pecuniary gain or profit of, and whose net earnings 101283
or any part of whose net earnings is not distributable to, its 101284
members, trustees, officers, or other private persons, and is 101285
exempt from federal income taxation under section 501 of the 101286
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 101287

(c) It is open to the public without regard to race, color, 101288
or national origin. 101289

(d) It does not pay, directly or indirectly, compensation for 101290
services rendered, interest on debts incurred, or purchase price 101291
for land, building, equipment, supplies, or other goods or 101292
chattels, which compensation, interest, or purchase price is 101293
unreasonably high. 101294

(e) It provides services for the life of each resident 101295
without regard to the resident's ability to continue payment for 101296
the full cost of the services. 101297

(2) A place of residence that satisfies divisions (B)(1)(b), 101298
(d), and (e) of this section; that satisfies the definition of 101299
"nursing home" or "residential care facility" under section 101300

3721.01 of the Revised Code or the definition of "residential facility" under division (A)(3) of this section regardless of whether it is licensed as such a home or facility; and that is provided at no charge to individuals on account of their service without compensation to a charitable, religious, fraternal, or educational institution, which individuals are aged or infirm and are members of the corporation, association, or trust that owns the place of residence. For the purposes of division (B)(2) of this section, "compensation" does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

Exemption from taxation shall be accorded, on proper application, only to those homes or parts of homes that meet the standards and provide the services specified in this section.

Nothing in this section shall be construed as preventing a home from requiring a resident with financial need to apply for any applicable financial assistance or requiring a home to retain a resident who willfully refuses to pay for services for which the resident has contracted even though the resident has sufficient resources to do so.

(C)(1) If a corporation, unincorporated nonprofit association, or trust described in division (B)(1)(b) of this section is granted a certificate of need pursuant to section 3702.52 of the Revised Code to construct, add to, or otherwise modify a nursing home, or is given approval pursuant to section 3791.04 of the Revised Code to construct, add to, or otherwise modify a residential care facility or residential facility and if the corporation, association, or trust submits an affidavit to the tax commissioner stating that, commencing on the date of licensure and continuing thereafter, the home or facility will be operated in accordance with the requirements of divisions (B)(1)(a) to (e) of this section, the corporation, association, or trust shall be

considered to be operating a "home for the aged" within the 101333
meaning of division (B)(1) of this section, beginning on the first 101334
day of January of the year in which such certificate is granted or 101335
approval is given. 101336

(2) If a corporation, association, or trust is considered to 101337
be operating a "home for the aged" pursuant to division (C)(1) of 101338
this section, the corporation, association, or trust shall notify 101339
the tax commissioner in writing upon the occurrence of any of the 101340
following events: 101341

(a) The corporation, association, or trust no longer intends 101342
to complete the construction of, addition to, or modification of 101343
the home or facility, to obtain the appropriate license for the 101344
home or facility, or to commence operation of the home or facility 101345
in accordance with the requirements of divisions (B)(1)(a) to (e) 101346
of this section; 101347

(b) The certificate of approval referred to in division 101348
(C)(1) of this section expires, is revoked, or is otherwise 101349
terminated prior to the completion of the construction of, 101350
addition to, or modification of the home or facility; 101351

(c) The license to operate the home or facility is not 101352
granted by the director of health within one year following 101353
completion of the construction of, addition to, or modification of 101354
the home or facility; 101355

(d) The license to operate the home or facility is not 101356
granted by the director of health within four years following the 101357
date upon which the certificate or approval referred to in 101358
division (C)(1) of this section was granted or given; 101359

(e) The home or facility is granted a license to operate as a 101360
nursing home, residential care facility, or residential facility. 101361

(3) Upon the occurrence of any of the events referred to in 101362
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 101363

corporation, association, or trust shall no longer be considered 101364
to be operating a "home for the aged" pursuant to division (C)(1) 101365
of this section, except that the tax commissioner, for good cause 101366
shown and to the extent the commissioner considers appropriate, 101367
may extend the time period specified in division (C)(2)(c) or (d) 101368
of this section, or both. Nothing in division (C)(3) of this 101369
section shall be construed to prevent a nursing home, residential 101370
care facility, or residential facility from qualifying as a "home 101371
for the aged" if, upon proper application made pursuant to 101372
division (B) of this section, it is found to meet the requirements 101373
of divisions (A) and (B) of this section. 101374

Sec. 5703.052. (A) There is hereby created in the state 101375
treasury the tax refund fund, from which refunds shall be paid for 101376
taxes illegally or erroneously assessed or collected, or for any 101377
other reason overpaid, that are levied by Chapter 4301., 4305., 101378
5726., 5728., 5729., 5731., 5733., 5735., 5739., 5741., 5743., 101379
5747., 5748., 5749., 5751., or 5753. and sections 3737.71, 101380
3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 101381
5727.81, and 5727.811 of the Revised Code. Refunds for fees 101382
illegally or erroneously assessed or collected, or for any other 101383
reason overpaid, that are levied by sections 3734.90 to 3734.9014 101384
of the Revised Code also shall be paid from the fund. Refunds for 101385
amounts illegally or erroneously assessed or collected by the tax 101386
commissioner, or for any other reason overpaid, that are due under 101387
section 1509.50 of the Revised Code shall be paid from the fund. 101388
However, refunds for taxes levied under section 5739.101 of the 101389
Revised Code shall not be paid from the tax refund fund, but shall 101390
be paid as provided in section 5739.104 of the Revised Code. 101391

(B)(1) Upon certification by the tax commissioner to the 101392
treasurer of state of a tax refund, ~~a fee refund~~, or ~~an other~~ 101393
another amount refunded, or by the superintendent of insurance of 101394
a domestic or foreign insurance tax refund, the treasurer of state 101395

shall place the amount certified to the credit of the fund. The 101396
certified amount transferred shall be derived from ~~current the~~ 101397
receipts of the same tax, fee, or other amount from which the 101398
refund arose. ~~If current receipts from the tax, fee, or other~~ 101399
~~amount from which the refund arose are inadequate to make the~~ 101400
~~transfer of the amount so certified, the treasurer of state shall~~ 101401
~~transfer such certified amount from current receipts of the sales~~ 101402
~~tax levied by section 5739.02 of the Revised Code.~~ 101403

(2) ~~When the treasurer of state provides for the payment of a~~ 101404
~~refund of a tax, fee, or other amount from the current receipts of~~ 101405
~~the sales tax, and the a~~ refund is for a tax, fee, or other amount 101406
that is not levied by the state, the tax commissioner shall 101407
recover the amount of that refund from the next distribution of 101408
that tax, fee, or other amount that otherwise would be made to the 101409
taxing jurisdiction. If the amount to be recovered would exceed 101410
twenty-five per cent of the next distribution of that tax, fee, or 101411
other amount, the commissioner may spread the recovery over more 101412
than one future distribution, taking into account the amount to be 101413
recovered and the amount of the anticipated future distributions. 101414
In no event may the commissioner spread the recovery over a period 101415
to exceed twenty-four months. 101416

Sec. 5703.059. (A) The tax commissioner may adopt rules 101417
requiring returns, including any accompanying schedule or 101418
statement, for any of the following taxes to be filed 101419
electronically using the Ohio business gateway as defined in 101420
section 718.051 of the Revised Code, filed telephonically using 101421
the system known as the Ohio telefile system, or filed by any 101422
other electronic means prescribed by the commissioner: 101423

(1) Employer income tax withholding under Chapter 5747. of 101424
the Revised Code; 101425

(2) Motor fuel tax under Chapter 5735. of the Revised Code; 101426

(3) Cigarette and tobacco product tax under Chapter 5743. of the Revised Code;	101427 101428
(4) Severance tax under Chapter 5749. of the Revised Code;	101429
(5) Use tax under Chapter 5741. of the Revised Code;	101430
<u>(6) Commercial activity tax under Chapter 5751. of the Revised Code;</u>	101431 101432
<u>(7) Financial institutions tax under Chapter 5726. of the Revised Code.</u>	101433 101434
(B) The tax commissioner may adopt rules requiring any payment of tax shown on such a return to be due to be made electronically in a manner approved by the commissioner.	101435 101436 101437
(C) A rule adopted under this section does not apply to returns or reports filed or payments made before six months after the effective date of the rule. The commissioner shall publicize any new electronic filing requirement on the department's web site. The commissioner shall educate the public of the requirement through seminars, workshops, conferences, or other outreach activities.	101438 101439 101440 101441 101442 101443 101444
(D) Any person required to file returns and make payments electronically under rules adopted under this section may apply to the commissioner, on a form prescribed by the commissioner, to be excused from that requirement. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or reports or make the payments required under this section by nonelectronic means.	101445 101446 101447 101448 101449 101450 101451
<u>(E) Beginning July 1, 2014, and thereafter for each year that the department of taxation has published at least one method acceptable to the tax commissioner for filing returns required under section 5747.08 of the Revised Code electronically, the department shall publish on the department's official web site a</u>	101452 101453 101454 101455 101456

method for any individual, trust, or pass-through entity, 101457
including individuals, trusts, and pass-through entities filing an 101458
income tax return in this state for the first time, to register 101459
electronically for that method of filing. 101460

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) 101461
of this section, no agent of the department of taxation, except in 101462
the agent's report to the department or when called on to testify 101463
in any court or proceeding, shall divulge any information acquired 101464
by the agent as to the transactions, property, or business of any 101465
person while acting or claiming to act under orders of the 101466
department. Whoever violates this provision shall thereafter be 101467
disqualified from acting as an officer or employee or in any other 101468
capacity under appointment or employment of the department. 101469
101470

(B)(1) For purposes of an audit pursuant to section 117.15 of 101471
the Revised Code, or an audit of the department pursuant to 101472
Chapter 117. of the Revised Code, or an audit, pursuant to that 101473
chapter, the objective of which is to express an opinion on a 101474
financial report or statement prepared or issued pursuant to 101475
division (A)(7) or (9) of section 126.21 of the Revised Code, the 101476
officers and employees of the auditor of state charged with 101477
conducting the audit shall have access to and the right to examine 101478
any state tax returns and state tax return information in the 101479
possession of the department to the extent that the access and 101480
examination are necessary for purposes of the audit. Any 101481
information acquired as the result of that access and examination 101482
shall not be divulged for any purpose other than as required for 101483
the audit or unless the officers and employees are required to 101484
testify in a court or proceeding under compulsion of legal 101485
process. Whoever violates this provision shall thereafter be 101486
disqualified from acting as an officer or employee or in any other 101487
capacity under appointment or employment of the auditor of state. 101488

(2) For purposes of an internal audit pursuant to section 101489
126.45 of the Revised Code, the officers and employees of the 101490
office of internal ~~auditing~~ audit in the office of budget and 101491
management charged with ~~conducting~~ directing the internal audit 101492
shall have access to and the right to examine any state tax 101493
returns and state tax return information in the possession of the 101494
department to the extent that the access and examination are 101495
necessary for purposes of the internal audit. Any information 101496
acquired as the result of that access and examination shall not be 101497
divulged for any purpose other than as required for the internal 101498
audit or unless the officers and employees are required to testify 101499
in a court or proceeding under compulsion of legal process. 101500
Whoever violates this provision shall thereafter be disqualified 101501
from acting as an officer or employee or in any other capacity 101502
under appointment or employment of the office of internal ~~auditing~~ 101503
audit. 101504

(3) As provided by section 6103(d)(2) of the Internal Revenue 101505
Code, any federal tax returns or federal tax information that the 101506
department has acquired from the internal revenue service, through 101507
federal and state statutory authority, may be disclosed to the 101508
auditor of state or the office of internal ~~auditing~~ audit solely 101509
for purposes of an audit of the department. 101510

(4) For purposes of Chapter 3739. of the Revised Code, an 101511
agent of the department of taxation may share information with the 101512
division of state fire marshal that the agent finds during the 101513
course of an investigation. 101514

(C) Division (A) of this section does not prohibit any of the 101515
following: 101516

(1) Divulging information contained in applications, 101517
complaints, and related documents filed with the department under 101518
section 5715.27 of the Revised Code or in applications filed with 101519
the department under section 5715.39 of the Revised Code; 101520

(2) Providing information to the office of child support	101521
within the department of job and family services pursuant to	101522
section 3125.43 of the Revised Code;	101523
(3) Disclosing to the motor vehicle repair board any	101524
information in the possession of the department that is necessary	101525
for the board to verify the existence of an applicant's valid	101526
vendor's license and current state tax identification number under	101527
section 4775.07 of the Revised Code;	101528
(4) Providing information to the administrator of workers'	101529
compensation pursuant to sections 4123.271 and 4123.591 of the	101530
Revised Code;	101531
(5) Providing to the attorney general information the	101532
department obtains under division (J) of section 1346.01 of the	101533
Revised Code;	101534
(6) Permitting properly authorized officers, employees, or	101535
agents of a municipal corporation from inspecting reports or	101536
information pursuant to rules adopted under section 5745.16 of the	101537
Revised Code;	101538
(7) Providing information regarding the name, account number,	101539
or business address of a holder of a vendor's license issued	101540
pursuant to section 5739.17 of the Revised Code, a holder of a	101541
direct payment permit issued pursuant to section 5739.031 of the	101542
Revised Code, or a seller having a use tax account maintained	101543
pursuant to section 5741.17 of the Revised Code, or information	101544
regarding the active or inactive status of a vendor's license,	101545
direct payment permit, or seller's use tax account;	101546
(8) Releasing invoices or invoice information furnished under	101547
section 4301.433 of the Revised Code pursuant to that section;	101548
(9) Providing to a county auditor notices or documents	101549
concerning or affecting the taxable value of property in the	101550
county auditor's county. Unless authorized by law to disclose	101551

documents so provided, the county auditor shall not disclose such documents;
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(10) Providing to a county auditor sales or use tax return or audit information under section 333.06 of the Revised Code;
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(11) Subject to section 4301.441 of the Revised Code, disclosing to the appropriate state agency information in the possession of the department of taxation that is necessary to verify a permit holder's gallonage or noncompliance with taxes levied under Chapter 4301. or 4305. of the Revised Code;
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(12) Disclosing to the department of natural resources information in the possession of the department of taxation that is necessary for the department of taxation to verify the taxpayer's compliance with ~~division (A)(1), (5), (6), (8), or (9)~~ of section 5749.02 of the Revised Code ~~and information received pursuant to section 1509.50 of the Revised Code concerning the amount due under that section~~ or to allow the department of natural resources to enforce Chapter 1509. of the Revised Code;
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(13) Disclosing to the department of job and family services, industrial commission, and bureau of workers' compensation information in the possession of the department of taxation solely for the purpose of identifying employers that misclassify employees as independent contractors or that fail to properly report and pay employer tax liabilities. The department of taxation shall disclose only such information that is necessary to verify employer compliance with law administered by those agencies.
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(14) Disclosing to the Ohio casino control commission information in the possession of the department of taxation that is necessary to verify a casino operator's compliance with section 5747.063 or 5753.02 of the Revised Code and sections related thereto;
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(15) Disclosing to the state lottery commission information 101583
in the possession of the department of taxation that is necessary 101584
to verify a lottery sales agent's compliance with section 5747.064 101585
of the Revised Code. 101586

Sec. 5703.37. (A)(1) Except as provided in division (B) of 101587
this section, whenever service of a notice or order is required in 101588
the manner provided in this section, a copy of the notice or order 101589
shall be served upon the person affected thereby either by 101590
personal service, by certified mail, or by a delivery service 101591
authorized under section 5703.056 of the Revised Code that 101592
notifies the tax commissioner of the date of delivery. 101593

(2) In lieu of serving a copy of a notice or order through 101594
one of the means provided in division (A)(1) of this section, the 101595
commissioner may serve a notice or order upon the person affected 101596
thereby through alternative means as provided in this section, 101597
including, but not limited to, delivery by secure electronic mail 101598
as provided in division (F) of this section. Delivery by such 101599
means satisfies the requirements for delivery under this section. 101600

(B)(1)(a) If certified mail is returned because of an 101601
undeliverable address, the commissioner shall first utilize 101602
reasonable means to ascertain a new last known address, including 101603
the use of a change of address service offered by the United 101604
States postal service or an authorized delivery service under 101605
section 5703.056 of the Revised Code. If, after using reasonable 101606
means, the commissioner is unable to ascertain a new last known 101607
address, the assessment is final for purposes of section 131.02 of 101608
the Revised Code sixty days after the notice or order sent by 101609
certified mail is first returned to the commissioner, and the 101610
commissioner shall certify the notice or order, if applicable, to 101611
the attorney general for collection under section 131.02 of the 101612
Revised Code. 101613

(b) Notwithstanding certification to the attorney general 101614
under division (B)(1)(a) of this section, once the commissioner or 101615
attorney general, or the designee of either, makes an initial 101616
contact with the person to whom the notice or order is directed, 101617
the person may protest an assessment by filing a petition for 101618
reassessment within sixty days after the initial contact. The 101619
certification of an assessment under division (B)(1)(a) of this 101620
section is prima-facie evidence that delivery is complete and that 101621
the notice or order is served. 101622

(2) If mailing of a notice or order by certified mail is 101623
returned for some cause other than an undeliverable address or if 101624
a person does not access an electronic notice or order within the 101625
time provided in division (F) of this section, the commissioner 101626
shall resend the notice or order by ordinary mail. The notice or 101627
order shall show the date the commissioner sends the notice or 101628
order and include the following statement: 101629

"This notice or order is deemed to be served on the addressee 101630
under applicable law ten days from the date this notice or order 101631
was mailed by the commissioner as shown on the notice or order, 101632
and all periods within which an appeal may be filed apply from and 101633
after that date." 101634

Unless the mailing is returned because of an undeliverable 101635
address, the mailing of that information is prima-facie evidence 101636
that delivery of the notice or order was completed ten days after 101637
the commissioner sent the notice or order by ordinary mail and 101638
that the notice or order was served. 101639

If the ordinary mail is subsequently returned because of an 101640
undeliverable address, the commissioner shall proceed under 101641
division (B)(1)(a) of this section. A person may challenge the 101642
presumption of delivery and service under this division in 101643
accordance with division (C) of this section. 101644

(C)(1) A person disputing the presumption of delivery and service under division (B) of this section bears the burden of proving by a preponderance of the evidence that the address to which the notice or order was sent was not an address with which the person was associated at the time the commissioner originally mailed the notice or order by certified mail. For the purposes of this section, a person is associated with an address at the time the commissioner originally mailed the notice or order if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the notice or order was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the notice or order was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If the person elects to protest an assessment certified to the attorney general for collection, the person must do so within sixty days after the attorney general's initial contact with the person. The attorney general may enter into a compromise with the person under sections 131.02 and 5703.06 of the Revised Code if the person does not file a petition for reassessment with the commissioner.

(D) Nothing in this section prohibits the commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has

been certified to the attorney general for collection, the claim 101677
shall be uncertified. 101678

(F) The commissioner may serve a notice or order upon the 101679
person affected by the notice or order through secure electronic 101680
means only with the person's consent. The commissioner must inform 101681
the recipient, electronically or by mail, that a notice or order 101682
is available for electronic review and provide instructions to 101683
access and print the notice or order. The recipient's electronic 101684
access of the notice or order satisfies the requirements for 101685
delivery under this section. If the recipient fails to access the 101686
notice or order electronically within ten business days, then the 101687
commissioner shall inform the recipient a second time, 101688
electronically or by mail, that a notice or order is available for 101689
electronic review and provide instructions to access and print the 101690
notice or order. If the recipient fails to access the notice or 101691
order electronically within ten business days of the second 101692
notification, the notice or order shall be served upon the person 101693
through ~~one of~~ the means provided in division ~~(A)(1)~~(B)(2) of this 101694
section. 101695

(G) As used in this section: 101696

(1) "Last known address" means the address the department has 101697
at the time the document is originally sent by certified mail, or 101698
any address the department can ascertain using reasonable means 101699
such as the use of a change of address service offered by the 101700
United States postal service or an authorized delivery service 101701
under section 5703.056 of the Revised Code. 101702

(2) "Undeliverable address" means an address to which the 101703
United States postal service or an authorized delivery service 101704
under section 5703.056 of the Revised Code is not able to deliver 101705
a notice or order, except when the reason for nondelivery is 101706
because the addressee fails to acknowledge or accept the notice or 101707
order. 101708

Sec. 5703.75. This section applies to any tax payable to the state and administered by the tax commissioner. If the total amount of any such tax shown to be due on a return, amended return, or notice does not exceed one dollar, the taxpayer shall not be required to remit the amount due. If the total amount of a taxpayer's overpayment of any such tax does not exceed one dollar, the tax commissioner shall not be required to refund the overpayment.

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Sec. 5703.76. Any payment or distribution of money that the tax commissioner is required by law to make to a political subdivision of this state, an officer thereof, or a political party shall be made by electronic funds transfer. The commissioner shall promulgate any rules necessary to administer this section.

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Sec. 5703.82. (A) Not later than April 1, 2009, the department of taxation shall acquire the necessary hardware, software, and services to establish and implement a tax discovery data system to increase the efficiency of tax collections in the state. The system must be fully integrated and pre-staged for the purposes of assisting in revenue analysis, discovering noncompliant taxpayers, and collecting taxes from those taxpayers. The system shall consolidate tax data from various mainframe systems and operate as a single tax discovery data system. The department shall contract, pursuant to a competitive bidding process, for the necessary hardware, software, and services to implement the tax discovery data system.

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~~(B) There is hereby created in the state treasury the discovery project fund. All money to the credit of the fund shall be used to pay the costs of implementing and operating the tax discovery data system and to defray the costs incurred by the department of taxation in administering the system.~~

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~~(C) Beginning July 1, 2009, on or before the first day of January, April, July, and October of each calendar year, the tax commissioner shall determine and certify to the director of budget and management the amount needed to pay the costs of operating the tax discovery data system in the previous calendar quarter and the costs incurred in the previous calendar quarter by the department of taxation in administering the system. The director shall provide for payment from the general revenue fund to the discovery project fund of the amount so certified.~~

Sec. 5703.90. If any tax administered by the tax commissioner remains unpaid after the date the tax is due, the commissioner may issue an assessment for the unpaid tax, and for any related penalties and interest, against any person liable for the amount due, including, but not limited to, a person that is jointly and severally liable for the amount under Chapter 5726., 5748., 5749., or 5751. of the Revised Code, a partner liable for the tax liability of a partnership, a director, shareholder, or officer of a corporation that has dissolved or had its articles of incorporation canceled by the secretary of state, or any other person liable for the tax liability of another person under the Revised Code. The commissioner shall issue the assessment in accordance with any other provision of the Revised Code applicable to assessments for the tax for which the person to be assessed is liable.

Sec. 5705.19. This section does not apply to school districts or county school financing districts.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that

may be raised within the ten-mill limitation will be insufficient 101770
to provide for the necessary requirements of the subdivision and 101771
that it is necessary to levy a tax in excess of that limitation 101772
for any of the following purposes: 101773

(A) For current expenses of the subdivision, except that the 101774
total levy for current expenses of a detention facility district 101775
or district organized under section 2151.65 of the Revised Code 101776
shall not exceed two mills and that the total levy for current 101777
expenses of a combined district organized under sections 2151.65 101778
and 2152.41 of the Revised Code shall not exceed four mills; 101779

(B) For the payment of debt charges on certain described 101780
bonds, notes, or certificates of indebtedness of the subdivision 101781
issued subsequent to January 1, 1925; 101782

(C) For the debt charges on all bonds, notes, and 101783
certificates of indebtedness issued and authorized to be issued 101784
prior to January 1, 1925; 101785

(D) For a public library of, or supported by, the subdivision 101786
under whatever law organized or authorized to be supported; 101787

(E) For a municipal university, not to exceed two mills over 101788
the limitation of one mill prescribed in section 3349.13 of the 101789
Revised Code; 101790

(F) For the construction or acquisition of any specific 101791
permanent improvement or class of improvements that the taxing 101792
authority of the subdivision may include in a single bond issue; 101793

(G) For the general construction, reconstruction, 101794
resurfacing, and repair of streets, roads, and bridges in 101795
municipal corporations, counties, or townships; 101796

(H) For parks and recreational purposes; 101797

(I) For the purpose of providing and maintaining fire 101798
apparatus, appliances, buildings, or sites therefor, or sources of 101799

water supply and materials therefor, or the establishment and 101800
maintenance of lines of fire alarm telegraph, or the payment of 101801
firefighting companies or permanent, part-time, or volunteer 101802
firefighting, emergency medical service, administrative, or 101803
communications personnel to operate the same, including the 101804
payment of any employer contributions required for such personnel 101805
under section 145.48 or 742.34 of the Revised Code, or the 101806
purchase of ambulance equipment, or the provision of ambulance, 101807
paramedic, or other emergency medical services operated by a fire 101808
department or firefighting company; 101809

(J) For the purpose of providing and maintaining motor 101810
vehicles, communications, other equipment, buildings, and sites 101811
for such buildings used directly in the operation of a police 101812
department, or the payment of salaries of permanent or part-time 101813
police, communications, or administrative personnel to operate the 101814
same, including the payment of any employer contributions required 101815
for such personnel under section 145.48 or 742.33 of the Revised 101816
Code, or the payment of the costs incurred by townships as a 101817
result of contracts made with other political subdivisions in 101818
order to obtain police protection, or the provision of ambulance 101819
or emergency medical services operated by a police department; 101820

(K) For the maintenance and operation of a county home or 101821
detention facility; 101822

(L) For community mental retardation and developmental 101823
disabilities programs and services pursuant to Chapter 5126. of 101824
the Revised Code, except that the procedure for such levies shall 101825
be as provided in section 5705.222 of the Revised Code; 101826

(M) For regional planning; 101827

(N) For a county's share of the cost of maintaining and 101828
operating schools, district detention facilities, forestry camps, 101829
or other facilities, or any combination thereof, established under 101830

section 2151.65 or 2152.41 of the Revised Code or both of those sections;	101831 101832
(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;	101833 101834 101835
(P) For maintaining and operating sewage disposal plants and facilities;	101836 101837
(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;	101838 101839 101840 101841 101842 101843 101844
(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	101845 101846 101847 101848
(S) For the prevention, control, and abatement of air pollution;	101849 101850
(T) For maintaining and operating cemeteries;	101851
(U) For providing ambulance service, emergency medical service, or both;	101852 101853
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	101854 101855
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	101856 101857 101858
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	101859 101860

(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	101861 101862 101863
(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;	101864 101865 101866
(AA) For the maintenance and operation of a free public museum of art, science, or history;	101867 101868
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 5507.01 of the Revised Code;	101869 101870
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	101871 101872 101873 101874 101875
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;	101876 101877 101878
(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;	101879 101880 101881 101882 101883 101884 101885 101886 101887 101888
(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing	101889 101890 101891

field, or other air navigation facility pursuant to section 505.15 101892
of the Revised Code; 101893

(GG) For the payment of costs incurred by a township as a 101894
result of a contract made with a county pursuant to section 101895
505.263 of the Revised Code in order to pay all or any part of the 101896
cost of constructing, maintaining, repairing, or operating a water 101897
supply improvement; 101898

(HH) For a board of township trustees to acquire, other than 101899
by appropriation, an ownership interest in land, water, or 101900
wetlands, or to restore or maintain land, water, or wetlands in 101901
which the board has an ownership interest, not for purposes of 101902
recreation, but for the purposes of protecting and preserving the 101903
natural, scenic, open, or wooded condition of the land, water, or 101904
wetlands against modification or encroachment resulting from 101905
occupation, development, or other use, which may be styled as 101906
protecting or preserving "greenspace" in the resolution, notice of 101907
election, or ballot form. Except as otherwise provided in this 101908
division, land is not acquired for purposes of recreation, even if 101909
the land is used for recreational purposes, so long as no 101910
building, structure, or fixture used for recreational purposes is 101911
permanently attached or affixed to the land. Except as otherwise 101912
provided in this division, land that previously has been acquired 101913
in a township for these greenspace purposes may subsequently be 101914
used for recreational purposes if the board of township trustees 101915
adopts a resolution approving that use and no building, structure, 101916
or fixture used for recreational purposes is permanently attached 101917
or affixed to the land. The authorization to use greenspace land 101918
for recreational use does not apply to land located in a township 101919
that had a population, at the time it passed its first greenspace 101920
levy, of more than thirty-eight thousand within a county that had 101921
a population, at that time, of at least eight hundred sixty 101922
thousand. 101923

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit corporation or association under section 307.62 of the Revised Code; 101924
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(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a township. 101928
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(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties. 101931
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(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code; 101934
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(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code; 101936
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(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold, and the operating expenses of, agricultural fairs operated by a county agricultural society or independent agricultural society under Chapter 1711. of the Revised Code. This division applies only to a county. 101939
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(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements; 101945
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(PP) For both of the purposes set forth in divisions (G) and (OO) of this section. 101949
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(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township. 101951
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(RR) For the legislative authority of a municipal 101953

corporation, board of county commissioners of a county, or board 101954
of township trustees of a township to acquire agricultural 101955
easements, as defined in section 5301.67 of the Revised Code, and 101956
to supervise and enforce the easements. 101957

(SS) For both of the purposes set forth in divisions (BB) and 101958
(KK) of this section. This division applies only to a county. 101959

(TT) For the maintenance and operation of a facility that is 101960
organized in whole or in part to promote the sciences and natural 101961
history under section 307.761 of the Revised Code. 101962

(UU) For the creation and operation of a county land 101963
reutilization corporation and for any programs or activities of 101964
the corporation found by the board of directors of the corporation 101965
to be consistent with the purposes for which the corporation is 101966
organized; 101967

(VV) For construction and maintenance of improvements and 101968
expenses of soil and water conservation district programs under 101969
Chapter 1515. of the Revised Code; 101970

(WW) For the ~~Ohio cooperative~~ OSU extension ~~service~~ fund 101971
created under section 3335.35 of the Revised Code for the purposes 101972
prescribed under section 3335.36 of the Revised Code for the 101973
benefit of the citizens of a county. This division applies only to 101974
a county. 101975

(XX) For a municipal corporation that withdraws or proposes 101976
by resolution to withdraw from a regional transit authority under 101977
section 306.55 of the Revised Code to provide transportation 101978
services for the movement of persons within, from, or to the 101979
municipal corporation; 101980

(YY) For any combination of the purposes specified in 101981
divisions (NN), (VV), and (WW) of this section. This division 101982
applies only to a county. 101983

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of years may be any number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt charges, the increased rate shall be for the life of the indebtedness.

(2) When the additional rate is for any of the following, the increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2151.65 and 2152.41 of the Revised Code;

(b) For providing a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or under both of those sections.

(3) When the additional rate is for either of the following, the increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or (KK) of this section;

(b) For the maintenance and operation of a joint recreation district. 102015
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(4) When the increase is for the purpose or purposes set forth in division (D), (G), (H), (CC), or (PP) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution. 102017
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(5) When the additional rate is for the purpose described in division (Z) of this section, the increased rate shall be for any number of years not exceeding ten. 102021
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A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount. 102024
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A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2151.65 and 2152.41 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for the current expenses and the other purpose or purposes shall be limited by the apportionment. 102033
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Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the 102043
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Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

A resolution adopted by the legislative authority of a municipal corporation that is for the purpose in division (XX) of this section may be combined with the purpose provided in section 306.55 of the Revised Code, by vote of two-thirds of all members of the legislative authority. The legislative authority may certify the resolution to the board of elections as a combined question. The question appearing on the ballot shall be as provided in section 5705.252 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

When the electors of a subdivision or, in the case of a qualifying library levy for the support of a library association or private corporation, the electors of the association library district, have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

Sec. 5705.221. (A) At any time, the board of county commissioners of any county by a majority vote of the full membership may declare by resolution and certify to the board of

elections of the county that the amount of taxes which may be 102077
raised within the ten-mill limitation by levies on the current tax 102078
duplicate will be insufficient to provide the necessary 102079
requirements of the county's alcohol, drug addiction, and mental 102080
health service district established pursuant to Chapter 340. of 102081
the Revised Code, or the county's contribution to a joint-county 102082
district of which the county is a part, and that it is necessary 102083
to levy a tax in excess of such limitation for the operation of 102084
~~alcohol and drug~~ community addiction ~~programs~~ services providers 102085
and community mental health ~~programs~~ services providers and the 102086
acquisition, construction, renovation, financing, maintenance, and 102087
operation of alcohol and drug addiction facilities and mental 102088
health facilities. 102089

Such resolution shall conform to section 5705.19 of the 102090
Revised Code, except that the increased rate may be in effect for 102091
any number of years not exceeding ten. 102092

The resolution shall be certified and submitted in the manner 102093
provided in section 5705.25 of the Revised Code, except that it 102094
may be placed on the ballot in any election, and shall be 102095
certified to the board of elections not less than ninety days 102096
before the election at which it will be voted upon. 102097

If the majority of the electors voting on a levy to 102098
supplement general fund appropriations for the support of the 102099
comprehensive ~~alcohol and drug~~ community addiction and mental 102100
health ~~program~~ services providers vote in favor of the levy, the 102101
board may levy a tax within the county at the additional rate 102102
outside the ten-mill limitation during the specified or continuing 102103
period, for the purpose stated in the resolution. 102104

(B) When electors have approved a tax levy under this 102105
section, the board of county commissioners may anticipate a 102106
fraction of the proceeds of the levy and, from time to time, issue 102107
anticipation notes in accordance with section 5705.191 or 5705.193 102108

of the Revised Code. 102109

(C) The county auditor who is the fiscal officer of the 102110
alcohol, drug addiction, and mental health service district, upon 102111
receipt of a resolution from the board of alcohol, drug addiction, 102112
and mental health services, shall establish for the district a 102113
capital improvements account or a reserve balance account, or 102114
both, as specified in the resolution. The capital improvements 102115
account shall be a contingency fund for the necessary acquisition, 102116
replacement, renovation, or construction of facilities and movable 102117
and fixed equipment. Upon the request of the board, funds not 102118
needed to pay for current expenses may be appropriated to the 102119
capital improvements account, in amounts such that the account 102120
does not exceed twenty-five per cent of the replacement value of 102121
all capital facilities and equipment currently used by the board 102122
for programs and services. Other funds which are available for 102123
current capital expenses from federal, state, or local sources may 102124
also be appropriated to this account. 102125

The reserve balance account shall contain those funds that 102126
are not needed to pay for current operating expenses and not 102127
deposited in the capital improvements account but that will be 102128
needed to pay for operating expenses in the future. Upon the 102129
request of a board, such funds shall be appropriated to the 102130
reserve balance account. Payments from the capital improvements 102131
account and the reserve balance account shall be made by the 102132
county treasurer who is the custodian of funds for the district 102133
upon warrants issued by the county auditor who is the fiscal 102134
officer of the district pursuant to orders of the board. 102135

Sec. 5705.412. (A) As used in this section, "qualifying 102136
contract" means any agreement for the expenditure of money under 102137
which aggregate payments from the funds included in the school 102138
district's five-year forecast under section 5705.391 of the 102139

Revised Code will exceed the lesser of the following amounts: 102140

(1) Five hundred thousand dollars; 102141

(2) One per cent of the total revenue to be credited in the 102142
current fiscal year to the district's general fund, as specified 102143
in the district's most recent certificate of estimated resources 102144
certified under section 5705.36 of the Revised Code. 102145

(B)(1) Notwithstanding section 5705.41 of the Revised Code, 102146
no school district shall adopt any appropriation measure, make any 102147
qualifying contract, or increase during any school year any wage 102148
or salary schedule unless there is attached thereto a certificate, 102149
signed as required by this section, that the school district has 102150
in effect the authorization to levy taxes including the renewal or 102151
replacement of existing levies which, when combined with the 102152
estimated revenue from all other sources available to the district 102153
at the time of certification, are sufficient to provide the 102154
operating revenues necessary to enable the district to maintain 102155
all personnel and programs for all the days set forth in its 102156
adopted school calendars for the current fiscal year and for a 102157
number of days in succeeding fiscal years equal to the number of 102158
days instruction was held or is scheduled for the current fiscal 102159
year, as follows: 102160

(a) A certificate attached to an appropriation measure under 102161
this section shall cover only the fiscal year in which the 102162
appropriation measure is effective and shall not consider the 102163
renewal or replacement of an existing levy as the authority to 102164
levy taxes that are subject to appropriation in the current fiscal 102165
year unless the renewal or replacement levy has been approved by 102166
the electors and is subject to appropriation in the current fiscal 102167
year. 102168

(b) A certificate attached, in accordance with this section, 102169
to any qualifying contract shall cover the term of the contract. 102170

(c) A certificate attached under this section to a wage or salary schedule shall cover the term of the schedule.

If the board of education has not adopted a school calendar for the school year beginning on the first day of the fiscal year in which a certificate is required, the certificate attached to an appropriation measure shall include the number of days on which instruction was held in the preceding fiscal year and other certificates required under this section shall include that number of days for the fiscal year in which the certificate is required and any succeeding fiscal years that the certificate must cover.

The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose.

(2) In lieu of the certificate required under division (B) of this section, an alternative certificate stating the following may be attached:

(a) The contract is a multi-year contract for materials, equipment, or nonpayroll services essential to the education program of the district;

(b) The multi-year contract demonstrates savings over the duration of the contract as compared to costs that otherwise would have been demonstrated in a single year contract, and the terms will allow the district to reduce the deficit it is currently facing in future years as demonstrated in its five-year forecast adopted in accordance with section 5705.391 of the Revised Code.

The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the

school district, unless the district is in a state of fiscal 102202
emergency declared under Chapter 3316. of the Revised Code. In 102203
that case, the certificate shall be signed by a member of the 102204
district's financial planning and supervision commission who is 102205
designated by the commission for this purpose. 102206

(C) Every qualifying contract made or wage or salary schedule 102207
adopted or put into effect without such a certificate shall be 102208
void, and no payment of any amount due thereon shall be made. 102209

(D) The department of education and the auditor of state 102210
jointly shall adopt rules governing the methods by which 102211
treasurers, presidents of boards of education, superintendents, 102212
and members of financial planning and supervision commissions 102213
shall estimate revenue and determine whether such revenue is 102214
sufficient to provide necessary operating revenue for the purpose 102215
of making certifications required by this section. 102216

(E) The auditor of state shall be responsible for determining 102217
whether school districts are in compliance with this section. At 102218
the time a school district is audited pursuant to section 117.11 102219
of the Revised Code, the auditor of state shall review each 102220
certificate issued under this section since the district's last 102221
audit, and the appropriation measure, contract, or wage and salary 102222
schedule to which such certificate was attached. If the auditor of 102223
state determines that a school district has not complied with this 102224
section with respect to any qualifying contract or wage or salary 102225
schedule, the auditor of state shall notify the prosecuting 102226
attorney for the county, the city director of law, or other chief 102227
law officer of the school district. That officer may file a civil 102228
action in any court of appropriate jurisdiction to seek a 102229
declaration that the contract or wage or salary schedule is void, 102230
to recover for the school district from the payee the amount of 102231
payments already made under it, or both, except that the officer 102232
shall not seek to recover payments made under any collective 102233

bargaining agreement entered into under Chapter 4117. of the 102234
Revised Code. If the officer does not file such an action within 102235
one hundred twenty days after receiving notice of noncompliance 102236
from the auditor of state, any taxpayer may institute the action 102237
in the taxpayer's own name on behalf of the school district. 102238

~~(F) This section does not apply to any contract or increase 102239
in any wage or salary schedule that is necessary in order to 102240
enable a board of education to comply with division (B) of section 102241
3317.13 of the Revised Code, provided the contract or increase 102242
does not exceed the amount required to be paid to be in compliance 102243
with such division. 102244~~

~~(G) Any officer, employee, or other person who expends or 102245
authorizes the expenditure of any public funds or authorizes or 102246
executes any contract or schedule contrary to this section, 102247
expends or authorizes the expenditure of any public funds on the 102248
void contract or schedule, or issues a certificate under this 102249
section which contains any false statements is liable to the 102250
school district for the full amount paid from the district's funds 102251
on the contract or schedule. The officer, employee, or other 102252
person is jointly and severally liable in person and upon any 102253
official bond that the officer, employee, or other person has 102254
given to the school district to the extent of any payments on the 102255
void claim, not to exceed ten thousand dollars. However, no 102256
officer, employee, or other person shall be liable for a mistaken 102257
estimate of available resources made in good faith and based upon 102258
reasonable grounds. If an officer, employee, or other person is 102259
found to have complied with rules jointly adopted by the 102260
department of education and the auditor of state under this 102261
section governing methods by which revenue shall be estimated and 102262
determined sufficient to provide necessary operating revenue for 102263
the purpose of making certifications required by this section, the 102264
officer, employee, or other person shall not be liable under this 102265~~

section if the estimates and determinations made according to 102266
those rules do not, in fact, conform with actual revenue. The 102267
prosecuting attorney of the county, the city director of law, or 102268
other chief law officer of the district shall enforce this 102269
liability by civil action brought in any court of appropriate 102270
jurisdiction in the name of and on behalf of the school district. 102271
If the prosecuting attorney, city director of law, or other chief 102272
law officer of the district fails, upon the written request of any 102273
taxpayer, to institute action for the enforcement of the 102274
liability, the attorney general, or the taxpayer in the taxpayer's 102275
own name, may institute the action on behalf of the subdivision. 102276

~~(H)~~(G) This section does not require the attachment of an 102277
additional certificate beyond that required by section 5705.41 of 102278
the Revised Code for current payrolls of, or contracts of 102279
employment with, any employees or officers of the school district. 102280

This section does not require the attachment of a certificate 102281
to a temporary appropriation measure if all of the following 102282
apply: 102283

(1) The amount appropriated does not exceed twenty-five per 102284
cent of the total amount from all sources available for 102285
expenditure from any fund during the preceding fiscal year; 102286

(2) The measure will not be in effect on or after the 102287
thirtieth day following the earliest date on which the district 102288
may pass an annual appropriation measure; 102289

(3) An amended official certificate of estimated resources 102290
for the current year, if required, has not been certified to the 102291
board of education under division (B) of section 5705.36 of the 102292
Revised Code. 102293

Sec. 5709.17. The following property shall be exempted from 102294
taxation: 102295

(A) Real estate held or occupied by an association or corporation, organized or incorporated under the laws of this state relative to soldiers' memorial associations, monumental building associations, or cemetery associations or corporations, which in the opinion of the trustees, directors, or managers thereof is necessary and proper to carry out the object intended for such association or corporation;

(B) Real estate and tangible personal property held or occupied by a veterans' organization that qualifies for exemption from taxation under section 501(c)(19) or 501(c)(23) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and is incorporated under the laws of this state or the United States, except real estate held by such organization for the production of rental or other income in excess of the designated amount, before accounting for any cost or expense incurred in the production of such income. For the purposes of this division, the designated amount equals seven thousand five hundred dollars in tax year 2002, and shall be increased by two hundred fifty dollars each year thereafter until tax year 2012, when it shall equal ten thousand dollars. For tax years 2013 and thereafter, the designated amount shall equal ten thousand dollars.

(C) Tangible personal property held by a corporation chartered under 112 Stat. 1335, 36 U.S.C.A. 40701, described in section 501(c)(3) of the Internal Revenue Code, and exempt from taxation under section 501(a) of the Internal Revenue Code shall be exempt from taxation if it is property obtained as described in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407.

(D) Real estate held or occupied by a fraternal organization and used primarily for meetings of and the administration of the fraternal organization. As used in this division, "fraternal organization" means a domestic fraternal society, order, or

association operating under the lodge, council, or grange system 102328
that qualifies for exemption from taxation under section 102329
501(c)(5), 501(c)(8), or 501(c)(10) of the "Internal Revenue Code 102330
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended; that provides 102331
financial support for charitable purposes, as defined in division 102332
(B)(12) of section 5739.02 of the Revised Code; and that has been 102333
operating in this state with a state governing body for at least 102334
one hundred years. 102335

Sec. 5709.212. (A) With every application for an exempt 102336
facility certificate filed pursuant to section 5709.21 of the 102337
Revised Code, the applicant shall pay a fee equal to one-half of 102338
one per cent of the total exempt facility project cost, not to 102339
exceed two thousand dollars. One-half of the fee received with 102340
applications for exempt facility certificates shall be credited to 102341
the exempt facility administrative fund, which is hereby created 102342
in the state treasury, for appropriation to the department of 102343
taxation for use in administering sections 5709.20 to 5709.27 of 102344
the Revised Code. If the director of environmental protection is 102345
required to provide the opinion for an application, one-half of 102346
the fee shall be credited to the non-Title V clean air fund 102347
created in section 3704.035 of the Revised Code for use in 102348
administering section 5709.211 of the Revised Code, unless the 102349
application is for an industrial water pollution control facility. 102350
If the application is for an industrial water pollution control 102351
facility, one-half of the fee shall be credited to the surface 102352
water protection fund created in section 6111.038 of the Revised 102353
Code for use in administering section 5709.211 of the Revised 102354
Code. ~~If the director of development is required to provide the~~ 102355
~~opinion for an application, one half of the fee for each exempt~~ 102356
~~facility application shall be credited to the exempt facility~~ 102357
~~inspection fund, which is hereby created in the state treasury,~~ 102358
~~for appropriation to the department of development for use in~~ 102359

~~administering section 5709.211 of the Revised Code.~~ 102360

An applicant is not entitled to any tax exemption under 102361
section 5709.25 of the Revised Code until the fee required by this 102362
section is paid. The fee required by this section is not 102363
refundable, and is due with the application for an exempt facility 102364
certificate even if an exempt facility certificate ultimately is 102365
not issued or is withdrawn. Any application submitted without 102366
payment of the fee shall be deemed incomplete until the fee is 102367
paid. 102368

(B) The application fee imposed under division (A) of this 102369
section for a jointly owned facility shall be equal to one-half of 102370
one per cent of the total exempt facility project cost, not to 102371
exceed two thousand dollars for each facility that is the subject 102372
of the application. 102373

Sec. 5709.75. (A) Any township that receives service payments 102374
in lieu of taxes under section 5709.74 of the Revised Code shall 102375
establish a township public improvement tax increment equivalent 102376
fund into which those payments shall be deposited. If the board of 102377
township trustees has adopted a resolution under division (C) of 102378
section 5709.73 of the Revised Code, the township shall establish 102379
at least one account in that fund with respect to resolutions 102380
adopted under division (B) of that section, and one account with 102381
respect to each incentive district created by a resolution adopted 102382
under division (C) of that section. If a resolution adopted under 102383
division (C) of section 5709.73 of the Revised Code also 102384
authorizes the use of service payments for housing renovations 102385
within the incentive district, the township shall establish 102386
separate accounts for the service payments designated for public 102387
infrastructure improvements and for the service payments 102388
authorized for the purpose of housing renovations. 102389

(B) Except as otherwise provided in division (C) or (D) of this section, money deposited in an account of the township public improvement tax increment equivalent fund shall be used by the township to pay the costs of public infrastructure improvements designated in or the housing renovations authorized by the resolution with respect to which the account is established, including any interest on and principal of the notes; in the case of an account established with respect to a resolution adopted under division (C) of that section, money in the account shall be used to finance the public infrastructure improvements designated, or the housing renovations authorized, for each incentive district created in the resolution. Money in an account shall not be used to finance or support housing renovations that take place after the incentive district has expired.

(C)(1)(a) A township may distribute money in such an account to any school district in which the exempt property is located in an amount not to exceed the amount of real property taxes that such school district would have received from the improvement if it were not exempt from taxation. The resolution establishing the fund shall set forth the percentage of such maximum amount that will be distributed to any affected school district.

(b) A township also may distribute money in such an account as follows:

(i) To a board of county commissioners, in the amount that is owed to the board pursuant to division (E) of section 5709.73 of the Revised Code;

(ii) To a county in accordance with section 5709.913 of the Revised Code.

(2) Money from an account in a township public improvement tax increment equivalent fund may be distributed under division (C)(1)(b) of this section, regardless of the date a resolution was

adopted under section 5709.73 of the Revised Code that prompted 102421
the establishment of the account, even if the resolution was 102422
adopted prior to March 30, 2006. 102423

(D) A board of township trustees that adopted a resolution 102424
under ~~division (B)~~ of section 5709.73 of the Revised Code ~~before~~ 102425
~~January 1, 1995,~~ and that, with respect to property exempted under 102426
such a resolution, is party to a hold-harmless or service 102427
agreement, may appropriate and expend unencumbered money in the 102428
fund to pay current public safety expenses of the township. A 102429
township appropriating and expending money under this division 102430
shall reimburse the fund for the sum so appropriated and expended 102431
not later than the day the exemption granted under the resolution 102432
expires. For the purposes of this division, a "hold-harmless 102433
agreement" is an agreement with the board of education of a city, 102434
local, or exempted village school district under which the board 102435
of township trustees agrees to compensate the school district for 102436
one hundred per cent of the tax revenue the school district would 102437
have received from improvements to parcels designated in the 102438
resolution were it not for the exemption granted by the 102439
resolution. 102440

(E) Any ~~incidental surplus~~ unencumbered money remaining in 102441
the township public improvement tax increment equivalent fund or 102442
an account of that fund upon dissolution of the account or fund 102443
shall be transferred to the general fund of the township. 102444

Sec. 5725.18. (A) An annual franchise tax on the privilege of 102445
being an insurance company is hereby levied on each domestic 102446
insurance company. In the month of May, annually, the treasurer of 102447
state shall charge for collection from each domestic insurance 102448
company a franchise tax in the amount computed in accordance with 102449
the following, as applicable: 102450

(1) With respect to a domestic insurance company that is a 102451

health insuring corporation, one per cent of all premium rate 102452
payments received, exclusive of payments received under the 102453
medicare program ~~established under Title XVIII of the "Social~~ 102454
~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ 102455
and exclusive of payments received pursuant to the ~~medical~~ 102456
~~assistance medicaid program established under Chapter 5111. of the~~ 102457
~~Revised Code~~ for the period ending September 30, 2009, as 102458
reflected in its annual report for the preceding calendar year; 102459

(2) With respect to a domestic insurance company that is not 102460
a health insuring corporation, one and four-tenths per cent of the 102461
gross amount of premiums received from policies covering risks 102462
within this state, exclusive of premiums received under the 102463
medicare program ~~established under Title XVIII of the "Social~~ 102464
~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ 102465
and exclusive of payments received pursuant to the ~~medical~~ 102466
~~assistance medicaid program established under Chapter 5111. of the~~ 102467
~~Revised Code~~ for the period ending September 30, 2009, as 102468
reflected in its annual statement for the preceding calendar year, 102469
and, if the company operates a health insuring corporation as a 102470
line of business, one per cent of all premium rate payments 102471
received from that line of business, exclusive of payments 102472
received under the medicare program ~~established under Title XVIII~~ 102473
~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.~~ 102474
~~301, as amended,~~ and exclusive of payments received pursuant to 102475
the ~~medical assistance medicaid program established under Chapter~~ 102476
~~5111. of the Revised Code~~ for the period ending September 30, 102477
2009, as reflected in its annual statement for the preceding 102478
calendar year. 102479

Domestic insurance companies, including health insuring 102480
corporations, receiving payments pursuant to the ~~medical~~ 102481
~~assistance medicaid program established under Chapter 5111. of the~~ 102482
~~Revised Code~~ during the period beginning October 1, 2009, and 102483

ending December 31, 2009, shall file with the 2009 annual 102484
statement to the superintendent a schedule that reflects those 102485
payments received pursuant to the ~~medical assistance~~ medicaid 102486
program for that period. The payments reflected in the schedule, 102487
plus all other taxable premiums, are subject to the annual 102488
franchise tax due to be paid in 2010. 102489

(B) The gross amount of premium rate payments or premiums 102490
used to compute the applicable tax in accordance with division (A) 102491
of this section is subject to the deductions prescribed by section 102492
5729.03 of the Revised Code for foreign insurance companies. The 102493
objects of such tax are those declared in section 5725.24 of the 102494
Revised Code, to which only such tax shall be applied. 102495

(C) In no case shall such tax be less than two hundred fifty 102496
dollars. 102497

Sec. 5726.20. (A) The tax commissioner may make an 102498
assessment, based on any information in the commissioner's 102499
possession, against any person that fails to file a return or 102500
report or pay any tax as required by this chapter. The reporting 102501
person for a taxpayer shall file the annual report required under 102502
section 5726.02 of the Revised Code and remit the tax imposed by 102503
this chapter. Each person included in the annual report of the 102504
taxpayer is jointly and severally liable for the tax imposed by 102505
this chapter and any penalties and interest thereon. If the 102506
reporting person fails, for any reason, to file and remit any tax, 102507
the amount due may be collected by assessment against the 102508
reporting person and against any or all other persons required to 102509
be included in the annual report of the taxpayer ~~in the manner~~ 102510
~~provided by this section~~ as provided in section 5703.90 of the 102511
Revised Code. The commissioner shall make the assessment in the 102512
manner provided in this section. The commissioner shall give the 102513
person assessed written notice of the assessment as provided in 102514

section 5703.37 of the Revised Code. With the notice, the 102515
commissioner shall provide instructions on the manner in which to 102516
petition for reassessment and request a hearing with respect to 102517
the petition. 102518

(B) No assessment shall be made or issued against a person 102519
under this section more than four years after the later of the 102520
final date the report subject to assessment was required to be 102521
filed or the date such report was filed. Such time limit may be 102522
extended if both the person and the commissioner consent in 102523
writing to the extension or if an agreement waiving or extending 102524
the time limit has been entered into pursuant to section 122.171 102525
of the Revised Code. Any such extension shall extend the four-year 102526
time limit prescribed in division (A) of section 5726.30 of the 102527
Revised Code for the same period of time. There shall be no bar or 102528
limit to an assessment against a person that fails to file a 102529
report subject to assessment as required by this chapter, or that 102530
files a fraudulent report. 102531

(C) Unless the person assessed, within sixty days after 102532
service of the notice of assessment, files with the tax 102533
commissioner, either in person or by certified mail, a written 102534
petition for reassessment signed by the person or the person's 102535
authorized agent having knowledge of the facts, the assessment 102536
shall become final, and the amount of the assessment is due and 102537
payable from the person assessed to the treasurer of state. A 102538
petition shall indicate the objections of the person assessed, but 102539
additional objections may be raised in writing if received by the 102540
commissioner prior to the date shown on the final determination. 102541
If a petition for reassessment has been properly filed, the 102542
commissioner shall proceed under section 5703.60 of the Revised 102543
Code. 102544

(D)(1) After an assessment becomes final, if any portion of 102545

the assessment, including any accrued interest, remains unpaid, a 102546
certified copy of the tax commissioner's entry making the 102547
assessment final may be filed in the office of the clerk of the 102548
court of common pleas in the county in which the person resides or 102549
has its principal place of business in this state, or in the 102550
office of the clerk of court of common pleas of Franklin county. 102551

(2) Immediately upon the filing of the entry, the clerk shall 102552
enter judgment for the state against the person assessed in the 102553
amount shown on the entry. The judgment may be filed by the clerk 102554
in a loose-leaf book entitled, "special judgments for the 102555
financial institution tax" and shall have the same effect as other 102556
judgments. Execution shall issue upon the judgment at the request 102557
of the tax commissioner, and all laws applicable to sales on 102558
execution shall apply to sales made under the judgment. 102559

(3) ~~The portion of~~ If the assessment is not paid in its 102560
entirety within sixty days after the day the assessment was 102561
issued, the portion of the assessment consisting of tax due shall 102562
bear interest at the rate per annum prescribed by section 5703.47 102563
of the Revised Code from the date the tax commissioner issues the 102564
assessment until the date the assessment is paid or until it is 102565
certified to the attorney general for collection under section 102566
131.02 of the Revised Code, whichever comes first. If the unpaid 102567
portion of the assessment is certified to the attorney general for 102568
collection, the entire unpaid portion of the assessment shall bear 102569
interest at the rate per annum prescribed by section 5703.47 of 102570
the Revised Code from the date of certification until the date it 102571
is paid in its entirety. Interest shall be paid in the same manner 102572
as the tax and may be collected by the issuance of an assessment 102573
under this section. 102574

(E) If the tax commissioner believes that collection of the 102575
tax imposed by this chapter will be jeopardized unless proceedings 102576
to collect or secure collection of the tax are instituted without 102577

delay, the commissioner may issue a jeopardy assessment against 102578
the person liable for the tax. Immediately upon the issuance of 102579
the jeopardy assessment, the commissioner shall file an entry with 102580
the clerk of the court of common pleas in the manner prescribed by 102581
division (D) of this section. Notice of the jeopardy assessment 102582
shall be served on the person assessed or the person's authorized 102583
agent in the manner provided in section 5703.37 of the Revised 102584
Code within five days of the filing of the entry with the clerk. 102585
The total amount assessed shall be immediately due and payable, 102586
unless the person assessed files a petition for reassessment in 102587
accordance with division (C) of this section and provides security 102588
in a form satisfactory to the commissioner and in an amount 102589
sufficient to satisfy the unpaid balance of the assessment. Full 102590
or partial payment of the assessment shall not prejudice the 102591
commissioner's consideration of the petition for reassessment. 102592

(F) The tax commissioner shall immediately forward to the 102593
treasurer of state all amounts the commissioner receives under 102594
this section. Such amounts shall be considered as revenue arising 102595
from the tax imposed by this chapter. 102596

(G) If the tax commissioner possesses information indicating 102597
that the amount of tax a taxpayer is required to pay under this 102598
chapter exceeds the amount the reporting person for the taxpayer 102599
paid, the tax commissioner may audit a sample of the taxpayer's 102600
gross receipts over a representative period of time to ascertain 102601
the amount of tax due, and may issue an assessment based on the 102602
audit. The tax commissioner shall make a good faith effort to 102603
reach agreement with the taxpayer in selecting a representative 102604
sample. The tax commissioner may apply a sampling method only if 102605
the commissioner has prescribed the method by rule. 102606

(H) If the whereabouts of a person subject to this chapter is 102607
not known to the tax commissioner, the secretary of state is 102608
hereby deemed to be that person's agent for purposes of service of 102609

process or notice of any assessment, action, or proceedings 102610
instituted in this state against the person under this chapter. 102611
Such process or notice shall be served on such person by the 102612
commissioner or by an agent of the commissioner by leaving a true 102613
and attested copy of the process or notice at the office of the 102614
secretary of state at least fifteen days before the return day of 102615
such process or notice, and by sending a copy of the process or 102616
notice to such person by ordinary mail, with an endorsement 102617
thereon of the service upon the secretary of state, addressed to 102618
such person at the person's last known address. 102619

Sec. 5727.26. (A) The tax commissioner may make an 102620
assessment, based on any information in the commissioner's 102621
possession, against any natural gas company or combined company 102622
that fails to file a return or pay any tax, interest, or 102623
additional charge as required by sections 5727.24 to 5727.29 of 102624
the Revised Code. The commissioner shall give the company assessed 102625
written notice of the assessment as provided in section 5703.37 of 102626
the Revised Code. With the notice, the commissioner shall provide 102627
instructions on how to petition for reassessment and request a 102628
hearing on the petition. A penalty of up to fifteen per cent may 102629
be added to all amounts assessed under this section. The tax 102630
commissioner may adopt rules providing for the imposition and 102631
remission of the penalty. 102632

(B) Unless the company assessed, within sixty days after 102633
service of the notice of assessment, files with the tax 102634
commissioner, either personally or by certified mail, a written 102635
petition signed by the company's authorized agent having knowledge 102636
of the facts, the assessment becomes final, and the amount of the 102637
assessment is due and payable from the company assessed to the 102638
treasurer of state. The petition shall indicate the objections of 102639
the company assessed, but additional objections may be raised in 102640
writing if received by the commissioner prior to the date shown on 102641

the final determination. 102642

If a petition for reassessment has been properly filed, the 102643
commissioner shall proceed under section 5703.60 of the Revised 102644
Code. 102645

(C) After an assessment becomes final, if any portion of the 102646
assessment, including accrued interest, remains unpaid, a 102647
certified copy of the tax commissioner's entry making the 102648
assessment final may be filed in the office of the clerk of the 102649
court of common pleas in the county in which the natural gas 102650
company's or combined company's principal place of business is 102651
located, or in the office of the clerk of court of common pleas of 102652
Franklin county. 102653

Immediately on the filing of the entry, the clerk shall enter 102654
judgment for the state against the company assessed in the amount 102655
shown on the entry. The judgment may be filed by the clerk in a 102656
loose-leaf book entitled, "special judgments for the public 102657
utility excise tax on natural gas and combined companies," and 102658
shall have the same effect as other judgments. Execution shall 102659
issue upon the judgment at the request of the tax commissioner, 102660
and all laws applicable to sales on execution shall apply to sales 102661
made under the judgment. 102662

~~The portion of~~ If the assessment is not paid in its entirety 102663
within sixty days after the day the assessment was issued, the 102664
portion of the assessment consisting of tax due shall bear 102665
interest at the rate per annum prescribed by section 5703.47 of 102666
the Revised Code from the day the tax commissioner issues the 102667
assessment until it is paid or until it is certified to the 102668
attorney general for collection under section 131.02 of the 102669
Revised Code, whichever comes first. If the unpaid portion of the 102670
assessment is certified to the attorney general for collection, 102671
the entire unpaid portion of the assessment shall bear interest at 102672
the rate per annum prescribed by section 5703.47 of the Revised 102673

Code from the date of certification until the date it is paid in 102674
its entirety. Interest shall be paid in the same manner as the tax 102675
and may be collected by the issuance of an assessment under this 102676
section. 102677

(D) If the tax commissioner believes that collection of the 102678
tax will be jeopardized unless proceedings to collect or secure 102679
collection of the tax are instituted without delay, the 102680
commissioner may issue a jeopardy assessment against the company 102681
liable for the tax. Immediately upon the issuance of the jeopardy 102682
assessment, the commissioner shall file an entry with the clerk of 102683
the court of common pleas in the manner prescribed by division (C) 102684
of this section. Notice of the jeopardy assessment shall be served 102685
on the company assessed or the company's authorized agent in the 102686
manner provided in section 5703.37 of the Revised Code within five 102687
days of the filing of the entry with the clerk. The total amount 102688
assessed is immediately due and payable, unless the company 102689
assessed files a petition for reassessment in accordance with 102690
division (B) of this section and provides security in a form 102691
satisfactory to the commissioner and in an amount sufficient to 102692
satisfy the unpaid balance of the assessment. Full or partial 102693
payment of the assessment does not prejudice the commissioner's 102694
consideration of the petition for reassessment. 102695

(E) The tax commissioner shall immediately forward to the 102696
treasurer of state all amounts that the tax commissioner receives 102697
under this section, and such amounts shall be considered revenue 102698
arising from the tax imposed by section 5727.24 of the Revised 102699
Code. 102700

(F) No assessment shall be made or issued against a natural 102701
gas company or combined company for the tax imposed by section 102702
5727.24 of the Revised Code more than four years after the return 102703
date for the period in which the tax was reported, or more than 102704
four years after the return for the period was filed, whichever is 102705

later. 102706

Sec. 5727.75. (A) For purposes of this section: 102707

(1) "Qualified energy project" means an energy project 102708
certified by the director of development pursuant to this section. 102709

(2) "Energy project" means a project to provide electric 102710
power through the construction, installation, and use of an energy 102711
facility. 102712

(3) "Alternative energy zone" means a county declared as such 102713
by the board of county commissioners under division (E)(1)(b) or 102714
(c) of this section. 102715

(4) "Full-time equivalent employee" means the total number of 102716
employee-hours for which compensation was paid to individuals 102717
employed at a qualified energy project for services performed at 102718
the project during the calendar year divided by two thousand 102719
eighty hours. 102720

(5) "Solar energy project" means an energy project composed 102721
of an energy facility using solar panels to generate electricity. 102722

(B)(1) Tangible personal property of a qualified energy 102723
project using renewable energy resources is exempt from taxation 102724
for tax years 2011, ~~2012, 2013, and 2014~~ through 2019 if all of 102725
the following conditions are satisfied: 102726

(a) On or before December 31, ~~2013~~ 2018, the owner or a 102727
lessee pursuant to a sale and leaseback transaction of the project 102728
submits an application to the power siting board for a certificate 102729
under section 4906.20 of the Revised Code, or if that section does 102730
not apply, submits an application for any approval, consent, 102731
permit, or certificate or satisfies any condition required by a 102732
public agency or political subdivision of this state for the 102733
construction or initial operation of an energy project. 102734

(b) Construction or installation of the energy facility 102735

begins on or after January 1, 2009, and before January 1, ~~2014~~ 102736
2019. For the purposes of this division, construction begins on 102737
the earlier of the date of application for a certificate or other 102738
approval or permit described in division (B)(1)(a) of this 102739
section, or the date the contract for the construction or 102740
installation of the energy facility is entered into. 102741

(c) For a qualified energy project with a nameplate capacity 102742
of five megawatts or greater, a board of county commissioners of a 102743
county in which property of the project is located has adopted a 102744
resolution under division (E)(1)(b) or (c) of this section to 102745
approve the application submitted under division (E) of this 102746
section to exempt the property located in that county from 102747
taxation. A board's adoption of a resolution rejecting an 102748
application or its failure to adopt a resolution approving the 102749
application does not affect the tax-exempt status of the qualified 102750
energy project's property that is located in another county. 102751

(2) If tangible personal property of a qualified energy 102752
project using renewable energy resources was exempt from taxation 102753
under this section beginning in any of tax years 2011, 2012, 2013, 102754
~~or 2014~~, 2015, 2016, 2017, 2018, or 2019, and the certification 102755
under division (E)(2) of this section has not been revoked, the 102756
tangible personal property of the qualified energy project is 102757
exempt from taxation for tax year ~~2015~~ 2020 and all ensuing tax 102758
years if the property was placed into service before January 1, 102759
~~2015~~ 2020, as certified in the construction progress report 102760
required under division (F)(2) of this section. Tangible personal 102761
property that has not been placed into service before that date is 102762
taxable property subject to taxation. An energy project for which 102763
certification has been revoked is ineligible for further exemption 102764
under this section. Revocation does not affect the tax-exempt 102765
status of the project's tangible personal property for the tax 102766
year in which revocation occurs or any prior tax year. 102767

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, ~~2019~~ 2024. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this section, real property of a qualified energy project is exempt from taxation for any tax year for which the tangible personal property of the qualified energy project is exempted under this section.

(E)(1)(a) A person may apply to the director of development 102799
for certification of an energy project as a qualified energy 102800
project on or before the following dates: 102801

(i) December 31, ~~2013~~ 2018, for an energy project using 102802
renewable energy resources; 102803

(ii) December 31, ~~2015~~ 2020, for an energy project using 102804
clean coal technology, advanced nuclear technology, or 102805
cogeneration technology. 102806

(b) The director shall forward a copy of each application for 102807
certification of an energy project with a nameplate capacity of 102808
five megawatts or greater to the board of county commissioners of 102809
each county in which the project is located and to each taxing 102810
unit with territory located in each of the affected counties. Any 102811
board that receives from the director a copy of an application 102812
submitted under this division shall adopt a resolution approving 102813
or rejecting the application unless it has adopted a resolution 102814
under division (E)(1)(c) of this section. A resolution adopted 102815
under division (E)(1)(b) or (c) of this section may require an 102816
annual service payment to be made in addition to the service 102817
payment required under division (G) of this section. The sum of 102818
the service payment required in the resolution and the service 102819
payment required under division (G) of this section shall not 102820
exceed nine thousand dollars per megawatt of nameplate capacity 102821
located in the county. The resolution shall specify the time and 102822
manner in which the payments required by the resolution shall be 102823
paid to the county treasurer. The county treasurer shall deposit 102824
the payment to the credit of the county's general fund to be used 102825
for any purpose for which money credited to that fund may be used. 102826

The board shall send copies of the resolution by certified 102827
mail to the owner of the facility and the director within thirty 102828
days after receipt of the application, or a longer period of time 102829
if authorized by the director. 102830

(c) A board of county commissioners may adopt a resolution 102831
declaring the county to be an alternative energy zone and 102832
declaring all applications submitted to the director of 102833
development under this division after the adoption of the 102834
resolution, and prior to its repeal, to be approved by the board. 102835

All tangible personal property and real property of an energy 102836
project with a nameplate capacity of five megawatts or greater is 102837
taxable if it is located in a county in which the board of county 102838
commissioners adopted a resolution rejecting the application 102839
submitted under this division or failed to adopt a resolution 102840
approving the application under division (E)(1)(b) or (c) of this 102841
section. 102842

(2) The director shall certify an energy project if all of 102843
the following circumstances exist: 102844

(a) The application was timely submitted. 102845

(b) For an energy project with a nameplate capacity of five 102846
megawatts or greater, a board of county commissioners of at least 102847
one county in which the project is located has adopted a 102848
resolution approving the application under division (E)(1)(b) or 102849
(c) of this section. 102850

(c) No portion of the project's facility was used to supply 102851
electricity before December 31, 2009. 102852

(3) The director shall deny a certification application if 102853
the director determines the person has failed to comply with any 102854
requirement under this section. The director may revoke a 102855
certification if the director determines the person, or subsequent 102856
owner or lessee pursuant to a sale and leaseback transaction of 102857
the qualified energy project, has failed to comply with any 102858
requirement under this section. Upon certification or revocation, 102859
the director shall notify the person, owner, or lessee, the tax 102860
commissioner, and the county auditor of a county in which the 102861

project is located of the certification or revocation. Notice 102862
shall be provided in a manner convenient to the director. 102863

(F) The owner or a lessee pursuant to a sale and leaseback 102864
transaction of a qualified energy project shall do each of the 102865
following: 102866

(1) Comply with all applicable regulations; 102867

(2) File with the director of development a certified 102868
construction progress report before the first day of March of each 102869
year during the energy facility's construction or installation 102870
indicating the percentage of the project completed, and the 102871
project's nameplate capacity, as of the preceding thirty-first day 102872
of December. Unless otherwise instructed by the director of 102873
development, the owner or lessee of an energy project shall file a 102874
report with the director on or before the first day of March each 102875
year after completion of the energy facility's construction or 102876
installation indicating the project's nameplate capacity as of the 102877
preceding thirty-first day of December. Not later than sixty days 102878
after June 17, 2010, the owner or lessee of an energy project, the 102879
construction of which was completed before June 17, 2010, shall 102880
file a certificate indicating the project's nameplate capacity. 102881

(3) File with the director of development, in a manner 102882
prescribed by the director, a report of the total number of 102883
full-time equivalent employees, and the total number of full-time 102884
equivalent employees domiciled in Ohio, who are employed in the 102885
construction or installation of the energy facility; 102886

(4) For energy projects with a nameplate capacity of five 102887
megawatts or greater, repair all roads, bridges, and culverts 102888
affected by construction as reasonably required to restore them to 102889
their preconstruction condition, as determined by the county 102890
engineer in consultation with the local jurisdiction responsible 102891
for the roads, bridges, and culverts. In the event that the county 102892

engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

(5) Provide or facilitate training for fire and emergency responders for response to emergency situations related to the energy project and, for energy projects with a nameplate capacity of five megawatts or greater, at the person's expense, equip the fire and emergency responders with proper equipment as reasonably required to enable them to respond to such emergency situations;

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and

not less than fifty per cent in the case of any other energy 102925
project. In the case of an energy project for which certification 102926
from the power siting board is required under section 4906.20 of 102927
the Revised Code, the number of full-time equivalent employees 102928
employed in the construction or installation of the energy project 102929
equals the number actually employed or the number projected to be 102930
employed in the certificate application, if such projection is 102931
required under regulations adopted pursuant to section 4906.03 of 102932
the Revised Code, whichever is greater. For all other energy 102933
projects, the number of full-time equivalent employees employed in 102934
the construction or installation of the energy project equals the 102935
number actually employed or the number projected to be employed by 102936
the director of development, whichever is greater. To estimate the 102937
number of employees to be employed in the construction or 102938
installation of an energy project, the director shall use a 102939
generally accepted job-estimating model in use for renewable 102940
energy projects, including but not limited to the job and economic 102941
development impact model. The director may adjust an estimate 102942
produced by a model to account for variables not accounted for by 102943
the model. 102944

(7) For energy projects with a nameplate capacity in excess 102945
of two megawatts, establish a relationship with a member of the 102946
university system of Ohio as defined in section 3345.011 of the 102947
Revised Code or with a person offering an apprenticeship program 102948
registered with the employment and training administration within 102949
the United States department of labor or with the apprenticeship 102950
council created by section 4139.02 of the Revised Code, to educate 102951
and train individuals for careers in the wind or solar energy 102952
industry. The relationship may include endowments, cooperative 102953
programs, internships, apprenticeships, research and development 102954
projects, and curriculum development. 102955

(8) Offer to sell power or renewable energy credits from the 102956

energy project to electric distribution utilities or electric 102957
service companies subject to renewable energy resource 102958
requirements under section 4928.64 of the Revised Code that have 102959
issued requests for proposal for such power or renewable energy 102960
credits. If no electric distribution utility or electric service 102961
company issues a request for proposal on or before December 31, 102962
2010, or accepts an offer for power or renewable energy credits 102963
within forty-five days after the offer is submitted, power or 102964
renewable energy credits from the energy project may be sold to 102965
other persons. Division (F)(8) of this section does not apply if: 102966

(a) The owner or lessee is a rural electric company or a 102967
municipal power agency as defined in section 3734.058 of the 102968
Revised Code. 102969

(b) The owner or lessee is a person that, before completion 102970
of the energy project, contracted for the sale of power or 102971
renewable energy credits with a rural electric company or a 102972
municipal power agency. 102973

(c) The owner or lessee contracts for the sale of power or 102974
renewable energy credits from the energy project before June 17, 102975
2010. 102976

(9) Make annual service payments as required by division (G) 102977
of this section and as may be required in a resolution adopted by 102978
a board of county commissioners under division (E) of this 102979
section. 102980

(G) The owner or a lessee pursuant to a sale and leaseback 102981
transaction of a qualified energy project shall make annual 102982
service payments in lieu of taxes to the county treasurer on or 102983
before the final dates for payments of taxes on public utility 102984
personal property on the real and public utility personal property 102985
tax list for each tax year for which property of the energy 102986
project is exempt from taxation under this section. The county 102987

treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of December 31, 2010, for tax year 2011, as of December 31, 2011, for tax year 2012, as of December 31, 2012, for tax year 2013, as of December 31, 2013, for tax year 2014, ~~and~~ as of December 31, 2014, for tax year 2015, as of December 31, 2015, for tax year 2016, as of December 31, 2016, for tax year 2017, as of December 31, 2017, for tax year 2018, as of December 31, 2018, for tax year 2019, and as of December 31, 2019, for tax year 2020 and each tax year thereafter;

(2) In the case of any other energy project using renewable energy resources, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

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(3) In the case of an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology, the following:

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(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

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(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

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(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

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(H) The director of development in consultation with the tax

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commissioner shall adopt rules pursuant to Chapter 119. of the 103051
Revised Code to implement and enforce this section. 103052

Sec. 5727.84. (A) As used in this section and sections 103053
5727.85, 5727.86, and 5727.87 of the Revised Code: 103054

(1) "School district" means a city, local, or exempted 103055
village school district. 103056

(2) "Joint vocational school district" means a joint 103057
vocational school district created under section 3311.16 of the 103058
Revised Code, and includes a cooperative education school district 103059
created under section 3311.52 or 3311.521 of the Revised Code and 103060
a county school financing district created under section 3311.50 103061
of the Revised Code. 103062

(3) "Local taxing unit" means a subdivision or taxing unit, 103063
as defined in section 5705.01 of the Revised Code, a park district 103064
created under Chapter 1545. of the Revised Code, or a township 103065
park district established under section 511.23 of the Revised 103066
Code, but excludes school districts and joint vocational school 103067
districts. 103068

(4) "State education aid," for a school district, means the 103069
following: 103070

(a) For fiscal years prior to fiscal year 2010, the sum of 103071
state aid amounts computed for the district under former sections 103072
3317.029, 3317.052, and 3317.053 of the Revised Code and the 103073
following provisions, as they existed for the applicable fiscal 103074
year: divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 103075
3317.022; divisions (B), (C), and (D) of section 3317.023; 103076
divisions (G), (L), and (N) of section 3317.024; and sections 103077
~~3317.029, 3317.0216, 3317.0217, 3317.04, and 3317.05, 3317.052,~~ 103078
~~and 3317.053~~ of the Revised Code; and the adjustments required by: 103079
division (C) of section 3310.08; division (C)(2) of section 103080

3310.41; division (C) of section 3314.08; division (D)(2) of 103081
section 3314.091; division (D) of former section 3314.13; 103082
divisions (E), (K), (L), (M), and (N) of section 3317.023; 103083
division (C) of section 3317.20; and sections 3313.979 and 103084
3313.981 of the Revised Code. However, when calculating state 103085
education aid for a school district for fiscal years 2008 and 103086
2009, include the amount computed for the district under Section 103087
269.20.80 of H.B. 119 of the 127th general assembly, as 103088
subsequently amended, instead of division (D) of section 3317.022 103089
of the Revised Code; and include amounts calculated under Section 103090
269.30.80 of H.B. 119 of the 127th general assembly, as 103091
subsequently amended. 103092

(b) For fiscal years 2010 and 2011, the sum of the amounts 103093
computed for the district under former sections 3306.052, 3306.12, 103094
3306.13, 3306.19, 3306.191, ~~and 3306.192, 3317.052, and 3317.053~~ 103095
of the Revised Code and the following provisions, as they existed 103096
for the applicable fiscal year: division (G) of section 3317.024; 103097
~~sections section~~ section 3317.05, ~~3317.052, and 3317.053~~ of the Revised 103098
Code; and the adjustments required by division (C) of section 103099
3310.08; division (C)(2) of section 3310.41; division (C) of 103100
section 3314.08; division (D)(2) of section 3314.091; division (D) 103101
of former section 3314.13; divisions (E), (K), (L), (M), and (N) 103102
of section 3317.023; division (C) of section 3317.20; and sections 103103
3313.979, 3313.981, and 3326.33 of the Revised Code. 103104

(c) For fiscal years 2012 and 2013, the amount paid in 103105
accordance with the section of H.B. 153 of the 129th general 103106
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 103107
SCHOOL DISTRICTS" and the adjustments required by division (C) of 103108
section 3310.08; division (C)(2) of section 3310.41; section 103109
3310.55; division (C) of section 3314.08; division (D)(2) of 103110
section 3314.091; division (D) of former section 3314.13; 103111
divisions (B), (H), (I), (J), and (K) of section 3317.023; 103112

division (C) of section 3317.20; and sections 3313.979 and 103113
3313.981 of the Revised Code; 103114

(d) For fiscal year 2014 and each fiscal year thereafter, the 103115
sum of amounts computed for and paid to the district under section 103116
3317.022 of the Revised Code; and the adjustments required by 103117
division (C) of section 3310.08, division (C)(2) of section 103118
3310.41, section 3310.55, division (C) of section 3314.08, 103119
division (D)(2) of section 3314.091, divisions (B), (H), (J), and 103120
(K) of section 3317.023, and sections 3313.978, 3313.981, 103121
3317.0212, 3317.0213, 3317.0214, and 3326.33 of the Revised Code. 103122
However, for fiscal years 2014 and 2015, the amount computed for 103123
the district under the section of this act entitled "TRANSITIONAL 103124
AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS" also 103125
shall be included. 103126

(5) "State education aid," for a joint vocational school 103127
district, means the following: 103128

(a) For fiscal years prior to fiscal year 2010, the sum of 103129
the state aid amounts computed for the district under division (N) 103130
of section 3317.024 and section 3317.16 of the Revised Code. 103131
However, when calculating state education aid for a joint 103132
vocational school district for fiscal years 2008 and 2009, include 103133
the amount computed for the district under Section 269.30.90 of 103134
H.B. 119 of the 127th general assembly, as subsequently amended. 103135

(b) For fiscal years 2010 and 2011, the amount computed for 103136
the district in accordance with the section of H.B. 1 of the 128th 103137
general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 103138
DISTRICTS²." 103139

(c) For fiscal years 2012 and 2013, the amount paid in 103140
accordance with the section of H.B. 153 of the 129th general 103141
assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 103142

(d) For fiscal year 2014 and each fiscal year thereafter, the 103143

amount computed for the district under section 3317.16 of the 103144
Revised Code; except that, for fiscal years 2014 and 2015, the 103145
amount computed for the district under the section of this act 103146
entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" 103147
shall be included. 103148

(6) "State education aid offset" means the amount determined 103149
for each school district or joint vocational school district under 103150
division (A)(1) of section 5727.85 of the Revised Code. 103151

(7) "Recognized valuation" ~~has the same meaning as in~~ means 103152
the amount computed for a school district pursuant to section 103153
~~3317.02~~ 3317.015 of the Revised Code. 103154

(8) "Electric company tax value loss" means the amount 103155
determined under division (D) of this section. 103156

(9) "Natural gas company tax value loss" means the amount 103157
determined under division (E) of this section. 103158

(10) "Tax value loss" means the sum of the electric company 103159
tax value loss and the natural gas company tax value loss. 103160

(11) "Fixed-rate levy" means any tax levied on property other 103161
than a fixed-sum levy. 103162

(12) "Fixed-rate levy loss" means the amount determined under 103163
division (G) of this section. 103164

(13) "Fixed-sum levy" means a tax levied on property at 103165
whatever rate is required to produce a specified amount of tax 103166
money or levied in excess of the ten-mill limitation to pay debt 103167
charges, and includes school district emergency levies charged and 103168
payable pursuant to section 5705.194 of the Revised Code. 103169

(14) "Fixed-sum levy loss" means the amount determined under 103170
division (H) of this section. 103171

(15) "Consumer price index" means the consumer price index 103172
(all items, all urban consumers) prepared by the bureau of labor 103173

statistics of the United States department of labor. 103174

(16) "Total resources" and "total library resources" have the 103175
same meanings as in section 5751.20 of the Revised Code. 103176

(17) "2011 current expense S.B. 3 allocation" means the sum 103177
of payments received by a school district or joint vocational 103178
school district in fiscal year 2011 for current expense levy 103179
losses pursuant to division (C)(2) of section 5727.85 of the 103180
Revised Code. If a fixed-rate levy eligible for reimbursement is 103181
not charged and payable in any year after tax year 2010, "2011 103182
current expense S.B. 3 allocation" used to compute payments to be 103183
made under division (C)(3) of section 5727.85 of the Revised Code 103184
in the tax years following the last year the levy is charged and 103185
payable shall be reduced to the extent that those payments are 103186
attributable to the fixed-rate levy loss of that levy. 103187

(18) "2010 current expense S.B. 3 allocation" means the sum 103188
of payments received by a municipal corporation in calendar year 103189
2010 for current expense levy losses pursuant to division (A)(1) 103190
of section 5727.86 of the Revised Code, excluding any such 103191
payments received for current expense levy losses attributable to 103192
a tax levied under section 5705.23 of the Revised Code. If a 103193
fixed-rate levy eligible for reimbursement is not charged and 103194
payable in any year after tax year 2010, "2010 current expense 103195
S.B. 3 allocation" used to compute payments to be made under 103196
division (A)(1)(d) or (e) of section 5727.86 of the Revised Code 103197
in the tax years following the last year the levy is charged and 103198
payable shall be reduced to the extent that those payments are 103199
attributable to the fixed-rate levy loss of that levy. 103200

(19) "2010 S.B. 3 allocation" means the sum of payments 103201
received by a local taxing unit during calendar year 2010 pursuant 103202
to division (A)(1) of section 5727.86 of the Revised Code, 103203
excluding any such payments received for fixed-rate levy losses 103204
attributable to a tax levied under section 5705.23 of the Revised 103205

Code. If a fixed-rate levy eligible for reimbursement is not 103206
charged and payable in any year after tax year 2010, "2010 S.B. 3 103207
allocation" used to compute payments to be made under division 103208
(A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax 103209
years following the last year the levy is charged and payable 103210
shall be reduced to the extent that those payments are 103211
attributable to the fixed-rate levy loss of that levy. 103212

(20) "Total S.B. 3 allocation" means, in the case of a school 103213
district or joint vocational school district, the sum of the 103214
payments received in fiscal year 2011 pursuant to divisions (C)(2) 103215
and (D) of section 5727.85 of the Revised Code. In the case of a 103216
local taxing unit, "total S.B. 3 allocation" means the sum of 103217
payments received by the unit in calendar year 2010 pursuant to 103218
divisions (A)(1) and (4) of section 5727.86 of the Revised Code, 103219
excluding any such payments received for fixed-rate levy losses 103220
attributable to a tax levied under section 5705.23 of the Revised 103221
Code. If a fixed-rate levy eligible for reimbursement is not 103222
charged and payable in any year after tax year 2010, "total S.B. 3 103223
allocation" used to compute payments to be made under division 103224
(C)(3) of section 5727.85 or division (A)(1)(d) or (e) of section 103225
5727.86 of the Revised Code in the tax years following the last 103226
year the levy is charged and payable shall be reduced to the 103227
extent that those payments are attributable to the fixed-rate levy 103228
loss of that levy as would be computed under division (C)(2) of 103229
section 5727.85 or division (A)(1)(b) of section 5727.86 of the 103230
Revised Code. 103231

(21) "2011 non-current expense S.B. 3 allocation" means the 103232
difference of a school district's or joint vocational school 103233
district's total S.B. 3 allocation minus the sum of the school 103234
district's 2011 current expense S.B. 3 allocation and the portion 103235
of the school district's total S.B. 3 allocation constituting 103236
reimbursement for debt levies pursuant to division (D) of section 103237

5727.85 of the Revised Code. 103238

(22) "2010 non-current expense S.B. 3 allocation" means the 103239
difference of a municipal corporation's total S.B. 3 allocation 103240
minus the sum of its 2010 current expense S.B. 3 allocation and 103241
the portion of its total S.B. 3 allocation constituting 103242
reimbursement for debt levies pursuant to division (A)(4) of 103243
section 5727.86 of the Revised Code. 103244

(23) "S.B. 3 allocation for library purposes" means, in the 103245
case of a county, municipal corporation, school district, or 103246
township public library that receives the proceeds of a tax levied 103247
under section 5705.23 of the Revised Code, the sum of the payments 103248
received by the public library in calendar year 2010 pursuant to 103249
section 5727.86 of the Revised Code for fixed-rate levy losses 103250
attributable to a tax levied under section 5705.23 of the Revised 103251
Code. If a fixed-rate levy authorized under section 5705.23 of the 103252
Revised Code that is eligible for reimbursement is not charged and 103253
payable in any year after tax year 2010, "S.B. 3 allocation for 103254
library purposes" used to compute payments to be made under 103255
division (A)(1)(f) of section 5727.86 of the Revised Code in the 103256
tax years following the last year the levy is charged and payable 103257
shall be reduced to the extent that those payments are 103258
attributable to the fixed-rate levy loss of that levy as would be 103259
computed under division (A)(1)(b) of section 5727.86 of the 103260
Revised Code. 103261

(24) "Threshold per cent" means, in the case of a school 103262
district or joint vocational school district, two per cent for 103263
fiscal year 2012 and four per cent for fiscal years 2013 and 103264
thereafter. In the case of a local taxing unit or public library 103265
that receives the proceeds of a tax levied under section 5705.23 103266
of the Revised Code, "threshold per cent" means two per cent for 103267
calendar year 2011, four per cent for calendar year 2012, and six 103268
per cent for calendar years 2013 and thereafter. 103269

(B) The kilowatt-hour tax receipts fund is hereby created in 103270
the state treasury and shall consist of money arising from the tax 103271
imposed by section 5727.81 of the Revised Code. All money in the 103272
kilowatt-hour tax receipts fund shall be credited as follows: 103273

Fiscal Year	General Revenue Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund	
2001-2011	63.0%	25.4%	11.6%	103275
2012 and thereafter	88.0%	9.0%	3.0%	103276

(C) The natural gas tax receipts fund is hereby created in 103277
the state treasury and shall consist of money arising from the tax 103278
imposed by section 5727.811 of the Revised Code. All money in the 103279
fund shall be credited as follows: 103280

(1) For fiscal years before fiscal year 2012: 103281

(a) Sixty-eight and seven-tenths per cent shall be credited 103282
to the school district property tax replacement fund for the 103283
purpose of making the payments described in section 5727.85 of the 103284
Revised Code. 103285

(b) Thirty-one and three-tenths per cent shall be credited to 103286
the local government property tax replacement fund for the purpose 103287
of making the payments described in section 5727.86 of the Revised 103288
Code. 103289

(2) For fiscal years 2012 and thereafter, one hundred per 103290
cent to the general revenue fund. 103291

(D) Not later than January 1, 2002, the tax commissioner 103292
shall determine for each taxing district its electric company tax 103293
value loss, which is the sum of the applicable amounts described 103294
in divisions (D)(1) to (4) of this section: 103295

(1) The difference obtained by subtracting the amount 103296
described in division (D)(1)(b) from the amount described in 103297

division (D)(1)(a) of this section. 103298

(a) The value of electric company and rural electric company 103299
tangible personal property as assessed by the tax commissioner for 103300
tax year 1998 on a preliminary assessment, or an amended 103301
preliminary assessment if issued prior to March 1, 1999, and as 103302
apportioned to the taxing district for tax year 1998; 103303

(b) The value of electric company and rural electric company 103304
tangible personal property as assessed by the tax commissioner for 103305
tax year 1998 had the property been apportioned to the taxing 103306
district for tax year 2001, and assessed at the rates in effect 103307
for tax year 2001. 103308

(2) The difference obtained by subtracting the amount 103309
described in division (D)(2)(b) from the amount described in 103310
division (D)(2)(a) of this section. 103311

(a) The three-year average for tax years 1996, 1997, and 1998 103312
of the assessed value from nuclear fuel materials and assemblies 103313
assessed against a person under Chapter 5711. of the Revised Code 103314
from the leasing of them to an electric company for those 103315
respective tax years, as reflected in the preliminary assessments; 103316

(b) The three-year average assessed value from nuclear fuel 103317
materials and assemblies assessed under division (D)(2)(a) of this 103318
section for tax years 1996, 1997, and 1998, as reflected in the 103319
preliminary assessments, using an assessment rate of twenty-five 103320
per cent. 103321

(3) In the case of a taxing district having a nuclear power 103322
plant within its territory, any amount, resulting in an electric 103323
company tax value loss, obtained by subtracting the amount 103324
described in division (D)(1) of this section from the difference 103325
obtained by subtracting the amount described in division (D)(3)(b) 103326
of this section from the amount described in division (D)(3)(a) of 103327
this section. 103328

(a) The value of electric company tangible personal property 103329
as assessed by the tax commissioner for tax year 2000 on a 103330
preliminary assessment, or an amended preliminary assessment if 103331
issued prior to March 1, 2001, and as apportioned to the taxing 103332
district for tax year 2000; 103333

(b) The value of electric company tangible personal property 103334
as assessed by the tax commissioner for tax year 2001 on a 103335
preliminary assessment, or an amended preliminary assessment if 103336
issued prior to March 1, 2002, and as apportioned to the taxing 103337
district for tax year 2001. 103338

(4) In the case of a taxing district having a nuclear power 103339
plant within its territory, the difference obtained by subtracting 103340
the amount described in division (D)(4)(b) of this section from 103341
the amount described in division (D)(4)(a) of this section, 103342
provided that such difference is greater than ten per cent of the 103343
amount described in division (D)(4)(a) of this section. 103344

(a) The value of electric company tangible personal property 103345
as assessed by the tax commissioner for tax year 2005 on a 103346
preliminary assessment, or an amended preliminary assessment if 103347
issued prior to March 1, 2006, and as apportioned to the taxing 103348
district for tax year 2005; 103349

(b) The value of electric company tangible personal property 103350
as assessed by the tax commissioner for tax year 2006 on a 103351
preliminary assessment, or an amended preliminary assessment if 103352
issued prior to March 1, 2007, and as apportioned to the taxing 103353
district for tax year 2006. 103354

(E) Not later than January 1, 2002, the tax commissioner 103355
shall determine for each taxing district its natural gas company 103356
tax value loss, which is the sum of the amounts described in 103357
divisions (E)(1) and (2) of this section: 103358

(1) The difference obtained by subtracting the amount 103359

described in division (E)(1)(b) from the amount described in 103360
division (E)(1)(a) of this section. 103361

(a) The value of all natural gas company tangible personal 103362
property, other than property described in division (E)(2) of this 103363
section, as assessed by the tax commissioner for tax year 1999 on 103364
a preliminary assessment, or an amended preliminary assessment if 103365
issued prior to March 1, 2000, and apportioned to the taxing 103366
district for tax year 1999; 103367

(b) The value of all natural gas company tangible personal 103368
property, other than property described in division (E)(2) of this 103369
section, as assessed by the tax commissioner for tax year 1999 had 103370
the property been apportioned to the taxing district for tax year 103371
2001, and assessed at the rates in effect for tax year 2001. 103372

(2) The difference in the value of current gas obtained by 103373
subtracting the amount described in division (E)(2)(b) from the 103374
amount described in division (E)(2)(a) of this section. 103375

(a) The three-year average assessed value of current gas as 103376
assessed by the tax commissioner for tax years 1997, 1998, and 103377
1999 on a preliminary assessment, or an amended preliminary 103378
assessment if issued prior to March 1, 2001, and as apportioned in 103379
the taxing district for those respective years; 103380

(b) The three-year average assessed value from current gas 103381
under division (E)(2)(a) of this section for tax years 1997, 1998, 103382
and 1999, as reflected in the preliminary assessment, using an 103383
assessment rate of twenty-five per cent. 103384

(F) The tax commissioner may request that natural gas 103385
companies, electric companies, and rural electric companies file a 103386
report to help determine the tax value loss under divisions (D) 103387
and (E) of this section. The report shall be filed within thirty 103388
days of the commissioner's request. A company that fails to file 103389
the report or does not timely file the report is subject to the 103390

penalty in section 5727.60 of the Revised Code. 103391

(G) Not later than January 1, 2002, the tax commissioner 103392
shall determine for each school district, joint vocational school 103393
district, and local taxing unit its fixed-rate levy loss, which is 103394
the sum of its electric company tax value loss multiplied by the 103395
tax rate in effect in tax year 1998 for fixed-rate levies and its 103396
natural gas company tax value loss multiplied by the tax rate in 103397
effect in tax year 1999 for fixed-rate levies. 103398

(H) Not later than January 1, 2002, the tax commissioner 103399
shall determine for each school district, joint vocational school 103400
district, and local taxing unit its fixed-sum levy loss, which is 103401
the amount obtained by subtracting the amount described in 103402
division (H)(2) of this section from the amount described in 103403
division (H)(1) of this section: 103404

(1) The sum of the electric company tax value loss multiplied 103405
by the tax rate in effect in tax year 1998, and the natural gas 103406
company tax value loss multiplied by the tax rate in effect in tax 103407
year 1999, for fixed-sum levies for all taxing districts within 103408
each school district, joint vocational school district, and local 103409
taxing unit. For the years 2002 through 2006, this computation 103410
shall include school district emergency levies that existed in 103411
1998 in the case of the electric company tax value loss, and 1999 103412
in the case of the natural gas company tax value loss, and all 103413
other fixed-sum levies that existed in 1998 in the case of the 103414
electric company tax value loss and 1999 in the case of the 103415
natural gas company tax value loss and continue to be charged in 103416
the tax year preceding the distribution year. For the years 2007 103417
through 2016 in the case of school district emergency levies, and 103418
for all years after 2006 in the case of all other fixed-sum 103419
levies, this computation shall exclude all fixed-sum levies that 103420
existed in 1998 in the case of the electric company tax value loss 103421
and 1999 in the case of the natural gas company tax value loss, 103422

but are no longer in effect in the tax year preceding the 103423
distribution year. For the purposes of this section, an emergency 103424
levy that existed in 1998 in the case of the electric company tax 103425
value loss, and 1999 in the case of the natural gas company tax 103426
value loss, continues to exist in a year beginning on or after 103427
January 1, 2007, but before January 1, 2017, if, in that year, the 103428
board of education levies a school district emergency levy for an 103429
annual sum at least equal to the annual sum levied by the board in 103430
tax year 1998 or 1999, respectively, less the amount of the 103431
payment certified under this division for 2002. 103432

(2) The total taxable value in tax year 1999 less the tax 103433
value loss in each school district, joint vocational school 103434
district, and local taxing unit multiplied by one-fourth of one 103435
mill. 103436

If the amount computed under division (H) of this section for 103437
any school district, joint vocational school district, or local 103438
taxing unit is greater than zero, that amount shall equal the 103439
fixed-sum levy loss reimbursed pursuant to division (F) of section 103440
5727.85 of the Revised Code or division (A)(2) of section 5727.86 103441
of the Revised Code, and the one-fourth of one mill that is 103442
subtracted under division (H)(2) of this section shall be 103443
apportioned among all contributing fixed-sum levies in the 103444
proportion of each levy to the sum of all fixed-sum levies within 103445
each school district, joint vocational school district, or local 103446
taxing unit. 103447

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 103448
section, in computing the tax value loss, fixed-rate levy loss, 103449
and fixed-sum levy loss, the tax commissioner shall use the 103450
greater of the 1998 tax rate or the 1999 tax rate in the case of 103451
levy losses associated with the electric company tax value loss, 103452
but the 1999 tax rate shall not include for this purpose any tax 103453
levy approved by the voters after June 30, 1999, and the tax 103454

commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.89. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any natural gas distribution company, electric distribution company, self-assessing purchaser, or qualified end user that fails to file a return or pay any tax, interest, or additional charge as required by sections 5727.80 to 5727.95 of the Revised Code.

When information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5727.81 or 5727.811 of the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on the audit. The commissioner shall give the person assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and

request a hearing on the petition. 103486

The tax commissioner may issue an assessment for which the 103487
tax imposed by section 5727.81 or 5727.811 of the Revised Code was 103488
due and unpaid on the date the person was informed by an agent of 103489
the tax commissioner of an investigation or audit of the person. 103490
Any payment of the tax for the period covered by the assessment, 103491
after the person is so informed, shall be credited against the 103492
assessment. 103493

A penalty of up to fifteen per cent may be added to all 103494
amounts assessed under this section. The commissioner may adopt 103495
rules providing for the imposition and remission of penalties. 103496

(B) Unless the party assessed files with the tax commissioner 103497
within sixty days after service of the notice of assessment, 103498
either personally or by certified mail, a written petition for 103499
reassessment signed by the party assessed or that party's 103500
authorized agent having knowledge of the facts, the assessment 103501
becomes final and the amount of the assessment is due and payable 103502
from the party assessed to the treasurer of state. The petition 103503
shall indicate the objections of the party assessed, but 103504
additional objections may be raised in writing if received by the 103505
commissioner prior to the date shown on the final determination. 103506
If the petition has been properly filed, the commissioner shall 103507
proceed under section 5703.60 of the Revised Code. 103508

(C) After an assessment becomes final, if any portion of the 103509
assessment, including accrued interest, remains unpaid, a 103510
certified copy of the tax commissioner's entry making the 103511
assessment final may be filed in the office of the clerk of the 103512
court of common pleas in the county in which the party assessed 103513
resides or in which the party's business is conducted. If the 103514
party assessed maintains no place of business in this state and is 103515
not a resident of this state, the certified copy of the entry may 103516
be filed in the office of the clerk of the court of common pleas 103517

of Franklin county. 103518

Immediately upon the filing of the entry, the clerk shall 103519
enter a judgment for the state against the person assessed in the 103520
amount shown on the entry. The judgment may be filed by the clerk 103521
in a loose-leaf book entitled "special judgments for the 103522
distribution excise taxes," and shall have the same effect as 103523
other judgments. Execution shall issue upon the judgment at the 103524
request of the tax commissioner, and all laws applicable to sales 103525
on execution shall apply to sales made under the judgment. 103526

~~The portion of~~ If the assessment is not paid in its entirety 103527
within sixty days after the day the assessment was issued, the 103528
portion of the assessment consisting of tax due shall bear 103529
interest at the rate per annum prescribed by section 5703.47 of 103530
the Revised Code from the day the tax commissioner issues the 103531
assessment until the day the assessment is paid or until it is 103532
certified to the attorney general for collection under section 103533
131.02 of the Revised Code, whichever comes first. If the unpaid 103534
portion of the assessment is certified to the attorney general for 103535
collection, the entire unpaid portion of the assessment shall bear 103536
interest at the rate per annum prescribed by section 5703.47 of 103537
the Revised Code from the date of certification until the date it 103538
is paid in its entirety. Interest shall be paid in the same manner 103539
as the tax and may be collected by the issuance of an assessment 103540
under this section. 103541

(D) If the tax commissioner believes that collection of the 103542
tax imposed by section 5727.81 or 5727.811 of the Revised Code 103543
will be jeopardized unless proceedings to collect or secure 103544
collection of the tax are instituted without delay, the 103545
commissioner may issue a jeopardy assessment against the person 103546
liable for the tax. Immediately upon the issuance of the jeopardy 103547
assessment, the commissioner shall file an entry with the clerk of 103548
the court of common pleas in the manner prescribed by division (C) 103549

of this section. Notice of the jeopardy assessment shall be served 103550
on the party assessed or the party's legal representative within 103551
five days of the filing of the entry with the clerk. The total 103552
amount assessed is immediately due and payable, unless the party 103553
assessed files a petition for reassessment in accordance with 103554
division (B) of this section and provides security in a form 103555
satisfactory to the commissioner and in an amount sufficient to 103556
satisfy the unpaid balance of the assessment. Full or partial 103557
payment of the assessment does not prejudice the commissioner's 103558
consideration of the petition for reassessment. 103559

(E) All money collected by the tax commissioner under this 103560
section shall be paid to the treasurer of state, and when paid 103561
shall be considered as revenue arising from the taxes imposed by 103562
sections 5727.81 and 5727.811 of the Revised Code. 103563

Sec. 5728.10. (A) If any person required to file a fuel use 103564
tax return by sections 5728.01 to 5728.14 of the Revised Code, 103565
fails to file the return within the time prescribed by those 103566
sections, files an incomplete return, files an incorrect return, 103567
or fails to remit the full amount of the tax due for the period 103568
covered by the return, the tax commissioner may make an assessment 103569
against the person, based upon any information in the 103570
commissioner's possession, for the period for which the tax was 103571
due. 103572

No assessment shall be made against any person for any tax 103573
imposed by this chapter more than four years after the return date 103574
for the period for which the tax was due or more than four years 103575
after the return for the period was filed, whichever is later. 103576
This section does not bar an assessment against any person who 103577
fails to file a fuel use tax return as required by this chapter, 103578
or who files a fraudulent fuel use tax return. 103579

A penalty of up to fifteen per cent may be added to the 103580

amount of every assessment made pursuant to this section. The 103581
commissioner may adopt rules providing for the imposition and 103582
remission of penalties added to assessments made under this 103583
section. 103584

The commissioner shall give the party assessed written notice 103585
of the assessment in the manner provided in section 5703.37 of the 103586
Revised Code. With the notice, the commissioner shall provide 103587
instructions on how to petition for reassessment and request a 103588
hearing on the petition. 103589

(B) Unless the party assessed files with the tax commissioner 103590
within sixty days after service of the notice of assessment, 103591
either personally or by certified mail, a written petition for 103592
reassessment, signed by the party assessed, or by the party's 103593
authorized agent having knowledge of the facts, the assessment 103594
becomes final and the amount of the assessment is due and payable 103595
from the party assessed to the treasurer of state. The petition 103596
shall indicate the objections of the party assessed, but 103597
additional objections may be raised in writing if received by the 103598
commissioner prior to the date shown on the final determination. 103599
If the petition has been properly filed, the commissioner shall 103600
proceed under section 5703.60 of the Revised Code. 103601

(C) After an assessment becomes final, if any portion of the 103602
assessment remains unpaid, including accrued interest, a certified 103603
copy of the tax commissioner's entry making the assessment final 103604
may be filed in the office of the clerk of the court of common 103605
pleas in the county in which the party's place of business is 103606
located or the county in which the party assessed resides. If the 103607
party maintains no office in this state and is not a resident of 103608
this state, the certified copy of the entry may be filed in the 103609
office of the clerk of the court of common pleas of Franklin 103610
county. 103611

Immediately upon the filing of the entry, the clerk shall 103612

enter a judgment for the state of Ohio against the party assessed 103613
in the amount shown on the entry. The judgment may be filed by the 103614
clerk in a loose-leaf book entitled "special judgments for state 103615
fuel use tax," and shall have the same effect as other judgments. 103616
Execution shall issue upon the judgment upon the request of the 103617
commissioner, and all laws applicable to sales on execution shall 103618
apply to sales made under the judgment. 103619

~~The portion of~~ If the assessment is not paid within sixty 103620
days after the day the assessment was issued, the portion of the 103621
assessment consisting of tax due shall bear interest at the rate 103622
per annum prescribed by section 5703.47 of the Revised Code from 103623
the day the commissioner issues the assessment until it is paid or 103624
until it is certified to the attorney general for collection under 103625
section 131.02 of the Revised Code, whichever comes first. If the 103626
unpaid portion of the assessment is certified to the attorney 103627
general for collection, the entire unpaid portion of the 103628
assessment shall bear interest at the rate per annum prescribed by 103629
section 5703.47 of the Revised Code from the date of certification 103630
until the date it is paid in its entirety. Interest shall be paid 103631
in the same manner as the tax and may be collected by the issuance 103632
of an assessment under this section. 103633

(D) All money collected by the tax commissioner under this 103634
section shall be paid into the state treasury in the same manner 103635
as the revenues deriving from the taxes imposed by section 5728.06 103636
of the Revised Code. 103637

Sec. 5729.03. (A) If the superintendent of insurance finds 103638
the annual statement required by section 5729.02 of the Revised 103639
Code to be correct, the superintendent shall compute the following 103640
amount, as applicable, of the balance of such gross amount, after 103641
deducting such return premiums and considerations received for 103642
reinsurance, and charge such amount to such company as a tax upon 103643

the business done by it in this state for the period covered by 103644
such annual statement: 103645

(1) If the company is a health insuring corporation, one per 103646
cent of the balance of premium rate payments received, exclusive 103647
of payments received under the medicare program ~~established under~~ 103648
~~Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 103649
~~U.S.C.A. 301, as amended,~~ and exclusive of payments received 103650
pursuant to the ~~medical assistance~~ medicaid program ~~established~~ 103651
~~under Chapter 5111. of the Revised Code~~ for the period ending 103652
September 30, 2009, as reflected in its annual report; 103653

(2) If the company is not a health insuring corporation, one 103654
and four-tenths per cent of the balance of premiums received, 103655
exclusive of premiums received under the medicare program 103656
~~established under Title XVIII of the "Social Security Act," 49~~ 103657
~~Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and exclusive of 103658
payments received pursuant to the ~~medical assistance~~ medicaid 103659
program ~~established under Chapter 5111. of the Revised Code~~ for 103660
the period ending September 30, 2009, as reflected in its annual 103661
statement, and, if the company operates a health insuring 103662
corporation as a line of business, one per cent of the balance of 103663
premium rate payments received from that line of business, 103664
exclusive of payments received under the medicare program 103665
~~established under Title XVIII of the "Social Security Act," 49~~ 103666
~~Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and exclusive of 103667
payments received pursuant to the ~~medical assistance~~ medicaid 103668
program ~~established under Chapter 5111. of the Revised Code~~ for 103669
the period ending September 30, 2009, as reflected in its annual 103670
statement. 103671

Each foreign insurance company, including health insuring 103672
corporations, receiving payments pursuant to the ~~medical~~ 103673
~~assistance~~ medicaid program ~~established under Chapter 5111. of the~~ 103674
~~Revised Code~~ during the period beginning October 1, 2009, and 103675

ending December 31, 2009, shall file with the 2009 annual 103676
statement to the superintendent a schedule that reflects those 103677
payments received pursuant to the ~~medical assistance~~ medicaid 103678
program for that period. The payments reflected in the schedule, 103679
plus all other taxable premiums, are subject to the annual 103680
franchise tax due to be paid in 2010. 103681

(B) Any insurance policies that were not issued in violation 103682
of Title XXXIX of the Revised Code and that were issued prior to 103683
April 15, 1967, by a life insurance company organized and operated 103684
without profit to any private shareholder or individual, 103685
exclusively for the purpose of aiding educational or scientific 103686
institutions organized and operated without profit to any private 103687
shareholder or individual, are not subject to the tax imposed by 103688
this section. All taxes collected pursuant to this section shall 103689
be credited to the general revenue fund. 103690

(C) In no case shall the tax imposed under this section be 103691
less than two hundred fifty dollars. 103692

Sec. 5731.39. This section does not apply to, and the written 103693
permission of the tax commissioner is not required for asset 103694
transfers with respect to, decedents dying on or after January 1, 103695
2013. 103696

(A) No corporation organized or existing under the laws of 103697
this state shall transfer on its books or issue a new certificate 103698
for any share of its capital stock registered in the name of a 103699
decedent, or in trust for a decedent, or in the name of a decedent 103700
and another person or persons, without the written consent of the 103701
tax commissioner. 103702

(B) No safe deposit company, trust company, financial 103703
institution as defined in division (A) of section 5725.01 of the 103704
Revised Code, or other corporation or person, having in 103705
possession, control, or custody a deposit standing in the name of 103706

a decedent, or in trust for a decedent, or in the name of a 103707
decedent and another person or persons, shall deliver or transfer 103708
an amount in excess of three-fourths of the total value of such 103709
deposit, including accrued interest and dividends, as of the date 103710
of decedent's death, without the written consent of the tax 103711
commissioner. The written consent of the tax commissioner need not 103712
be obtained prior to the delivery or transfer of amounts having a 103713
value of three-fourths or less of said total value. 103714

(C) No life insurance company shall pay the proceeds of an 103715
annuity or matured endowment contract, or of a life insurance 103716
contract payable to the estate of a decedent, or of any other 103717
insurance contract taxable under Chapter 5731. of the Revised 103718
Code, without the written consent of the tax commissioner. Any 103719
life insurance company may pay the proceeds of any insurance 103720
contract not specified in this division (C) without the written 103721
consent of the tax commissioner. 103722

(D) No trust company or other corporation or person shall pay 103723
the proceeds of any death benefit, retirement, pension, or 103724
profit-sharing plan in excess of two thousand dollars, without the 103725
written consent of the tax commissioner. Such trust company or 103726
other corporation or person, however, may pay the proceeds of any 103727
death benefit, retirement, pension, or profit-sharing plan which 103728
consists of insurance on the life of the decedent payable to a 103729
beneficiary other than the estate of the insured without the 103730
written consent of the tax commissioner. 103731

(E) No safe deposit company, trust company, financial 103732
institution as defined in division (A) of section 5725.01 of the 103733
Revised Code, or other corporation or person, having in 103734
possession, control, or custody securities, assets, or other 103735
property (including the shares of the capital stock of, or other 103736
interest in, such safe deposit company, trust company, financial 103737
institution as defined in division (A) of section 5725.01 of the 103738

Revised Code, or other corporation), standing in the name of a 103739
decedent, or in trust for a decedent, or in the name of a decedent 103740
and another person or persons, and the transfer of which is 103741
taxable under Chapter 5731. of the Revised Code, shall deliver or 103742
transfer any such securities, assets, or other property which have 103743
a value as of the date of decedent's death in excess of 103744
three-fourths of the total value thereof, without the written 103745
consent of the tax commissioner. The written consent of the tax 103746
commissioner need not be obtained prior to the delivery or 103747
transfer of any such securities, assets, or other property having 103748
a value of three-fourths or less of said total value. 103749

(F) No safe deposit company, financial institution as defined 103750
in division (A) of section 5725.01 of the Revised Code, or other 103751
corporation or person having possession or control of a safe 103752
deposit box or similar receptacle standing in the name of a 103753
decedent or in the name of the decedent and another person or 103754
persons, or to which the decedent had a right of access, except 103755
when such safe deposit box or other receptacle stands in the name 103756
of a corporation or partnership, or in the name of the decedent as 103757
guardian or executor, shall deliver any of the contents thereof 103758
unless the safe deposit box or similar receptacle has been opened 103759
and inventoried in the presence of the tax commissioner or the 103760
commissioner's agent, and a written consent to transfer issued; 103761
provided, however, that a safe deposit company, financial 103762
institution, or other corporation or person having possession or 103763
control of a safe deposit box may deliver wills, deeds to burial 103764
lots, and insurance policies to a representative of the decedent, 103765
but that a representative of the safe deposit company, financial 103766
institution, or other corporation or person must supervise the 103767
opening of the box and make a written record of the wills, deeds, 103768
and policies removed. Such written record shall be included in the 103769
tax commissioner's inventory records. 103770

(G) Notwithstanding any provision of this section: 103771

(1) The tax commissioner may authorize any delivery or 103772
transfer or waive any of the foregoing requirements under such 103773
terms and conditions as the commissioner may prescribe; 103774

(2) A home, as defined in section 3721.10 of the Revised 103775
Code, or a residential facility licensed under section ~~5119.22~~ 103776
5119.34 of the Revised Code that provides accommodations, 103777
supervision, and personal care services for three to sixteen 103778
unrelated adults, may transfer or use the money in a personal 103779
needs allowance account in accordance with section ~~5111.113~~ 103780
5162.22 of the Revised Code without the written consent of the tax 103781
commissioner, and without the account having been opened and 103782
inventoried in the presence of the commissioner or the 103783
commissioner's agent. 103784

Failure to comply with this section shall render such safe 103785
deposit company, trust company, life insurance company, financial 103786
institution as defined in division (A) of section 5725.01 of the 103787
Revised Code, or other corporation or person liable for the amount 103788
of the taxes and interest due under the provisions of Chapter 103789
5731. of the Revised Code on the transfer of such stock, deposit, 103790
proceeds of an annuity or matured endowment contract or of a life 103791
insurance contract payable to the estate of a decedent, or other 103792
insurance contract taxable under Chapter 5731. of the Revised 103793
Code, proceeds of any death benefit, retirement, pension, or 103794
profit-sharing plan in excess of two thousand dollars, or 103795
securities, assets, or other property of any resident decedent, 103796
and in addition thereto, to a penalty of not less than five 103797
hundred or more than five thousand dollars. 103798

Sec. 5733.01. (A) The tax provided by this chapter for 103799
domestic corporations shall be the amount charged against each 103800
corporation organized for profit under the laws of this state and 103801

each nonprofit corporation organized pursuant to Chapter 1729. of 103802
the Revised Code, except as provided in sections 5733.09 and 103803
5733.10 of the Revised Code, for the privilege of exercising its 103804
franchise during the calendar year in which that amount is 103805
payable, and the tax provided by this chapter for foreign 103806
corporations shall be the amount charged against each corporation 103807
organized for profit and each nonprofit corporation organized or 103808
operating in the same or similar manner as nonprofit corporations 103809
organized under Chapter 1729. of the Revised Code, under the laws 103810
of any state or country other than this state, except as provided 103811
in sections 5733.09 and 5733.10 of the Revised Code, for the 103812
privilege of doing business in this state, owning or using a part 103813
or all of its capital or property in this state, holding a 103814
certificate of compliance with the laws of this state authorizing 103815
it to do business in this state, or otherwise having nexus in or 103816
with this state under the Constitution of the United States, 103817
during the calendar year in which that amount is payable. 103818

(B) A corporation is subject to the tax imposed by section 103819
5733.06 of the Revised Code for each calendar year prior to 2014 103820
that it is so organized, doing business, owning or using a part or 103821
all of its capital or property, holding a certificate of 103822
compliance, or otherwise having nexus in or with this state under 103823
the Constitution of the United States, on the first day of January 103824
of that calendar year. No credit authorized by this chapter may be 103825
claimed for tax year 2014 or any tax year thereafter. 103826

(C) Any corporation subject to this chapter that is not 103827
subject to the federal income tax shall file its returns and 103828
compute its tax liability as required by this chapter in the same 103829
manner as if that corporation were subject to the federal income 103830
tax. 103831

(D) For purposes of this chapter, a federally chartered 103832
financial institution shall be deemed to be organized under the 103833

laws of the state within which its principal office is located. 103834

(E) For purposes of this chapter, any person, as defined in 103835
section 5701.01 of the Revised Code, shall be treated as a 103836
corporation if the person is classified for federal income tax 103837
purposes as an association taxable as a corporation, and an equity 103838
interest in the person shall be treated as capital stock of the 103839
person. 103840

(F) For the purposes of this chapter, "disregarded entity" 103841
has the same meaning as in division (D) of section 5745.01 of the 103842
Revised Code. 103843

(1) A person's interest in a disregarded entity, whether held 103844
directly or indirectly, shall be treated as the person's ownership 103845
of the assets and liabilities of the disregarded entity, and the 103846
income, including gain or loss, shall be included in the person's 103847
net income under this chapter. 103848

(2) Any sale, exchange, or other disposition of the person's 103849
interest in the disregarded entity, whether held directly or 103850
indirectly, shall be treated as a sale, exchange, or other 103851
disposition of the person's share of the disregarded entity's 103852
underlying assets or liabilities, and the gain or loss from such 103853
sale, exchange, or disposition shall be included in the person's 103854
net income under this chapter. 103855

(3) The disregarded entity's payroll, property, and sales 103856
factors shall be included in the person's factors. 103857

(G) The tax a corporation is required to pay under this 103858
chapter shall be as follows: 103859

(1)(a) For financial institutions, the greater of the minimum 103860
payment required under division (E) of section 5733.06 of the 103861
Revised Code or the difference between all taxes charged the 103862
financial institution under this chapter, without regard to 103863
division (G)(2) of this section, less any credits allowable 103864

against such tax. 103865

(b) A corporation satisfying the description in division 103866
(E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised 103867
Code, as that section existed before its amendment by H.B. 510 of 103868
the 129th general assembly, that is not a financial institution, 103869
insurance company, or dealer in intangibles is subject to the 103870
taxes imposed under this chapter as a corporation and not subject 103871
to tax as a financial institution, and shall pay the greater of 103872
the minimum payment required under division (E) of section 5733.06 103873
of the Revised Code or the difference between all the taxes 103874
charged under this chapter, without regard to division (G)(2) of 103875
this section, less any credits allowable against such tax. 103876

(2) For all corporations other than those persons described 103877
in division (G)(1)(a) or (b) of this section, the amount under 103878
division (G)(2)(a) of this section applicable to the tax year 103879
specified less the amount under division (G)(2)(b) of this 103880
section: 103881

(a)(i) For tax year 2005, the greater of the minimum payment 103882
required under division (E) of section 5733.06 of the Revised Code 103883
or the difference between all taxes charged the corporation under 103884
this chapter and any credits allowable against such tax; 103885

(ii) For tax year 2006, the greater of the minimum payment 103886
required under division (E) of section 5733.06 of the Revised Code 103887
or four-fifths of the difference between all taxes charged the 103888
corporation under this chapter and any credits allowable against 103889
such tax, except the qualifying pass-through entity tax credit 103890
described in division (A)(30) and the refundable credits described 103891
in divisions (A)(31) to (35) of section 5733.98 of the Revised 103892
Code; 103893

(iii) For tax year 2007, the greater of the minimum payment 103894
required under division (E) of section 5733.06 of the Revised Code 103895

or three-fifths of the difference between all taxes charged the 103896
corporation under this chapter and any credits allowable against 103897
such tax, except the qualifying pass-through entity tax credit 103898
described in division (A)(30) and the refundable credits described 103899
in divisions (A)(31) to (35) of section 5733.98 of the Revised 103900
Code; 103901

(iv) For tax year 2008, the greater of the minimum payment 103902
required under division (E) of section 5733.06 of the Revised Code 103903
or two-fifths of the difference between all taxes charged the 103904
corporation under this chapter and any credits allowable against 103905
such tax, except the qualifying pass-through entity tax credit 103906
described in division (A)(30) and the refundable credits described 103907
in divisions (A)(31) to (35) of section 5733.98 of the Revised 103908
Code; 103909

(v) For tax year 2009, the greater of the minimum payment 103910
required under division (E) of section 5733.06 of the Revised Code 103911
or one-fifth of the difference between all taxes charged the 103912
corporation under this chapter and any credits allowable against 103913
such tax, except the qualifying pass-through entity tax credit 103914
described in division (A)(30) and the refundable credits described 103915
in divisions (A)(31), (32), (33), and (34) of section 5733.98 of 103916
the Revised Code; 103917

(vi) For tax year 2010 and each tax year thereafter, no tax. 103918

(b) A corporation shall subtract from the amount calculated 103919
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 103920
any qualifying pass-through entity tax credit described in 103921
division (A)(30) and any refundable credits described in divisions 103922
(A)(31) to (35) of section 5733.98 of the Revised Code to which 103923
the corporation is entitled. Any unused qualifying pass-through 103924
entity tax credit is not refundable. 103925

(c) For the purposes of computing the amount of a credit that 103926

may be carried forward to a subsequent tax year under division 103927
(G)(2) of this section, a credit is utilized against the tax for a 103928
tax year to the extent the credit applies against the tax for that 103929
tax year, even if the difference is then multiplied by the 103930
applicable fraction under division (G)(2)(a) of this section. 103931

(d) References in division (G)(2) of this section to section 103932
5733.98 of the Revised Code is to that section before its 103933
amendment by H.B. ... of the 130th general assembly. 103934

(3) Nothing in division (G) of this section eliminates or 103935
reduces the tax imposed by section 5733.41 of the Revised Code on 103936
a qualifying pass-through entity. 103937

Sec. 5733.06. For tax years prior to tax year 2014, the tax 103938
hereby charged each corporation subject to this chapter shall be 103939
the greater of the sum of divisions (A) and (B) of this section, 103940
after the reduction, if any, provided by division (J) of this 103941
section, or division (C) of this section, after the reduction, if 103942
any, provided by division (J) of this section, except that the tax 103943
hereby charged each financial institution subject to this chapter 103944
shall be the amount computed under division (D) of this section: 103945

(A) Except as set forth in division (F) of this section, five 103946
and one-tenth per cent upon the first fifty thousand dollars of 103947
the value of the taxpayer's issued and outstanding shares of stock 103948
as determined under division (B) of section 5733.05 of the Revised 103949
Code; 103950

(B) Except as set forth in division (F) of this section, 103951
eight and one-half per cent upon the value so determined in excess 103952
of fifty thousand dollars; or 103953

(C)(1) Except as otherwise provided under division (G) of 103954
this section, four mills times that portion of the value of the 103955
issued and outstanding shares of stock as determined under 103956

division (C) of section 5733.05 of the Revised Code. For the 103957
purposes of division (C) of this section, division (C)(2) of 103958
section 5733.065, and division (C) of section 5733.066 of the 103959
Revised Code, the value of the issued and outstanding shares of 103960
stock of an eligible corporation for tax year 2003 through tax 103961
year 2007, or of a qualifying holding company, is zero. 103962

(2) As used in division (C) of this section, "eligible 103963
corporation" means a person treated as a corporation for federal 103964
income tax purposes that meets all of the following criteria: 103965

(a) The corporation conducts business for an entire taxable 103966
year as a qualified trade or business as defined by division (C) 103967
of section 122.15 of the Revised Code, as that section existed 103968
before its repeal by H.B. ... of the 130th general assembly. 103969

(b) The corporation uses more than fifty per cent of the 103970
corporation's assets, based on net book value, that are located in 103971
Ohio solely to conduct activities that constitute a qualified 103972
trade or business as defined by section 122.15 of the Revised 103973
Code, as that section existed before its repeal by H.B. ... of the 103974
130th general assembly. 103975

(c) The corporation has been formed or organized not more 103976
than three years before the report required to be filed by section 103977
5733.02 of the Revised Code is due, without regard to any 103978
extensions. 103979

(d) The corporation is not a related member, as defined in 103980
section 5733.042 of the Revised Code, at any time during the 103981
taxable year with respect to another person treated as a 103982
corporation for federal income tax purposes. A corporation is not 103983
a related member if during the entire taxable year at least 103984
seventy-five per cent of the corporation's stock is owned directly 103985
or through a pass-through entity by individuals, estates, and 103986
grantor trusts, and the individuals, estates, and grantor trusts 103987

do not directly or indirectly own more than twenty per cent of the 103988
value of another person treated as a corporation for federal 103989
income tax purposes that is conducting a qualified trade or 103990
business. 103991

(D) The tax charged each financial institution subject to 103992
this chapter shall be that portion of the value of the issued and 103993
outstanding shares of stock as determined under division (A) of 103994
section 5733.05 of the Revised Code, multiplied by the following 103995
amounts: 103996

(1) For tax years prior to the 1999 tax year, fifteen mills; 103997

(2) For the 1999 tax year, fourteen mills; 103998

(3) For tax year 2000 and thereafter, thirteen mills. 103999

(E) No tax shall be charged from any corporation that has 104000
been adjudicated bankrupt, or for which a receiver has been 104001
appointed, or that has made a general assignment for the benefit 104002
of creditors, except for the portion of the then current tax year 104003
during which the tax commissioner finds such corporation had the 104004
power to exercise its corporate franchise unimpaired by such 104005
proceedings or act. The minimum payment for each corporation shall 104006
be as follows: 104007

(1) One thousand dollars in the case of a corporation having 104008
gross receipts for the taxable year equal to at least five million 104009
dollars from activities within or outside this state or in the 104010
case of a corporation employing at least three hundred employees 104011
at some time during the taxable year within or outside this state; 104012

(2) Fifty dollars in the case of any other corporation. 104013

The tax charged to corporations under this chapter for the 104014
privilege of engaging in business in this state, which is an 104015
excise tax levied on the value of the issued and outstanding 104016
shares of stock, shall in no manner be construed as prohibiting or 104017

otherwise limiting the powers of municipal corporations, joint 104018
economic development zones created under section 715.691 of the 104019
Revised Code, and joint economic development districts created 104020
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 104021
Revised Code in this state to impose an income tax on the income 104022
of such corporations. 104023

(F) If two or more taxpayers satisfy the ownership or control 104024
requirements of division (A) of section 5733.052 of the Revised 104025
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 104026
amount" for "fifty thousand dollars" in divisions (A) and (B) of 104027
this section. For purposes of this division, "the taxpayer's 104028
pro-rata amount" is an amount that, when added to the other such 104029
taxpayers' pro-rata amounts, does not exceed fifty thousand 104030
dollars. For the purpose of making that computation, the 104031
taxpayer's pro-rata amount shall not be less than zero. Nothing in 104032
this division derogates from or eliminates the requirement to make 104033
the alternative computation of tax under division (C) of this 104034
section. 104035

(G) The tax liability of any corporation under division (C) 104036
of this section shall not exceed one hundred fifty thousand 104037
dollars. 104038

(H)(1) For the purposes of division (H) of this section, 104039
"exiting corporation" means a corporation that satisfies all of 104040
the following conditions: 104041

(a) The corporation had nexus with or in this state under the 104042
Constitution of the United States during any portion of a calendar 104043
year; 104044

(b) The corporation was not a corporation described in 104045
division (A) of section 5733.01 of the Revised Code on the first 104046
day of January immediately following that calendar year; 104047

(c) The corporation was not a financial institution on the 104048

first day of January immediately following that calendar year; 104049

(d) If the corporation was a transferor as defined in section 104050
5733.053 of the Revised Code, the corporation's transferee was not 104051
required to add to the transferee's net income the income of the 104052
transferor pursuant to division (B) of that section; 104053

(e) During any portion of that calendar year, or any portion 104054
of the immediately preceding calendar year, the corporation had 104055
net income that was not included in a report filed by the 104056
corporation or its transferee pursuant to section 5733.02, 104057
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 104058

(f) The corporation would have been subject to the tax 104059
computed under divisions (A), (B), (C), (F), and (G) of this 104060
section if the corporation is assumed to be a corporation 104061
described in division (A) of section 5733.01 of the Revised Code 104062
on the first day of January immediately following the calendar 104063
year to which division (H)(1)(a) of this section refers. 104064

(2) For the purposes of division (H) of this section, 104065
"unreported net income" means net income that was not previously 104066
included in a report filed pursuant to section 5733.02, 5733.021, 104067
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 104068
realized or recognized during the calendar year to which division 104069
(H)(1) of this section refers or the immediately preceding 104070
calendar year. 104071

(3) Each exiting corporation shall pay a tax computed by 104072
first allocating and apportioning the unreported net income 104073
pursuant to division (B) of section 5733.05 and section 5733.051 104074
and, if applicable, section 5733.052 of the Revised Code. The 104075
exiting corporation then shall compute the tax due on its 104076
unreported net income allocated and apportioned to this state by 104077
applying divisions (A), (B), and (F) of this section to that 104078
income. 104079

(4) Divisions (C) and (G) of this section, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code do not apply to an exiting corporation, but exiting corporations are subject to every other provision of this chapter.

(5) Notwithstanding division (B) of section 5733.01 or sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the contrary, each exiting corporation shall report and pay the tax due under division (H) of this section on or before the thirty-first day of May immediately following the calendar year to which division (H)(1)(a) of this section refers. The exiting corporation shall file that report on the form most recently prescribed by the tax commissioner for the purposes of complying with sections 5733.02 and 5733.03 of the Revised Code. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) If, on account of the application of section 5733.053 of the Revised Code, net income is subject to the tax imposed by divisions (A) and (B) of this section, such income shall not be subject to the tax imposed by division (H)(3) of this section.

(7) The amendments made to division (H) of this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer, as defined in section 5733.053 of the Revised Code, for which negotiations began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the taxpayer makes an election prior to December 31, 2001, to apply those amendments.

(8) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under

sections 5733.065 and 5733.066 of the Revised Code. 104111

(J)(1) Division (J) of this section applies solely to a 104112
combined company. Section 5733.057 of the Revised Code shall apply 104113
when calculating the adjustments required by division (J) of this 104114
section. 104115

(2) Subject to division (J)(4) of this section, the total tax 104116
calculated in divisions (A) and (B) of this section shall be 104117
reduced by an amount calculated by multiplying such tax by a 104118
fraction, the numerator of which is the total taxable gross 104119
receipts attributed to providing public utility activity other 104120
than as an electric company under section 5727.03 of the Revised 104121
Code for the year upon which the taxable gross receipts are 104122
measured immediately preceding the tax year, and the denominator 104123
of which is the total gross receipts from all sources for the year 104124
upon which the taxable gross receipts are measured immediately 104125
preceding the tax year. Nothing herein shall be construed to 104126
exclude from the denominator any item of income described in 104127
section 5733.051 of the Revised Code. 104128

(3) Subject to division (J)(4) of this section, the total tax 104129
calculated in division (C) of this section shall be reduced by an 104130
amount calculated by multiplying such tax by the fraction 104131
described in division (J)(2) of this section. 104132

(4) In no event shall the reduction provided by division 104133
(J)(2) or (J)(3) of this section exceed the amount of the excise 104134
tax paid in accordance with section 5727.38 of the Revised Code, 104135
for the year upon which the taxable gross receipts are measured 104136
immediately preceding the tax year. 104137

Sec. 5733.11. (A) If any corporation required to file a 104138
report under this chapter fails to file the report within the time 104139
prescribed, files an incorrect report, or fails to remit the full 104140
amount of the tax due for the period covered by the report, the 104141

tax commissioner may make an assessment against the corporation 104142
for any deficiency for the period for which the report or tax is 104143
due, based upon any information in the commissioner's possession. 104144

No assessment shall be made or issued against a corporation 104145
more than three years after the later of the final date the report 104146
subject to assessment was required to be filed or the date the 104147
report was filed. Such time limit may be extended if both the 104148
corporation and the commissioner consent in writing to the 104149
extension or if an agreement waiving or extending the time limit 104150
has been entered into pursuant to section 122.171 of the Revised 104151
Code. Any such extension shall extend the three-year time limit in 104152
division (B) of section 5733.12 of the Revised Code for the same 104153
period of time. There shall be no bar or limit to an assessment 104154
against a corporation that fails to file a report subject to 104155
assessment as required by this chapter, or that files a fraudulent 104156
report. 104157

The commissioner shall give the corporation assessed written 104158
notice of the assessment in the manner provided in section 5703.37 104159
of the Revised Code. With the notice, the commissioner shall 104160
provide instructions on how to petition for reassessment and 104161
request a hearing on the petition. 104162

(B) Unless the corporation assessed files with the tax 104163
commissioner within sixty days after service of the notice of 104164
assessment, either personally or by certified mail, a written 104165
petition for reassessment, signed by the ~~corporation~~ 104166
corporation's authorized agent having knowledge of the facts, ⁷ the 104167
assessment becomes final, and the amount of the assessment is due 104168
and payable from the corporation assessed to the treasurer of 104169
state. The petition shall indicate the corporation's objections, 104170
but additional objections may be raised in writing if received by 104171
the commissioner prior to the date shown on the final 104172
determination. If the petition has been properly filed, the 104173

commissioner shall proceed under section 5703.60 of the Revised Code. 104174
104175

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the corporation has an office or place of business in this state, the county in which the corporation's statutory agent is located, or Franklin county. 104176
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Immediately upon the filing of the entry, the clerk shall enter a judgment against the corporation assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state corporate franchise and litter taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment. 104183
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~~The portion of an~~ If the assessment is not paid within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section. 104191
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(D) All money collected under this section shall be 104205

considered as revenue arising from the taxes imposed by this 104206
chapter. 104207

(E) The portion of an assessment that must be paid upon the 104208
filing of a petition for reassessment shall be as follows: 104209

(1) If the sole item objected to is the assessed penalty or 104210
interest, payment of the assessment, including interest but not 104211
penalty, is required; 104212

(2) If the corporation assessed failed to file, prior to the 104213
date of issuance of the assessment, the annual report required by 104214
section 5733.02 of the Revised Code, any amended report required 104215
by division (C) of section 5733.031 of the Revised Code for the 104216
tax year at issue, or any amended report required by division (D) 104217
of section 5733.067 of the Revised Code to indicate a reduction in 104218
the amount of the credit provided under that section, payment of 104219
the assessment, including interest but not penalty, is required; 104220

(3) If the corporation assessed filed, prior to the date of 104221
issuance of the assessment, the annual report required by section 104222
5733.02 of the Revised Code, all amended reports required by 104223
division (C) of section 5733.031 of the Revised Code for the tax 104224
year at issue, and all amended reports required by division (D) of 104225
section 5733.067 of the Revised Code to indicate a reduction in 104226
the amount of the credit provided under that section, and a 104227
balance of the taxes shown due on the reports as computed on the 104228
reports remains unpaid, payment of only that portion of the 104229
assessment representing the unpaid balance of tax and interest is 104230
required; 104231

(4) If the corporation assessed does not dispute that it is a 104232
taxpayer but claims the protections of section 101 of Public Law 104233
86-272, 73 Stat. 555, 15 U.S.C.A. 381, as amended, payment of only 104234
that portion of the assessment representing any balance of taxes 104235
shown due on the corporation's annual report required by section 104236

5733.02 of the Revised Code, as computed on the report, that 104237
remains unpaid, and that represents taxes imposed by division (C) 104238
of section 5733.06, division (C)(2) of section 5733.065, and 104239
division (C) of section 5733.066 of the Revised Code, together 104240
with all related interest, is required; 104241

(5) If none of the conditions specified in divisions (E)(1) 104242
to (4) of this section apply, or if the corporation assessed 104243
disputes that it is a taxpayer, no payment is required. 104244

(F) Notwithstanding the fact that a petition for reassessment 104245
is pending, the corporation may pay all or a portion of the 104246
assessment that is the subject of the petition. The acceptance of 104247
a payment by the treasurer of state does not prejudice any claim 104248
for refund upon final determination of the petition. 104249

If upon final determination of the petition an error in the 104250
assessment is corrected by the tax commissioner, upon petition so 104251
filed or pursuant to a decision of the board of tax appeals or any 104252
court to which the determination or decision has been appealed, so 104253
that the amount due from the corporation under the corrected 104254
assessment is less than the portion paid, there shall be issued to 104255
the corporation, its assigns, or legal representative a refund in 104256
the amount of the overpayment as provided by section 5733.12 of 104257
the Revised Code, with interest on that amount as provided by 104258
section 5733.26 of the Revised Code, subject to section 5733.121 104259
of the Revised Code. 104260

Sec. 5733.98. (A) To provide a uniform procedure for 104261
calculating the amount of tax imposed by section 5733.06 of the 104262
Revised Code that is due under this chapter, a taxpayer shall 104263
claim any credits to which it is entitled in the following order, 104264
except as otherwise provided in section 5733.058 of the Revised 104265
Code: 104266

(1) For tax year 2005, the credit for taxes paid by a 104267

qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	104268 104269
(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;	104270 104271
(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;	104272 104273
(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	104274 104275
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	104276 104277
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	104278 104279
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	104280 104281
(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	104282 104283
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	104284 104285
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	104286 104287
(11) The nonrefundable job retention credit under division (B) of section 5733.0610 of the Revised Code;	104288 104289
(12) The credit for tax years 2008 and 2009 for selling alternative fuel under section 5733.48 of the Revised Code;	104290 104291
(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	104292 104293
(14) The job training credit under section 5733.42 of the Revised Code;	104294 104295
(15) The credit for qualified research expenses under section	104296

5733.351 of the Revised Code;	104297
(16) The enterprise zone credit under section 5709.66 of the Revised Code;	104298
	104299
(17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	104300
	104301
(18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	104302
	104303
(19) The ethanol plant investment credit under section 5733.46 of the Revised Code;	104304
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(20) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	104306
	104307
(21) The export sales credit under section 5733.069 of the Revised Code;	104308
	104309
(22) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	104310
	104311
(23) The enterprise zone credits under section 5709.65 of the Revised Code;	104312
	104313
(24) <u>(23)</u> The credit for using Ohio coal under section 5733.39 of the Revised Code;	104314
	104315
(25) <u>(24)</u> The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;	104316
	104317
(26) <u>(25)</u> The credit for small telephone companies under section 5733.57 of the Revised Code;	104318
	104319
(27) <u>(26)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	104320
	104321
(28) <u>(27)</u> For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	104322
	104323
	104324
(29) <u>(28)</u> The research and development credit under section	104325

5733.352 of the Revised Code;	104326
(30) <u>(29)</u> For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	104327 104328 104329
(31) <u>(30)</u> The refundable credit for rehabilitating a historic building under section 5733.47 of the Revised Code;	104330 104331
(32) <u>(31)</u> The refundable jobs creation credit or job retention credit under division (A) of section 5733.0610 of the Revised Code;	104332 104333 104334
(33) <u>(32)</u> The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;	104335 104336
(34) <u>(33)</u> The refundable credit under section 5733.49 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	104337 104338 104339
(35) <u>(34)</u> For tax years 2006, 2007, and 2008, the refundable credit allowable under division (B) of section 5733.56 of the Revised Code;	104340 104341 104342
(36) <u>(35)</u> The refundable motion picture production credit under section 5733.59 of the Revised Code.	104343 104344
(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.	104345 104346 104347 104348 104349 104350
Sec. 5735.01. As used in this chapter:	104351
(A) "Motor vehicles" includes all vehicles, vessels, watercraft, engines, machines, or mechanical contrivances which are powered by internal combustion engines or motors.	104352 104353 104354

(B) "Motor fuel" means compressed natural gas and any liquid motor fuel, including, but not limited to, gasoline, diesel fuel, K-1 kerosene, ~~or any other liquid motor fuel, including, but not limited to,~~ liquid petroleum gas, or liquid natural gas, but excluding substances prepackaged and sold in containers of five gallons or less.

(C) "K-1 ~~Kerosene~~ kerosene" means fuel that conforms to the chemical and physical standards for kerosene no. 1-K as set forth in the ~~american~~ American society for testing and materials (ASTM) designated D-3699 "standard for specification for kerosene," as that standard may be modified from time to time. For purposes of inspection and testing, laboratory analysis shall be conducted using methods recognized by the ASTM designation D-3699.

(D) "Diesel fuel" means any liquid fuel capable of use in discrete form or as a blend component in the operation of engines of the diesel type, including transmix when mixed with diesel fuel.

(E) "Gasoline" means any of the following:

(1) All products, commonly or commercially known or sold as gasoline;

(2) Any blend stocks or additives, including alcohol, that are sold for blending with gasoline, other than products typically sold in containers of five gallons or less;

(3) Transmix when mixed with gasoline, unless certified, as required by the tax commissioner, for withdrawal from terminals for reprocessing at refineries;

(4) Alcohol that is offered for sale or sold for use as, or commonly and commercially used as, a fuel for internal combustion engines.

Gasoline does not include diesel fuel, commercial or

industrial naphthas or solvents manufactured, imported, received, 104385
stored, distributed, sold, or used exclusively for purposes other 104386
than as a motor fuel for a motor vehicle or vessel. The blending 104387
of any of the products listed in the preceding sentence, 104388
regardless of name or characteristics, is conclusively presumed to 104389
have been done to produce gasoline, unless the product obtained by 104390
the blending is entirely incapable for use as fuel to operate a 104391
motor vehicle. An additive, blend stock, or alcohol is presumed to 104392
be sold for blending unless a certification is obtained as 104393
required by the tax commissioner. 104394

(F) "Public highways" means lands and lots over which the 104395
public, either as user or owner, generally has a right to pass, 104396
even though the same are closed temporarily by the authorities for 104397
the purpose of construction, reconstruction, maintenance, or 104398
repair. 104399

(G) "Waters within the boundaries of this state" means all 104400
streams, lakes, ponds, marshes, water courses, and all other 104401
bodies of surface water, natural or artificial, which are situated 104402
wholly or partially within this state or within its jurisdiction, 104403
except private impounded bodies of water. 104404

(H) "Person" includes individuals, partnerships, firms, 104405
associations, corporations, receivers, trustees in bankruptcy, 104406
estates, joint-stock companies, joint ventures, the state and its 104407
political subdivisions, and any combination of persons of any 104408
form. 104409

(I)(1) "Motor fuel dealer" means any person who satisfies any 104410
of the following: 104411

(a) The person imports from another state or foreign country 104412
or acquires motor fuel by any means into a terminal in this state; 104413

(b) The person imports motor fuel from another state or 104414
foreign country in bulk lot vehicles for subsequent sale and 104415

distribution in this state from bulk lot vehicles;	104416
(c) The person refines motor fuel in this state;	104417
(d) The person acquires motor fuel from a motor fuel dealer for subsequent sale and distribution by that person in this state from bulk lot vehicles;	104418 104419 104420
(e) The person possesses an unrevoked permissive motor fuel dealer's license.	104421 104422
(2) Any person who obtains dyed diesel fuel for use other than the operation of motor vehicles upon the public highways or upon waters within the boundaries of this state, but later uses that motor fuel for the operation of motor vehicles upon the public highways or upon waters within the boundaries of this state, is deemed a motor fuel dealer as regards any unpaid motor fuel taxes levied on the motor fuel so used.	104423 104424 104425 104426 104427 104428 104429
(J) As used in sections 5735.05, 5735.25, 5735.29, and 5735.30 of the Revised Code only:	104430 104431
(1) With respect to gasoline, "received" or "receipt" shall be construed as follows:	104432 104433
(a) Gasoline produced at a refinery in this state or delivered to a terminal in this state is deemed received when it is disbursed through a loading rack at that refinery or terminal;	104434 104435 104436
(b) Except as provided in division (J)(1)(a) of this section, gasoline imported into this state or purchased or otherwise acquired in this state by any person is deemed received within this state by that person when the gasoline is withdrawn from the container in which it was transported;	104437 104438 104439 104440 104441
(c) Gasoline delivered or disbursed by any means from a terminal directly to another terminal is not deemed received.	104442 104443
(2) With respect to motor fuel other than gasoline, "received" or "receipt" means distributed or sold for use or used	104444 104445

to generate power for the operation of motor vehicles upon the public highways or upon waters within the boundaries of this state. All diesel fuel that is not dyed diesel fuel, regardless of its use, shall be considered as used to generate power for the operation of motor vehicles upon the public highways or upon waters within the boundaries of this state when the fuel is sold or distributed to a person other than a licensed motor fuel dealer or to a person licensed under section 5735.026 of the Revised Code.

(K) Motor fuel used for the operation of licensed motor vehicles employed in the maintenance, construction, or repair of public highways is deemed to be used for the operation of motor vehicles upon the public highways.

(L) "Licensed motor fuel dealer" means any dealer possessing an unrevoked motor fuel dealer's license issued by the tax commissioner as provided in section 5735.02 of the Revised Code.

(M) "Licensed retail dealer" means any retail dealer possessing an unrevoked retail dealer's license issued by the tax commissioner as provided in section 5735.022 of the Revised Code.

(N) "Cents per gallon rate" means the amount computed by the tax commissioner under section 5735.011 of the Revised Code that is used to determine that portion of the tax levied by section 5735.05 of the Revised Code that is computed in the manner prescribed by division (B)(2) of section 5735.06 of the Revised Code and that is applicable for the period that begins on the first day of July following the date on which the commissioner makes the computation.

(O) "Retail dealer" means any person that sells or distributes motor fuel at a retail service station located in this state.

(P) "Retail service station" means a location from which

motor fuel is sold to the general public and is dispensed or 104477
pumped directly into motor vehicle fuel tanks for consumption. 104478

(Q) "Transit bus" means a motor vehicle that is operated for 104479
public transit or paratransit service on a regular and continuing 104480
basis within the state by or for a county, a municipal 104481
corporation, a county transit board pursuant to sections 306.01 to 104482
306.13 of the Revised Code, a regional transit authority pursuant 104483
to sections 306.30 to 306.54 of the Revised Code, or a regional 104484
transit commission pursuant to sections 306.80 to 306.90 of the 104485
Revised Code. Public transit or paratransit service may include 104486
fixed route, demand-responsive, or subscription bus service 104487
transportation, but does not include shared-ride taxi service, 104488
carpools, vanpools, jitney service, school bus transportation, or 104489
charter or sightseeing services. 104490

(R) "Export" means motor fuel delivered outside this state. 104491
Motor fuel delivered outside this state by or for the seller 104492
constitutes an export by the seller. Motor fuel delivered outside 104493
this state by or for the purchaser constitutes an export by the 104494
purchaser. 104495

(S) "Import" means motor fuel delivered into this state from 104496
outside this state. Motor fuel delivered into this state from 104497
outside this state by or for the seller constitutes an import by 104498
the seller. Motor fuel delivered into this state from outside this 104499
state by or for the purchaser constitutes an import by the 104500
purchaser. 104501

(T) "Terminal" means a motor fuel storage or distribution 104502
facility that is supplied by pipeline or marine vessel. 104503

(U) "Consumer" means a buyer of motor fuel for purposes other 104504
than resale in any form. 104505

(V) "Bulk lot vehicle" means railroad tank cars, transport 104506
tank trucks and tank wagons with a capacity of at least 1,400 104507

gallons. 104508

(W) "Licensed permissive motor fuel dealer" means any person 104509
possessing an unrevoked permissive motor fuel dealer's license 104510
issued by the tax commissioner under section 5735.021 of the 104511
Revised Code. 104512

(X) "Licensed terminal operator" means any person possessing 104513
an unrevoked terminal operator's license issued by the tax 104514
commissioner under section 5735.026 of the Revised Code. 104515

(Y) "Licensed exporter" means any person possessing an 104516
unrevoked exporter's license issued by the tax commissioner under 104517
section 5735.026 of the Revised Code. 104518

(Z) "Dyed diesel fuel" means any diesel fuel dyed pursuant to 104519
regulations issued by the internal revenue service or a rule 104520
promulgated by the tax commissioner. 104521

(AA) "Gross gallons" means U.S. gallons without temperature 104522
or barometric adjustments. 104523

(BB) "Net gallons" means U.S. gallons with a temperature 104524
adjustment to sixty degrees fahrenheit. 104525

Sec. 5735.012. Amounts With respect to liquid motor fuel 104526
other than liquid natural gas, amounts of motor fuel reported 104527
under this chapter shall be measured in gross gallons, except that 104528
amounts reported for terminal to terminal transactions shall be 104529
measured in net gallons and amounts reported for terminal to Ohio 104530
licensed dealer transactions shall be measured in both net gallons 104531
and gross gallons. Amounts of compressed natural gas and liquid 104532
natural gas shall be measured in gallon equivalents as described 104533
in section 5735.013 of the Revised Code. 104534

Sec. 5735.013. For the purposes of this chapter, the 104535
following amounts of compressed natural gas or liquid natural gas 104536

shall be the equivalent of one gallon of motor fuel: 104537

(A) For compressed natural gas that is received through a dispenser capable of providing a measurement in pounds, five and sixty-six one-hundredths pounds of compressed natural gas; 104538
104539
104540

(B) For compressed natural gas that is not received as provided in division (A) of this section, one hundred twenty-six and sixty-seven one-hundredths cubic feet of compressed natural gas; 104541
104542
104543
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(C) For liquid natural gas, six and six one-hundredths pounds of liquid natural gas. 104545
104546

Sec. 5735.12. (A) Any motor fuel dealer required by this chapter to file reports and pay the tax levied by this chapter who fails to file the report within the time prescribed, may be liable for an additional charge not exceeding the greater of ten per cent of the motor fuel dealer's tax liability for that month or fifty dollars. The tax commissioner may remit all or a portion of the additional charge and may adopt rules relating to the remission of all or a portion of the charge. 104547
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If any person required by this chapter to file reports and pay the taxes, interest, or additional charge levied by this chapter fails to file the report, files an incomplete or incorrect report, or fails to remit the full amount of the tax, interest, or additional charge due for the period covered by the report, the commissioner may make an assessment against the person based upon any information in the commissioner's possession. 104555
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No assessment shall be made against any motor fuel dealer for taxes imposed by this chapter more than four years after the date on which the report on which the assessment was based was due or was filed, whichever is later. This section does not bar an assessment against any motor fuel dealer who fails to file a 104562
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report required by section 5735.06 of the Revised Code, or who 104567
files a fraudulent motor fuel tax report. 104568

A penalty of up to fifteen per cent may be added to the 104569
amount of every assessment made under this section. The 104570
commissioner may adopt rules providing for the imposition and 104571
remission of penalties added to assessments made under this 104572
section. 104573

The commissioner shall give the party assessed written notice 104574
of the assessment in the manner provided in section 5703.37 of the 104575
Revised Code. With the notice, the commissioner shall provide 104576
instructions on how to petition for reassessment and request a 104577
hearing on the petition. 104578

(B) Unless the party assessed files with the tax commissioner 104579
within sixty days after service of the notice of assessment, 104580
either personally or by certified mail, a written petition for 104581
reassessment in writing, signed by the party assessed or that 104582
party's authorized agent having knowledge of the facts, the 104583
assessment becomes final and the amount of the assessment is due 104584
and payable from the party assessed to the treasurer of state. The 104585
petition shall indicate the objections of the party assessed, but 104586
additional objections may be raised in writing if received by the 104587
commissioner prior to the date shown on the final determination. 104588
If the petition has been properly filed, the commissioner shall 104589
proceed under section 5703.60 of the Revised Code. 104590

(C) After an assessment becomes final, if any portion of the 104591
assessment remains unpaid, including accrued interest, a certified 104592
copy of the tax commissioner's entry making the assessment final 104593
may be filed in the office of the clerk of the court of common 104594
pleas in the county in which the party assessed resides or in 104595
which the business of the party assessed is conducted. If the 104596
party assessed maintains no place of business in this state and is 104597
not a resident of this state, the certified copy of the entry may 104598

be filed in the office of the clerk of the court of common pleas 104599
of Franklin county. 104600

Immediately upon the filing of the entry, the clerk shall 104601
enter a judgment for the state against the party assessed in the 104602
amount shown on the entry. The judgment may be filed by the clerk 104603
in a loose-leaf book entitled "special judgments for state motor 104604
fuel tax," and shall have the same effect as other judgments. 104605
Execution shall issue upon the judgment upon the request of the 104606
tax commissioner, and all laws applicable to sales on execution 104607
shall apply to sales made under the judgment. 104608

~~The portion of~~ If the assessment is not paid in its entirety 104609
within sixty days after the day the assessment was issued, the 104610
portion of the assessment consisting of tax due shall bear 104611
interest at the rate per annum prescribed by section 5703.47 of 104612
the Revised Code from the day the commissioner issues the 104613
assessment until it is paid or until it is certified to the 104614
attorney general for collection under section 131.02 of the 104615
Revised Code, whichever comes first. If the unpaid portion of the 104616
assessment is certified to the attorney general for collection, 104617
the entire unpaid portion of the assessment shall bear interest at 104618
the rate per annum prescribed by section 5703.47 of the Revised 104619
Code from the date of certification until the date it is paid in 104620
its entirety. Interest shall be paid in the same manner as the tax 104621
and may be collected by the issuance of an assessment under this 104622
section. 104623

(D) All money collected by the tax commissioner under this 104624
section shall be paid to the treasurer of state, and when paid 104625
shall be considered as revenue arising from the tax imposed by 104626
this chapter. 104627

(E) If the tax commissioner determines that the commissioner 104628
has erroneously refunded motor fuel tax to any person, the 104629
commissioner may make an assessment against the person for 104630

recovery of the erroneously refunded tax. 104631

Sec. 5735.34. (A) If any motor fuel dealer sells that motor 104632
fuel dealer's entire business or discontinues operating that 104633
business, the taxes and any interest and penalties imposed under 104634
this chapter that arose prior to the date of sale or 104635
discontinuation become due and payable immediately. ~~The~~ Within 104636
fifteen days after the date of the sale or discontinuation of the 104637
business, the motor fuel dealer shall make a final return ~~within~~ 104638
~~fifteen days after the date of the sale or discontinuation of the~~ 104639
~~business and provide written notification to the tax commissioner~~ 104640
~~of the sale or discontinuation and the name and contact~~ 104641
information of the purchaser, if applicable. The purchaser of the 104642
business shall withhold a sufficient amount of the purchase money 104643
to cover the amount of such taxes, interest, and penalties due and 104644
unpaid until the seller produces a receipt from the tax 104645
commissioner showing that the taxes, interest, and penalties have 104646
been paid, or until the seller produces a certificate indicating 104647
that no taxes, interest, and penalties are due. 104648

(B) If the purchaser of the business fails to withhold the 104649
purchase money required to be withheld under this section, the 104650
purchaser of the business is personally liable for the payment of 104651
the taxes, interest, and penalties accrued and unpaid during the 104652
operation of the business by the seller, but only to the extent of 104653
the consideration offered for the entire business. 104654

(C) For purposes of this section, "entire business" means 104655
substantially all of the seller's assets determined without regard 104656
to any then existing mortgages, liens, security interests or other 104657
encumbrances attaching to those assets. A person is considered to 104658
have sold the entire business only if the person ceases to qualify 104659
as a motor fuel dealer and has relinquished or the tax 104660
commissioner has canceled the person's motor fuel dealer's 104661

license. 104662

Sec. 5739.01. As used in this chapter: 104663

(A) "Person" includes individuals, receivers, assignees, 104664
trustees in bankruptcy, estates, firms, partnerships, 104665
associations, joint-stock companies, joint ventures, clubs, 104666
societies, corporations, the state and its political subdivisions, 104667
and combinations of individuals of any form. 104668

(B) "Sale" and "selling" include all of the following 104669
transactions for a consideration in any manner, whether absolutely 104670
or conditionally, whether for a price or rental, in money or by 104671
exchange, and by any means whatsoever: 104672

(1) All transactions by which title or possession, or both, 104673
of tangible personal property, is or is to be transferred, or a 104674
license to use or consume tangible personal property is or is to 104675
be granted; 104676

(2) All transactions by which lodging by a hotel is or is to 104677
be furnished to transient guests; 104678

(3) All transactions by which: 104679

(a) An item of tangible personal property is or is to be 104680
repaired, except property, the purchase of which would not be 104681
subject to the tax imposed by section 5739.02 of the Revised Code; 104682

(b) An item of tangible personal property is or is to be 104683
installed, except property, the purchase of which would not be 104684
subject to the tax imposed by section 5739.02 of the Revised Code 104685
or property that is or is to be incorporated into and will become 104686
a part of a production, transmission, transportation, or 104687
distribution system for the delivery of a public utility service; 104688

(c) The service of washing, cleaning, waxing, polishing, or 104689
painting a motor vehicle is or is to be furnished; 104690

(d) Until August 1, 2003, industrial laundry cleaning 104691
services are or are to be provided and, on and after August 1, 104692
2003, laundry and dry cleaning services are or are to be provided; 104693

(e) Automatic data processing, computer services, or 104694
electronic information services are or are to be provided for use 104695
in business when the true object of the transaction is the receipt 104696
by the consumer of automatic data processing, computer services, 104697
or electronic information services rather than the receipt of 104698
personal or professional services to which automatic data 104699
processing, computer services, or electronic information services 104700
are incidental or supplemental. Notwithstanding any other 104701
provision of this chapter, such transactions that occur between 104702
members of an affiliated group are not sales. An "affiliated 104703
group" means two or more persons related in such a way that one 104704
person owns or controls the business operation of another member 104705
of the group. In the case of corporations with stock, one 104706
corporation owns or controls another if it owns more than fifty 104707
per cent of the other corporation's common stock with voting 104708
rights. 104709

(f) Telecommunications service, including prepaid calling 104710
service, prepaid wireless calling service, or ancillary service, 104711
is or is to be provided, but not including coin-operated telephone 104712
service; 104713

(g) Landscaping and lawn care service is or is to be 104714
provided; 104715

(h) Private investigation and security service is or is to be 104716
provided; 104717

(i) Information services or tangible personal property is 104718
provided or ordered by means of a nine hundred telephone call; 104719

(j) Building maintenance and janitorial service is or is to 104720
be provided; 104721

(k) Employment service is or is to be provided;	104722
(l) Employment placement service is or is to be provided;	104723
(m) Exterminating service is or is to be provided;	104724
(n) Physical fitness facility service is or is to be provided;	104725 104726
(o) Recreation and sports club service is or is to be provided;	104727 104728
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	104729 104730
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	104731 104732 104733 104734 104735 104736 104737 104738
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	104739 104740 104741 104742 104743 104744 104745 104746
(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	104747 104748 104749 104750
(t) On and after August 1, 2003, snow removal service is or	104751

is to be provided. As used in this division, "snow removal
service" means the removal of snow by any mechanized means, but
does not include the providing of such service by a person that
has less than five thousand dollars in sales of such service
during the calendar year.

(u) Electronic publishing service is or is to be provided to
a consumer for use in business, except that such transactions
occurring between members of an affiliated group, as defined in
division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted,
overprinted, lithographic, multilithic, blueprinted, photostatic,
or other productions or reproductions of written or graphic matter
are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal
property for a consideration for consumers who furnish either
directly or indirectly the materials used in the production of
fabrication work; and include the furnishing, preparing, or
serving for a consideration of any tangible personal property
consumed on the premises of the person furnishing, preparing, or
serving such tangible personal property. Except as provided in
section 5739.03 of the Revised Code, a construction contract
pursuant to which tangible personal property is or is to be
incorporated into a structure or improvement on and becoming a
part of real property is not a sale of such tangible personal
property. The construction contractor is the consumer of such
tangible personal property, provided that the sale and
installation of carpeting, the sale and installation of
agricultural land tile, the sale and erection or installation of
portable grain bins, or the provision of landscaping and lawn care
service and the transfer of property as part of such service is
never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership interest in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders or owners;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such

property that the consumer of the storage holds for sale in the 104815
regular course of business; 104816

(10) All transactions in which "guaranteed auto protection" 104817
is provided whereby a person promises to pay to the consumer the 104818
difference between the amount the consumer receives from motor 104819
vehicle insurance and the amount the consumer owes to a person 104820
holding title to or a lien on the consumer's motor vehicle in the 104821
event the consumer's motor vehicle suffers a total loss under the 104822
terms of the motor vehicle insurance policy or is stolen and not 104823
recovered, if the protection and its price are included in the 104824
purchase or lease agreement; 104825

(11)(a) Except as provided in division (B)(11)(b) of this 104826
section, on and after October 1, 2009, all transactions by which 104827
health care services are paid for, reimbursed, provided, 104828
delivered, arranged for, or otherwise made available by a medicaid 104829
health insuring corporation pursuant to the corporation's contract 104830
with the state. 104831

(b) If the centers for medicare and medicaid services of the 104832
United States department of health and human services determines 104833
that the taxation of transactions described in division (B)(11)(a) 104834
of this section constitutes an impermissible health care-related 104835
tax under ~~section 1903(w) of the "Social Security Act," 49 Stat.~~ 104836
~~620 (1935)~~ section 1903(w), 42 U.S.C. 1396b(w), ~~as amended~~, and 104837
regulations adopted thereunder, the medicaid director ~~of job and~~ 104838
~~family services~~ shall notify the tax commissioner of that 104839
determination. Beginning with the first day of the month following 104840
that notification, the transactions described in division 104841
(B)(11)(a) of this section are not sales for the purposes of this 104842
chapter or Chapter 5741. of the Revised Code. The tax commissioner 104843
shall order that the collection of taxes under sections 5739.02, 104844
5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 104845
5741.023 of the Revised Code shall cease for transactions 104846

occurring on or after that date. 104847

Except as provided in this section, "sale" and "selling" do 104848
not include transfers of interest in leased property where the 104849
original lessee and the terms of the original lease agreement 104850
remain unchanged, or professional, insurance, or personal service 104851
transactions that involve the transfer of tangible personal 104852
property as an inconsequential element, for which no separate 104853
charges are made. 104854

(C) "Vendor" means the person providing the service or by 104855
whom the transfer effected or license given by a sale is or is to 104856
be made or given and, for sales described in division (B)(3)(i) of 104857
this section, the telecommunications service vendor that provides 104858
the nine hundred telephone service; if two or more persons are 104859
engaged in business at the same place of business under a single 104860
trade name in which all collections on account of sales by each 104861
are made, such persons shall constitute a single vendor. 104862

Physicians, dentists, hospitals, and veterinarians who are 104863
engaged in selling tangible personal property as received from 104864
others, such as eyeglasses, mouthwashes, dentifrices, or similar 104865
articles, are vendors. Veterinarians who are engaged in 104866
transferring to others for a consideration drugs, the dispensing 104867
of which does not require an order of a licensed veterinarian or 104868
physician under federal law, are vendors. 104869

(D)(1) "Consumer" means the person for whom the service is 104870
provided, to whom the transfer effected or license given by a sale 104871
is or is to be made or given, to whom the service described in 104872
division (B)(3)(f) or (i) of this section is charged, or to whom 104873
the admission is granted. 104874

(2) Physicians, dentists, hospitals, and blood banks operated 104875
by nonprofit institutions and persons licensed to practice 104876
veterinary medicine, surgery, and dentistry are consumers of all 104877

tangible personal property and services purchased by them in 104878
connection with the practice of medicine, dentistry, the rendition 104879
of hospital or blood bank service, or the practice of veterinary 104880
medicine, surgery, and dentistry. In addition to being consumers 104881
of drugs administered by them or by their assistants according to 104882
their direction, veterinarians also are consumers of drugs that 104883
under federal law may be dispensed only by or upon the order of a 104884
licensed veterinarian or physician, when transferred by them to 104885
others for a consideration to provide treatment to animals as 104886
directed by the veterinarian. 104887

(3) A person who performs a facility management, or similar 104888
service contract for a contractee is a consumer of all tangible 104889
personal property and services purchased for use in connection 104890
with the performance of such contract, regardless of whether title 104891
to any such property vests in the contractee. The purchase of such 104892
property and services is not subject to the exception for resale 104893
under division (E)(1) of this section. 104894

(4)(a) In the case of a person who purchases printed matter 104895
for the purpose of distributing it or having it distributed to the 104896
public or to a designated segment of the public, free of charge, 104897
that person is the consumer of that printed matter, and the 104898
purchase of that printed matter for that purpose is a sale. 104899

(b) In the case of a person who produces, rather than 104900
purchases, printed matter for the purpose of distributing it or 104901
having it distributed to the public or to a designated segment of 104902
the public, free of charge, that person is the consumer of all 104903
tangible personal property and services purchased for use or 104904
consumption in the production of that printed matter. That person 104905
is not entitled to claim exemption under division (B)(42)(f) of 104906
section 5739.02 of the Revised Code for any material incorporated 104907
into the printed matter or any equipment, supplies, or services 104908
primarily used to produce the printed matter. 104909

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E)(1) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price

reduction or discount through to the consumer; the amount of the 104971
consideration attributable to the sale is fixed and determinable 104972
by the vendor at the time of the sale of the item to the consumer; 104973
and one of the following criteria is met: 104974

(i) The consumer presents a coupon, certificate, or other 104975
document to the vendor to claim a price reduction or discount 104976
where the coupon, certificate, or document is authorized, 104977
distributed, or granted by a third party with the understanding 104978
that the third party will reimburse any vendor to whom the coupon, 104979
certificate, or document is presented; 104980

(ii) The consumer identifies the consumer's self to the 104981
seller as a member of a group or organization entitled to a price 104982
reduction or discount. A preferred customer card that is available 104983
to any patron does not constitute membership in such a group or 104984
organization. 104985

(iii) The price reduction or discount is identified as a 104986
third party price reduction or discount on the invoice received by 104987
the consumer, or on a coupon, certificate, or other document 104988
presented by the consumer. 104989

(c) "Price" does not include any of the following: 104990

(i) Discounts, including cash, term, or coupons that are not 104991
reimbursed by a third party that are allowed by a vendor and taken 104992
by a consumer on a sale; 104993

(ii) Interest, financing, and carrying charges from credit 104994
extended on the sale of tangible personal property or services, if 104995
the amount is separately stated on the invoice, bill of sale, or 104996
similar document given to the purchaser; 104997

(iii) Any taxes legally imposed directly on the consumer that 104998
are separately stated on the invoice, bill of sale, or similar 104999
document given to the consumer. For the purpose of this division, 105000
the tax imposed under Chapter 5751. of the Revised Code is not a 105001

tax directly on the consumer, even if the tax or a portion thereof 105002
is separately stated. 105003

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 105004
section, any discount allowed by an automobile manufacturer to its 105005
employee, or to the employee of a supplier, on the purchase of a 105006
new motor vehicle from a new motor vehicle dealer in this state. 105007

(v) The dollar value of a gift card that is not sold by a 105008
vendor or purchased by a consumer and that is redeemed by the 105009
consumer in purchasing tangible personal property or services if 105010
the vendor is not reimbursed and does not receive compensation 105011
from a third party to cover all or part of the gift card value. 105012
For the purposes of this division, a gift card is not sold by a 105013
vendor or purchased by a consumer if it is distributed pursuant to 105014
an awards, loyalty, or promotional program. Past and present 105015
purchases of tangible personal property or services by the 105016
consumer shall not be treated as consideration exchanged for a 105017
gift card. 105018

(2) In the case of a sale of any new motor vehicle by a new 105019
motor vehicle dealer, as defined in section 4517.01 of the Revised 105020
Code, in which another motor vehicle is accepted by the dealer as 105021
part of the consideration received, "price" has the same meaning 105022
as in division (H)(1) of this section, reduced by the credit 105023
afforded the consumer by the dealer for the motor vehicle received 105024
in trade. 105025

(3) In the case of a sale of any watercraft or outboard motor 105026
by a watercraft dealer licensed in accordance with section 105027
1547.543 of the Revised Code, in which another watercraft, 105028
watercraft and trailer, or outboard motor is accepted by the 105029
dealer as part of the consideration received, "price" has the same 105030
meaning as in division (H)(1) of this section, reduced by the 105031
credit afforded the consumer by the dealer for the watercraft, 105032
watercraft and trailer, or outboard motor received in trade. As 105033

used in this division, "watercraft" includes an outdrive unit 105034
attached to the watercraft. 105035

(4) In the case of transactions for health care services 105036
under division (B)(11) of this section, "price" means the amount 105037
of managed care premiums received each month by a medicaid health 105038
insuring corporation. 105039

(I) "Receipts" means the total amount of the prices of the 105040
sales of vendors, provided that the dollar value of gift cards 105041
distributed pursuant to an awards, loyalty, or promotional 105042
program, and cash discounts allowed and taken on sales at the time 105043
they are consummated are not included, minus any amount deducted 105044
as a bad debt pursuant to section 5739.121 of the Revised Code. 105045
"Receipts" does not include the sale price of property returned or 105046
services rejected by consumers when the full sale price and tax 105047
are refunded either in cash or by credit. 105048

(J) "Place of business" means any location at which a person 105049
engages in business. 105050

(K) "Premises" includes any real property or portion thereof 105051
upon which any person engages in selling tangible personal 105052
property at retail or making retail sales and also includes any 105053
real property or portion thereof designated for, or devoted to, 105054
use in conjunction with the business engaged in by such person. 105055

(L) "Casual sale" means a sale of an item of tangible 105056
personal property that was obtained by the person making the sale, 105057
through purchase or otherwise, for the person's own use and was 105058
previously subject to any state's taxing jurisdiction on its sale 105059
or use, and includes such items acquired for the seller's use that 105060
are sold by an auctioneer employed directly by the person for such 105061
purpose, provided the location of such sales is not the 105062
auctioneer's permanent place of business. As used in this 105063
division, "permanent place of business" includes any location 105064

where such auctioneer has conducted more than two auctions during 105065
the year. 105066

(M) "Hotel" means every establishment kept, used, maintained, 105067
advertised, or held out to the public to be a place where sleeping 105068
accommodations are offered to guests, in which five or more rooms 105069
are used for the accommodation of such guests, whether the rooms 105070
are in one or several structures, except as otherwise provided in 105071
division (G) of section 5739.09 of the Revised Code. 105072

(N) "Transient guests" means persons occupying a room or 105073
rooms for sleeping accommodations for less than thirty consecutive 105074
days. 105075

(O) "Making retail sales" means the effecting of transactions 105076
wherein one party is obligated to pay the price and the other 105077
party is obligated to provide a service or to transfer title to or 105078
possession of the item sold. "Making retail sales" does not 105079
include the preliminary acts of promoting or soliciting the retail 105080
sales, other than the distribution of printed matter which 105081
displays or describes and prices the item offered for sale, nor 105082
does it include delivery of a predetermined quantity of tangible 105083
personal property or transportation of property or personnel to or 105084
from a place where a service is performed. 105085

(P) "Used directly in the rendition of a public utility 105086
service" means that property that is to be incorporated into and 105087
will become a part of the consumer's production, transmission, 105088
transportation, or distribution system and that retains its 105089
classification as tangible personal property after such 105090
incorporation; fuel or power used in the production, transmission, 105091
transportation, or distribution system; and tangible personal 105092
property used in the repair and maintenance of the production, 105093
transmission, transportation, or distribution system, including 105094
only such motor vehicles as are specially designed and equipped 105095
for such use. Tangible personal property and services used 105096

primarily in providing highway transportation for hire are not 105097
used directly in the rendition of a public utility service. In 105098
this definition, "public utility" includes a citizen of the United 105099
States holding, and required to hold, a certificate of public 105100
convenience and necessity issued under 49 U.S.C. 41102. 105101

(Q) "Refining" means removing or separating a desirable 105102
product from raw or contaminated materials by distillation or 105103
physical, mechanical, or chemical processes. 105104

(R) "Assembly" and "assembling" mean attaching or fitting 105105
together parts to form a product, but do not include packaging a 105106
product. 105107

(S) "Manufacturing operation" means a process in which 105108
materials are changed, converted, or transformed into a different 105109
state or form from which they previously existed and includes 105110
refining materials, assembling parts, and preparing raw materials 105111
and parts by mixing, measuring, blending, or otherwise committing 105112
such materials or parts to the manufacturing process. 105113
"Manufacturing operation" does not include packaging. 105114

(T) "Fiscal officer" means, with respect to a regional 105115
transit authority, the secretary-treasurer thereof, and with 105116
respect to a county that is a transit authority, the fiscal 105117
officer of the county transit board if one is appointed pursuant 105118
to section 306.03 of the Revised Code or the county auditor if the 105119
board of county commissioners operates the county transit system. 105120

(U) "Transit authority" means a regional transit authority 105121
created pursuant to section 306.31 of the Revised Code or a county 105122
in which a county transit system is created pursuant to section 105123
306.01 of the Revised Code. For the purposes of this chapter, a 105124
transit authority must extend to at least the entire area of a 105125
single county. A transit authority that includes territory in more 105126
than one county must include all the area of the most populous 105127

county that is a part of such transit authority. County population 105128
shall be measured by the most recent census taken by the United 105129
States census bureau. 105130

(V) "Legislative authority" means, with respect to a regional 105131
transit authority, the board of trustees thereof, and with respect 105132
to a county that is a transit authority, the board of county 105133
commissioners. 105134

(W) "Territory of the transit authority" means all of the 105135
area included within the territorial boundaries of a transit 105136
authority as they from time to time exist. Such territorial 105137
boundaries must at all times include all the area of a single 105138
county or all the area of the most populous county that is a part 105139
of such transit authority. County population shall be measured by 105140
the most recent census taken by the United States census bureau. 105141

(X) "Providing a service" means providing or furnishing 105142
anything described in division (B)(3) of this section for 105143
consideration. 105144

(Y)(1)(a) "Automatic data processing" means processing of 105145
others' data, including keypunching or similar data entry services 105146
together with verification thereof, or providing access to 105147
computer equipment for the purpose of processing data. 105148

(b) "Computer services" means providing services consisting 105149
of specifying computer hardware configurations and evaluating 105150
technical processing characteristics, computer programming, and 105151
training of computer programmers and operators, provided in 105152
conjunction with and to support the sale, lease, or operation of 105153
taxable computer equipment or systems. 105154

(c) "Electronic information services" means providing access 105155
to computer equipment by means of telecommunications equipment for 105156
the purpose of either of the following: 105157

(i) Examining or acquiring data stored in or accessible to 105158

the computer equipment; 105159

(ii) Placing data into the computer equipment to be retrieved 105160
by designated recipients with access to the computer equipment. 105161

For transactions occurring on or after the effective date of 105162
the amendment of this section by H.B. 157 of the 127th general 105163
assembly, December 21, 2007, "electronic information services" 105164
does not include electronic publishing as defined in division 105165
(LLL) of this section. 105166

(d) "Automatic data processing, computer services, or 105167
electronic information services" shall not include personal or 105168
professional services. 105169

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 105170
section, "personal and professional services" means all services 105171
other than automatic data processing, computer services, or 105172
electronic information services, including but not limited to: 105173

(a) Accounting and legal services such as advice on tax 105174
matters, asset management, budgetary matters, quality control, 105175
information security, and auditing and any other situation where 105176
the service provider receives data or information and studies, 105177
alters, analyzes, interprets, or adjusts such material; 105178

(b) Analyzing business policies and procedures; 105179

(c) Identifying management information needs; 105180

(d) Feasibility studies, including economic and technical 105181
analysis of existing or potential computer hardware or software 105182
needs and alternatives; 105183

(e) Designing policies, procedures, and custom software for 105184
collecting business information, and determining how data should 105185
be summarized, sequenced, formatted, processed, controlled, and 105186
reported so that it will be meaningful to management; 105187

(f) Developing policies and procedures that document how 105188

business events and transactions are to be authorized, executed, 105189
and controlled; 105190

(g) Testing of business procedures; 105191

(h) Training personnel in business procedure applications; 105192

(i) Providing credit information to users of such information 105193
by a consumer reporting agency, as defined in the "Fair Credit 105194
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or 105195
as hereafter amended, including but not limited to gathering, 105196
organizing, analyzing, recording, and furnishing such information 105197
by any oral, written, graphic, or electronic medium; 105198

(j) Providing debt collection services by any oral, written, 105199
graphic, or electronic means. 105200

The services listed in divisions (Y)(2)(a) to (j) of this 105201
section are not automatic data processing or computer services. 105202

(Z) "Highway transportation for hire" means the 105203
transportation of personal property belonging to others for 105204
consideration by any of the following: 105205

(1) The holder of a permit or certificate issued by this 105206
state or the United States authorizing the holder to engage in 105207
transportation of personal property belonging to others for 105208
consideration over or on highways, roadways, streets, or any 105209
similar public thoroughfare; 105210

(2) A person who engages in the transportation of personal 105211
property belonging to others for consideration over or on 105212
highways, roadways, streets, or any similar public thoroughfare 105213
but who could not have engaged in such transportation on December 105214
11, 1985, unless the person was the holder of a permit or 105215
certificate of the types described in division (Z)(1) of this 105216
section; 105217

(3) A person who leases a motor vehicle to and operates it 105218

for a person described by division (Z)(1) or (2) of this section. 105219

(AA)(1) "Telecommunications service" means the electronic 105220
transmission, conveyance, or routing of voice, data, audio, video, 105221
or any other information or signals to a point, or between or 105222
among points. "Telecommunications service" includes such 105223
transmission, conveyance, or routing in which computer processing 105224
applications are used to act on the form, code, or protocol of the 105225
content for purposes of transmission, conveyance, or routing 105226
without regard to whether the service is referred to as voice-over 105227
internet protocol service or is classified by the federal 105228
communications commission as enhanced or value-added. 105229
"Telecommunications service" does not include any of the 105230
following: 105231

(a) Data processing and information services that allow data 105232
to be generated, acquired, stored, processed, or retrieved and 105233
delivered by an electronic transmission to a consumer where the 105234
consumer's primary purpose for the underlying transaction is the 105235
processed data or information; 105236

(b) Installation or maintenance of wiring or equipment on a 105237
customer's premises; 105238

(c) Tangible personal property; 105239

(d) Advertising, including directory advertising; 105240

(e) Billing and collection services provided to third 105241
parties; 105242

(f) Internet access service; 105243

(g) Radio and television audio and video programming 105244
services, regardless of the medium, including the furnishing of 105245
transmission, conveyance, and routing of such services by the 105246
programming service provider. Radio and television audio and video 105247
programming services include, but are not limited to, cable 105248

service, as defined in 47 U.S.C. 522(6), and audio and video 105249
programming services delivered by commercial mobile radio service 105250
providers, as defined in 47 C.F.R. 20.3; 105251

(h) Ancillary service; 105252

(i) Digital products delivered electronically, including 105253
software, music, video, reading materials, or ring tones. 105254

(2) "Ancillary service" means a service that is associated 105255
with or incidental to the provision of telecommunications service, 105256
including conference bridging service, detailed telecommunications 105257
billing service, directory assistance, vertical service, and voice 105258
mail service. As used in this division: 105259

(a) "Conference bridging service" means an ancillary service 105260
that links two or more participants of an audio or video 105261
conference call, including providing a telephone number. 105262
"Conference bridging service" does not include telecommunications 105263
services used to reach the conference bridge. 105264

(b) "Detailed telecommunications billing service" means an 105265
ancillary service of separately stating information pertaining to 105266
individual calls on a customer's billing statement. 105267

(c) "Directory assistance" means an ancillary service of 105268
providing telephone number or address information. 105269

(d) "Vertical service" means an ancillary service that is 105270
offered in connection with one or more telecommunications 105271
services, which offers advanced calling features that allow 105272
customers to identify callers and manage multiple calls and call 105273
connections, including conference bridging service. 105274

(e) "Voice mail service" means an ancillary service that 105275
enables the customer to store, send, or receive recorded messages. 105276
"Voice mail service" does not include any vertical services that 105277
the customer may be required to have in order to utilize the voice 105278

mail service. 105279

(3) "900 service" means an inbound toll telecommunications 105280
service purchased by a subscriber that allows the subscriber's 105281
customers to call in to the subscriber's prerecorded announcement 105282
or live service, and which is typically marketed under the name 105283
"900⁺ service" and any subsequent numbers designated by the 105284
federal communications commission. "900 service" does not include 105285
the charge for collection services provided by the seller of the 105286
telecommunications service to the subscriber, or services or 105287
products sold by the subscriber to the subscriber's customer. 105288

(4) "Prepaid calling service" means the right to access 105289
exclusively telecommunications services, which must be paid for in 105290
advance and which enables the origination of calls using an access 105291
number or authorization code, whether manually or electronically 105292
dialed, and that is sold in predetermined units or dollars of 105293
which the number declines with use in a known amount. 105294

(5) "Prepaid wireless calling service" means a 105295
telecommunications service that provides the right to utilize 105296
mobile telecommunications service as well as other 105297
non-telecommunications services, including the download of digital 105298
products delivered electronically, and content and ancillary 105299
services, that must be paid for in advance and that is sold in 105300
predetermined units or dollars of which the number declines with 105301
use in a known amount. 105302

(6) "Value-added non-voice data service" means a 105303
telecommunications service in which computer processing 105304
applications are used to act on the form, content, code, or 105305
protocol of the information or data primarily for a purpose other 105306
than transmission, conveyance, or routing. 105307

(7) "Coin-operated telephone service" means a 105308
telecommunications service paid for by inserting money into a 105309

telephone accepting direct deposits of money to operate. 105310

(8) "Customer" has the same meaning as in section 5739.034 of 105311
the Revised Code. 105312

(BB) "Laundry and dry cleaning services" means removing soil 105313
or dirt from towels, linens, articles of clothing, or other fabric 105314
items that belong to others and supplying towels, linens, articles 105315
of clothing, or other fabric items. "Laundry and dry cleaning 105316
services" does not include the provision of self-service 105317
facilities for use by consumers to remove soil or dirt from 105318
towels, linens, articles of clothing, or other fabric items. 105319

(CC) "Magazines distributed as controlled circulation 105320
publications" means magazines containing at least twenty-four 105321
pages, at least twenty-five per cent editorial content, issued at 105322
regular intervals four or more times a year, and circulated 105323
without charge to the recipient, provided that such magazines are 105324
not owned or controlled by individuals or business concerns which 105325
conduct such publications as an auxiliary to, and essentially for 105326
the advancement of the main business or calling of, those who own 105327
or control them. 105328

(DD) "Landscaping and lawn care service" means the services 105329
of planting, seeding, sodding, removing, cutting, trimming, 105330
pruning, mulching, aerating, applying chemicals, watering, 105331
fertilizing, and providing similar services to establish, promote, 105332
or control the growth of trees, shrubs, flowers, grass, ground 105333
cover, and other flora, or otherwise maintaining a lawn or 105334
landscape grown or maintained by the owner for ornamentation or 105335
other nonagricultural purpose. However, "landscaping and lawn care 105336
service" does not include the providing of such services by a 105337
person who has less than five thousand dollars in sales of such 105338
services during the calendar year. 105339

(EE) "Private investigation and security service" means the 105340

performance of any activity for which the provider of such service 105341
is required to be licensed pursuant to Chapter 4749. of the 105342
Revised Code, or would be required to be so licensed in performing 105343
such services in this state, and also includes the services of 105344
conducting polygraph examinations and of monitoring or overseeing 105345
the activities on or in, or the condition of, the consumer's home, 105346
business, or other facility by means of electronic or similar 105347
monitoring devices. "Private investigation and security service" 105348
does not include special duty services provided by off-duty police 105349
officers, deputy sheriffs, and other peace officers regularly 105350
employed by the state or a political subdivision. 105351

(FF) "Information services" means providing conversation, 105352
giving consultation or advice, playing or making a voice or other 105353
recording, making or keeping a record of the number of callers, 105354
and any other service provided to a consumer by means of a nine 105355
hundred telephone call, except when the nine hundred telephone 105356
call is the means by which the consumer makes a contribution to a 105357
recognized charity. 105358

(GG) "Research and development" means designing, creating, or 105359
formulating new or enhanced products, equipment, or manufacturing 105360
processes, and also means conducting scientific or technological 105361
inquiry and experimentation in the physical sciences with the goal 105362
of increasing scientific knowledge which may reveal the bases for 105363
new or enhanced products, equipment, or manufacturing processes. 105364

(HH) "Qualified research and development equipment" means 105365
capitalized tangible personal property, and leased personal 105366
property that would be capitalized if purchased, used by a person 105367
primarily to perform research and development. Tangible personal 105368
property primarily used in testing, as defined in division (A)(4) 105369
of section 5739.011 of the Revised Code, or used for recording or 105370
storing test results, is not qualified research and development 105371
equipment unless such property is primarily used by the consumer 105372

in testing the product, equipment, or manufacturing process being 105373
created, designed, or formulated by the consumer in the research 105374
and development activity or in recording or storing such test 105375
results. 105376

(II) "Building maintenance and janitorial service" means 105377
cleaning the interior or exterior of a building and any tangible 105378
personal property located therein or thereon, including any 105379
services incidental to such cleaning for which no separate charge 105380
is made. However, "building maintenance and janitorial service" 105381
does not include the providing of such service by a person who has 105382
less than five thousand dollars in sales of such service during 105383
the calendar year. 105384

(JJ) "Employment service" means providing or supplying 105385
personnel, on a temporary or long-term basis, to perform work or 105386
labor under the supervision or control of another, when the 105387
personnel so provided or supplied receive their wages, salary, or 105388
other compensation from the provider or supplier of the employment 105389
service or from a third party that provided or supplied the 105390
personnel to the provider or supplier. "Employment service" does 105391
not include: 105392

(1) Acting as a contractor or subcontractor, where the 105393
personnel performing the work are not under the direct control of 105394
the purchaser. 105395

(2) Medical and health care services. 105396

(3) Supplying personnel to a purchaser pursuant to a contract 105397
of at least one year between the service provider and the 105398
purchaser that specifies that each employee covered under the 105399
contract is assigned to the purchaser on a permanent basis. 105400

(4) Transactions between members of an affiliated group, as 105401
defined in division (B)(3)(e) of this section. 105402

(5) Transactions where the personnel so provided or supplied 105403

by a provider or supplier to a purchaser of an employment service 105404
are then provided or supplied by that purchaser to a third party 105405
as an employment service, except "employment service" does include 105406
the transaction between that purchaser and the third party. 105407

(KK) "Employment placement service" means locating or finding 105408
employment for a person or finding or locating an employee to fill 105409
an available position. 105410

(LL) "Exterminating service" means eradicating or attempting 105411
to eradicate vermin infestations from a building or structure, or 105412
the area surrounding a building or structure, and includes 105413
activities to inspect, detect, or prevent vermin infestation of a 105414
building or structure. 105415

(MM) "Physical fitness facility service" means all 105416
transactions by which a membership is granted, maintained, or 105417
renewed, including initiation fees, membership dues, renewal fees, 105418
monthly minimum fees, and other similar fees and dues, by a 105419
physical fitness facility such as an athletic club, health spa, or 105420
gymnasium, which entitles the member to use the facility for 105421
physical exercise. 105422

(NN) "Recreation and sports club service" means all 105423
transactions by which a membership is granted, maintained, or 105424
renewed, including initiation fees, membership dues, renewal fees, 105425
monthly minimum fees, and other similar fees and dues, by a 105426
recreation and sports club, which entitles the member to use the 105427
facilities of the organization. "Recreation and sports club" means 105428
an organization that has ownership of, or controls or leases on a 105429
continuing, long-term basis, the facilities used by its members 105430
and includes an aviation club, gun or shooting club, yacht club, 105431
card club, swimming club, tennis club, golf club, country club, 105432
riding club, amateur sports club, or similar organization. 105433

(OO) "Livestock" means farm animals commonly raised for food, 105434

food production, or other agricultural purposes, including, but 105435
not limited to, cattle, sheep, goats, swine, poultry, and captive 105436
deer. "Livestock" does not include invertebrates, amphibians, 105437
reptiles, domestic pets, animals for use in laboratories or for 105438
exhibition, or other animals not commonly raised for food or food 105439
production. 105440

(PP) "Livestock structure" means a building or structure used 105441
exclusively for the housing, raising, feeding, or sheltering of 105442
livestock, and includes feed storage or handling structures and 105443
structures for livestock waste handling. 105444

(QQ) "Horticulture" means the growing, cultivation, and 105445
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 105446
and nursery stock. As used in this division, "nursery stock" has 105447
the same meaning as in section 927.51 of the Revised Code. 105448

(RR) "Horticulture structure" means a building or structure 105449
used exclusively for the commercial growing, raising, or 105450
overwintering of horticultural products, and includes the area 105451
used for stocking, storing, and packing horticultural products 105452
when done in conjunction with the production of those products. 105453

(SS) "Newspaper" means an unbound publication bearing a title 105454
or name that is regularly published, at least as frequently as 105455
biweekly, and distributed from a fixed place of business to the 105456
public in a specific geographic area, and that contains a 105457
substantial amount of news matter of international, national, or 105458
local events of interest to the general public. 105459

(TT) "Professional racing team" means a person that employs 105460
at least twenty full-time employees for the purpose of conducting 105461
a motor vehicle racing business for profit. The person must 105462
conduct the business with the purpose of racing one or more motor 105463
racing vehicles in at least ten competitive professional racing 105464
events each year that comprise all or part of a motor racing 105465

series sanctioned by one or more motor racing sanctioning 105466
organizations. A "motor racing vehicle" means a vehicle for which 105467
the chassis, engine, and parts are designed exclusively for motor 105468
racing, and does not include a stock or production model vehicle 105469
that may be modified for use in racing. For the purposes of this 105470
division: 105471

(1) A "competitive professional racing event" is a motor 105472
vehicle racing event sanctioned by one or more motor racing 105473
sanctioning organizations, at which aggregate cash prizes in 105474
excess of eight hundred thousand dollars are awarded to the 105475
competitors. 105476

(2) "Full-time employee" means an individual who is employed 105477
for consideration for thirty-five or more hours a week, or who 105478
renders any other standard of service generally accepted by custom 105479
or specified by contract as full-time employment. 105480

(UU)(1) "Lease" or "rental" means any transfer of the 105481
possession or control of tangible personal property for a fixed or 105482
indefinite term, for consideration. "Lease" or "rental" includes 105483
future options to purchase or extend, and agreements described in 105484
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 105485
the amount of consideration may be increased or decreased by 105486
reference to the amount realized upon the sale or disposition of 105487
the property. "Lease" or "rental" does not include: 105488

(a) A transfer of possession or control of tangible personal 105489
property under a security agreement or a deferred payment plan 105490
that requires the transfer of title upon completion of the 105491
required payments; 105492

(b) A transfer of possession or control of tangible personal 105493
property under an agreement that requires the transfer of title 105494
upon completion of required payments and payment of an option 105495
price that does not exceed the greater of one hundred dollars or 105496

one per cent of the total required payments; 105497

(c) Providing tangible personal property along with an 105498
operator for a fixed or indefinite period of time, if the operator 105499
is necessary for the property to perform as designed. For purposes 105500
of this division, the operator must do more than maintain, 105501
inspect, or ~~set-up~~ set up the tangible personal property. 105502

(2) "Lease" and "rental," as defined in division (UU) of this 105503
section, shall not apply to leases or rentals that exist before 105504
June 26, 2003. 105505

(3) "Lease" and "rental" have the same meaning as in division 105506
(UU)(1) of this section regardless of whether a transaction is 105507
characterized as a lease or rental under generally accepted 105508
accounting principles, the Internal Revenue Code, Title XIII of 105509
the Revised Code, or other federal, state, or local laws. 105510

(VV) "Mobile telecommunications service" has the same meaning 105511
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 105512
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 105513
on and after August 1, 2003, includes related fees and ancillary 105514
services, including universal service fees, detailed billing 105515
service, directory assistance, service initiation, voice mail 105516
service, and vertical services, such as caller ID and three-way 105517
calling. 105518

(WW) "Certified service provider" has the same meaning as in 105519
section 5740.01 of the Revised Code. 105520

(XX) "Satellite broadcasting service" means the distribution 105521
or broadcasting of programming or services by satellite directly 105522
to the subscriber's receiving equipment without the use of ground 105523
receiving or distribution equipment, except the subscriber's 105524
receiving equipment or equipment used in the uplink process to the 105525
satellite, and includes all service and rental charges, premium 105526
channels or other special services, installation and repair 105527

service charges, and any other charges having any connection with 105528
the provision of the satellite broadcasting service. 105529

(YY) "Tangible personal property" means personal property 105530
that can be seen, weighed, measured, felt, or touched, or that is 105531
in any other manner perceptible to the senses. For purposes of 105532
this chapter and Chapter 5741. of the Revised Code, "tangible 105533
personal property" includes motor vehicles, electricity, water, 105534
gas, steam, and prewritten computer software. 105535

(ZZ) "Direct mail" means printed material delivered or 105536
distributed by United States mail or other delivery service to a 105537
mass audience or to addressees on a mailing list provided by the 105538
consumer or at the direction of the consumer when the cost of the 105539
items are not billed directly to the recipients. "Direct mail" 105540
includes tangible personal property supplied directly or 105541
indirectly by the consumer to the direct mail vendor for inclusion 105542
in the package containing the printed material. "Direct mail" does 105543
not include multiple items of printed material delivered to a 105544
single address. 105545

(AAA) "Computer" means an electronic device that accepts 105546
information in digital or similar form and manipulates it for a 105547
result based on a sequence of instructions. 105548

(BBB) "Computer software" means a set of coded instructions 105549
designed to cause a computer or automatic data processing 105550
equipment to perform a task. 105551

(CCC) "Delivered electronically" means delivery of computer 105552
software from the seller to the purchaser by means other than 105553
tangible storage media. 105554

(DDD) "Prewritten computer software" means computer software, 105555
including prewritten upgrades, that is not designed and developed 105556
by the author or other creator to the specifications of a specific 105557
purchaser. The combining of two or more prewritten computer 105558

software programs or prewritten portions thereof does not cause 105559
the combination to be other than prewritten computer software. 105560
"Prewritten computer software" includes software designed and 105561
developed by the author or other creator to the specifications of 105562
a specific purchaser when it is sold to a person other than the 105563
purchaser. If a person modifies or enhances computer software of 105564
which the person is not the author or creator, the person shall be 105565
deemed to be the author or creator only of such person's 105566
modifications or enhancements. Prewritten computer software or a 105567
prewritten portion thereof that is modified or enhanced to any 105568
degree, where such modification or enhancement is designed and 105569
developed to the specifications of a specific purchaser, remains 105570
prewritten computer software; provided, however, that where there 105571
is a reasonable, separately stated charge or an invoice or other 105572
statement of the price given to the purchaser for the modification 105573
or enhancement, the modification or enhancement shall not 105574
constitute prewritten computer software. 105575

(EEE)(1) "Food" means substances, whether in liquid, 105576
concentrated, solid, frozen, dried, or dehydrated form, that are 105577
sold for ingestion or chewing by humans and are consumed for their 105578
taste or nutritional value. "Food" does not include alcoholic 105579
beverages, dietary supplements, soft drinks, or tobacco. 105580

(2) As used in division (EEE)(1) of this section: 105581

(a) "Alcoholic beverages" means beverages that are suitable 105582
for human consumption and contain one-half of one per cent or more 105583
of alcohol by volume. 105584

(b) "Dietary supplements" means any product, other than 105585
tobacco, that is intended to supplement the diet and that is 105586
intended for ingestion in tablet, capsule, powder, softgel, 105587
gelcap, or liquid form, or, if not intended for ingestion in such 105588
a form, is not represented as conventional food for use as a sole 105589
item of a meal or of the diet; that is required to be labeled as a 105590

dietary supplement, identifiable by the "supplement facts" box 105591
found on the label, as required by 21 C.F.R. 101.36; and that 105592
contains one or more of the following dietary ingredients: 105593

(i) A vitamin; 105594

(ii) A mineral; 105595

(iii) An herb or other botanical; 105596

(iv) An amino acid; 105597

(v) A dietary substance for use by humans to supplement the 105598
diet by increasing the total dietary intake; 105599

(vi) A concentrate, metabolite, constituent, extract, or 105600
combination of any ingredient described in divisions 105601
(EEE)(2)(b)(i) to (v) of this section. 105602

(c) "Soft drinks" means nonalcoholic beverages that contain 105603
natural or artificial sweeteners. "Soft drinks" does not include 105604
beverages that contain milk or milk products, soy, rice, or 105605
similar milk substitutes, or that contains greater than fifty per 105606
cent vegetable or fruit juice by volume. 105607

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 105608
tobacco, or any other item that contains tobacco. 105609

(FFF) "Drug" means a compound, substance, or preparation, and 105610
any component of a compound, substance, or preparation, other than 105611
food, dietary supplements, or alcoholic beverages that is 105612
recognized in the official United States pharmacopoeia, official 105613
homeopathic pharmacopoeia of the United States, or official 105614
national formulary, and supplements to them; is intended for use 105615
in the diagnosis, cure, mitigation, treatment, or prevention of 105616
disease; or is intended to affect the structure or any function of 105617
the body. 105618

(GGG) "Prescription" means an order, formula, or recipe 105619
issued in any form of oral, written, electronic, or other means of 105620

transmission by a duly licensed practitioner authorized by the 105621
laws of this state to issue a prescription. 105622

(HHH) "Durable medical equipment" means equipment, including 105623
repair and replacement parts for such equipment, that can 105624
withstand repeated use, is primarily and customarily used to serve 105625
a medical purpose, generally is not useful to a person in the 105626
absence of illness or injury, and is not worn in or on the body. 105627
"Durable medical equipment" does not include mobility enhancing 105628
equipment. 105629

(III) "Mobility enhancing equipment" means equipment, 105630
including repair and replacement parts for such equipment, that is 105631
primarily and customarily used to provide or increase the ability 105632
to move from one place to another and is appropriate for use 105633
either in a home or a motor vehicle, that is not generally used by 105634
persons with normal mobility, and that does not include any motor 105635
vehicle or equipment on a motor vehicle normally provided by a 105636
motor vehicle manufacturer. "Mobility enhancing equipment" does 105637
not include durable medical equipment. 105638

(JJJ) "Prosthetic device" means a replacement, corrective, or 105639
supportive device, including repair and replacement parts for the 105640
device, worn on or in the human body to artificially replace a 105641
missing portion of the body, prevent or correct physical deformity 105642
or malfunction, or support a weak or deformed portion of the body. 105643
As used in this division, "prosthetic device" does not include 105644
corrective eyeglasses, contact lenses, or dental prosthesis. 105645

(KKK)(1) "Fractional aircraft ownership program" means a 105646
program in which persons within an affiliated group sell and 105647
manage fractional ownership program aircraft, provided that at 105648
least one hundred airworthy aircraft are operated in the program 105649
and the program meets all of the following criteria: 105650

(a) Management services are provided by at least one program 105651

manager within an affiliated group on behalf of the fractional owners. 105652
105653

(b) Each program aircraft is owned or possessed by at least one fractional owner. 105654
105655

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft. 105656
105657
105658

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners. 105659
105660

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. 105661
105662
105663

(2) As used in division (KKK)(1) of this section: 105664

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section. 105665
105666

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section. 105667
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(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. 105671
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(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program 105678
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105681

manager to the fractional owners, including, at a minimum, the 105682
establishment and implementation of safety guidelines; the 105683
coordination of the scheduling of the program aircraft and crews; 105684
program aircraft maintenance; program aircraft insurance; crew 105685
training for crews employed, furnished, or contracted by the 105686
program manager or the fractional owner; the satisfaction of 105687
record-keeping requirements; and the development and use of an 105688
operations manual and a maintenance manual for the fractional 105689
aircraft ownership program. 105690

(e) "Program manager" means the person that offers management 105691
services to fractional owners pursuant to a management services 105692
agreement under division (KKK)(1)(e) of this section. 105693

(LLL) "Electronic publishing" means providing access to one 105694
or more of the following primarily for business customers, 105695
including the federal government or a state government or a 105696
political subdivision thereof, to conduct research: news; 105697
business, financial, legal, consumer, or credit materials; 105698
editorials, columns, reader commentary, or features; photos or 105699
images; archival or research material; legal notices, identity 105700
verification, or public records; scientific, educational, 105701
instructional, technical, professional, trade, or other literary 105702
materials; or other similar information which has been gathered 105703
and made available by the provider to the consumer in an 105704
electronic format. Providing electronic publishing includes the 105705
functions necessary for the acquisition, formatting, editing, 105706
storage, and dissemination of data or information that is the 105707
subject of a sale. 105708

(MMM) "Medicaid health insuring corporation" means a health 105709
insuring corporation that holds a certificate of authority under 105710
Chapter 1751. of the Revised Code and is under contract with the 105711
department of job and family services pursuant to section 5111.17 105712
of the Revised Code. 105713

(NNN) "Managed care premium" means any premium, capitation, 105714
or other payment a medicaid health insuring corporation receives 105715
for providing or arranging for the provision of health care 105716
services to its members or enrollees residing in this state. 105717

(OOO) "Captive deer" means deer and other cervidae that have 105718
been legally acquired, or their offspring, that are privately 105719
owned for agricultural or farming purposes. 105720

(PPP) "Gift card" means a document, card, certificate, or 105721
other record, whether tangible or intangible, that may be redeemed 105722
by a consumer for a dollar value when making a purchase of 105723
tangible personal property or services. 105724

(OOO) "Hotel intermediary" means a person, other than a 105725
hotel, that contracts with hotels to sell reservations for lodging 105726
at such hotels to transient guests. 105727

Sec. 5739.081. A legislative authority of a municipal 105728
corporation may not adopt or amend a resolution or ordinance 105729
levying a tax on transactions by which lodging by a hotel is or is 105730
to be furnished to transient guests pursuant to section 5739.08 of 105731
the Revised Code on or after October 1, 2013, unless the 105732
legislative authority levies the tax on any transaction by which a 105733
transient quest obtains or will obtain lodging in a hotel using a 105734
hotel intermediary. The legislative authority shall levy the tax 105735
on any amount the purchaser pays to the hotel intermediary for the 105736
intermediary's services plus any amount paid for the furnishing of 105737
lodging in a hotel to the transient quest. 105738

The hotel intermediary shall collect and remit all tax paid 105739
by the purchaser to the municipal corporation that levies the tax 105740
pursuant to section 5739.08 of the Revised Code. If the hotel 105741
intermediary does not collect or remit the full amount of tax, the 105742
hotel in which the transient quest will lodge shall collect and 105743
remit to the municipal corporation the uncollected or unremitted 105744

tax. 105745

Sec. 5739.09. (A)(1) A board of county commissioners may, by 105746
resolution adopted by a majority of the members of the board, levy 105747
an excise tax not to exceed three per cent on transactions by 105748
which lodging by a hotel is or is to be furnished to transient 105749
guests. The board shall establish all regulations necessary to 105750
provide for the administration and allocation of the tax. The 105751
regulations may prescribe the time for payment of the tax, and may 105752
provide for the imposition of a penalty or interest, or both, for 105753
late payments, provided that the penalty does not exceed ten per 105754
cent of the amount of tax due, and the rate at which interest 105755
accrues does not exceed the rate per annum prescribed pursuant to 105756
section 5703.47 of the Revised Code. Except as provided in 105757
divisions (A)(2), (3), (4), (5), (6), and (7) of this section, the 105758
regulations shall provide, after deducting the real and actual 105759
costs of administering the tax, for the return to each municipal 105760
corporation or township that does not levy an excise tax on the 105761
transactions, a uniform percentage of the tax collected in the 105762
municipal corporation or in the unincorporated portion of the 105763
township from each transaction, not to exceed thirty-three and 105764
one-third per cent. The remainder of the revenue arising from the 105765
tax shall be deposited in a separate fund and shall be spent 105766
solely to make contributions to the convention and visitors' 105767
bureau operating within the county, including a pledge and 105768
contribution of any portion of the remainder pursuant to an 105769
agreement authorized by section 307.695 of the Revised Code, 105770
provided that if the board of county commissioners of an eligible 105771
county as defined in section 307.695 of the Revised Code adopts a 105772
resolution amending a resolution levying a tax under this division 105773
to provide that the revenue from the tax shall be used by the 105774
board as described in division (H) of section 307.695 of the 105775
Revised Code, the remainder of the revenue shall be used as 105776

described in the resolution making that amendment. Except as 105777
provided in division (A)(2), (3), (4), (5), (6), or (7) or (H) of 105778
this section, on and after May 10, 1994, a board of county 105779
commissioners may not levy an excise tax pursuant to this division 105780
in any municipal corporation or township located wholly or partly 105781
within the county that has in effect an ordinance or resolution 105782
levying an excise tax pursuant to division (B) of this section. 105783
The board of a county that has levied a tax under division (C) of 105784
this section may, by resolution adopted within ninety days after 105785
July 15, 1985, by a majority of the members of the board, amend 105786
the resolution levying a tax under this division to provide for a 105787
portion of that tax to be pledged and contributed in accordance 105788
with an agreement entered into under section 307.695 of the 105789
Revised Code. A tax, any revenue from which is pledged pursuant to 105790
such an agreement, shall remain in effect at the rate at which it 105791
is imposed for the duration of the period for which the revenue 105792
from the tax has been so pledged. 105793

The board of county commissioners of an eligible county as 105794
defined in section 307.695 of the Revised Code may, by resolution 105795
adopted by a majority of the members of the board, amend a 105796
resolution levying a tax under this division to provide that the 105797
revenue from the tax shall be used by the board as described in 105798
division (H) of section 307.695 of the Revised Code, in which case 105799
the tax shall remain in effect at the rate at which it was imposed 105800
for the duration of any agreement entered into by the board under 105801
section 307.695 of the Revised Code, the duration during which any 105802
securities issued by the board under that section are outstanding, 105803
or the duration of the period during which the board owns a 105804
project as defined in section 307.695 of the Revised Code, 105805
whichever duration is longest. 105806

(2) A board of county commissioners that levies an excise tax 105807
under division (A)(1) of this section on June 30, 1997, at a rate 105808

of three per cent, and that has pledged revenue from the tax to an 105809
agreement entered into under section 307.695 of the Revised Code 105810
or, in the case of the board of county commissioners of an 105811
eligible county as defined in section 307.695 of the Revised Code, 105812
has amended a resolution levying a tax under division (C) of this 105813
section to provide that proceeds from the tax shall be used by the 105814
board as described in division (H) of section 307.695 of the 105815
Revised Code, may, at any time by a resolution adopted by a 105816
majority of the members of the board, amend the resolution levying 105817
a tax under division (A)(1) of this section to provide for an 105818
increase in the rate of that tax up to seven per cent on each 105819
transaction; to provide that revenue from the increase in the rate 105820
shall be used as described in division (H) of section 307.695 of 105821
the Revised Code or be spent solely to make contributions to the 105822
convention and visitors' bureau operating within the county to be 105823
used specifically for promotion, advertising, and marketing of the 105824
region in which the county is located; and to provide that the 105825
rate in excess of the three per cent levied under division (A)(1) 105826
of this section shall remain in effect at the rate at which it is 105827
imposed for the duration of the period during which any agreement 105828
is in effect that was entered into under section 307.695 of the 105829
Revised Code by the board of county commissioners levying a tax 105830
under division (A)(1) of this section, the duration of the period 105831
during which any securities issued by the board under division (I) 105832
of section 307.695 of the Revised Code are outstanding, or the 105833
duration of the period during which the board owns a project as 105834
defined in section 307.695 of the Revised Code, whichever duration 105835
is longest. The amendment also shall provide that no portion of 105836
that revenue need be returned to townships or municipal 105837
corporations as would otherwise be required under division (A)(1) 105838
of this section. 105839

(3) A board of county commissioners that levies a tax under 105840
division (A)(1) of this section on March 18, 1999, at a rate of 105841

three per cent may, by resolution adopted not later than 105842
forty-five days after March 18, 1999, amend the resolution levying 105843
the tax to provide for all of the following: 105844

(a) That the rate of the tax shall be increased by not more 105845
than an additional four per cent on each transaction; 105846

(b) That all of the revenue from the increase in the rate 105847
shall be pledged and contributed to a convention facilities 105848
authority established by the board of county commissioners under 105849
Chapter 351. of the Revised Code on or before November 15, 1998, 105850
and used to pay costs of constructing, maintaining, operating, and 105851
promoting a facility in the county, including paying bonds, or 105852
notes issued in anticipation of bonds, as provided by that 105853
chapter; 105854

(c) That no portion of the revenue arising from the increase 105855
in rate need be returned to municipal corporations or townships as 105856
otherwise required under division (A)(1) of this section; 105857

(d) That the increase in rate shall not be subject to 105858
diminution by initiative or referendum or by law while any bonds, 105859
or notes in anticipation of bonds, issued by the authority under 105860
Chapter 351. of the Revised Code to which the revenue is pledged, 105861
remain outstanding in accordance with their terms, unless 105862
provision is made by law or by the board of county commissioners 105863
for an adequate substitute therefor that is satisfactory to the 105864
trustee if a trust agreement secures the bonds. 105865

Division (A)(3) of this section does not apply to the board 105866
of county commissioners of any county in which a convention center 105867
or facility exists or is being constructed on November 15, 1998, 105868
or of any county in which a convention facilities authority levies 105869
a tax pursuant to section 351.021 of the Revised Code on that 105870
date. 105871

As used in division (A)(3) of this section, "cost" and 105872

"facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(4)(a) A board of county commissioners that levies a tax under division (A)(1) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

(i) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(ii) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(iii) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(iv) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(b) Any board of county commissioners that, pursuant to 105904
division (A)(4)(a) of this section, has amended a resolution 105905
levying the tax authorized by division (A)(1) of this section may 105906
further amend the resolution to provide that the revenue referred 105907
to in division (A)(4)(a)(ii) of this section shall be pledged and 105908
contributed both to a convention facilities authority to pay the 105909
costs of constructing, expanding, maintaining, or operating one or 105910
more convention centers in the county, including paying bonds, or 105911
notes issued in anticipation of bonds, as provided in Chapter 351. 105912
of the Revised Code, and to a convention and visitors' bureau to 105913
pay the costs of promoting one or more convention centers in the 105914
county. 105915

As used in division (A)(4) of this section, "cost" has the 105916
same meaning as in section 351.01 of the Revised Code, and 105917
"convention center" has the same meaning as in section 307.695 of 105918
the Revised Code. 105919

(5)(a) As used in division (A)(5) of this section: 105920

(i) "Port authority" means a port authority created under 105921
Chapter 4582. of the Revised Code. 105922

(ii) "Port authority military-use facility" means port 105923
authority facilities on which or adjacent to which is located an 105924
installation of the armed forces of the United States, a reserve 105925
component thereof, or the national guard and at least part of 105926
which is made available for use, for consideration, by the armed 105927
forces of the United States, a reserve component thereof, or the 105928
national guard. 105929

(b) For the purpose of contributing revenue to pay operating 105930
expenses of a port authority that operates a port authority 105931
military-use facility, the board of county commissioners of a 105932
county that created, participated in the creation of, or has 105933
joined such a port authority may do one or both of the following: 105934

(i) Amend a resolution previously adopted under division 105935
(A)(1) of this section to designate some or all of the revenue 105936
from the tax levied under the resolution to be used for that 105937
purpose, notwithstanding that division; 105938

(ii) Amend a resolution previously adopted under division 105939
(A)(1) of this section to increase the rate of the tax by not more 105940
than an additional two per cent and use the revenue from the 105941
increase exclusively for that purpose. 105942

(c) If a board of county commissioners amends a resolution to 105943
increase the rate of a tax as authorized in division (A)(5)(b)(ii) 105944
of this section, the board also may amend the resolution to 105945
specify that the increase in rate of the tax does not apply to 105946
"hotels," as otherwise defined in section 5739.01 of the Revised 105947
Code, having fewer rooms used for the accommodation of guests than 105948
a number of rooms specified by the board. 105949

(6) A board of county commissioners of a county organized 105950
under a county charter adopted pursuant to Article X, Section 3, 105951
Ohio Constitution, and that levies an excise tax under division 105952
(A)(1) of this section at a rate of three per cent and levies an 105953
additional excise tax under division (E) of this section at a rate 105954
of one and one-half per cent may, by resolution adopted not later 105955
than January 1, 2008, by a majority of the members of the board, 105956
amend the resolution levying a tax under division (A)(1) of this 105957
section to provide for an increase in the rate of that tax by not 105958
more than an additional one per cent on transactions by which 105959
lodging by a hotel is or is to be furnished to transient guests. 105960
Notwithstanding divisions (A)(1) and (E) of this section, the 105961
resolution shall provide that all of the revenue from the increase 105962
in rate, after deducting the real and actual costs of 105963
administering the tax, shall be used to pay the costs of 105964
improving, expanding, equipping, financing, or operating a 105965
convention center by a convention and visitors' bureau in the 105966

county. The increase in rate shall remain in effect for the period 105967
specified in the resolution, not to exceed ten years. The increase 105968
in rate shall be subject to the regulations adopted under division 105969
(A)(1) of this section, except that the resolution may provide 105970
that no portion of the revenue from the increase in the rate shall 105971
be returned to townships or municipal corporations as would 105972
otherwise be required under that division. 105973

(7) Division (A)(7) of this section applies only to a county 105974
with a population greater than sixty-five thousand and less than 105975
seventy thousand according to the most recent federal decennial 105976
census and in which, on December 31, 2006, an excise tax is levied 105977
under division (A)(1) of this section at a rate not less than and 105978
not greater than three per cent, and in which the most recent 105979
increase in the rate of that tax was enacted or took effect in 105980
November 1984. 105981

The board of county commissioners of a county to which this 105982
division applies, by resolution adopted by a majority of the 105983
members of the board, may increase the rate of the tax by not more 105984
than one per cent on transactions by which lodging by a hotel is 105985
or is to be furnished to transient guests. The increase in rate 105986
shall be for the purpose of paying expenses deemed necessary by 105987
the convention and visitors' bureau operating in the county to 105988
promote travel and tourism. The increase in rate shall remain in 105989
effect for the period specified in the resolution, not to exceed 105990
twenty years, provided that the increase in rate may not continue 105991
beyond the time when the purpose for which the increase is levied 105992
ceases to exist. If revenue from the increase in rate is pledged 105993
to the payment of debt charges on securities, the increase in rate 105994
is not subject to diminution by initiative or referendum or by law 105995
for so long as the securities are outstanding, unless provision is 105996
made by law or by the board of county commissioners for an 105997
adequate substitute for that revenue that is satisfactory to the 105998

trustee if a trust agreement secures payment of the debt charges. 105999
The increase in rate shall be subject to the regulations adopted 106000
under division (A)(1) of this section, except that the resolution 106001
may provide that no portion of the revenue from the increase in 106002
the rate shall be returned to townships or municipal corporations 106003
as would otherwise be required under division (A)(1) of this 106004
section. A resolution adopted under division (A)(7) of this 106005
section is subject to referendum under sections 305.31 to 305.99 106006
of the Revised Code. 106007

(B)(1) The legislative authority of a municipal corporation 106008
or the board of trustees of a township that is not wholly or 106009
partly located in a county that has in effect a resolution levying 106010
an excise tax pursuant to division (A)(1) of this section may, by 106011
ordinance or resolution, levy an excise tax not to exceed three 106012
per cent on transactions by which lodging by a hotel is or is to 106013
be furnished to transient guests. The legislative authority of the 106014
municipal corporation or the board of trustees of the township 106015
shall deposit at least fifty per cent of the revenue from the tax 106016
levied pursuant to this division into a separate fund, which shall 106017
be spent solely to make contributions to convention and visitors' 106018
bureaus operating within the county in which the municipal 106019
corporation or township is wholly or partly located, and the 106020
balance of that revenue shall be deposited in the general fund. 106021
The municipal corporation or township shall establish all 106022
regulations necessary to provide for the administration and 106023
allocation of the tax. The regulations may prescribe the time for 106024
payment of the tax, and may provide for the imposition of a 106025
penalty or interest, or both, for late payments, provided that the 106026
penalty does not exceed ten per cent of the amount of tax due, and 106027
the rate at which interest accrues does not exceed the rate per 106028
annum prescribed pursuant to section 5703.47 of the Revised Code. 106029
The levy of a tax under this division is in addition to any tax 106030
imposed on the same transaction by a municipal corporation or a 106031

township as authorized by division (A) of section 5739.08 of the Revised Code. 106032
106033

(2)(a) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (A)(4) of this section may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following: 106034
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(i) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction; 106042
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(ii) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter; 106044
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(iii) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds. 106052
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(b) The legislative authority of a municipal corporation that, pursuant to division (B)(2)(a) of this section, has amended 106061
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its ordinance or resolution to increase the rate of the tax 106063
authorized by division (B)(1) of this section may further amend 106064
the ordinance or resolution to provide that the revenue referred 106065
to in division (B)(2)(a)(ii) of this section shall be pledged and 106066
contributed both to a convention facilities authority to pay the 106067
costs of constructing, expanding, maintaining, or operating one or 106068
more convention centers in the county, including paying bonds, or 106069
notes issued in anticipation of bonds, as provided in Chapter 351. 106070
of the Revised Code, and to a convention and visitors' bureau to 106071
pay the costs of promoting one or more convention centers in the 106072
county. 106073

As used in division (B)(2) of this section, "cost" has the 106074
same meaning as in section 351.01 of the Revised Code, and 106075
"convention center" has the same meaning as in section 307.695 of 106076
the Revised Code. 106077

(C) For the purposes described in section 307.695 of the 106078
Revised Code and to cover the costs of administering the tax, a 106079
board of county commissioners of a county where a tax imposed 106080
under division (A)(1) of this section is in effect may, by 106081
resolution adopted within ninety days after July 15, 1985, by a 106082
majority of the members of the board, levy an additional excise 106083
tax not to exceed three per cent on transactions by which lodging 106084
by a hotel is or is to be furnished to transient guests. The tax 106085
authorized by this division shall be in addition to any tax that 106086
is levied pursuant to division (A) of this section, but it shall 106087
not apply to transactions subject to a tax levied by a municipal 106088
corporation or township pursuant to the authorization granted by 106089
division (A) of section 5739.08 of the Revised Code. The board 106090
shall establish all regulations necessary to provide for the 106091
administration and allocation of the tax. The regulations may 106092
prescribe the time for payment of the tax, and may provide for the 106093
imposition of a penalty or interest, or both, for late payments, 106094

provided that the penalty does not exceed ten per cent of the 106095
amount of tax due, and the rate at which interest accrues does not 106096
exceed the rate per annum prescribed pursuant to section 5703.47 106097
of the Revised Code. All revenues arising from the tax shall be 106098
expended in accordance with section 307.695 of the Revised Code. 106099
The board of county commissioners of an eligible county as defined 106100
in section 307.695 of the Revised Code may, by resolution adopted 106101
by a majority of the members of the board, amend the resolution 106102
levying a tax under this division to provide that the revenue from 106103
the tax shall be used by the board as described in division (H) of 106104
section 307.695 of the Revised Code. A tax imposed under this 106105
division shall remain in effect at the rate at which it is imposed 106106
for the duration of the period during which any agreement entered 106107
into by the board under section 307.695 of the Revised Code is in 106108
effect, the duration of the period during which any securities 106109
issued by the board under division (I) of section 307.695 of the 106110
Revised Code are outstanding, or the duration of the period during 106111
which the board owns a project as defined in section 307.695 of 106112
the Revised Code, whichever duration is longest. 106113

(D) For the purpose of providing contributions under division 106114
(B)(1) of section 307.671 of the Revised Code to enable the 106115
acquisition, construction, and equipping of a port authority 106116
educational and cultural facility in the county and, to the extent 106117
provided for in the cooperative agreement authorized by that 106118
section, for the purpose of paying debt service charges on bonds, 106119
or notes in anticipation of bonds, described in division (B)(1)(b) 106120
of that section, a board of county commissioners, by resolution 106121
adopted within ninety days after December 22, 1992, by a majority 106122
of the members of the board, may levy an additional excise tax not 106123
to exceed one and one-half per cent on transactions by which 106124
lodging by a hotel is or is to be furnished to transient guests. 106125
The excise tax authorized by this division shall be in addition to 106126
any tax that is levied pursuant to divisions (A), (B), and (C) of 106127

this section, to any excise tax levied pursuant to section 5739.08 106128
of the Revised Code, and to any excise tax levied pursuant to 106129
section 351.021 of the Revised Code. The board of county 106130
commissioners shall establish all regulations necessary to provide 106131
for the administration and allocation of the tax that are not 106132
inconsistent with this section or section 307.671 of the Revised 106133
Code. The regulations may prescribe the time for payment of the 106134
tax, and may provide for the imposition of a penalty or interest, 106135
or both, for late payments, provided that the penalty does not 106136
exceed ten per cent of the amount of tax due, and the rate at 106137
which interest accrues does not exceed the rate per annum 106138
prescribed pursuant to section 5703.47 of the Revised Code. All 106139
revenues arising from the tax shall be expended in accordance with 106140
section 307.671 of the Revised Code and division (D) of this 106141
section. The levy of a tax imposed under this division may not 106142
commence prior to the first day of the month next following the 106143
execution of the cooperative agreement authorized by section 106144
307.671 of the Revised Code by all parties to that agreement. The 106145
tax shall remain in effect at the rate at which it is imposed for 106146
the period of time described in division (C) of section 307.671 of 106147
the Revised Code for which the revenue from the tax has been 106148
pledged by the county to the corporation pursuant to that section, 106149
but, to any extent provided for in the cooperative agreement, for 106150
no lesser period than the period of time required for payment of 106151
the debt service charges on bonds, or notes in anticipation of 106152
bonds, described in division (B)(1)(b) of that section. 106153

(E) For the purpose of paying the costs of acquiring, 106154
constructing, equipping, and improving a municipal educational and 106155
cultural facility, including debt service charges on bonds 106156
provided for in division (B) of section 307.672 of the Revised 106157
Code, and for any additional purposes determined by the county in 106158
the resolution levying the tax or amendments to the resolution, 106159
including subsequent amendments providing for paying costs of 106160

acquiring, constructing, renovating, rehabilitating, equipping, 106161
and improving a port authority educational and cultural performing 106162
arts facility, as defined in section 307.674 of the Revised Code, 106163
and including debt service charges on bonds provided for in 106164
division (B) of section 307.674 of the Revised Code, the 106165
legislative authority of a county, by resolution adopted within 106166
ninety days after June 30, 1993, by a majority of the members of 106167
the legislative authority, may levy an additional excise tax not 106168
to exceed one and one-half per cent on transactions by which 106169
lodging by a hotel is or is to be furnished to transient guests. 106170
The excise tax authorized by this division shall be in addition to 106171
any tax that is levied pursuant to divisions (A), (B), (C), and 106172
(D) of this section, to any excise tax levied pursuant to section 106173
5739.08 of the Revised Code, and to any excise tax levied pursuant 106174
to section 351.021 of the Revised Code. The legislative authority 106175
of the county shall establish all regulations necessary to provide 106176
for the administration and allocation of the tax. The regulations 106177
may prescribe the time for payment of the tax, and may provide for 106178
the imposition of a penalty or interest, or both, for late 106179
payments, provided that the penalty does not exceed ten per cent 106180
of the amount of tax due, and the rate at which interest accrues 106181
does not exceed the rate per annum prescribed pursuant to section 106182
5703.47 of the Revised Code. All revenues arising from the tax 106183
shall be expended in accordance with section 307.672 of the 106184
Revised Code and this division. The levy of a tax imposed under 106185
this division shall not commence prior to the first day of the 106186
month next following the execution of the cooperative agreement 106187
authorized by section 307.672 of the Revised Code by all parties 106188
to that agreement. The tax shall remain in effect at the rate at 106189
which it is imposed for the period of time determined by the 106190
legislative authority of the county. That period of time shall not 106191
exceed fifteen years, except that the legislative authority of a 106192
county with a population of less than two hundred fifty thousand 106193

according to the most recent federal decennial census, by 106194
resolution adopted by a majority of its members before the 106195
original tax expires, may extend the duration of the tax for an 106196
additional period of time. The additional period of time by which 106197
a legislative authority extends a tax levied under this division 106198
shall not exceed fifteen years. 106199

(F) The legislative authority of a county that has levied a 106200
tax under division (E) of this section may, by resolution adopted 106201
within one hundred eighty days after January 4, 2001, by a 106202
majority of the members of the legislative authority, amend the 106203
resolution levying a tax under that division to provide for the 106204
use of the proceeds of that tax, to the extent that it is no 106205
longer needed for its original purpose as determined by the 106206
parties to a cooperative agreement amendment pursuant to division 106207
(D) of section 307.672 of the Revised Code, to pay costs of 106208
acquiring, constructing, renovating, rehabilitating, equipping, 106209
and improving a port authority educational and cultural performing 106210
arts facility, including debt service charges on bonds provided 106211
for in division (B) of section 307.674 of the Revised Code, and to 106212
pay all obligations under any guaranty agreements, reimbursement 106213
agreements, or other credit enhancement agreements described in 106214
division (C) of section 307.674 of the Revised Code. The 106215
resolution may also provide for the extension of the tax at the 106216
same rate for the longer of the period of time determined by the 106217
legislative authority of the county, but not to exceed an 106218
additional twenty-five years, or the period of time required to 106219
pay all debt service charges on bonds provided for in division (B) 106220
of section 307.672 of the Revised Code and on port authority 106221
revenue bonds provided for in division (B) of section 307.674 of 106222
the Revised Code. All revenues arising from the amendment and 106223
extension of the tax shall be expended in accordance with section 106224
307.674 of the Revised Code, this division, and division (E) of 106225
this section. 106226

(G) For purposes of a tax levied by a county, township, or municipal corporation under this section or section 5739.08 of the Revised Code, a board of county commissioners, board of township trustees, or the legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes the following:

(1) Establishments in which fewer than five rooms are used for the accommodation of guests.

(2) Establishments at which rooms are used for the accommodation of guests regardless of whether each room is accessible through its own keyed entry or several rooms are accessible through the same keyed entry; and, in determining the number of rooms, all rooms are included regardless of the number of structures in which the rooms are situated or the number of parcels of land on which the structures are located if the structures are under the same ownership and the structures are not identified in advertisements of the accommodations as distinct establishments. For the purposes of division (G)(2) of this section, two or more structures are under the same ownership if they are owned by the same person, or if they are owned by two or more persons the majority of the ownership interests of which are owned by the same person.

The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior to the adoption of the resolution or ordinance.

(H)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as

in section 351.01 of the Revised Code. 106258

(b) "Convention center" has the same meaning as in section 106259
307.695 of the Revised Code. 106260

(2) Notwithstanding any contrary provision of division (D) of 106261
this section, the legislative authority of a county with a 106262
population of one million or more according to the most recent 106263
federal decennial census that has levied a tax under division (D) 106264
of this section may, by resolution adopted by a majority of the 106265
members of the legislative authority, provide for the extension of 106266
such levy and may provide that the proceeds of that tax, to the 106267
extent that they are no longer needed for their original purpose 106268
as defined by a cooperative agreement entered into under section 106269
307.671 of the Revised Code, shall be deposited into the county 106270
general revenue fund. The resolution shall provide for the 106271
extension of the tax at a rate not to exceed the rate specified in 106272
division (D) of this section for a period of time determined by 106273
the legislative authority of the county, but not to exceed an 106274
additional forty years. 106275

(3) The legislative authority of a county with a population 106276
of one million or more that has levied a tax under division (A)(1) 106277
of this section may, by resolution adopted by a majority of the 106278
members of the legislative authority, increase the rate of the tax 106279
levied by such county under division (A)(1) of this section to a 106280
rate not to exceed five per cent on transactions by which lodging 106281
by a hotel is or is to be furnished to transient guests. 106282
Notwithstanding any contrary provision of division (A)(1) of this 106283
section, the resolution may provide that all collections resulting 106284
from the rate levied in excess of three per cent, after deducting 106285
the real and actual costs of administering the tax, shall be 106286
deposited in the county general fund. 106287

(4) The legislative authority of a county with a population 106288
of one million or more that has levied a tax under division (A)(1) 106289

of this section may, by resolution adopted on or before August 30, 106290
2004, by a majority of the members of the legislative authority, 106291
provide that all or a portion of the proceeds of the tax levied 106292
under division (A)(1) of this section, after deducting the real 106293
and actual costs of administering the tax and the amounts required 106294
to be returned to townships and municipal corporations with 106295
respect to the first three per cent levied under division (A)(1) 106296
of this section, shall be deposited in the county general fund, 106297
provided that such proceeds shall be used to satisfy any pledges 106298
made in connection with an agreement entered into under section 106299
307.695 of the Revised Code. 106300

(5) No amount collected from a tax levied, extended, or 106301
required to be deposited in the county general fund under division 106302
(H) of this section shall be contributed to a convention 106303
facilities authority, corporation, or other entity created after 106304
July 1, 2003, for the principal purpose of constructing, 106305
improving, expanding, equipping, financing, or operating a 106306
convention center unless the mayor of the municipal corporation in 106307
which the convention center is to be operated by that convention 106308
facilities authority, corporation, or other entity has consented 106309
to the creation of that convention facilities authority, 106310
corporation, or entity. Notwithstanding any contrary provision of 106311
section 351.04 of the Revised Code, if a tax is levied by a county 106312
under division (H) of this section, the board of county 106313
commissioners of that county may determine the manner of 106314
selection, the qualifications, the number, and terms of office of 106315
the members of the board of directors of any convention facilities 106316
authority, corporation, or other entity described in division 106317
(H)(5) of this section. 106318

(6)(a) No amount collected from a tax levied, extended, or 106319
required to be deposited in the county general fund under division 106320
(H) of this section may be used for any purpose other than paying 106321

the direct and indirect costs of constructing, improving, 106322
expanding, equipping, financing, or operating a convention center 106323
and for the real and actual costs of administering the tax, 106324
unless, prior to the adoption of the resolution of the legislative 106325
authority of the county authorizing the levy, extension, increase, 106326
or deposit, the county and the mayor of the most populous 106327
municipal corporation in that county have entered into an 106328
agreement as to the use of such amounts, provided that such 106329
agreement has been approved by a majority of the mayors of the 106330
other municipal corporations in that county. The agreement shall 106331
provide that the amounts to be used for purposes other than paying 106332
the convention center or administrative costs described in 106333
division (H)(6)(a) of this section be used only for the direct and 106334
indirect costs of capital improvements, including the financing of 106335
capital improvements. 106336

(b) If the county in which the tax is levied has an 106337
association of mayors and city managers, the approval of that 106338
association of an agreement described in division (H)(6)(a) of 106339
this section shall be considered to be the approval of the 106340
majority of the mayors of the other municipal corporations for 106341
purposes of that division. 106342

(7) Each year, the auditor of state shall conduct an audit of 106343
the uses of any amounts collected from taxes levied, extended, or 106344
deposited under division (H) of this section and shall prepare a 106345
report of the auditor of state's findings. The auditor of state 106346
shall submit the report to the legislative authority of the county 106347
that has levied, extended, or deposited the tax, the speaker of 106348
the house of representatives, the president of the senate, and the 106349
leaders of the minority parties of the house of representatives 106350
and the senate. 106351

(I)(1) As used in this division: 106352

(a) "Convention facilities authority" has the same meaning as 106353

in section 351.01 of the Revised Code. 106354

(b) "Convention center" has the same meaning as in section 106355
307.695 of the Revised Code. 106356

(2) Notwithstanding any contrary provision of division (D) of 106357
this section, the legislative authority of a county with a 106358
population of one million two hundred thousand or more according 106359
to the most recent federal decennial census or the most recent 106360
annual population estimate published or released by the United 106361
States census bureau at the time the resolution is adopted placing 106362
the levy on the ballot, that has levied a tax under division (D) 106363
of this section may, by resolution adopted by a majority of the 106364
members of the legislative authority, provide for the extension of 106365
such levy and may provide that the proceeds of that tax, to the 106366
extent that the proceeds are no longer needed for their original 106367
purpose as defined by a cooperative agreement entered into under 106368
section 307.671 of the Revised Code and after deducting the real 106369
and actual costs of administering the tax, shall be used for 106370
paying the direct and indirect costs of constructing, improving, 106371
expanding, equipping, financing, or operating a convention center. 106372
The resolution shall provide for the extension of the tax at a 106373
rate not to exceed the rate specified in division (D) of this 106374
section for a period of time determined by the legislative 106375
authority of the county, but not to exceed an additional forty 106376
years. 106377

(3) The legislative authority of a county with a population 106378
of one million two hundred thousand or more that has levied a tax 106379
under division (A)(1) of this section may, by resolution adopted 106380
by a majority of the members of the legislative authority, 106381
increase the rate of the tax levied by such county under division 106382
(A)(1) of this section to a rate not to exceed five per cent on 106383
transactions by which lodging by a hotel is or is to be furnished 106384
to transient guests. Notwithstanding any contrary provision of 106385

division (A)(1) of this section, the resolution shall provide that 106386
all collections resulting from the rate levied in excess of three 106387
per cent, after deducting the real and actual costs of 106388
administering the tax, shall be used for paying the direct and 106389
indirect costs of constructing, improving, expanding, equipping, 106390
financing, or operating a convention center. 106391

(4) The legislative authority of a county with a population 106392
of one million two hundred thousand or more that has levied a tax 106393
under division (A)(1) of this section may, by resolution adopted 106394
on or before July 1, 2008, by a majority of the members of the 106395
legislative authority, provide that all or a portion of the 106396
proceeds of the tax levied under division (A)(1) of this section, 106397
after deducting the real and actual costs of administering the tax 106398
and the amounts required to be returned to townships and municipal 106399
corporations with respect to the first three per cent levied under 106400
division (A)(1) of this section, shall be used to satisfy any 106401
pledges made in connection with an agreement entered into under 106402
section 307.695 of the Revised Code or shall otherwise be used for 106403
paying the direct and indirect costs of constructing, improving, 106404
expanding, equipping, financing, or operating a convention center. 106405

(5) Any amount collected from a tax levied or extended under 106406
division (I) of this section may be contributed to a convention 106407
facilities authority created before July 1, 2005, but no amount 106408
collected from a tax levied or extended under division (I) of this 106409
section may be contributed to a convention facilities authority, 106410
corporation, or other entity created after July 1, 2005, unless 106411
the mayor of the municipal corporation in which the convention 106412
center is to be operated by that convention facilities authority, 106413
corporation, or other entity has consented to the creation of that 106414
convention facilities authority, corporation, or entity. 106415

(J) A board of commissioners of a county or board of trustees 106416
of a township may not adopt or amend a resolution levying a tax on 106417

transactions by which lodging by a hotel is or is to be furnished 106418
to transient guests pursuant to this section on or after October 106419
1, 2013, unless the board levies the tax on any transaction by 106420
which a transient guest obtains or will obtain lodging in a hotel 106421
using a hotel intermediary. The board shall levy the tax on any 106422
amount the purchaser pays to the hotel intermediary for the 106423
intermediary's services plus any amount paid for the furnishing of 106424
lodging in a hotel to the transient guest. 106425

The hotel intermediary shall collect and remit all tax paid 106426
by the purchaser to the county or township, as applicable, that 106427
levies the tax pursuant to this section. If the hotel intermediary 106428
does not collect or remit the full amount of tax, the hotel in 106429
which the transient guest will lodge shall attempt to collect and 106430
remit to the county or township, as applicable, the uncollected or 106431
unremitted tax. 106432

Sec. 5739.12. (A)(1) Each person who has or is required to 106433
have a vendor's license, on or before the twenty-third day of each 106434
month, shall make and file a return for the preceding month in the 106435
form prescribed by the tax commissioner, and shall pay the tax 106436
shown on the return to be due. The return shall be filed 106437
electronically using the Ohio business gateway, as defined in 106438
section 718.051 of the Revised Code, the Ohio telefile system, or 106439
any other electronic means prescribed by the commissioner. Payment 106440
of the tax shown on the return to be due shall be made 106441
electronically in a manner approved by the commissioner. The 106442
commissioner may require a vendor that operates from multiple 106443
locations or has multiple vendor's licenses to report all tax 106444
liabilities on one consolidated return. The return shall show the 106445
amount of tax due from the vendor to the state for the period 106446
covered by the return and such other information as the 106447
commissioner deems necessary for the proper administration of this 106448
chapter. The commissioner may extend the time for making and 106449

filing returns and paying the tax, and may require that the return 106450
for the last month of any annual or semiannual period, as 106451
determined by the commissioner, be a reconciliation return 106452
detailing the vendor's sales activity for the preceding annual or 106453
semiannual period. The reconciliation return shall be filed by the 106454
last day of the month following the last month of the annual or 106455
semiannual period. The commissioner may remit all or any part of 106456
amounts or penalties that may become due under this chapter and 106457
may adopt rules relating thereto. Such return shall be filed 106458
electronically as directed by the tax commissioner, and payment of 106459
the amount of tax shown to be due thereon, after deduction of any 106460
discount provided for under this section, shall be made 106461
electronically in a manner approved by the tax commissioner. 106462

(2) Any person required to file returns and make payments 106463
electronically under division (A)(1) of this section may apply to 106464
the tax commissioner on a form prescribed by the commissioner to 106465
be excused from that requirement. For good cause shown, the 106466
commissioner may excuse the person from that requirement and may 106467
permit the person to file the returns and make the payments 106468
required by this section by nonelectronic means. 106469

(B)(1) If the return is filed and the amount of tax shown 106470
thereon to be due is paid on or before the date such return is 106471
required to be filed, the vendor shall be entitled to a discount 106472
of three-fourths of one per cent of the amount shown to be due on 106473
the return. 106474

(2) A vendor that has selected a certified service provider 106475
as its agent shall not be entitled to the discount if the 106476
certified service provider receives a monetary allowance pursuant 106477
to section 5739.06 of the Revised Code for performing the vendor's 106478
sales and use tax functions in this state. Amounts paid to the 106479
clerk of courts pursuant to section 4505.06 of the Revised Code 106480
shall be subject to the applicable discount. The discount shall be 106481

in consideration for prompt payment to the clerk of courts and for 106482
other services performed by the vendor in the collection of the 106483
tax. 106484

(C)(1) Upon application to the tax commissioner, a vendor who 106485
is required to file monthly returns may be relieved of the 106486
requirement to report and pay the actual tax due, provided that 106487
the vendor agrees to remit to the commissioner payment of not less 106488
than an amount determined by the commissioner to be the average 106489
monthly tax liability of the vendor, based upon a review of the 106490
returns or other information pertaining to such vendor for a 106491
period of not less than six months nor more than two years 106492
immediately preceding the filing of the application. Vendors who 106493
agree to the above conditions shall make and file an annual or 106494
semiannual reconciliation return, as prescribed by the 106495
commissioner. The reconciliation return shall be filed 106496
electronically as directed by the tax commissioner, and payment of 106497
the amount of tax shown to be due thereon, after deduction of any 106498
discount provided in this section, shall be made electronically in 106499
a manner approved by the commissioner. Failure of a vendor to 106500
comply with any of the above conditions may result in immediate 106501
reinstatement of the requirement of reporting and paying the 106502
actual tax liability on each monthly return, and the commissioner 106503
may at the commissioner's discretion deny the vendor the right to 106504
report and pay based upon the average monthly liability for a 106505
period not to exceed two years. The amount ascertained by the 106506
commissioner to be the average monthly tax liability of a vendor 106507
may be adjusted, based upon a review of the returns or other 106508
information pertaining to the vendor for a period of not less than 106509
six months nor more than two years preceding such adjustment. 106510

(2) The commissioner may authorize vendors whose tax 106511
liability is not such as to merit monthly returns, as ascertained 106512
by the commissioner upon the basis of administrative costs to the 106513

state, to make and file returns at less frequent intervals. When 106514
returns are filed at less frequent intervals in accordance with 106515
such authorization, the vendor shall be allowed the discount 106516
provided in this section in consideration for prompt payment with 106517
the return, provided the return is filed and payment is made of 106518
the amount of tax shown to be due thereon, at the time specified 106519
by the commissioner, but a vendor that has selected a certified 106520
service provider as its agent shall not be entitled to the 106521
discount. 106522

(D) Any vendor who fails to file a return or to pay the full 106523
amount of the tax shown on the return to be due in the manner 106524
prescribed under this section and the rules of the commissioner 106525
may, for each such return, be required to forfeit and pay into the 106526
state treasury an additional charge not exceeding fifty dollars or 106527
ten per cent of the tax required to be paid for the reporting 106528
period, whichever is greater, as revenue arising from the tax 106529
imposed by this chapter, and such sum may be collected by 106530
assessment in the manner provided in section 5739.13 of the 106531
Revised Code. The commissioner may remit all or a portion of the 106532
additional charge and may adopt rules relating to the imposition 106533
and remission of the additional charge. 106534

(E) If the amount required to be collected by a vendor from 106535
consumers is in excess of the applicable percentage of the 106536
vendor's receipts from sales that are taxable under section 106537
5739.02 of the Revised Code, or in the case of sales subject to a 106538
tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of 106539
the Revised Code, in excess of the percentage equal to the 106540
aggregate rate of such taxes and the tax levied by section 5739.02 106541
of the Revised Code, such excess shall be remitted along with the 106542
remittance of the amount of tax due under section 5739.10 of the 106543
Revised Code. 106544

(F) The commissioner, if the commissioner deems it necessary 106545

in order to insure the payment of the tax imposed by this chapter, 106546
may require returns and payments to be made for other than monthly 106547
periods. 106548

(G) Any vendor required to file a return and pay the tax 106549
under this section whose total payment for a year equals or 106550
exceeds the amount shown in division (A) of section 5739.122 of 106551
the Revised Code is subject to the accelerated tax payment 106552
requirements in divisions (B) and (C) of that section. For a 106553
vendor that operates from multiple locations or has multiple 106554
vendor's licenses, in determining whether the vendor's total 106555
payment equals or exceeds the amount shown in division (A) of that 106556
section, the vendor's total payment amount shall be the amount of 106557
the vendor's total tax liability for the previous calendar year 106558
for all of the vendor's locations or licenses. 106559

(H) If a vendor that is a hotel intermediary does not collect 106560
and remit the full amount of tax due, the hotel in which the 106561
transient guest will lodge shall attempt to collect and remit any 106562
remaining amount of tax from the transient guest. 106563

Sec. 5739.13. (A) If any vendor collects the tax imposed by 106564
or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 106565
the Revised Code, and fails to remit the tax to the state as 106566
prescribed, or on the sale of a motor vehicle, watercraft, or 106567
outboard motor required to be titled, fails to remit payment to a 106568
clerk of a court of common pleas as provided in section 1548.06 or 106569
4505.06 of the Revised Code, the vendor shall be personally liable 106570
for any tax collected and not remitted. The tax commissioner may 106571
make an assessment against such vendor based upon any information 106572
in the commissioner's possession. 106573

If any vendor fails to collect the tax or any consumer fails 106574
to pay the tax imposed by or pursuant to section 5739.02, 106575
5739.021, 5739.023, or 5739.026 of the Revised Code, on any 106576

transaction subject to the tax, the vendor or consumer shall be 106577
personally liable for the amount of the tax applicable to the 106578
transaction. The commissioner may make an assessment against 106579
either the vendor or consumer, as the facts may require, based 106580
upon any information in the commissioner's possession. 106581

An assessment against a vendor when the tax imposed by or 106582
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 106583
the Revised Code has not been collected or paid, shall not 106584
discharge the purchaser's or consumer's liability to reimburse the 106585
vendor for the tax applicable to such transaction. 106586

An assessment issued against either, pursuant to this 106587
section, shall not be considered an election of remedies, nor a 106588
bar to an assessment against the other for the tax applicable to 106589
the same transaction, provided that no assessment shall be issued 106590
against any person for the tax due on a particular transaction if 106591
the tax on that transaction actually has been paid by another. 106592

The commissioner may make an assessment against any vendor 106593
who fails to file a return or remit the proper amount of tax 106594
required by this chapter, or against any consumer who fails to pay 106595
the proper amount of tax required by this chapter. When 106596
information in the possession of the commissioner indicates that 106597
the amount required to be collected or paid under this chapter is 106598
greater than the amount remitted by the vendor or paid by the 106599
consumer, the commissioner may audit a sample of the vendor's 106600
sales or the consumer's purchases for a representative period, to 106601
ascertain the per cent of exempt or taxable transactions or the 106602
effective tax rate and may issue an assessment based on the audit. 106603
The commissioner shall make a good faith effort to reach agreement 106604
with the vendor or consumer in selecting a representative sample. 106605

The commissioner may make an assessment, based on any 106606
information in ~~his~~ the commissioner's possession, against any 106607
person who fails to file a return or remit the proper amount of 106608

tax required by section 5739.102 of the Revised Code. 106609

The commissioner may issue an assessment on any transaction 106610
for which any tax imposed under this chapter or Chapter 5741. of 106611
the Revised Code was due and unpaid on the date the vendor or 106612
consumer was informed by an agent of the tax commissioner of an 106613
investigation or audit. If the vendor or consumer remits any 106614
payment of the tax for the period covered by the assessment after 106615
the vendor or consumer was informed of the investigation or audit, 106616
the payment shall be credited against the amount of the 106617
assessment. 106618

The commissioner shall give the party assessed written notice 106619
of the assessment in the manner provided in section 5703.37 of the 106620
Revised Code. With the notice, the commissioner shall provide 106621
instructions on how to petition for reassessment and request a 106622
hearing on the petition. 106623

(B) Unless the party assessed files with the commissioner 106624
within sixty days after service of the notice of assessment, 106625
either personally or by certified mail, a written petition for 106626
reassessment, signed by the party assessed or that party's 106627
authorized agent having knowledge of the facts, the assessment 106628
becomes final and the amount of the assessment is due from the 106629
party assessed and payable to the treasurer of state and remitted 106630
to the tax commissioner. The petition shall indicate the 106631
objections of the party assessed, but additional objections may be 106632
raised in writing if received by the commissioner prior to the 106633
date shown on the final determination. If the petition has been 106634
properly filed, the commissioner shall proceed under section 106635
5703.60 of the Revised Code. 106636

(C) After an assessment becomes final, if any portion of the 106637
assessment remains unpaid, including accrued interest, a certified 106638
copy of the commissioner's entry making the assessment final may 106639
be filed in the office of the clerk of the court of common pleas 106640

in the county in which the place of business of the party assessed 106641
is located or the county in which the party assessed resides. If 106642
the party assessed maintains no place of business in this state 106643
and is not a resident of this state, the certified copy of the 106644
entry may be filed in the office of the clerk of the court of 106645
common pleas of Franklin county. 106646

Immediately upon the filing of the entry, the clerk shall 106647
enter a judgment for the state against the party assessed in the 106648
amount shown on the entry. The judgment may be filed by the clerk 106649
in a loose-leaf book entitled "special judgments for state, 106650
county, and transit authority retail sales tax" or, if 106651
appropriate, "special judgments for resort area excise tax," and 106652
shall have the same effect as other judgments. Execution shall 106653
issue upon the judgment upon the request of the tax commissioner, 106654
and all laws applicable to sales on execution shall apply to sales 106655
made under the judgment except as otherwise provided in this 106656
chapter. 106657

~~The portion of~~ If the assessment is not paid in its entirety 106658
within sixty days after the date the assessment was issued, the 106659
portion of the assessment consisting of tax due shall bear 106660
interest at the rate per annum prescribed by section 5703.47 of 106661
the Revised Code from the day the tax commissioner issues the 106662
assessment until the assessment is paid or until it is certified 106663
to the attorney general for collection under section 131.02 of the 106664
Revised Code, whichever comes first. If the unpaid portion of the 106665
assessment is certified to the attorney general for collection, 106666
the entire unpaid portion of the assessment shall bear interest at 106667
the rate per annum prescribed by section 5703.47 of the Revised 106668
Code from the date of certification until the date it is paid in 106669
its entirety. Interest shall be paid in the same manner as the tax 106670
and may be collected by issuing an assessment under this section. 106671

(D) All money collected by the tax commissioner under this 106672

section shall be paid to the treasurer of state, and when paid 106673
shall be considered as revenue arising from the taxes imposed by 106674
or pursuant to sections 5739.01 to 5739.31 of the Revised Code. 106675

Sec. 5741.01. As used in this chapter: 106676

(A) "Person" includes individuals, receivers, assignees, 106677
trustees in bankruptcy, estates, firms, partnerships, 106678
associations, joint-stock companies, joint ventures, clubs, 106679
societies, corporations, business trusts, governments, and 106680
combinations of individuals of any form. 106681

(B) "Storage" means and includes any keeping or retention in 106682
this state for use or other consumption in this state. 106683

(C) "Use" means and includes the exercise of any right or 106684
power incidental to the ownership of the thing used. A thing is 106685
also "used" in this state if its consumer gives or otherwise 106686
distributes it, without charge, to recipients in this state. 106687

(D) "Purchase" means acquired or received for a 106688
consideration, whether such acquisition or receipt was effected by 106689
a transfer of title, or of possession, or of both, or a license to 106690
use or consume; whether such transfer was absolute or conditional, 106691
and by whatever means the transfer was effected; and whether the 106692
consideration was money, credit, barter, or exchange. Purchase 106693
includes production, even though the article produced was used, 106694
stored, or consumed by the producer. The transfer of copyrighted 106695
motion picture films for exhibition purposes is not a purchase, 106696
except such films as are used solely for advertising purposes. 106697

(E) "Seller" means the person from whom a purchase is made, 106698
and includes every person engaged in this state or elsewhere in 106699
the business of selling tangible personal property or providing a 106700
service for storage, use, or other consumption or benefit in this 106701
state; and when, in the opinion of the tax commissioner, it is 106702

necessary for the efficient administration of this chapter, to 106703
regard any ~~salesman~~ salesperson, representative, peddler, or 106704
canvasser as the agent of a dealer, distributor, supervisor, or 106705
employer under whom the person operates, or from whom the person 106706
obtains tangible personal property, sold by the person for 106707
storage, use, or other consumption in this state, irrespective of 106708
whether or not the person is making such sales on the person's own 106709
behalf, or on behalf of such dealer, distributor, supervisor, or 106710
employer, the commissioner may regard the person as such agent, 106711
and may regard such dealer, distributor, supervisor, or employer 106712
as the seller. "Seller" does not include any person to the extent 106713
the person provides a communications medium, such as, but not 106714
limited to, newspapers, magazines, radio, television, or cable 106715
television, by means of which sellers solicit purchases of their 106716
goods or services. 106717

(F) "Consumer" means any person who has purchased tangible 106718
personal property or has been provided a service for storage, use, 106719
or other consumption or benefit in this state. "Consumer" does not 106720
include a person who receives, without charge, tangible personal 106721
property or a service. 106722

A person who performs a facility management or similar 106723
service contract for a contractee is a consumer of all tangible 106724
personal property and services purchased for use in connection 106725
with the performance of such contract, regardless of whether title 106726
to any such property vests in the contractee. The purchase of such 106727
property and services is not subject to the exception for resale 106728
under division (E) of section 5739.01 of the Revised Code. 106729

(G)(1) "Price," except as provided in divisions (G)(2) to (6) 106730
of this section, has the same meaning as in division (H)(1) of 106731
section 5739.01 of the Revised Code. 106732

(2) In the case of watercraft, outboard motors, or new motor 106733
vehicles, "price" has the same meaning as in divisions (H)(2) and 106734

(3) of section 5739.01 of the Revised Code. 106735

(3) In the case of a nonresident business consumer that 106736
purchases and uses tangible personal property outside this state 106737
and subsequently temporarily stores, uses, or otherwise consumes 106738
such tangible personal property in the conduct of business in this 106739
state, the consumer or the tax commissioner may determine the 106740
price based on the value of the temporary storage, use, or other 106741
consumption, in lieu of determining the price pursuant to division 106742
(G)(1) of this section. A price determination made by the consumer 106743
is subject to review and redetermination by the commissioner. 106744

(4) In the case of tangible personal property held in this 106745
state as inventory for sale or lease, and that is temporarily 106746
stored, used, or otherwise consumed in a taxable manner, the price 106747
is the value of the temporary use. A price determination made by 106748
the consumer is subject to review and redetermination by the 106749
commissioner. 106750

(5) In the case of tangible personal property originally 106751
purchased and used by the consumer outside this state, and that 106752
becomes permanently stored, used, or otherwise consumed in this 106753
state more than six months after its acquisition by the consumer, 106754
the consumer or the commissioner may determine the price based on 106755
the current value of such tangible personal property, in lieu of 106756
determining the price pursuant to division (G)(1) of this section. 106757
A price determination made by the consumer is subject to review 106758
and redetermination by the commissioner. 106759

(6) If a consumer produces tangible personal property for 106760
sale and removes that property from inventory for the consumer's 106761
own use, the price is the produced cost of that tangible personal 106762
property. 106763

(H) "Nexus with this state" means that the seller engages in 106764
continuous and widespread solicitation of purchases from residents 106765

of this state or otherwise purposefully directs its business 106766
activities at residents of this state. 106767

(I)(1) "Substantial nexus with this state" means that the 106768
seller has sufficient contact with this state, in accordance with 106769
Section 8 of Article I of the Constitution of the United States, 106770
to allow the state to require the seller to collect and remit use 106771
tax on sales of tangible personal property or services made to 106772
consumers in this state. ~~"Substantial~~ 106773

(2) "Substantial nexus with this state" exists is presumed to 106774
exist when the seller does any of the following: 106775

~~(1) Maintains a~~ (a) Uses an office, distribution facility, 106776
warehouse, storage facility, or similar place of business within 106777
this state, whether operated by ~~employees or agents of the seller,~~ 106778
~~by a member of an affiliated group, as defined in division~~ 106779
~~(B)(3)(e) of section 5739.01 of the Revised Code, of which the~~ 106780
~~seller is a member, or by a franchisee using a trade name of the~~ 106781
~~seller; or any other person, other than a common carrier acting in~~ 106782
its capacity as a common carrier. 106783

~~(2)(b) Regularly has~~ uses employees, agents, representatives, 106784
solicitors, installers, ~~repairmen~~ repairers, ~~salesmen~~ 106785
salespersons, or other ~~individuals~~ persons in this state (i) for 106786
the purpose of conducting the business of the seller, or that 106787
(ii) engage in a business with the same or a similar industry 106788
classification as the seller selling a similar product or line of 106789
products as the seller, or (iii) use trademarks, service marks, or 106790
trade names in this state that are the same or substantially 106791
similar to those used by the seller. 106792

~~(3)(c) Uses a~~ any person, other than a common carrier acting 106793
in its capacity as a common carrier, in this state for any of the 106794
~~purpose of receiving~~ following purposes: 106795

(i) Receiving or processing orders of the seller's goods or 106796

services;	106797
<u>(ii) Using that person's employees or facilities in this</u>	106798
<u>state to advertise, promote, or facilitate sales by the seller to</u>	106799
<u>customers;</u>	106800
<u>(iii) Delivering, installing, assembling, or performing</u>	106801
<u>maintenance services for the seller's customers;</u>	106802
<u>(iv) Facilitating the seller's delivery of tangible personal</u>	106803
<u>property to customers in this state by allowing the seller's</u>	106804
<u>customers to pick up property sold by the seller at an office,</u>	106805
<u>distribution facility, warehouse, storage facility, or similar</u>	106806
<u>place of business.</u>	106807
(4)(d) Makes regular deliveries of tangible personal property	106808
into this state by means other than common carrier+.	106809
(5) Has membership in an affiliated group, as described in	106810
division (B)(3)(c) of section 5739.01 of the Revised Code, at	106811
least one other member of which has substantial nexus with this	106812
state+;	106813
(6)(e) Owns tangible personal property that is rented or	106814
leased to a consumer in this state, or offers tangible personal	106815
property, on approval, to consumers in this state+.	106816
(7) Except as provided in section 5703.65 of the Revised	106817
Code, is registered with the secretary of state to do business in	106818
this state or is registered or licensed by any state agency,	106819
board, or commission to transact business in this state or to make	106820
sales to persons in this state+;	106821
(8) Has any other contact with this state that would allow	106822
this state to require the seller to collect and remit use tax	106823
under Section 8 of Article I of the Constitution of the United	106824
States (f) <u>Is a hotel intermediary that furnishes lodging in</u>	106825
<u>hotels located in this state to transient guests.</u>	106826

(g) Enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers to the seller, whether by a link on a web site, an in-person oral presentation, telemarketing, or otherwise, provided the cumulative gross receipts from sales to consumers referred to the seller by all such residents exceeded ten thousand dollars during the preceding twelve months. 106827
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(3) A seller presumed to have substantial nexus with this state under divisions (I)(2)(a) to (f) of this section may rebut that presumption by demonstrating that activities described in any of those divisions that are conducted by a person in this state on the seller's behalf are not significantly associated with the seller's ability to establish or maintain a market in this state for the seller's sales. 106835
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(4) A seller presumed to have substantial nexus with this state under division (I)(2)(g) of this section may rebut that presumption by submitting proof that each resident engaged by the seller as described in that division did not engage in any activity within this state during the preceding twelve months that was significantly associated with the seller's ability to establish or maintain the seller's market in this state during the preceding twelve months. Such proof may consist of sworn written statements from all the residents with whom the seller has an agreement stating that the resident did not engage in any solicitation in this state on behalf of the seller during the preceding twelve months if such statements are provided and obtained in good faith. 106842
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(5) A seller that does not have substantial nexus with this state, and any affiliated person of the seller, before selling or leasing tangible personal property or services to a state agency, shall register with the tax commissioner in the same manner as a 106855
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seller described in division (A)(1) of section 5741.17 of the 106859
Revised Code. 106860

(6) As used in division (I) of this section: 106861

(a) "Affiliated person" means any person that is a member of 106862
the same controlled group of corporations as the seller or any 106863
other person that, notwithstanding the form of organization, bears 106864
the same ownership relationship to the seller as a corporation 106865
that is a member of the same controlled group of corporations. 106866

(b) "Controlled group of corporations" has the same meaning 106867
as in section 1536(a) of the Internal Revenue Code. 106868

(c) "State agency" has the same meaning as in section 1.60 of 106869
the Revised Code. 106870

(J) "Fiscal officer" means, with respect to a regional 106871
transit authority, the secretary-treasurer thereof, and with 106872
respect to a county which is a transit authority, the fiscal 106873
officer of the county transit board appointed pursuant to section 106874
306.03 of the Revised Code or, if the board of county 106875
commissioners operates the county transit system, the county 106876
auditor. 106877

(K) "Territory of the transit authority" means all of the 106878
area included within the territorial boundaries of a transit 106879
authority as they from time to time exist. Such territorial 106880
boundaries must at all times include all the area of a single 106881
county or all the area of the most populous county which is a part 106882
of such transit authority. County population shall be measured by 106883
the most recent census taken by the United States census bureau. 106884

(L) "Transit authority" means a regional transit authority 106885
created pursuant to section 306.31 of the Revised Code or a county 106886
in which a county transit system is created pursuant to section 106887
306.01 of the Revised Code. For the purposes of this chapter, a 106888
transit authority must extend to at least the entire area of a 106889

single county. A transit authority which includes territory in 106890
more than one county must include all the area of the most 106891
populous county which is a part of such transit authority. County 106892
population shall be measured by the most recent census taken by 106893
the United States census bureau. 106894

(M) "~~Providing a service~~ Service" has the same meaning as in 106895
~~division (X)~~ of section 5739.01 of the Revised Code. 106896

(N) "Other consumption" includes receiving the benefits of a 106897
service. 106898

(O) "Lease" or "rental" has the same meaning as in ~~division~~ 106899
~~(UU)~~ of section 5739.01 of the Revised Code. 106900

(P) "Certified service provider" has the same meaning as in 106901
section 5740.01 of the Revised Code. 106902

(Q) "Hotel intermediary," "hotel," and "transient guest" have 106903
the same meanings as in section 5739.01 of the Revised Code. 106904

Sec. 5741.12. (A) Each seller required by section 5741.17 of 106905
the Revised Code to register with the tax commissioner, and any 106906
seller authorized by the commissioner to collect the tax imposed 106907
by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 106908
of the Revised Code is subject to the same requirements and 106909
entitled to the same deductions and discount for prompt payments 106910
as are vendors under section 5739.12 of the Revised Code, and the 106911
same monetary allowances as are vendors under section 5739.06 of 106912
the Revised Code. The powers and duties of the commissioner with 106913
respect to returns and tax remittances under this section shall be 106914
identical with those prescribed in section 5739.12 of the Revised 106915
Code. 106916

(B) Every person storing, using, or consuming tangible 106917
personal property or receiving the benefit of a service, the 106918
storage, use, consumption, or receipt of which is subject to the 106919

tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, 106920
or 5741.023 of the Revised Code, when such tax was not paid to a 106921
seller, shall, on or before the twenty-third day of each month, 106922
file with the tax commissioner a return for the preceding month in 106923
such form as is prescribed by the commissioner, showing such 106924
information as the commissioner deems necessary, and shall pay the 106925
tax shown on the return to be due. Remittance shall be made 106926
payable to the treasurer of state. The commissioner may require 106927
consumers to file returns and pay the tax at other than monthly 106928
intervals, if the commissioner determines that such filing is 106929
necessary for the efficient administration of the tax. If the 106930
commissioner determines that a consumer's tax liability is not 106931
such as to merit monthly filing, the commissioner may authorize 106932
the consumer to file returns and pay tax at less frequent 106933
intervals. 106934

Any consumer required to file a return and pay the tax under 106935
this section whose payment for any year equals or exceeds the 106936
amount shown in division (A) of section 5741.121 of the Revised 106937
Code is subject to the accelerated tax payment requirements in 106938
divisions (B) and (C) of that section. 106939

(C) Every person storing, using, or consuming a motor 106940
vehicle, watercraft, or outboard motor, the ownership of which 106941
must be evidenced by certificate of title, shall file the return 106942
required by this section and pay the tax due at or prior to the 106943
time of filing an application for certificate of title. 106944

(D) If a seller that is a hotel intermediary does not collect 106945
and remit the full amount of tax due, the hotel in which the 106946
transient guest will lodge shall attempt to collect and remit any 106947
remaining amount of tax from the transient guest. 106948

Sec. 5741.17. (A)(1) Except as otherwise provided in 106949
divisions (A)(2), (3), and (4) of this section, every seller of 106950

tangible personal property or services who has substantial nexus 106951
with this state shall register with the tax commissioner and 106952
supply any information concerning ~~his~~ the seller's contacts with 106953
this state that may be required by the commissioner. 106954

(2) A seller who is licensed as a vendor pursuant to section 106955
5739.17 of the Revised Code shall not be required to register with 106956
the commissioner pursuant to this section if all sales to 106957
consumers in this state are made under the authority of ~~his~~ the 106958
seller's vendor's license. 106959

(3) A Unless the seller has substantial nexus with this state 106960
pursuant to division (I)(2)(g) of section 5741.01 of the Revised 106961
Code, a seller is not required to register under this section if 106962
the seller has no contact with this state other than an agency 106963
relationship with a person engaged in the business of 106964
telemarketing in this state and engaged by the seller exclusively 106965
for the purpose of solicitation of customers in other states. 106966

(4) A seller is not required to register under this section 106967
if the seller has no contact with this state other than the 106968
ownership of property that is located at the facility of a printer 106969
with which the seller has contracted for printing and that 106970
consists of the final printed product, property that becomes a 106971
part of the final printed product, or copy from which the final 106972
printed product is produced. 106973

(B) A seller who does not have substantial nexus with this 106974
state may voluntarily register with the commissioner. A seller who 106975
voluntarily registers with the commissioner under this section is 106976
entitled to the same benefits and is subject to the same duties 106977
and requirements as a seller required to be registered with the 106978
commissioner under this chapter. 106979

The commissioner shall maintain an alphabetical index of all 106980
sellers registered under this chapter and records of the use tax 106981

reported and paid. Upon request, this information shall be made 106982
available to the treasurer of state. 106983

Sec. 5743.081. (A) If any wholesale dealer or retail dealer 106984
fails to pay the tax levied under section 5743.02, 5743.021, 106985
5743.024, or 5743.026 of the Revised Code as required by sections 106986
5743.01 to 5743.20 of the Revised Code, and by the rules of the 106987
tax commissioner, or fails to collect the tax from the purchaser 106988
or consumer, the commissioner may make an assessment against the 106989
wholesale or retail dealer based upon any information in the 106990
commissioner's possession. 106991

The commissioner may make an assessment against any wholesale 106992
or retail dealer who fails to file a return required by section 106993
5743.03 or 5743.025 of the Revised Code. 106994

No assessment shall be made against any wholesale or retail 106995
dealer for any taxes imposed under section 5743.02, 5743.021, 106996
5743.024, or 5743.026 of the Revised Code more than three years 106997
after the last day of the calendar month that immediately follows 106998
the semiannual period prescribed in section 5743.03 of the Revised 106999
Code in which the sale was made, or more than three years after 107000
the semiannual return for such period is filed, whichever is 107001
later. This section does not bar an assessment against any 107002
wholesale or retail dealer who fails to file a return as required 107003
by section 5743.025 or 5743.03 of the Revised Code, or who files a 107004
fraudulent return. 107005

A penalty of up to thirty per cent may be added to the amount 107006
of every assessment made under this section. The commissioner may 107007
adopt rules providing for the imposition and remission of 107008
penalties added to assessments made under this section. 107009

The commissioner shall give the party assessed written notice 107010
of the assessment in the manner provided in section 5703.37 of the 107011
Revised Code. The notice shall specify separately any portion of 107012

the assessment that represents a county tax. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the wholesale or retail dealer's place of business is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the commissioner's entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state cigarette sales tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable

to sales on execution shall apply to sales made under the 107045
judgment, except as otherwise provided in sections 5743.01 to 107046
5743.20 of the Revised Code. 107047

~~The portion of~~ If the assessment is not paid in its entirety 107048
within sixty days after the assessment was issued, the portion of 107049
the assessment consisting of tax due shall bear interest at the 107050
rate per annum prescribed by section 5703.47 of the Revised Code 107051
from the day the commissioner issues the assessment until it is 107052
paid or until it is certified to the attorney general for 107053
collection under section 131.02 of the Revised Code, whichever 107054
comes first. If the unpaid portion of the assessment is certified 107055
to the attorney general for collection, the entire unpaid portion 107056
of the assessment shall bear interest at the rate per annum 107057
prescribed by section 5703.47 of the Revised Code from the date of 107058
certification until the date it is paid in its entirety. Interest 107059
shall be paid in the same manner as the tax and may be collected 107060
by the issuance of an assessment under this section. 107061

(D) All money collected by the tax commissioner under this 107062
section shall be paid to the treasurer of state, and when paid 107063
shall be considered as revenue arising from the taxes imposed by 107064
sections 5743.01 to 5743.20 of the Revised Code. 107065

Sec. 5743.15. (A) Except as otherwise provided in this 107066
division, no person shall engage in this state in the wholesale or 107067
retail business of trafficking in cigarettes or in the business of 107068
a manufacturer or importer of cigarettes without having a license 107069
to conduct each such activity issued by a county auditor under 107070
division (B) of this section or the tax commissioner under 107071
divisions (C) and (F) of this section. On dissolution of a 107072
partnership by death, the surviving partner may operate under the 107073
license of the partnership until expiration of the license, and 107074
the heirs or legal representatives of deceased persons, and 107075

receivers and trustees in bankruptcy appointed by any competent 107076
authority, may operate under the license of the person succeeded 107077
in possession by such heir, representative, receiver, or trustee 107078
in bankruptcy if the partner or successor notifies the issuer of 107079
the license of the dissolution or succession within thirty days 107080
after the dissolution or succession. 107081

(B)(1) Each applicant for a license to engage in the retail 107082
business of trafficking in cigarettes under this section, 107083
annually, on or before the fourth Monday of May, shall make and 107084
deliver to the county auditor of the county in which the applicant 107085
desires to engage in the retail business of trafficking in 107086
cigarettes, upon a blank form furnished by such auditor for that 107087
purpose, a statement showing the name of the applicant, each 107088
physical place in the county where the applicant's business is 107089
conducted, the nature of the business, and any other information 107090
the tax commissioner requires in the form of statement prescribed 107091
by the commissioner. If the applicant is a firm, partnership, or 107092
association other than a corporation, the application shall state 107093
the name and address of each of its members. If the applicant is a 107094
corporation, the application shall state the name and address of 107095
each of its officers. At the time of making the application 107096
required by this section, every person desiring to engage in the 107097
retail business of trafficking in cigarettes shall pay an 107098
application fee in the sum of one hundred twenty-five dollars for 107099
each physical place where the person proposes to carry on such 107100
business. Each place of business shall be deemed such space, under 107101
lease or license to, or under the control of, or under the 107102
supervision of the applicant, as is contained in one or more 107103
contiguous, adjacent, or adjoining buildings constituting an 107104
industrial plant or a place of business operated by, or under the 107105
control of, one person, or under one roof and connected by doors, 107106
halls, stairways, or elevators, which space may contain any number 107107
of points at which cigarettes are offered for sale, provided that 107108

each additional point at which cigarettes are offered for sale 107109
shall be listed in the application. 107110

(2) Upon receipt of the application and exhibition of the 107111
county treasurer's receipt showing the payment of the application 107112
fee, the county auditor shall issue to the applicant a license for 107113
each place of business designated in the application, authorizing 107114
the applicant to engage in such business at such place for one 107115
year commencing on the fourth Monday of May. The form of the 107116
license shall be prescribed by the commissioner. A duplicate 107117
license may be obtained from the county auditor upon payment of a 107118
five-dollar fee if the original license is lost, destroyed, or 107119
defaced. When an application is filed after the fourth Monday of 107120
May, the application fee required to be paid shall be proportioned 107121
in amount to the remainder of the license year, except that it 107122
shall not be less than twenty-five dollars in any one year. 107123

(3) The holder of a retail dealer's cigarette license may 107124
transfer the license to a place of business within the same county 107125
other than that designated on the license on condition that the 107126
licensee's ownership interest and business structure remain 107127
unchanged, and that the licensee applies to the county auditor 107128
therefor, upon forms approved by the commissioner and the payment 107129
of a fee of five dollars into the county treasury. 107130

(C)(1) Each applicant for a license to engage in the 107131
wholesale business of trafficking in cigarettes under this 107132
section, annually, on or before the fourth Monday in May, shall 107133
make and deliver to the tax commissioner, upon a blank form 107134
furnished by the commissioner for that purpose, a statement 107135
showing the name of the applicant, physical street address where 107136
the applicant's business is conducted, the nature of the business, 107137
and any other information required by the commissioner. If the 107138
applicant is a firm, partnership, or association other than a 107139
corporation, the applicant shall state the name and address of 107140

each of its members. If the applicant is a corporation, the 107141
applicant shall state the name and address of each of its 107142
officers. At the time of making the application required by this 107143
section, every person desiring to engage in the wholesale business 107144
of trafficking in cigarettes shall pay an application fee of one 107145
thousand dollars for each physical place where the person proposes 107146
to carry on such business. Each place of business shall be deemed 107147
such space, under lease or license to, or under the control of, or 107148
under the supervision of the applicant, as is contained in one or 107149
more contiguous, adjacent, or adjoining buildings constituting an 107150
industrial plant or a place of business operated by, or under the 107151
control of, one person, or under one roof and connected by doors, 107152
halls, stairways, or elevators. A duplicate license may be 107153
obtained from the commissioner upon payment of a 107154
twenty-five-dollar fee if the original license is lost, destroyed, 107155
or defaced. 107156

(2) Upon receipt of the application and payment of any 107157
application fee required by this section, the commissioner shall 107158
verify that the applicant is ~~in good standing under~~ not in 107159
violation of any provision of Chapter 1346. ~~and or~~ Title LVII of 107160
the Revised Code. The commissioner shall also verify that the 107161
applicant has filed any returns, submitted any information, and 107162
paid any outstanding taxes or fees as required by the 107163
commissioner, to the extent that the commissioner is aware of the 107164
returns, information, taxes, or fees at the time of the 107165
application. Upon approval, the commissioner shall issue to the 107166
applicant a license for each physical place of business designated 107167
in the application authorizing the applicant to engage in business 107168
at that location for one year commencing on the fourth Monday in 107169
May. For licenses issued after the fourth Monday in May, the 107170
application fee shall be reduced proportionately by the remainder 107171
of the twelve-month period for which the license is issued, except 107172
that the application fee required to be paid under this section 107173

shall be not less than two hundred dollars in any one year. 107174

(3) The holder of a wholesale dealer cigarette license may 107175
transfer the license to a place of business other than that 107176
designated on the license on condition that the licensee's 107177
ownership or business structure remains unchanged, and that the 107178
licensee applies to the commissioner for such a transfer upon a 107179
form promulgated by the commissioner and pays a fee of twenty-five 107180
dollars, which shall be deposited into the cigarette tax 107181
enforcement fund created in division (E) of this section. 107182

(D)(1) The wholesale cigarette license application fees 107183
collected under this section shall be paid into the cigarette tax 107184
enforcement fund. 107185

(2) The retail cigarette license application fees collected 107186
under this section shall be distributed as follows: 107187

(a) Thirty per cent shall be paid upon the warrant of the 107188
county auditor into the treasury of the municipal corporation or 107189
township in which the places of business for which the tax revenue 107190
was received are located; 107191

(b) Ten per cent shall be credited to the general fund of the 107192
county; 107193

(c) Sixty per cent shall be paid into the cigarette tax 107194
enforcement fund. 107195

(3) The remainder of the revenues and fines collected under 107196
this section and the penal laws relating to cigarettes shall be 107197
distributed as follows: 107198

(a) Three-fourths shall be paid upon the warrant of the 107199
county auditor into the treasury of the municipal corporation or 107200
township in which the place of business, on account of which the 107201
revenues and fines were received, is located; 107202

(b) One-fourth shall be credited to the general fund of the 107203

county. 107204

(E) There is hereby created within the state treasury the 107205
cigarette tax enforcement fund for the purpose of providing funds 107206
to assist in paying the costs of enforcing sections 1333.11 to 107207
1333.21 and Chapter 5743. of the Revised Code. 107208

The portion of cigarette license application fees received by 107209
a county auditor during the annual application period that ends on 107210
the fourth Monday in May and that is required to be deposited in 107211
the cigarette tax enforcement fund shall be sent to the treasurer 107212
of state by the thirtieth day of June each year accompanied by the 107213
form prescribed by the tax commissioner. The portion of cigarette 107214
license application fees received by each county auditor after the 107215
fourth Monday in May and that is required to be deposited in the 107216
cigarette tax enforcement fund shall be sent to the treasurer of 107217
state by the last day of the month following the month in which 107218
such fees were collected. 107219

(F)(1) Every person who desires to engage in the business of 107220
a manufacturer or importer of cigarettes shall, annually, on or 107221
before the fourth Monday of May, make and deliver to the tax 107222
commissioner, upon a blank form furnished by the commissioner for 107223
that purpose, a statement showing the name of the applicant, the 107224
nature of the applicant's business, and any other information 107225
required by the commissioner. If the applicant is a firm, 107226
partnership, or association other than a corporation, the 107227
applicant shall state the name and address of each of its members. 107228
If the applicant is a corporation, the applicant shall state the 107229
name and address of each of its officers. 107230

(2) Upon receipt of the application required under this 107231
section, the commissioner shall verify that the applicant is ~~in~~ 107232
~~good standing under~~ not in violation of any provision of Chapter 107233
1346. ~~and~~ or Title LVII of the Revised Code. The commissioner 107234
shall also verify that the applicant has filed any returns, 107235

submitted any information, and paid any outstanding taxes or fees 107236
as required by the commissioner, to the extent that the 107237
commissioner is aware of the returns, information, taxes, or fees 107238
at the time of the application. Upon approval, the commissioner 107239
shall issue to the applicant a license authorizing the applicant 107240
to engage in the business of manufacturer or importer, whichever 107241
the case may be, for one year commencing on the fourth Monday of 107242
May. 107243

(3) The issuing of a license under division (F)(1) of this 107244
section to a manufacturer does not excuse a manufacturer from the 107245
certification process required under section 1346.05 of the 107246
Revised Code. A manufacturer who is issued a license under 107247
division (F)(1) of this section and who is not listed on the 107248
directory required under section 1346.05 of the Revised Code shall 107249
not be permitted to sell cigarettes in this state other than to a 107250
licensed cigarette wholesaler for sale outside this state. Such a 107251
manufacturer shall provide documentation to the commissioner 107252
evidencing that the cigarettes are legal for sale in another 107253
state. 107254

(G) The tax commissioner may adopt rules necessary to 107255
administer this section. 107256

Sec. 5743.56. (A) Any person required to pay the tax imposed 107257
by section 5743.51, 5743.62, or 5743.63 of the Revised Code is 107258
personally liable for the tax. The tax commissioner may make an 107259
assessment, based upon any information in the commissioner's 107260
possession, against any person who fails to file a return or pay 107261
any tax, interest, or additional charge as required by this 107262
chapter. The commissioner shall give the person assessed written 107263
notice of such assessment in the manner provided in section 107264
5703.37 of the Revised Code. With the notice, the commissioner 107265
shall provide instructions on how to petition for reassessment and 107266

request a hearing on the petition. 107267

(B) When the information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on such audit. 107268
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(C) A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The tax commissioner may adopt rules providing for the imposition and remission of such penalties. 107274
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(D) Unless the person assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the person assessed or that person's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the person assessed to the treasurer of state. A petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code. 107278
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(E) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person assessed resides or in which the person assessed conducts business. If the person assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common 107290
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pleas of Franklin county. 107299

Immediately upon the filing of the entry, the clerk shall 107300
enter a judgment for the state against the person assessed in the 107301
amount shown on the entry. The judgment may be filed by the clerk 107302
in a loose-leaf book entitled "special judgments for state tobacco 107303
products tax," and shall have the same effect as other judgments. 107304
Execution shall issue upon the judgment upon the request of the 107305
commissioner, and all laws applicable to sales on execution shall 107306
apply to sales made under the judgment. 107307

~~The portion of~~ If the assessment is not paid in its entirety 107308
within sixty days after the day the assessment is issued, the 107309
portion of the assessment consisting of tax due shall bear 107310
interest at the rate per annum prescribed by section 5703.47 of 107311
the Revised Code from the day the commissioner issues the 107312
assessment until the assessment is paid or until it is certified 107313
to the attorney general for collection under section 131.02 of the 107314
Revised Code, whichever comes first. If the unpaid portion of the 107315
assessment is certified to the attorney general for collection, 107316
the entire unpaid portion of the assessment shall bear interest at 107317
the rate per annum prescribed by section 5703.47 of the Revised 107318
Code from the date of certification until the date it is paid in 107319
its entirety. Interest shall be paid in the same manner as the tax 107320
and may be collected by issuing an assessment under this section. 107321

(F) If the tax commissioner believes that collection of the 107322
tax will be jeopardized unless proceedings to collect or secure 107323
collection of the tax are instituted without delay, the 107324
commissioner may issue a jeopardy assessment against the person 107325
liable for the tax. Immediately upon the issuance of the jeopardy 107326
assessment, the commissioner shall file an entry with the clerk of 107327
the court of common pleas in the manner prescribed by division (E) 107328
of this section. Notice of the jeopardy assessment shall be served 107329
on the person assessed or the legal representative of the person 107330

assessed, as provided in section 5703.37 of the Revised Code, 107331
within five days of the filing of the entry with the clerk. The 107332
total amount assessed is immediately due and payable, unless the 107333
person assessed files a petition for reassessment in accordance 107334
with division (D) of this section and provides security in a form 107335
satisfactory to the commissioner and in an amount sufficient to 107336
satisfy the unpaid balance of the assessment. Full or partial 107337
payment of the assessment does not prejudice the commissioner's 107338
consideration of the petition for reassessment. 107339

(G) All money collected by the tax commissioner under this 107340
section shall be paid to the treasurer of state as revenue arising 107341
from the tax imposed by sections 5743.51, 5743.62, and 5743.63 of 107342
the Revised Code. 107343

Sec. 5745.12. (A) If any taxpayer required to file a report 107344
under this chapter fails to file the report within the time 107345
prescribed, files an incorrect report, or fails to remit the full 107346
amount of the tax due for the period covered by the report, the 107347
tax commissioner may make an assessment against the taxpayer for 107348
any deficiency for the period for which the report or tax is due, 107349
based upon any information in the commissioner's possession. 107350

The tax commissioner shall not make or issue an assessment 107351
against a taxpayer more than three years after the later of the 107352
final date the report subject to assessment was required to be 107353
filed or the date the report was filed. Such time limit may be 107354
extended if both the taxpayer and the commissioner consent in 107355
writing to the extension. Any such extension shall extend the 107356
three-year time limit in section 5745.11 of the Revised Code for 107357
the same period of time. There shall be no bar or limit to an 107358
assessment against a taxpayer that fails to file a report subject 107359
to assessment as required by this chapter, or that files a 107360
fraudulent report. The commissioner shall give the taxpayer 107361

assessed written notice of the assessment as provided in section 107362
5703.37 of the Revised Code. With the notice, the commissioner 107363
shall provide instructions on how to petition for reassessment and 107364
request a hearing on the petition. 107365

(B) Unless the taxpayer assessed files with the tax 107366
commissioner within sixty days after service of the notice of 107367
assessment, either personally or by certified mail, a written 107368
petition for reassessment signed by the authorized agent of the 107369
taxpayer assessed having knowledge of the facts, the assessment 107370
becomes final, and the amount of the assessment is due and payable 107371
from the taxpayer to the treasurer of state. The petition shall 107372
indicate the taxpayer's objections, but additional objections may 107373
be raised in writing if received by the commissioner prior to the 107374
date shown on the final determination. If the petition has been 107375
properly filed, the commissioner shall proceed under section 107376
5703.60 of the Revised Code. 107377

(C) After an assessment becomes final, if any portion of the 107378
assessment remains unpaid, including accrued interest, a certified 107379
copy of the tax commissioner's entry making the assessment final 107380
may be filed in the office of the clerk of the court of common 107381
pleas in the county in which the taxpayer has an office or place 107382
of business in this state, the county in which the taxpayer's 107383
statutory agent is located, or Franklin county. 107384

Immediately upon the filing of the entry, the clerk shall 107385
enter a judgment against the taxpayer assessed in the amount shown 107386
on the entry. The judgment may be filed by the clerk in a 107387
loose-leaf book entitled "special judgments for municipal income 107388
taxes," and shall have the same effect as other judgments. 107389
Execution shall issue upon the judgment upon the request of the 107390
tax commissioner, and all laws applicable to sales on execution 107391
shall apply to sales made under the judgment. 107392

~~The portion of an~~ If the assessment is not paid in its 107393

entirety within sixty days after the day the assessment was 107394
issued, the portion of the assessment consisting of tax due shall 107395
bear interest at the rate per annum prescribed by section 5703.47 107396
of the Revised Code from the day the commissioner issues the 107397
assessment until the assessment is paid or until it is certified 107398
to the attorney general for collection under section 131.02 of the 107399
Revised Code, whichever comes first. If the unpaid portion of the 107400
assessment is certified to the attorney general for collection, 107401
the entire unpaid portion of the assessment shall bear interest at 107402
the rate per annum prescribed by section 5703.47 of the Revised 107403
Code from the date of certification until the date it is paid in 107404
its entirety. Interest shall be paid in the same manner as the tax 107405
and may be collected by issuing an assessment under this section. 107406

(D) All money collected under this section shall be credited 107407
and distributed to the municipal corporation to which the money is 107408
owed based on the assessment issued under this section. 107409

(E) If the tax commissioner believes that collection of the 107410
tax imposed by this chapter will be jeopardized unless proceedings 107411
to collect or secure collection of the tax are instituted without 107412
delay, the commissioner may issue a jeopardy assessment against 107413
the taxpayer liable for the tax. Immediately upon the issuance of 107414
the jeopardy assessment, the commissioner shall file an entry with 107415
the clerk of the court of common pleas in the manner prescribed by 107416
division (C) of this section. Notice of the jeopardy assessment 107417
shall be served on the taxpayer assessed or the taxpayer's legal 107418
representative in the manner provided in section 5703.37 of the 107419
Revised Code within five days of the filing of the entry with the 107420
clerk. The total amount assessed is immediately due and payable, 107421
unless the taxpayer assessed files a petition for reassessment in 107422
accordance with division (B) of this section and provides security 107423
in a form satisfactory to the commissioner and in an amount 107424
sufficient to satisfy the unpaid balance of the assessment. Full 107425

or partial payment of the assessment does not prejudice the 107426
commissioner's consideration of the petition for reassessment. 107427

(F) Notwithstanding the fact that a petition for reassessment 107428
is pending, the taxpayer may pay all or a portion of the 107429
assessment that is the subject of the petition. The acceptance of 107430
a payment by the treasurer of state does not prejudice any claim 107431
for refund upon final determination of the petition. 107432

If upon final determination of the petition an error in the 107433
assessment is corrected by the tax commissioner, upon petition so 107434
filed or pursuant to a decision of the board of tax appeals or any 107435
court to which the determination or decision has been appealed, so 107436
that the amount due from the taxpayer under the corrected 107437
assessment is less than the portion paid, there shall be issued to 107438
the taxpayer, its assigns, or legal representative a refund in the 107439
amount of the overpayment as provided by section 5745.11 of the 107440
Revised Code, with interest on that amount as provided by section 107441
5745.11 of the Revised Code. 107442

Sec. 5747.01. Except as otherwise expressly provided or 107443
clearly appearing from the context, any term used in this chapter 107444
that is not otherwise defined in this section has the same meaning 107445
as when used in a comparable context in the laws of the United 107446
States relating to federal income taxes or if not used in a 107447
comparable context in those laws, has the same meaning as in 107448
section 5733.40 of the Revised Code. Any reference in this chapter 107449
to the Internal Revenue Code includes other laws of the United 107450
States relating to federal income taxes. 107451

As used in this chapter: 107452

(A) "Adjusted gross income" or "Ohio adjusted gross income" 107453
means federal adjusted gross income, as defined and used in the 107454
Internal Revenue Code, adjusted as provided in this section: 107455

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter.

"Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross

income required under division (A) of this section and (ii) the 107487
personal exemptions allowed to the trust pursuant to section 107488
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 107489
deductions to adjusted gross income required under division (A) of 107490
this section, (ii) the amount of federal income taxes attributable 107491
to such income, and (iii) the amount of taxable income that has 107492
been included in the adjusted gross income of a beneficiary by 107493
reason of a prior accumulation distribution. Any undistributed net 107494
income included in the adjusted gross income of a beneficiary 107495
shall reduce the undistributed net income of the trust commencing 107496
with the earliest years of the accumulation period. 107497

(7) Deduct the amount of wages and salaries, if any, not 107498
otherwise allowable as a deduction but that would have been 107499
allowable as a deduction in computing federal adjusted gross 107500
income for the taxable year, had the targeted jobs credit allowed 107501
and determined under sections 38, 51, and 52 of the Internal 107502
Revenue Code not been in effect. 107503

(8) Deduct any interest or interest equivalent on public 107504
obligations and purchase obligations to the extent that the 107505
interest or interest equivalent is included in federal adjusted 107506
gross income. 107507

(9) Add any loss or deduct any gain resulting from the sale, 107508
exchange, or other disposition of public obligations to the extent 107509
that the loss has been deducted or the gain has been included in 107510
computing federal adjusted gross income. 107511

(10) Deduct or add amounts, as provided under section 5747.70 107512
of the Revised Code, related to contributions to variable college 107513
savings program accounts made or tuition units purchased pursuant 107514
to Chapter 3334. of the Revised Code. 107515

(11)(a) Deduct, to the extent not otherwise allowable as a 107516
deduction or exclusion in computing federal or Ohio adjusted gross 107517

income for the taxable year, the amount the taxpayer paid during 107518
the taxable year for medical care insurance and qualified 107519
long-term care insurance for the taxpayer, the taxpayer's spouse, 107520
and dependents. No deduction for medical care insurance under 107521
division (A)(11) of this section shall be allowed either to any 107522
taxpayer who is eligible to participate in any subsidized health 107523
plan maintained by any employer of the taxpayer or of the 107524
taxpayer's spouse, or to any taxpayer who is entitled to, or on 107525
application would be entitled to, benefits under part A of Title 107526
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 107527
301, as amended. For the purposes of division (A)(11)(a) of this 107528
section, "subsidized health plan" means a healthplan for which 107529
the employer pays any portion of the plan's cost. The deduction 107530
allowed under division (A)(11)(a) of this section shall be the net 107531
of any related premium refunds, related premium reimbursements, or 107532
related insurance premium dividends received during the taxable 107533
year. 107534

(b) Deduct, to the extent not otherwise deducted or excluded 107535
in computing federal or Ohio adjusted gross income during the 107536
taxable year, the amount the taxpayer paid during the taxable 107537
year, not compensated for by any insurance or otherwise, for 107538
medical care of the taxpayer, the taxpayer's spouse, and 107539
dependents, to the extent the expenses exceed seven and one-half 107540
per cent of the taxpayer's federal adjusted gross income. 107541

(c) Deduct, to the extent not otherwise deducted or excluded 107542
in computing federal or Ohio adjusted gross income, any amount 107543
included in federal adjusted gross income under section 105 or not 107544
excluded under section 106 of the Internal Revenue Code solely 107545
because it relates to an accident and health plan for a person who 107546
otherwise would be a "qualifying relative" and thus a "dependent" 107547
under section 152 of the Internal Revenue Code but for the fact 107548
that the person fails to meet the income and support limitations 107549

under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 107550

(d) For purposes of division (A)(11) of this section, 107551
"medical care" has the meaning given in section 213 of the 107552
Internal Revenue Code, subject to the special rules, limitations, 107553
and exclusions set forth therein, and "qualified long-term care" 107554
has the same meaning given in section 7702B(c) of the Internal 107555
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 107556
of this section, "dependent" includes a person who otherwise would 107557
be a "qualifying relative" and thus a "dependent" under section 107558
152 of the Internal Revenue Code but for the fact that the person 107559
fails to meet the income and support limitations under section 107560
152(d)(1)(B) and (C) of the Internal Revenue Code. 107561

(12)(a) Deduct any amount included in federal adjusted gross 107562
income solely because the amount represents a reimbursement or 107563
refund of expenses that in any year the taxpayer had deducted as 107564
an itemized deduction pursuant to section 63 of the Internal 107565
Revenue Code and applicable United States department of the 107566
treasury regulations. The deduction otherwise allowed under 107567
division (A)(12)(a) of this section shall be reduced to the extent 107568
the reimbursement is attributable to an amount the taxpayer 107569
deducted under this section in any taxable year. 107570

(b) Add any amount not otherwise included in Ohio adjusted 107571
gross income for any taxable year to the extent that the amount is 107572
attributable to the recovery during the taxable year of any amount 107573
deducted or excluded in computing federal or Ohio adjusted gross 107574
income in any taxable year. 107575

(13) Deduct any portion of the deduction described in section 107576
1341(a)(2) of the Internal Revenue Code, for repaying previously 107577
reported income received under a claim of right, that meets both 107578
of the following requirements: 107579

(a) It is allowable for repayment of an item that was 107580

included in the taxpayer's adjusted gross income for a prior 107581
taxable year and did not qualify for a credit under division (A) 107582
or (B) of section 5747.05 of the Revised Code for that year; 107583

(b) It does not otherwise reduce the taxpayer's adjusted 107584
gross income for the current or any other taxable year. 107585

(14) Deduct an amount equal to the deposits made to, and net 107586
investment earnings of, a medical savings account during the 107587
taxable year, in accordance with section 3924.66 of the Revised 107588
Code. The deduction allowed by division (A)(14) of this section 107589
does not apply to medical savings account deposits and earnings 107590
otherwise deducted or excluded for the current or any other 107591
taxable year from the taxpayer's federal adjusted gross income. 107592

(15)(a) Add an amount equal to the funds withdrawn from a 107593
medical savings account during the taxable year, and the net 107594
investment earnings on those funds, when the funds withdrawn were 107595
used for any purpose other than to reimburse an account holder 107596
for, or to pay, eligible medical expenses, in accordance with 107597
section 3924.66 of the Revised Code; 107598

(b) Add the amounts distributed from a medical savings 107599
account under division (A)(2) of section 3924.68 of the Revised 107600
Code during the taxable year. 107601

(16) Add any amount claimed as a credit under section 107602
5747.059 or 5747.65 of the Revised Code to the extent that such 107603
amount satisfies either of the following: 107604

(a) The amount was deducted or excluded from the computation 107605
of the taxpayer's federal adjusted gross income as required to be 107606
reported for the taxpayer's taxable year under the Internal 107607
Revenue Code; 107608

(b) The amount resulted in a reduction of the taxpayer's 107609
federal adjusted gross income as required to be reported for any 107610
of the taxpayer's taxable years under the Internal Revenue Code. 107611

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal

Revenue Code, including the taxpayer's proportionate or 107644
distributive share of the amount of depreciation expense allowed 107645
by that subsection to a pass-through entity in which the taxpayer 107646
has a direct or indirect ownership interest. 107647

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 107648
this section, add five-sixths of the amount of qualifying section 107649
179 depreciation expense, including the taxpayer's proportionate 107650
or distributive share of the amount of qualifying section 179 107651
depreciation expense allowed to any pass-through entity in which 107652
the taxpayer has a direct or indirect ownership interest. 107653

(iii) Subject to division (A)(20)(a)(v) of this section, for 107654
taxable years beginning in 2012 or thereafter, if the increase in 107655
income taxes withheld by the taxpayer is equal to or greater than 107656
ten per cent of income taxes withheld by the taxpayer during the 107657
taxpayer's immediately preceding taxable year, "two-thirds" shall 107658
be substituted for "five-sixths" for the purpose of divisions 107659
(A)(20)(a)(i) and (ii) of this section. 107660

(iv) Subject to division (A)(20)(a)(v) of this section, for 107661
taxable years beginning in 2012 or thereafter, a taxpayer is not 107662
required to add an amount under division (A)(20) of this section 107663
if the increase in income taxes withheld by the taxpayer and by 107664
any pass-through entity in which the taxpayer has a direct or 107665
indirect ownership interest is equal to or greater than the sum of 107666
(I) the amount of qualifying section 179 depreciation expense and 107667
(II) the amount of depreciation expense allowed to the taxpayer by 107668
subsection (k) of section 168 of the Internal Revenue Code, and 107669
including the taxpayer's proportionate or distributive shares of 107670
such amounts allowed to any such pass-through entities. 107671

(v) If a taxpayer directly or indirectly incurs a net 107672
operating loss for the taxable year for federal income tax 107673
purposes, to the extent such loss resulted from depreciation 107674
expense allowed by subsection (k) of section 168 of the Internal 107675

Revenue Code and by qualifying section 179 depreciation expense, 107676
"the entire" shall be substituted for "five-sixths of the" for the 107677
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 107678

The tax commissioner, under procedures established by the 107679
commissioner, may waive the add-backs related to a pass-through 107680
entity if the taxpayer owns, directly or indirectly, less than 107681
five per cent of the pass-through entity. 107682

(b) Nothing in division (A)(20) of this section shall be 107683
construed to adjust or modify the adjusted basis of any asset. 107684

(c) To the extent the add-back required under division 107685
(A)(20)(a) of this section is attributable to property generating 107686
nonbusiness income or loss allocated under section 5747.20 of the 107687
Revised Code, the add-back shall be situated to the same location 107688
as the nonbusiness income or loss generated by the property for 107689
the purpose of determining the credit under division (A) of 107690
section 5747.05 of the Revised Code. Otherwise, the add-back shall 107691
be apportioned, subject to one or more of the four alternative 107692
methods of apportionment enumerated in section 5747.21 of the 107693
Revised Code. 107694

(d) For the purposes of division (A)(20)(a)(v) of this 107695
section, net operating loss carryback and carryforward shall not 107696
include the allowance of any net operating loss deduction 107697
carryback or carryforward to the taxable year to the extent such 107698
loss resulted from depreciation allowed by section 168(k) of the 107699
Internal Revenue Code and by the qualifying section 179 107700
depreciation expense amount. 107701

(e) For the purposes of divisions (A)(20) and (21) of this 107702
section: 107703

(i) "Income taxes withheld" means the total amount withheld 107704
and remitted under sections 5747.06 and 5747.07 of the Revised 107705
Code by an employer during the employer's taxable year. 107706

(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.

(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one of the following:

(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;

(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;

(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the

deduction is taken, subject to one or more of the four alternative 107738
methods of apportionment enumerated in section 5747.21 of the 107739
Revised Code. 107740

(c) No deduction is available under division (A)(21)(a) of 107741
this section with regard to any depreciation allowed by section 107742
168(k) of the Internal Revenue Code and by the qualifying section 107743
179 depreciation expense amount to the extent that such 107744
depreciation results in or increases a federal net operating loss 107745
carryback or carryforward. If no such deduction is available for a 107746
taxable year, the taxpayer may carry forward the amount not 107747
deducted in such taxable year to the next taxable year and add 107748
that amount to any deduction otherwise available under division 107749
(A)(21)(a) of this section for that next taxable year. The 107750
carryforward of amounts not so deducted shall continue until the 107751
entire addition required by division (A)(20)(a) of this section 107752
has been deducted. 107753

(d) No refund shall be allowed as a result of adjustments 107754
made by division (A)(21) of this section. 107755

(22) Deduct, to the extent not otherwise deducted or excluded 107756
in computing federal or Ohio adjusted gross income for the taxable 107757
year, the amount the taxpayer received during the taxable year as 107758
reimbursement for life insurance premiums under section 5919.31 of 107759
the Revised Code. 107760

(23) Deduct, to the extent not otherwise deducted or excluded 107761
in computing federal or Ohio adjusted gross income for the taxable 107762
year, the amount the taxpayer received during the taxable year as 107763
a death benefit paid by the adjutant general under section 5919.33 107764
of the Revised Code. 107765

(24) Deduct, to the extent included in federal adjusted gross 107766
income and not otherwise allowable as a deduction or exclusion in 107767
computing federal or Ohio adjusted gross income for the taxable 107768

year, military pay and allowances received by the taxpayer during 107769
the taxable year for active duty service in the United States 107770
army, air force, navy, marine corps, or coast guard or reserve 107771
components thereof or the national guard. The deduction may not be 107772
claimed for military pay and allowances received by the taxpayer 107773
while the taxpayer is stationed in this state. 107774

(25) Deduct, to the extent not otherwise allowable as a 107775
deduction or exclusion in computing federal or Ohio adjusted gross 107776
income for the taxable year and not otherwise compensated for by 107777
any other source, the amount of qualified organ donation expenses 107778
incurred by the taxpayer during the taxable year, not to exceed 107779
ten thousand dollars. A taxpayer may deduct qualified organ 107780
donation expenses only once for all taxable years beginning with 107781
taxable years beginning in 2007. 107782

For the purposes of division (A)(25) of this section: 107783

(a) "Human organ" means all or any portion of a human liver, 107784
pancreas, kidney, intestine, or lung, and any portion of human 107785
bone marrow. 107786

(b) "Qualified organ donation expenses" means travel 107787
expenses, lodging expenses, and wages and salary forgone by a 107788
taxpayer in connection with the taxpayer's donation, while living, 107789
of one or more of the taxpayer's human organs to another human 107790
being. 107791

(26) Deduct, to the extent not otherwise deducted or excluded 107792
in computing federal or Ohio adjusted gross income for the taxable 107793
year, amounts received by the taxpayer as retired ~~military~~ 107794
personnel pay for service in the ~~United States army, navy, air~~ 107795
~~force, coast guard, or marine corps~~ uniformed services or reserve 107796
components thereof, or the national guard, or received by the 107797
surviving spouse or former spouse of such a taxpayer under the 107798
survivor benefit plan on account of such a taxpayer's death. If 107799

the taxpayer receives income on account of retirement paid under 107800
the federal civil service retirement system or federal employees 107801
retirement system, or under any successor retirement program 107802
enacted by the congress of the United States that is established 107803
and maintained for retired employees of the United States 107804
government, and such retirement income is based, in whole or in 107805
part, on credit for the taxpayer's ~~military~~ uniformed service, the 107806
deduction allowed under this division shall include only that 107807
portion of such retirement income that is attributable to the 107808
taxpayer's ~~military~~ uniformed service, to the extent that portion 107809
of such retirement income is otherwise included in federal 107810
adjusted gross income and is not otherwise deducted under this 107811
section. Any amount deducted under division (A)(26) of this 107812
section is not included in a taxpayer's adjusted gross income for 107813
the purposes of section 5747.055 of the Revised Code. No amount 107814
may be deducted under division (A)(26) of this section on the 107815
basis of which a credit was claimed under section 5747.055 of the 107816
Revised Code. 107817

(27) Deduct, to the extent not otherwise deducted or excluded 107818
in computing federal or Ohio adjusted gross income for the taxable 107819
year, the amount the taxpayer received during the taxable year 107820
from the military injury relief fund created in section 5101.98 of 107821
the Revised Code. 107822

(28) Deduct, to the extent not otherwise deducted or excluded 107823
in computing federal or Ohio adjusted gross income for the taxable 107824
year, the amount the taxpayer received as a veterans bonus during 107825
the taxable year from the Ohio department of veterans services as 107826
authorized by Section 2r of Article VIII, Ohio Constitution. 107827

(29) Deduct, to the extent not otherwise deducted or excluded 107828
in computing federal or Ohio adjusted gross income for the taxable 107829
year, any loss from wagering transactions that is allowed as an 107830
itemized deduction under section 165 of the Internal Revenue Code 107831

and that the taxpayer deducted in computing federal taxable 107832
income. 107833

(30) Deduct, to the extent not otherwise deducted or excluded 107834
in computing federal or Ohio adjusted gross income for the taxable 107835
year, any income derived from providing public services under a 107836
contract through a project owned by the state, as described in 107837
section 126.604 of the Revised Code or derived from a transfer 107838
agreement or from the enterprise transferred under that agreement 107839
under section 4313.02 of the Revised Code. 107840

(31) Deduct, to the extent not otherwise deducted or excluded 107841
in computing federal or Ohio adjusted gross income for the taxable 107842
year, Ohio college opportunity or federal Pell grant amounts 107843
received by the taxpayer or the taxpayer's spouse or dependent 107844
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 107845
1070a, et seq., and used to pay room or board furnished by the 107846
educational institution for which the grant was awarded at the 107847
institution's facilities, including meal plans administered by the 107848
institution. For the purposes of this division, receipt of a grant 107849
includes the distribution of a grant directly to an educational 107850
institution and the crediting of the grant to the enrollee's 107851
account with the institution. 107852

(B) "Business income" means income, including gain or loss, 107853
arising from transactions, activities, and sources in the regular 107854
course of a trade or business and includes income, gain, or loss 107855
from real property, tangible property, and intangible property if 107856
the acquisition, rental, management, and disposition of the 107857
property constitute integral parts of the regular course of a 107858
trade or business operation. "Business income" includes income, 107859
including gain or loss, from a partial or complete liquidation of 107860
a business, including, but not limited to, gain or loss from the 107861
sale or other disposition of goodwill. 107862

(C) "Nonbusiness income" means all income other than business 107863

income and may include, but is not limited to, compensation, rents 107864
and royalties from real or tangible personal property, capital 107865
gains, interest, dividends and distributions, patent or copyright 107866
royalties, or lottery winnings, prizes, and awards. 107867

(D) "Compensation" means any form of remuneration paid to an 107868
employee for personal services. 107869

(E) "Fiduciary" means a guardian, trustee, executor, 107870
administrator, receiver, conservator, or any other person acting 107871
in any fiduciary capacity for any individual, trust, or estate. 107872

(F) "Fiscal year" means an accounting period of twelve months 107873
ending on the last day of any month other than December. 107874

(G) "Individual" means any natural person. 107875

(H) "Internal Revenue Code" means the "Internal Revenue Code 107876
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 107877

(I) "Resident" means any of the following, provided that 107878
division (I)(3) of this section applies only to taxable years of a 107879
trust beginning in 2002 or thereafter: 107880

(1) An individual who is domiciled in this state, subject to 107881
section 5747.24 of the Revised Code; 107882

(2) The estate of a decedent who at the time of death was 107883
domiciled in this state. The domicile tests of section 5747.24 of 107884
the Revised Code are not controlling for purposes of division 107885
(I)(2) of this section. 107886

(3) A trust that, in whole or part, resides in this state. If 107887
only part of a trust resides in this state, the trust is a 107888
resident only with respect to that part. 107889

For the purposes of division (I)(3) of this section: 107890

(a) A trust resides in this state for the trust's current 107891
taxable year to the extent, as described in division (I)(3)(d) of 107892
this section, that the trust consists directly or indirectly, in 107893

whole or in part, of assets, net of any related liabilities, that 107894
were transferred, or caused to be transferred, directly or 107895
indirectly, to the trust by any of the following: 107896

(i) A person, a court, or a governmental entity or 107897
instrumentality on account of the death of a decedent, but only if 107898
the trust is described in division (I)(3)(e)(i) or (ii) of this 107899
section; 107900

(ii) A person who was domiciled in this state for the 107901
purposes of this chapter when the person directly or indirectly 107902
transferred assets to an irrevocable trust, but only if at least 107903
one of the trust's qualifying beneficiaries is domiciled in this 107904
state for the purposes of this chapter during all or some portion 107905
of the trust's current taxable year; 107906

(iii) A person who was domiciled in this state for the 107907
purposes of this chapter when the trust document or instrument or 107908
part of the trust document or instrument became irrevocable, but 107909
only if at least one of the trust's qualifying beneficiaries is a 107910
resident domiciled in this state for the purposes of this chapter 107911
during all or some portion of the trust's current taxable year. If 107912
a trust document or instrument became irrevocable upon the death 107913
of a person who at the time of death was domiciled in this state 107914
for purposes of this chapter, that person is a person described in 107915
division (I)(3)(a)(iii) of this section. 107916

(b) A trust is irrevocable to the extent that the transferor 107917
is not considered to be the owner of the net assets of the trust 107918
under sections 671 to 678 of the Internal Revenue Code. 107919

(c) With respect to a trust other than a charitable lead 107920
trust, "qualifying beneficiary" has the same meaning as "potential 107921
current beneficiary" as defined in section 1361(e)(2) of the 107922
Internal Revenue Code, and with respect to a charitable lead trust 107923
"qualifying beneficiary" is any current, future, or contingent 107924

beneficiary, but with respect to any trust "qualifying
beneficiary" excludes a person or a governmental entity or
instrumentality to any of which a contribution would qualify for
the charitable deduction under section 170 of the Internal Revenue
Code.

(d) For the purposes of division (I)(3)(a) of this section,
the extent to which a trust consists directly or indirectly, in
whole or in part, of assets, net of any related liabilities, that
were transferred directly or indirectly, in whole or part, to the
trust by any of the sources enumerated in that division shall be
ascertained by multiplying the fair market value of the trust's
assets, net of related liabilities, by the qualifying ratio, which
shall be computed as follows:

(i) The first time the trust receives assets, the numerator
of the qualifying ratio is the fair market value of those assets
at that time, net of any related liabilities, from sources
enumerated in division (I)(3)(a) of this section. The denominator
of the qualifying ratio is the fair market value of all the
trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a
revised qualifying ratio shall be computed. The numerator of the
revised qualifying ratio is the sum of (1) the fair market value
of the trust's assets immediately prior to the subsequent
transfer, net of any related liabilities, multiplied by the
qualifying ratio last computed without regard to the subsequent
transfer, and (2) the fair market value of the subsequently
transferred assets at the time transferred, net of any related
liabilities, from sources enumerated in division (I)(3)(a) of this
section. The denominator of the revised qualifying ratio is the
fair market value of all the trust's assets immediately after the
subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of

the sources enumerated in division (I)(3)(a) of this section shall 107957
be ascertained without regard to the domicile of the trust's 107958
beneficiaries. 107959

(e) For the purposes of division (I)(3)(a)(i) of this 107960
section: 107961

(i) A trust is described in division (I)(3)(e)(i) of this 107962
section if the trust is a testamentary trust and the testator of 107963
that testamentary trust was domiciled in this state at the time of 107964
the testator's death for purposes of the taxes levied under 107965
Chapter 5731. of the Revised Code. 107966

(ii) A trust is described in division (I)(3)(e)(ii) of this 107967
section if the transfer is a qualifying transfer described in any 107968
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 107969
irrevocable inter vivos trust, and at least one of the trust's 107970
qualifying beneficiaries is domiciled in this state for purposes 107971
of this chapter during all or some portion of the trust's current 107972
taxable year. 107973

(f) For the purposes of division (I)(3)(e)(ii) of this 107974
section, a "qualifying transfer" is a transfer of assets, net of 107975
any related liabilities, directly or indirectly to a trust, if the 107976
transfer is described in any of the following: 107977

(i) The transfer is made to a trust, created by the decedent 107978
before the decedent's death and while the decedent was domiciled 107979
in this state for the purposes of this chapter, and, prior to the 107980
death of the decedent, the trust became irrevocable while the 107981
decedent was domiciled in this state for the purposes of this 107982
chapter. 107983

(ii) The transfer is made to a trust to which the decedent, 107984
prior to the decedent's death, had directly or indirectly 107985
transferred assets, net of any related liabilities, while the 107986
decedent was domiciled in this state for the purposes of this 107987

chapter, and prior to the death of the decedent the trust became 107988
irrevocable while the decedent was domiciled in this state for the 107989
purposes of this chapter. 107990

(iii) The transfer is made on account of a contractual 107991
relationship existing directly or indirectly between the 107992
transferor and either the decedent or the estate of the decedent 107993
at any time prior to the date of the decedent's death, and the 107994
decedent was domiciled in this state at the time of death for 107995
purposes of the taxes levied under Chapter 5731. of the Revised 107996
Code. 107997

(iv) The transfer is made to a trust on account of a 107998
contractual relationship existing directly or indirectly between 107999
the transferor and another person who at the time of the 108000
decedent's death was domiciled in this state for purposes of this 108001
chapter. 108002

(v) The transfer is made to a trust on account of the will of 108003
a testator who was domiciled in this state at the time of the 108004
testator's death for purposes of the taxes levied under Chapter 108005
5731. of the Revised Code. 108006

(vi) The transfer is made to a trust created by or caused to 108007
be created by a court, and the trust was directly or indirectly 108008
created in connection with or as a result of the death of an 108009
individual who, for purposes of the taxes levied under Chapter 108010
5731. of the Revised Code, was domiciled in this state at the time 108011
of the individual's death. 108012

(g) The tax commissioner may adopt rules to ascertain the 108013
part of a trust residing in this state. 108014

(J) "Nonresident" means an individual or estate that is not a 108015
resident. An individual who is a resident for only part of a 108016
taxable year is a nonresident for the remainder of that taxable 108017
year. 108018

(K) "Pass-through entity" has the same meaning as in section 108019
5733.04 of the Revised Code. 108020

(L) "Return" means the notifications and reports required to 108021
be filed pursuant to this chapter for the purpose of reporting the 108022
tax due and includes declarations of estimated tax when so 108023
required. 108024

(M) "Taxable year" means the calendar year or the taxpayer's 108025
fiscal year ending during the calendar year, or fractional part 108026
thereof, upon which the adjusted gross income is calculated 108027
pursuant to this chapter. 108028

(N) "Taxpayer" means any person subject to the tax imposed by 108029
section 5747.02 of the Revised Code or any pass-through entity 108030
that makes the election under division (D) of section 5747.08 of 108031
the Revised Code. 108032

(O) "Dependents" means dependents as defined in the Internal 108033
Revenue Code and as claimed in the taxpayer's federal income tax 108034
return for the taxable year or which the taxpayer would have been 108035
permitted to claim had the taxpayer filed a federal income tax 108036
return. 108037

(P) "Principal county of employment" means, in the case of a 108038
nonresident, the county within the state in which a taxpayer 108039
performs services for an employer or, if those services are 108040
performed in more than one county, the county in which the major 108041
portion of the services are performed. 108042

(Q) As used in sections 5747.50 to 5747.55 of the Revised 108043
Code: 108044

(1) "Subdivision" means any county, municipal corporation, 108045
park district, or township. 108046

(2) "Essential local government purposes" includes all 108047
functions that any subdivision is required by general law to 108048

exercise, including like functions that are exercised under a 108049
charter adopted pursuant to the Ohio Constitution. 108050

(R) "Overpayment" means any amount already paid that exceeds 108051
the figure determined to be the correct amount of the tax. 108052

(S) "Taxable income" or "Ohio taxable income" applies only to 108053
estates and trusts, and means federal taxable income, as defined 108054
and used in the Internal Revenue Code, adjusted as follows: 108055

(1) Add interest or dividends, net of ordinary, necessary, 108056
and reasonable expenses not deducted in computing federal taxable 108057
income, on obligations or securities of any state or of any 108058
political subdivision or authority of any state, other than this 108059
state and its subdivisions and authorities, but only to the extent 108060
that such net amount is not otherwise includible in Ohio taxable 108061
income and is described in either division (S)(1)(a) or (b) of 108062
this section: 108063

(a) The net amount is not attributable to the S portion of an 108064
electing small business trust and has not been distributed to 108065
beneficiaries for the taxable year; 108066

(b) The net amount is attributable to the S portion of an 108067
electing small business trust for the taxable year. 108068

(2) Add interest or dividends, net of ordinary, necessary, 108069
and reasonable expenses not deducted in computing federal taxable 108070
income, on obligations of any authority, commission, 108071
instrumentality, territory, or possession of the United States to 108072
the extent that the interest or dividends are exempt from federal 108073
income taxes but not from state income taxes, but only to the 108074
extent that such net amount is not otherwise includible in Ohio 108075
taxable income and is described in either division (S)(1)(a) or 108076
(b) of this section; 108077

(3) Add the amount of personal exemption allowed to the 108078
estate pursuant to section 642(b) of the Internal Revenue Code; 108079

(4) Deduct interest or dividends, net of related expenses 108080
deducted in computing federal taxable income, on obligations of 108081
the United States and its territories and possessions or of any 108082
authority, commission, or instrumentality of the United States to 108083
the extent that the interest or dividends are exempt from state 108084
taxes under the laws of the United States, but only to the extent 108085
that such amount is included in federal taxable income and is 108086
described in either division (S)(1)(a) or (b) of this section; 108087

(5) Deduct the amount of wages and salaries, if any, not 108088
otherwise allowable as a deduction but that would have been 108089
allowable as a deduction in computing federal taxable income for 108090
the taxable year, had the targeted jobs credit allowed under 108091
sections 38, 51, and 52 of the Internal Revenue Code not been in 108092
effect, but only to the extent such amount relates either to 108093
income included in federal taxable income for the taxable year or 108094
to income of the S portion of an electing small business trust for 108095
the taxable year; 108096

(6) Deduct any interest or interest equivalent, net of 108097
related expenses deducted in computing federal taxable income, on 108098
public obligations and purchase obligations, but only to the 108099
extent that such net amount relates either to income included in 108100
federal taxable income for the taxable year or to income of the S 108101
portion of an electing small business trust for the taxable year; 108102

(7) Add any loss or deduct any gain resulting from sale, 108103
exchange, or other disposition of public obligations to the extent 108104
that such loss has been deducted or such gain has been included in 108105
computing either federal taxable income or income of the S portion 108106
of an electing small business trust for the taxable year; 108107

(8) Except in the case of the final return of an estate, add 108108
any amount deducted by the taxpayer on both its Ohio estate tax 108109
return pursuant to section 5731.14 of the Revised Code, and on its 108110
federal income tax return in determining federal taxable income; 108111

(9)(a) Deduct any amount included in federal taxable income 108112
solely because the amount represents a reimbursement or refund of 108113
expenses that in a previous year the decedent had deducted as an 108114
itemized deduction pursuant to section 63 of the Internal Revenue 108115
Code and applicable treasury regulations. The deduction otherwise 108116
allowed under division (S)(9)(a) of this section shall be reduced 108117
to the extent the reimbursement is attributable to an amount the 108118
taxpayer or decedent deducted under this section in any taxable 108119
year. 108120

(b) Add any amount not otherwise included in Ohio taxable 108121
income for any taxable year to the extent that the amount is 108122
attributable to the recovery during the taxable year of any amount 108123
deducted or excluded in computing federal or Ohio taxable income 108124
in any taxable year, but only to the extent such amount has not 108125
been distributed to beneficiaries for the taxable year. 108126

(10) Deduct any portion of the deduction described in section 108127
1341(a)(2) of the Internal Revenue Code, for repaying previously 108128
reported income received under a claim of right, that meets both 108129
of the following requirements: 108130

(a) It is allowable for repayment of an item that was 108131
included in the taxpayer's taxable income or the decedent's 108132
adjusted gross income for a prior taxable year and did not qualify 108133
for a credit under division (A) or (B) of section 5747.05 of the 108134
Revised Code for that year. 108135

(b) It does not otherwise reduce the taxpayer's taxable 108136
income or the decedent's adjusted gross income for the current or 108137
any other taxable year. 108138

(11) Add any amount claimed as a credit under section 108139
5747.059 or 5747.65 of the Revised Code to the extent that the 108140
amount satisfies either of the following: 108141

(a) The amount was deducted or excluded from the computation 108142

of the taxpayer's federal taxable income as required to be 108143
reported for the taxpayer's taxable year under the Internal 108144
Revenue Code; 108145

(b) The amount resulted in a reduction in the taxpayer's 108146
federal taxable income as required to be reported for any of the 108147
taxpayer's taxable years under the Internal Revenue Code. 108148

(12) Deduct any amount, net of related expenses deducted in 108149
computing federal taxable income, that a trust is required to 108150
report as farm income on its federal income tax return, but only 108151
if the assets of the trust include at least ten acres of land 108152
satisfying the definition of "land devoted exclusively to 108153
agricultural use" under section 5713.30 of the Revised Code, 108154
regardless of whether the land is valued for tax purposes as such 108155
land under sections 5713.30 to 5713.38 of the Revised Code. If the 108156
trust is a pass-through entity investor, section 5747.231 of the 108157
Revised Code applies in ascertaining if the trust is eligible to 108158
claim the deduction provided by division (S)(12) of this section 108159
in connection with the pass-through entity's farm income. 108160

Except for farm income attributable to the S portion of an 108161
electing small business trust, the deduction provided by division 108162
(S)(12) of this section is allowed only to the extent that the 108163
trust has not distributed such farm income. Division (S)(12) of 108164
this section applies only to taxable years of a trust beginning in 108165
2002 or thereafter. 108166

(13) Add the net amount of income described in section 641(c) 108167
of the Internal Revenue Code to the extent that amount is not 108168
included in federal taxable income. 108169

(14) Add or deduct the amount the taxpayer would be required 108170
to add or deduct under division (A)(20) or (21) of this section if 108171
the taxpayer's Ohio taxable income were computed in the same 108172
manner as an individual's Ohio adjusted gross income is computed 108173

under this section. In the case of a trust, division (S)(14) of 108174
this section applies only to any of the trust's taxable years 108175
beginning in 2002 or thereafter. 108176

(T) "School district income" and "school district income tax" 108177
have the same meanings as in section 5748.01 of the Revised Code. 108178

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 108179
of this section, "public obligations," "purchase obligations," and 108180
"interest or interest equivalent" have the same meanings as in 108181
section 5709.76 of the Revised Code. 108182

(V) "Limited liability company" means any limited liability 108183
company formed under Chapter 1705. of the Revised Code or under 108184
the laws of any other state. 108185

(W) "Pass-through entity investor" means any person who, 108186
during any portion of a taxable year of a pass-through entity, is 108187
a partner, member, shareholder, or equity investor in that 108188
pass-through entity. 108189

(X) "Banking day" has the same meaning as in section 1304.01 108190
of the Revised Code. 108191

(Y) "Month" means a calendar month. 108192

(Z) "Quarter" means the first three months, the second three 108193
months, the third three months, or the last three months of the 108194
taxpayer's taxable year. 108195

(AA)(1) "Eligible institution" means a state university or 108196
state institution of higher education as defined in section 108197
3345.011 of the Revised Code, or a private, nonprofit college, 108198
university, or other post-secondary institution located in this 108199
state that possesses a certificate of authorization issued by the 108200
Ohio board of regents pursuant to Chapter 1713. of the Revised 108201
Code or a certificate of registration issued by the state board of 108202
career colleges and schools under Chapter 3332. of the Revised 108203

Code. 108204

(2) "Qualified tuition and fees" means tuition and fees 108205
imposed by an eligible institution as a condition of enrollment or 108206
attendance, not exceeding two thousand five hundred dollars in 108207
each of the individual's first two years of post-secondary 108208
education. If the individual is a part-time student, "qualified 108209
tuition and fees" includes tuition and fees paid for the academic 108210
equivalent of the first two years of post-secondary education 108211
during a maximum of five taxable years, not exceeding a total of 108212
five thousand dollars. "Qualified tuition and fees" does not 108213
include: 108214

(a) Expenses for any course or activity involving sports, 108215
games, or hobbies unless the course or activity is part of the 108216
individual's degree or diploma program; 108217

(b) The cost of books, room and board, student activity fees, 108218
athletic fees, insurance expenses, or other expenses unrelated to 108219
the individual's academic course of instruction; 108220

(c) Tuition, fees, or other expenses paid or reimbursed 108221
through an employer, scholarship, grant in aid, or other 108222
educational benefit program. 108223

(BB)(1) "Modified business income" means the business income 108224
included in a trust's Ohio taxable income after such taxable 108225
income is first reduced by the qualifying trust amount, if any. 108226

(2) "Qualifying trust amount" of a trust means capital gains 108227
and losses from the sale, exchange, or other disposition of equity 108228
or ownership interests in, or debt obligations of, a qualifying 108229
investee to the extent included in the trust's Ohio taxable 108230
income, but only if the following requirements are satisfied: 108231

(a) The book value of the qualifying investee's physical 108232
assets in this state and everywhere, as of the last day of the 108233
qualifying investee's fiscal or calendar year ending immediately 108234

prior to the date on which the trust recognizes the gain or loss, 108235
is available to the trust. 108236

(b) The requirements of section 5747.011 of the Revised Code 108237
are satisfied for the trust's taxable year in which the trust 108238
recognizes the gain or loss. 108239

Any gain or loss that is not a qualifying trust amount is 108240
modified business income, qualifying investment income, or 108241
modified nonbusiness income, as the case may be. 108242

(3) "Modified nonbusiness income" means a trust's Ohio 108243
taxable income other than modified business income, other than the 108244
qualifying trust amount, and other than qualifying investment 108245
income, as defined in section 5747.012 of the Revised Code, to the 108246
extent such qualifying investment income is not otherwise part of 108247
modified business income. 108248

(4) "Modified Ohio taxable income" applies only to trusts, 108249
and means the sum of the amounts described in divisions (BB)(4)(a) 108250
to (c) of this section: 108251

(a) The fraction, calculated under section 5747.013, and 108252
applying section 5747.231 of the Revised Code, multiplied by the 108253
sum of the following amounts: 108254

(i) The trust's modified business income; 108255

(ii) The trust's qualifying investment income, as defined in 108256
section 5747.012 of the Revised Code, but only to the extent the 108257
qualifying investment income does not otherwise constitute 108258
modified business income and does not otherwise constitute a 108259
qualifying trust amount. 108260

(b) The qualifying trust amount multiplied by a fraction, the 108261
numerator of which is the sum of the book value of the qualifying 108262
investee's physical assets in this state on the last day of the 108263
qualifying investee's fiscal or calendar year ending immediately 108264

prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly

represent the modified Ohio taxable income of the trust in this 108297
state, the alternative methods described in division (C) of 108298
section 5747.21 of the Revised Code may be applied in the manner 108299
and to the same extent provided in that section. 108300

(5)(a) Except as set forth in division (BB)(5)(b) of this 108301
section, "qualifying investee" means a person in which a trust has 108302
an equity or ownership interest, or a person or unit of government 108303
the debt obligations of either of which are owned by a trust. For 108304
the purposes of division (BB)(2)(a) of this section and for the 108305
purpose of computing the fraction described in division (BB)(4)(b) 108306
of this section, all of the following apply: 108307

(i) If the qualifying investee is a member of a qualifying 108308
controlled group on the last day of the qualifying investee's 108309
fiscal or calendar year ending immediately prior to the date on 108310
which the trust recognizes the gain or loss, then "qualifying 108311
investee" includes all persons in the qualifying controlled group 108312
on such last day. 108313

(ii) If the qualifying investee, or if the qualifying 108314
investee and any members of the qualifying controlled group of 108315
which the qualifying investee is a member on the last day of the 108316
qualifying investee's fiscal or calendar year ending immediately 108317
prior to the date on which the trust recognizes the gain or loss, 108318
separately or cumulatively own, directly or indirectly, on the 108319
last day of the qualifying investee's fiscal or calendar year 108320
ending immediately prior to the date on which the trust recognizes 108321
the qualifying trust amount, more than fifty per cent of the 108322
equity of a pass-through entity, then the qualifying investee and 108323
the other members are deemed to own the proportionate share of the 108324
pass-through entity's physical assets which the pass-through 108325
entity directly or indirectly owns on the last day of the 108326
pass-through entity's calendar or fiscal year ending within or 108327
with the last day of the qualifying investee's fiscal or calendar 108328

year ending immediately prior to the date on which the trust 108329
recognizes the qualifying trust amount. 108330

(iii) For the purposes of division (BB)(5)(a)(iii) of this 108331
section, "upper level pass-through entity" means a pass-through 108332
entity directly or indirectly owning any equity of another 108333
pass-through entity, and "lower level pass-through entity" means 108334
that other pass-through entity. 108335

An upper level pass-through entity, whether or not it is also 108336
a qualifying investee, is deemed to own, on the last day of the 108337
upper level pass-through entity's calendar or fiscal year, the 108338
proportionate share of the lower level pass-through entity's 108339
physical assets that the lower level pass-through entity directly 108340
or indirectly owns on the last day of the lower level pass-through 108341
entity's calendar or fiscal year ending within or with the last 108342
day of the upper level pass-through entity's fiscal or calendar 108343
year. If the upper level pass-through entity directly and 108344
indirectly owns less than fifty per cent of the equity of the 108345
lower level pass-through entity on each day of the upper level 108346
pass-through entity's calendar or fiscal year in which or with 108347
which ends the calendar or fiscal year of the lower level 108348
pass-through entity and if, based upon clear and convincing 108349
evidence, complete information about the location and cost of the 108350
physical assets of the lower pass-through entity is not available 108351
to the upper level pass-through entity, then solely for purposes 108352
of ascertaining if a gain or loss constitutes a qualifying trust 108353
amount, the upper level pass-through entity shall be deemed as 108354
owning no equity of the lower level pass-through entity for each 108355
day during the upper level pass-through entity's calendar or 108356
fiscal year in which or with which ends the lower level 108357
pass-through entity's calendar or fiscal year. Nothing in division 108358
(BB)(5)(a)(iii) of this section shall be construed to provide for 108359
any deduction or exclusion in computing any trust's Ohio taxable 108360

income. 108361

(b) With respect to a trust that is not a resident for the 108362
taxable year and with respect to a part of a trust that is not a 108363
resident for the taxable year, "qualifying investee" for that 108364
taxable year does not include a C corporation if both of the 108365
following apply: 108366

(i) During the taxable year the trust or part of the trust 108367
recognizes a gain or loss from the sale, exchange, or other 108368
disposition of equity or ownership interests in, or debt 108369
obligations of, the C corporation. 108370

(ii) Such gain or loss constitutes nonbusiness income. 108371

(6) "Available" means information is such that a person is 108372
able to learn of the information by the due date plus extensions, 108373
if any, for filing the return for the taxable year in which the 108374
trust recognizes the gain or loss. 108375

(CC) "Qualifying controlled group" has the same meaning as in 108376
section 5733.04 of the Revised Code. 108377

(DD) "Related member" has the same meaning as in section 108378
5733.042 of the Revised Code. 108379

(EE)(1) For the purposes of division (EE) of this section: 108380

(a) "Qualifying person" means any person other than a 108381
qualifying corporation. 108382

(b) "Qualifying corporation" means any person classified for 108383
federal income tax purposes as an association taxable as a 108384
corporation, except either of the following: 108385

(i) A corporation that has made an election under subchapter 108386
S, chapter one, subtitle A, of the Internal Revenue Code for its 108387
taxable year ending within, or on the last day of, the investor's 108388
taxable year; 108389

(ii) A subsidiary that is wholly owned by any corporation 108390

that has made an election under subchapter S, chapter one, 108391
subtitle A of the Internal Revenue Code for its taxable year 108392
ending within, or on the last day of, the investor's taxable year. 108393

(2) For the purposes of this chapter, unless expressly stated 108394
otherwise, no qualifying person indirectly owns any asset directly 108395
or indirectly owned by any qualifying corporation. 108396

(FF) For purposes of this chapter and Chapter 5751. of the 108397
Revised Code: 108398

(1) "Trust" does not include a qualified pre-income tax 108399
trust. 108400

(2) A "qualified pre-income tax trust" is any pre-income tax 108401
trust that makes a qualifying pre-income tax trust election as 108402
described in division (FF)(3) of this section. 108403

(3) A "qualifying pre-income tax trust election" is an 108404
election by a pre-income tax trust to subject to the tax imposed 108405
by section 5751.02 of the Revised Code the pre-income tax trust 108406
and all pass-through entities of which the trust owns or controls, 108407
directly, indirectly, or constructively through related interests, 108408
five per cent or more of the ownership or equity interests. The 108409
trustee shall notify the tax commissioner in writing of the 108410
election on or before April 15, 2006. The election, if timely 108411
made, shall be effective on and after January 1, 2006, and shall 108412
apply for all tax periods and tax years until revoked by the 108413
trustee of the trust. 108414

(4) A "pre-income tax trust" is a trust that satisfies all of 108415
the following requirements: 108416

(a) The document or instrument creating the trust was 108417
executed by the grantor before January 1, 1972; 108418

(b) The trust became irrevocable upon the creation of the 108419
trust; and 108420

(c) The grantor was domiciled in this state at the time the trust was created. 108421
108422

(GG) "Uniformed services" has the same meaning as in 10 U.S.C. 101. 108423
108424

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows: 108425
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(1) For taxable years beginning in 2004: 108445
OHIO ADJUSTED GROSS INCOME LESS 108446
EXEMPTIONS (INDIVIDUALS)
OR 108447
MODIFIED OHIO 108448
TAXABLE INCOME (TRUSTS) 108449
OR 108450

OHIO TAXABLE INCOME (ESTATES)	TAX	108451
\$5,000 or less	.743%	108452
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	108453
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	108454
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000	108455
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000	108456
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	108457
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	108458
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	108459
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	108460
(2) For taxable years beginning in 2005:		108461
OHIO ADJUSTED GROSS INCOME LESS		108462
EXEMPTIONS (INDIVIDUALS)		
OR		108463
MODIFIED OHIO		108464
TAXABLE INCOME (TRUSTS)		108465
OR		108466
OHIO TAXABLE INCOME (ESTATES)	TAX	108467
\$5,000 or less	.712%	108468
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000	108469
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000	108470
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000	108471

More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000	108472
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000	108473
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000	108474
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000	108475
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000	108476
(3) For taxable years beginning in 2006:		108477
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		108478
OR		108479
MODIFIED OHIO TAXABLE INCOME (TRUSTS)		108480
OR		108482
OHIO TAXABLE INCOME (ESTATES)	TAX	108483
\$5,000 or less	.681%	108484
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000	108485
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000	108486
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000	108487
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000	108488
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000	108489
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000	108490
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000	108491

More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000	108492
(4) For taxable years beginning in 2007:		108493
OHIO ADJUSTED GROSS INCOME LESS		108494
EXEMPTIONS (INDIVIDUALS)		
OR		108495
MODIFIED OHIO		108496
TAXABLE INCOME (TRUSTS)		108497
OR		108498
OHIO TAXABLE INCOME (ESTATES)	TAX	108499
\$5,000 or less	.649%	108500
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	108501
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000	108502
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	108503
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	108504
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	108505
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000	108506
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	108507
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	108508
(5) For taxable years beginning in 2008, 2009, or 2010:		108509
OHIO ADJUSTED GROSS INCOME LESS		108510
EXEMPTIONS (INDIVIDUALS)		
OR		108511
MODIFIED OHIO		108512

TAXABLE INCOME (TRUSTS)		108513
OR		108514
OHIO TAXABLE INCOME (ESTATES)	TAX	108515
\$5,000 or less	.618%	108516
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	108517
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	108518
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	108519
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	108520
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	108521
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	108522
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	108523
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	108524
(6) For taxable years beginning in 2011 or thereafter <u>2012</u> :		108525
OHIO ADJUSTED GROSS INCOME LESS		108526
EXEMPTIONS (INDIVIDUALS)		
OR		108527
MODIFIED OHIO		108528
TAXABLE INCOME (TRUSTS)		108529
OR		108530
OHIO TAXABLE INCOME (ESTATES)	TAX	108531
\$5,000 or less	.587%	108532
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	108533
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	108534

More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	108535
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	108536
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	108537
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000	108538
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	108539
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	108540
<u>(7) For taxable years beginning in 2013 or thereafter:</u>		108541
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		108542
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		108543
<u>MODIFIED OHIO</u>		108544
<u>TAXABLE INCOME (TRUSTS)</u>		108545
<u>OR</u>		108546
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	108547
<u>\$5,000 or less</u>	<u>.546%</u>	108548
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$27.30 plus 1.092% of the amount in excess of \$5,000</u>	108549
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$81.89 plus 2.184% of the amount in excess of \$10,000</u>	108550
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$191.07 plus 2.730% of the amount in excess of \$15,000</u>	108551
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$327.55 plus 3.275% of the amount in excess of \$20,000</u>	108552
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$982.45 plus 3.821% of the amount in excess of \$40,000</u>	108553
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,511.00 plus 4.366% of the amount in excess of \$80,000</u>	108554

More than \$100,000 but not more than \$200,000 \$3,384.27 plus 5.069% of the amount in excess of \$100,000 108555
More than \$200,000 \$8,453.70 plus 5.510% of the amount in excess of \$200,000 108556

In ~~July~~ August of each year, ~~beginning in 2010~~, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted. 108557
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The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year. 108570
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(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made. 108575
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(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district 108582
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created under section 715.70 or 715.71 or sections 715.72 to 108585
715.81 of the Revised Code from levying a tax on income. 108586

(D) This division applies only to taxable years of a trust 108587
beginning in 2002 or thereafter. 108588

(1) The tax imposed by this section on a trust shall be 108589
computed by multiplying the Ohio modified taxable income of the 108590
trust by the rates prescribed by division (A) of this section. 108591

(2) A resident trust may claim a credit against the tax 108592
computed under division (D) of this section equal to the lesser of 108593
(1) the tax paid to another state or the District of Columbia on 108594
the resident trust's modified nonbusiness income, other than the 108595
portion of the resident trust's nonbusiness income that is 108596
qualifying investment income as defined in section 5747.012 of the 108597
Revised Code, or (2) the effective tax rate, based on modified 108598
Ohio taxable income, multiplied by the resident trust's modified 108599
nonbusiness income other than the portion of the resident trust's 108600
nonbusiness income that is qualifying investment income. The 108601
credit applies before any other applicable credits. 108602

(3) The credits enumerated in divisions (A)(1) to (13) of 108603
section 5747.98 of the Revised Code do not apply to a trust 108604
subject to division (D) of this section. Any credits enumerated in 108605
other divisions of section 5747.98 of the Revised Code apply to a 108606
trust subject to division (D) of this section. To the extent that 108607
the trust distributes income for the taxable year for which a 108608
credit is available to the trust, the credit shall be shared by 108609
the trust and its beneficiaries. The tax commissioner and the 108610
trust shall be guided by applicable regulations of the United 108611
States treasury regarding the sharing of credits. 108612

(E) For the purposes of this section, "trust" means any trust 108613
described in Subchapter J of Chapter 1 of the Internal Revenue 108614
Code, excluding trusts that are not irrevocable as defined in 108615

division (I)(3)(b) of section 5747.01 of the Revised Code and that 108616
have no modified Ohio taxable income for the taxable year, 108617
charitable remainder trusts, qualified funeral trusts and preneed 108618
funeral contract trusts established pursuant to sections 4717.31 108619
to 4717.38 of the Revised Code that are not qualified funeral 108620
trusts, endowment and perpetual care trusts, qualified settlement 108621
trusts and funds, designated settlement trusts and funds, and 108622
trusts exempted from taxation under section 501(a) of the Internal 108623
Revenue Code. 108624

Sec. 5747.022. An individual subject to the tax imposed by 108625
section 5747.02 of the Revised Code may claim a credit equal to 108626
twenty dollars times the number of exemptions allowed for the 108627
taxpayer, ~~his~~ the taxpayer's spouse, and each dependent under 108628
section 5747.02 of the Revised Code. The credit shall be claimed 108629
in the order required under section 5747.98 of the Revised Code. 108630
The credit shall not be considered in determining the taxes 108631
required to be withheld under section 5747.06 of the Revised Code 108632
or the estimated taxes required to be paid under section 5747.09 108633
of the Revised Code. In the case of an individual with respect to 108634
whom an exemption under section 5747.02 of the Revised Code is 108635
allowable to another taxpayer for a taxable year beginning in the 108636
calendar year in which the individual's taxable year begins, the 108637
"number of exemptions allowed" for purposes of calculating the 108638
credit allowed under this section to such individual for the 108639
individual's taxable year shall not include an exemption for the 108640
individual. 108641

Sec. 5747.025. (A) The Except as otherwise provided in this 108642
division, the personal exemption for the taxpayer and the 108643
taxpayer's spouse shall be seven hundred fifty dollars each for 108644
the taxable year beginning in 1996, eight hundred fifty dollars 108645
each for the taxable year beginning in 1997, nine hundred fifty 108646

dollars each for the taxable year beginning in 1998, and one 108647
thousand fifty dollars each for the taxable year beginning in 1999 108648
and taxable years beginning after 1999. The personal exemption 108649
amount prescribed in this division for taxable years beginning 108650
after 1999 shall be adjusted each year in the manner prescribed in 108651
division (C) of this section. In the case of an individual with 108652
respect to whom an exemption under section 5747.02 of the Revised 108653
Code is allowable to another taxpayer for a taxable year beginning 108654
in the calendar year in which the individual's taxable year 108655
begins, the exemption amount applicable to such individual for 108656
such individual's taxable year shall be zero. 108657

(B) The personal exemption for each dependent shall be eight 108658
hundred fifty dollars for the taxable year beginning in 1996, and 108659
one thousand fifty dollars for the taxable year beginning in 1997 108660
and taxable years beginning after 1997. The personal exemption 108661
amount prescribed in this division for taxable years beginning 108662
after 1999 shall be adjusted each year in the manner prescribed in 108663
division (C) of this section. 108664

(C) In ~~September~~ August of each year, ~~beginning in 2000~~, the 108665
tax commissioner shall determine the percentage increase in the 108666
gross domestic product deflator determined by the bureau of 108667
economic analysis of the United States department of commerce from 108668
the first day of January of the preceding calendar year to the 108669
last day of December of the preceding year, and adjust the 108670
personal exemption amount for taxable years beginning in the 108671
current calendar year by multiplying that amount by the percentage 108672
increase in the gross domestic product deflator for that period; 108673
adding the resulting product to the personal exemption amount for 108674
taxable years beginning in the preceding calendar year; and 108675
rounding the resulting sum upward to the nearest multiple of fifty 108676
dollars. The commissioner shall not make such an adjustment in any 108677
calendar year in which the amount resulting from the adjustment 108678

would be less than the amount resulting from the adjustment in the 108679
preceding calendar year. 108680

Sec. 5747.08. An annual return with respect to the tax 108681
imposed by section 5747.02 of the Revised Code and each tax 108682
imposed under Chapter 5748. of the Revised Code shall be made by 108683
every taxpayer for any taxable year for which the taxpayer is 108684
liable for the tax imposed by that section or under that chapter, 108685
unless the total credits allowed under divisions (E), (F), and (G) 108686
of section 5747.05 of the Revised Code for the year are equal to 108687
or exceed the tax imposed by section 5747.02 of the Revised Code, 108688
in which case no return shall be required unless the taxpayer is 108689
liable for a tax imposed pursuant to Chapter 5748. of the Revised 108690
Code. 108691

(A) If an individual is deceased, any return or notice 108692
required of that individual under this chapter shall be made and 108693
filed by that decedent's executor, administrator, or other person 108694
charged with the property of that decedent. 108695

(B) If an individual is unable to make a return or notice 108696
required by this chapter, the return or notice required of that 108697
individual shall be made and filed by the individual's duly 108698
authorized agent, guardian, conservator, fiduciary, or other 108699
person charged with the care of the person or property of that 108700
individual. 108701

(C) Returns or notices required of an estate or a trust shall 108702
be made and filed by the fiduciary of the estate or trust. 108703

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 108704
of this section, any pass-through entity may file a single return 108705
on behalf of one or more of the entity's investors other than an 108706
investor that is a person subject to the tax imposed under section 108707
5733.06 of the Revised Code. The single return shall set forth the 108708
name, address, and social security number or other identifying 108709

number of each of those pass-through entity investors and shall 108710
indicate the distributive share of each of those pass-through 108711
entity investor's income taxable in this state in accordance with 108712
sections 5747.20 to 5747.231 of the Revised Code. Such 108713
pass-through entity investors for whom the pass-through entity 108714
elects to file a single return are not entitled to the exemption 108715
or credit provided for by sections 5747.02 and 5747.022 of the 108716
Revised Code; shall calculate the tax before business credits at 108717
the highest rate of tax set forth in section 5747.02 of the 108718
Revised Code for the taxable year for which the return is filed; 108719
and are entitled to only their distributive share of the business 108720
credits as defined in division (D)(2) of this section. A single 108721
check drawn by the pass-through entity shall accompany the return 108722
in full payment of the tax due, as shown on the single return, for 108723
such investors, other than investors who are persons subject to 108724
the tax imposed under section 5733.06 of the Revised Code. 108725

(b)(i) A pass-through entity shall not include in such a 108726
single return any investor that is a trust to the extent that any 108727
direct or indirect current, future, or contingent beneficiary of 108728
the trust is a person subject to the tax imposed under section 108729
5733.06 of the Revised Code. 108730

(ii) A pass-through entity shall not include in such a single 108731
return any investor that is itself a pass-through entity to the 108732
extent that any direct or indirect investor in the second 108733
pass-through entity is a person subject to the tax imposed under 108734
section 5733.06 of the Revised Code. 108735

(c) Nothing in division (D) of this section precludes the tax 108736
commissioner from requiring such investors to file the return and 108737
make the payment of taxes and related interest, penalty, and 108738
interest penalty required by this section or section 5747.02, 108739
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 108740
of this section precludes such an investor from filing the annual 108741

return under this section, utilizing the refundable credit equal 108742
to the investor's proportionate share of the tax paid by the 108743
pass-through entity on behalf of the investor under division (J) 108744
of this section, and making the payment of taxes imposed under 108745
section 5747.02 of the Revised Code. Nothing in division (D) of 108746
this section shall be construed to provide to such an investor or 108747
pass-through entity any additional deduction or credit, other than 108748
the credit provided by division (J) of this section, solely on 108749
account of the entity's filing a return in accordance with this 108750
section. Such a pass-through entity also shall make the filing and 108751
payment of estimated taxes on behalf of the pass-through entity 108752
investors other than an investor that is a person subject to the 108753
tax imposed under section 5733.06 of the Revised Code. 108754

(2) For the purposes of this section, "business credits" 108755
means the credits listed in section 5747.98 of the Revised Code 108756
excluding the following credits: 108757

(a) The retirement credit under division (B) of section 108758
5747.055 of the Revised Code; 108759

(b) The senior citizen credit under division (C) of section 108760
5747.05 of the Revised Code; 108761

(c) The lump sum distribution credit under division (D) of 108762
section 5747.05 of the Revised Code; 108763

(d) The dependent care credit under section 5747.054 of the 108764
Revised Code; 108765

(e) The lump sum retirement income credit under division (C) 108766
of section 5747.055 of the Revised Code; 108767

(f) The lump sum retirement income credit under division (D) 108768
of section 5747.055 of the Revised Code; 108769

(g) The lump sum retirement income credit under division (E) 108770
of section 5747.055 of the Revised Code; 108771

(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code; 108772
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(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code; 108774
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(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code; 108776
108777

(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code; 108778
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(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code; 108780
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(m) The low-income credit under section 5747.056 of the Revised Code. 108782
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(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return. 108784
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(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through entity's making the election provided for under division (D) of this section. For the purposes of 108792
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division (D) of this section, "correct tax due" means the tax that 108803
would have been paid by the pass-through entity had the single 108804
return been filed in a manner reflecting the commissioner's 108805
findings. Nothing in division (D) of this section shall be 108806
construed to make or hold a pass-through entity liable for tax 108807
attributable to a pass-through entity investor's income from a 108808
source other than the pass-through entity electing to file the 108809
single return. 108810

(E) If a husband and wife file a joint federal income tax 108811
return for a taxable year, they shall file a joint return under 108812
this section for that taxable year, and their liabilities are 108813
joint and several, but, if the federal income tax liability of 108814
either spouse is determined on a separate federal income tax 108815
return, they shall file separate returns under this section. 108816

If either spouse is not required to file a federal income tax 108817
return and either or both are required to file a return pursuant 108818
to this chapter, they may elect to file separate or joint returns, 108819
and, pursuant to that election, their liabilities are separate or 108820
joint and several. If a husband and wife file separate returns 108821
pursuant to this chapter, each must claim the taxpayer's own 108822
exemption, but not both, as authorized under section 5747.02 of 108823
the Revised Code on the taxpayer's own return. 108824

(F) Each return or notice required to be filed under this 108825
section shall contain the signature of the taxpayer or the 108826
taxpayer's duly authorized agent and of the person who prepared 108827
the return for the taxpayer, and shall include the taxpayer's 108828
social security number. Each return shall be verified by a 108829
declaration under the penalties of perjury. The tax commissioner 108830
shall prescribe the form that the signature and declaration shall 108831
take. 108832

(G) Each return or notice required to be filed under this 108833
section shall be made and filed as required by section 5747.04 of 108834

the Revised Code, on or before the fifteenth day of April of each 108835
year, on forms that the tax commissioner shall prescribe, together 108836
with remittance made payable to the treasurer of state in the 108837
combined amount of the state and all school district income taxes 108838
shown to be due on the form, ~~unless the combined amount shown to~~ 108839
~~be due is one dollar or less, in which case that amount need not~~ 108840
~~be remitted.~~ 108841

Upon good cause shown, the commissioner may extend the period 108842
for filing any notice or return required to be filed under this 108843
section and may adopt rules relating to extensions. If the 108844
extension results in an extension of time for the payment of any 108845
state or school district income tax liability with respect to 108846
which the return is filed, the taxpayer shall pay at the time the 108847
tax liability is paid an amount of interest computed at the rate 108848
per annum prescribed by section 5703.47 of the Revised Code on 108849
that liability from the time that payment is due without extension 108850
to the time of actual payment. Except as provided in section 108851
5747.132 of the Revised Code, in addition to all other interest 108852
charges and penalties, all taxes imposed under this chapter or 108853
Chapter 5748. of the Revised Code and remaining unpaid after they 108854
become due, except combined amounts due of one dollar or less, 108855
bear interest at the rate per annum prescribed by section 5703.47 108856
of the Revised Code until paid or until the day an assessment is 108857
issued under section 5747.13 of the Revised Code, whichever occurs 108858
first. 108859

If the commissioner considers it necessary in order to ensure 108860
the payment of the tax imposed by section 5747.02 of the Revised 108861
Code or any tax imposed under Chapter 5748. of the Revised Code, 108862
the commissioner may require returns and payments to be made 108863
otherwise than as provided in this section. 108864

To the extent that any provision in this division conflicts 108865
with any provision in section 5747.026 of the Revised Code, the 108866

provision in that section prevails. 108867

(H) If any report, claim, statement, or other document 108868
required to be filed, or any payment required to be made, within a 108869
prescribed period or on or before a prescribed date under this 108870
chapter is delivered after that period or that date by United 108871
States mail to the agency, officer, or office with which the 108872
report, claim, statement, or other document is required to be 108873
filed, or to which the payment is required to be made, the date of 108874
the postmark stamped on the cover in which the report, claim, 108875
statement, or other document, or payment is mailed shall be deemed 108876
to be the date of delivery or the date of payment. 108877

If a payment is required to be made by electronic funds 108878
transfer pursuant to section 5747.072 of the Revised Code, the 108879
payment is considered to be made when the payment is received by 108880
the treasurer of state or credited to an account designated by the 108881
treasurer of state for the receipt of tax payments. 108882

"The date of the postmark" means, in the event there is more 108883
than one date on the cover, the earliest date imprinted on the 108884
cover by the United States postal service. 108885

(I) The amounts withheld by an employer pursuant to section 108886
5747.06 of the Revised Code, a casino operator pursuant to section 108887
5747.063 of the Revised Code, or a lottery sales agent pursuant to 108888
section 5747.064 of the Revised Code shall be allowed to the 108889
recipient of the compensation casino winnings, or lottery prize 108890
award as credits against payment of the appropriate taxes imposed 108891
on the recipient by section 5747.02 and under Chapter 5748. of the 108892
Revised Code. 108893

(J) ~~If, in accordance with division (D) of this section,~~ a 108894
pass-through entity elects to file a single return under division 108895
(D) of this section and if any investor is required to file the 108896
annual return and make the payment of taxes required by this 108897

chapter on account of the investor's other income that is not 108898
included in a single return filed by a pass-through entity or any 108899
other investor elects to file the annual return, the investor is 108900
entitled to a refundable credit equal to the investor's 108901
proportionate share of the tax paid by the pass-through entity on 108902
behalf of the investor. The investor shall claim the credit for 108903
the investor's taxable year in which or with which ends the 108904
taxable year of the pass-through entity. Nothing in this chapter 108905
shall be construed to allow any credit provided in this chapter to 108906
be claimed more than once. For the ~~purposes~~ purpose of computing 108907
any interest, penalty, or interest penalty, the investor shall be 108908
deemed to have paid the refundable credit provided by this 108909
division on the day that the pass-through entity paid the 108910
estimated tax or the tax giving rise to the credit. 108911

(K) The tax commissioner shall ensure that each return 108912
required to be filed under this section includes a box that the 108913
taxpayer may check to authorize a paid tax preparer who prepared 108914
the return to communicate with the department of taxation about 108915
matters pertaining to the return. The return or instructions 108916
accompanying the return shall indicate that by checking the box 108917
the taxpayer authorizes the department of taxation to contact the 108918
preparer concerning questions that arise during the processing of 108919
the return and authorizes the preparer only to provide the 108920
department with information that is missing from the return, to 108921
contact the department for information about the processing of the 108922
return or the status of the taxpayer's refund or payments, and to 108923
respond to notices about mathematical errors, offsets, or return 108924
preparation that the taxpayer has received from the department and 108925
has shown to the preparer. 108926

(L) The tax commissioner shall permit individual taxpayers to 108927
instruct the department of taxation to cause any refund of 108928
overpaid taxes to be deposited directly into a checking account, 108929

savings account, or an individual retirement account or individual 108930
retirement annuity, or preexisting college savings plan or program 108931
account offered by the Ohio tuition trust authority under Chapter 108932
3334. of the Revised Code, as designated by the taxpayer, when the 108933
taxpayer files the annual return required by this section 108934
electronically. 108935

(M) The tax commissioner may adopt rules to administer this 108936
section. 108937

Sec. 5747.10. If any of the facts, figures, computations, or 108938
attachments required in a taxpayer's annual return to determine 108939
the tax charged by this chapter or Chapter 5748. of the Revised 108940
Code must be altered as the result of an adjustment to the 108941
taxpayer's federal income tax return, whether initiated by the 108942
taxpayer or the internal revenue service, and such alteration 108943
affects the taxpayer's tax liability under this chapter or Chapter 108944
5748. of the Revised Code, the taxpayer shall file an amended 108945
return with the tax commissioner in such form as the commissioner 108946
requires. The amended return shall be filed not later than sixty 108947
days after the adjustment has been agreed to or finally determined 108948
for federal income tax purposes or any federal income tax 108949
deficiency or refund, or the abatement or credit resulting 108950
therefrom, has been assessed or paid, whichever occurs first. 108951

(A) In the case of an underpayment, the amended return shall 108952
be accompanied by payment of any combined additional tax due 108953
together with interest thereon. ~~If the combined tax shown to be 108954
due is one dollar or less, such amount need not accompany the 108955
amended return.~~ An amended return required by this section is a 108956
return subject to assessment under section 5747.13 of the Revised 108957
Code for the purpose of assessing any additional tax due under 108958
this section, together with any applicable penalty and interest. 108959
It shall not reopen those facts, figures, computations, or 108960

attachments from a previously filed return no longer subject to 108961
assessment that are not affected, either directly or indirectly, 108962
by the adjustment to the taxpayer's federal income tax return. 108963

(B) In the case of an overpayment, an application for refund 108964
may be filed under this division within the sixty-day period 108965
prescribed for filing the amended return even if it is filed 108966
beyond the period prescribed in section 5747.11 of the Revised 108967
Code if it otherwise conforms to the requirements of such section. 108968
An application filed under this division shall claim refund of 108969
overpayments resulting from alterations to only those facts, 108970
figures, computations, or attachments required in the taxpayer's 108971
annual return that are affected, either directly or indirectly, by 108972
the adjustment to the taxpayer's federal income tax return unless 108973
it is also filed within the time prescribed in section 5747.11 of 108974
the Revised Code. It shall not reopen those facts, figures, 108975
computations, or attachments that are not affected, either 108976
directly or indirectly, by the adjustment to the taxpayer's 108977
federal income tax return. 108978

Sec. 5747.11. (A) The tax commissioner shall refund to 108979
employers, qualifying entities, or taxpayers, ~~with respect to any~~ 108980
subject to a tax imposed under section 5733.41, 5747.02, or 108981
5747.41, or Chapter 5748. of the Revised Code. 108982

~~(1) Overpayments of more than one dollar;~~ 108983

~~(2) Amounts in excess of one dollar paid illegally or~~ 108984
~~erroneously;~~ 108985

~~(3) Amounts in excess of one dollar paid on an illegal,~~ 108986
~~erroneous, or excessive assessment~~ the amount of any overpayment 108987
of such tax. 108988

(B) Except as otherwise provided under divisions (D) and (E) 108989
of this section, applications for refund shall be filed with the 108990

tax commissioner, on the form prescribed by the commissioner, 108991
within four years from the date of the illegal, erroneous, or 108992
excessive payment of the tax, or within any additional period 108993
allowed by division (B)(3)(b) of section 5747.05, division (B) of 108994
section 5747.10, division (A) of section 5747.13, or division (C) 108995
of section 5747.45 of the Revised Code. 108996

On filing of the refund application, the commissioner shall 108997
determine the amount of refund due and, if that amount exceeds one 108998
dollar, certify such amount to the director of budget and 108999
management and treasurer of state for payment from the tax refund 109000
fund created by section 5703.052 of the Revised Code. Payment 109001
shall be made as provided in division (C) of section 126.35 of the 109002
Revised Code. 109003

~~(C)(1) Interest shall be allowed and paid upon any illegal or 109004
erroneous assessment in excess of one dollar in respect of the tax 109005
imposed under section 5747.02 or Chapter 5748. of the Revised Code 109006
at the rate per annum prescribed by section 5703.47 of the Revised 109007
Code from the date of the payment of the illegal or erroneous 109008
assessment until the date the refund of such amount is paid. If 109009
such refund results from the filing of a return or report, or the 109010
payment accompanying such return or report, by an employer or 109011
taxpayer, rather than from an assessment by the commissioner, such 109012
interest shall run from a period ninety days after the final 109013
filing date of the annual return until the date the refund is 109014
paid.~~ 109015

~~(2) Interest shall be allowed and paid at the rate per annum 109016
prescribed by section 5703.47 of the Revised Code upon any 109017
overpayment in excess of one dollar in respect of on amounts 109018
refunded with respect to the tax imposed under section 5747.02 or 109019
Chapter 5748. of the Revised Code from the date of the overpayment 109020
until the date of the refund of the overpayment, except that if 109021
any overpayment is refunded within ninety days after the final 109022~~

filing date of the annual return or ninety days after the return 109023
is filed, whichever is later, no interest shall be allowed on such 109024
overpayment. If the overpayment results from the carryback of a 109025
net operating loss or net capital loss to a previous taxable year, 109026
the overpayment is deemed not to have been made prior to the 109027
filing date, including any extension thereof, for the taxable year 109028
in which the net operating loss or net capital loss arises. For 109029
purposes of the payment of interest on overpayments, no amount of 109030
tax, for any taxable year, shall be treated as having been paid 109031
before the date on which the tax return for that year was due 109032
without regard to any extension of time for filing such return. 109033

~~(3)~~(2) Interest shall be allowed at the rate per annum 109034
prescribed by section 5703.47 of the Revised Code on amounts 109035
refunded with respect to the taxes imposed under sections 5733.41 109036
and 5747.41 of the Revised Code. The interest shall run from 109037
whichever of the following days is the latest until the day the 109038
refund is paid: the day the illegal, erroneous, or excessive 109039
payment was made; the ninetieth day after the final day the annual 109040
report was required to be filed under section 5747.42 of the 109041
Revised Code; or the ninetieth day after the day that report was 109042
filed. 109043

(D) "Ninety days" shall be substituted for "four years" in 109044
division (B) of this section if the taxpayer satisfies both of the 109045
following conditions: 109046

(1) The taxpayer has applied for a refund based in whole or 109047
in part upon section 5747.059 of the Revised Code; 109048

(2) The taxpayer asserts that either the imposition or 109049
collection of the tax imposed or charged by this chapter or any 109050
portion of such tax violates the Constitution of the United States 109051
or the Constitution of Ohio. 109052

(E)(1) Division (E)(2) of this section applies only if all of 109053

the following conditions are satisfied: 109054

(a) A qualifying entity pays an amount of the tax imposed by 109055
section 5733.41 or 5747.41 of the Revised Code; 109056

(b) The taxpayer is a qualifying investor as to that 109057
qualifying entity; 109058

(c) The taxpayer did not claim the credit provided for in 109059
section 5747.059 of the Revised Code as to the tax described in 109060
division (E)(1)(a) of this section; 109061

(d) The four-year period described in division (B) of this 109062
section has ended as to the taxable year for which the taxpayer 109063
otherwise would have claimed that credit. 109064

(2) A taxpayer shall file an application for refund pursuant 109065
to division (E) of this section within one year after the date the 109066
payment described in division (E)(1)(a) of this section is made. 109067
An application filed under division (E)(2) of this section shall 109068
claim refund only of overpayments resulting from the taxpayer's 109069
failure to claim the credit described in division (E)(1)(c) of 109070
this section. Nothing in division (E) of this section shall be 109071
construed to relieve a taxpayer from complying with division 109072
(A)(16) of section 5747.01 of the Revised Code. 109073

Sec. 5747.113. (A) Any taxpayer claiming a refund under 109074
section 5747.11 of the Revised Code who wishes to contribute any 109075
part of the taxpayer's refund to the natural areas and preserves 109076
fund created in section 1517.11 of the Revised Code, the nongame 109077
and endangered wildlife fund created in section 1531.26 of the 109078
Revised Code, the military injury relief fund created in section 109079
5101.98 of the Revised Code, the Ohio historical society income 109080
tax contribution fund created in section 149.308 of the Revised 109081
Code, or all of those funds may designate on the taxpayer's income 109082
tax return the amount that the taxpayer wishes to contribute to 109083

the fund or funds. A designated contribution is irrevocable upon 109084
the filing of the return and shall be made in the full amount 109085
designated if the refund found due the taxpayer upon the initial 109086
processing of the taxpayer's return, after any deductions 109087
including those required by section 5747.12 of the Revised Code, 109088
is greater than or equal to the designated contribution. If the 109089
refund due as initially determined is less than the designated 109090
contribution, the contribution shall be made in the full amount of 109091
the refund. The tax commissioner shall subtract the amount of the 109092
contribution from the amount of the refund initially found due the 109093
taxpayer and shall certify the difference to the director of 109094
budget and management and treasurer of state for payment to the 109095
taxpayer in accordance with section 5747.11 of the Revised Code. 109096
For the purpose of any subsequent determination of the taxpayer's 109097
net tax payment, the contribution shall be considered a part of 109098
the refund paid to the taxpayer. 109099

(B) The tax commissioner shall provide a space on the income 109100
tax return form in which a taxpayer may indicate that the taxpayer 109101
wishes to make a donation in accordance with this section. The tax 109102
commissioner shall also print in the instructions accompanying the 109103
income tax return form a description of the purposes for which the 109104
natural areas and preserves fund, the nongame and endangered 109105
wildlife fund, the military injury relief fund, and the Ohio 109106
historical society income tax contribution fund were created and 109107
the use of moneys from the income tax refund contribution system 109108
established in this section. No person shall designate on the 109109
person's income tax return any part of a refund claimed under 109110
section 5747.11 of the Revised Code as a contribution to any fund 109111
other than the natural areas and preserves fund, the nongame and 109112
endangered wildlife fund, the military injury relief fund, or the 109113
Ohio historical society income tax contribution fund. 109114

(C) The money collected under the income tax refund 109115

contribution system established in this section shall be deposited 109116
by the tax commissioner into the natural areas and preserves fund, 109117
the nongame and endangered wildlife fund, the military injury 109118
relief fund, and the Ohio historical society income tax 109119
contribution fund in the amounts designated on the tax returns. 109120

(D) No later than the thirtieth day of September each year, 109121
the tax commissioner shall determine the total amount contributed 109122
to each fund under this section during the preceding eight months, 109123
any adjustments to prior months, and the cost to the department of 109124
taxation of administering the income tax refund contribution 109125
system during that eight-month period. The commissioner shall make 109126
an additional determination no later than the thirty-first day of 109127
January of each year of the total amount contributed to each fund 109128
under this section during the preceding four calendar months, any 109129
adjustments to prior years made during that four-month period, and 109130
the cost to the department of taxation of administering the income 109131
tax contribution system during that period. The cost of 109132
administering the income tax contribution system shall be 109133
certified by the tax commissioner to the director of budget and 109134
management, who shall transfer an amount equal to one-fourth of 109135
such administrative costs from the natural areas and preserves 109136
fund, one-fourth of such costs from the nongame and endangered 109137
wildlife fund, one-fourth of such costs from the military injury 109138
relief fund, and one-fourth of such costs from the Ohio historical 109139
society income tax contribution fund to the ~~litter control and~~ 109140
~~natural resource income tax administration~~ contribution fund, 109141
which is hereby created, provided that the moneys that the 109142
department receives to pay the cost of administering the income 109143
tax refund contribution system in any year shall not exceed two 109144
and one-half per cent of the total amount contributed under that 109145
system during that year. 109146

(E)(1) The director of natural resources, in January of every 109147

odd-numbered year, shall report to the general assembly on the 109148
effectiveness of the income tax refund contribution system as it 109149
pertains to the natural areas and preserves fund and the nongame 109150
and endangered wildlife fund. The report shall include the amount 109151
of money contributed to each fund in each of the previous five 109152
years, the amount of money contributed directly to each fund in 109153
addition to or independently of the income tax refund contribution 109154
system in each of the previous five years, and the purposes for 109155
which the money was expended. 109156

(2) The director of job and family services and the director 109157
of the Ohio historical society, in January of every odd-numbered 109158
year, each shall report to the general assembly on the 109159
effectiveness of the income tax refund contribution system as it 109160
pertains to the military injury relief fund and the Ohio 109161
historical society income tax contribution fund, respectively. The 109162
report shall include the amount of money contributed to the fund 109163
in each of the previous five years, the amount of money 109164
contributed directly to the fund in addition to or independently 109165
of the income tax refund contribution system in each of the 109166
previous five years, and the purposes for which the money was 109167
expended. 109168

Sec. 5747.122. (A) The tax commissioner, in accordance with 109169
section 5101.184 of the Revised Code, shall cooperate with the 109170
director of job and family services to collect overpayments of 109171
assistance under Chapter 5107., ~~5111.7~~ or 5115., former Chapter 109172
5113., or section 5101.54 of the Revised Code from refunds of 109173
state income taxes for taxable year 1992 and thereafter that are 109174
payable to the recipients of such overpayments. 109175

(B) At the request of the department of job and family 109176
services in connection with the collection of an overpayment of 109177
assistance from a refund of state income taxes pursuant to this 109178

section and section 5101.184 of the Revised Code, the tax 109179
commissioner shall release to the department the home address and 109180
social security number of any recipient of assistance whose 109181
overpayment may be collected from a refund of state income taxes 109182
under those sections. 109183

(C) In the case of a joint income tax return for two people 109184
who were not married to each other at the time one of them 109185
received an overpayment of assistance, only the portion of a 109186
refund that is due to the recipient of the overpayment shall be 109187
available for collection of the overpayment under this section and 109188
section 5101.184 of the Revised Code. The tax commissioner shall 109189
determine such portion. A recipient's spouse who objects to the 109190
portion as determined by the commissioner may file a complaint 109191
with the commissioner within twenty-one days after receiving 109192
notice of the collection, and the commissioner shall afford the 109193
spouse an opportunity to be heard on the complaint. The 109194
commissioner shall waive or extend the twenty-one-day period if 109195
the recipient's spouse establishes that such action is necessary 109196
to avoid unjust, unfair, or unreasonable results. After the 109197
hearing, the commissioner shall make a final determination of the 109198
portion of the refund available for collection of the overpayment. 109199

(D) The welfare overpayment intercept fund is hereby created 109200
in the state treasury. The tax commissioner shall deposit amounts 109201
collected from income tax refunds under this section to the credit 109202
of the welfare overpayment intercept fund. The director of job and 109203
family services shall distribute money in the fund in accordance 109204
with appropriate federal or state laws and procedures regarding 109205
collection of welfare overpayments. 109206

Sec. 5747.13. (A) If any employer collects the tax imposed by 109207
section 5747.02 or under Chapter 5748. of the Revised Code and 109208
fails to remit the tax as required by law, or fails to collect the 109209

tax, the employer is personally liable for any amount collected 109210
that the employer fails to remit, or any amount that the employer 109211
fails to collect. If any taxpayer fails to file a return or fails 109212
to pay the tax imposed by section 5747.02 or under Chapter 5748. 109213
of the Revised Code, the taxpayer is personally liable for the 109214
amount of the tax. 109215

If any employer, taxpayer, or qualifying entity required to 109216
file a return under this chapter fails to file the return within 109217
the time prescribed, files an incorrect return, fails to remit the 109218
full amount of the taxes due for the period covered by the return, 109219
or fails to remit any additional tax due as a result of a 109220
reduction in the amount of the credit allowed under division (B) 109221
of section 5747.05 of the Revised Code together with interest on 109222
the additional tax within the time prescribed by that division, 109223
the tax commissioner may make an assessment against any person 109224
liable for any deficiency for the period for which the return is 109225
or taxes are due, based upon any information in the commissioner's 109226
possession. 109227

An assessment issued against either the employer or the 109228
taxpayer pursuant to this section shall not be considered an 109229
election of remedies or a bar to an assessment against the other 109230
for failure to report or pay the same tax. No assessment shall be 109231
issued against any person if the tax actually has been paid by 109232
another. 109233

No assessment shall be made or issued against an employer, 109234
taxpayer, or qualifying entity more than four years after the 109235
final date the return subject to assessment was required to be 109236
filed or the date the return was filed, whichever is later. 109237
However, the commissioner may assess any balance due as the result 109238
of a reduction in the credit allowed under division (B) of section 109239
5747.05 of the Revised Code, including applicable penalty and 109240
interest, within four years of the date on which the taxpayer 109241

reports a change in either the portion of the taxpayer's adjusted 109242
gross income subjected to an income tax or tax measured by income 109243
in another state or the District of Columbia, or the amount of 109244
liability for an income tax or tax measured by income to another 109245
state or the District of Columbia, as required by division (B)(3) 109246
of section 5747.05 of the Revised Code. Such time limits may be 109247
extended if both the employer, taxpayer, or qualifying entity and 109248
the commissioner consent in writing to the extension or if an 109249
agreement waiving or extending the time limits has been entered 109250
into pursuant to section 122.171 of the Revised Code. Any such 109251
extension shall extend the four-year time limit in division (B) of 109252
section 5747.11 of the Revised Code for the same period of time. 109253
There shall be no bar or limit to an assessment against an 109254
employer for taxes withheld from employees and not remitted to the 109255
state, against an employer, taxpayer, or qualifying entity that 109256
fails to file a return subject to assessment as required by this 109257
chapter, or against an employer, taxpayer, or qualifying entity 109258
that files a fraudulent return. 109259

The commissioner shall give the party assessed written notice 109260
of the assessment in the manner provided in section 5703.37 of the 109261
Revised Code. With the notice, the commissioner shall provide 109262
instructions on how to petition for reassessment and request a 109263
hearing on the petition. 109264

(B) Unless the party assessed files with the tax commissioner 109265
within sixty days after service of the notice of assessment, 109266
either personally or by certified mail, a written petition for 109267
reassessment, signed by the party assessed or that party's 109268
authorized agent having knowledge of the facts, the assessment 109269
becomes final, and the amount of the assessment is due and payable 109270
from the party assessed to the commissioner with remittance made 109271
payable to the treasurer of state. The petition shall indicate the 109272
objections of the party assessed, but additional objections may be 109273

raised in writing if received by the commissioner prior to the 109274
date shown on the final determination. If the petition has been 109275
properly filed, the commissioner shall proceed under section 109276
5703.60 of the Revised Code. 109277

(C) After an assessment becomes final, if any portion of the 109278
assessment remains unpaid, including accrued interest, a certified 109279
copy of the tax commissioner's entry making the assessment final 109280
may be filed in the office of the clerk of the court of common 109281
pleas in the county in which the employer's, taxpayer's, or 109282
qualifying entity's place of business is located or the county in 109283
which the party assessed resides. If the party assessed is not a 109284
resident of this state, the certified copy of the entry may be 109285
filed in the office of the clerk of the court of common pleas of 109286
Franklin county. 109287

Immediately upon the filing of the entry, the clerk shall 109288
enter a judgment against the party assessed in the amount shown on 109289
the entry. The judgment shall be filed by the clerk in one of two 109290
loose-leaf books, one entitled "special judgments for state and 109291
school district income taxes," and the other entitled "special 109292
judgments for qualifying entity taxes." The judgment shall have 109293
the same effect as other judgments. Execution shall issue upon the 109294
judgment upon the request of the tax commissioner, and all laws 109295
applicable to sales on execution shall apply to sales made under 109296
the judgment. 109297

~~The portion of~~ If the assessment is not paid in its entirety 109298
within sixty days after the assessment was issued, the portion of 109299
the assessment consisting of tax due shall bear interest at the 109300
rate per annum prescribed by section 5703.47 of the Revised Code 109301
from the day the tax commissioner issues the assessment until it 109302
is paid or until it is certified to the attorney general for 109303
collection under section 131.02 of the Revised Code, whichever 109304
comes first. If the unpaid portion of the assessment is certified 109305

to the attorney general for collection, the entire unpaid portion 109306
of the assessment shall bear interest at the rate per annum 109307
prescribed by section 5703.47 of the Revised Code from the date of 109308
certification until the date it is paid in its entirety. Interest 109309
shall be paid in the same manner as the tax and may be collected 109310
by the issuance of an assessment under this section. 109311

(D) All money collected under this section shall be 109312
considered as revenue arising from the taxes imposed by this 109313
chapter or Chapter 5733. or 5748. of the Revised Code, as 109314
appropriate. 109315

(E) If the party assessed files a petition for reassessment 109316
under division (B) of this section, the person, on or before the 109317
last day the petition may be filed, shall pay the assessed amount, 109318
including assessed interest and assessed penalties, if any of the 109319
following conditions exists: 109320

(1) The person files a tax return reporting Ohio adjusted 109321
gross income, less the exemptions allowed by section 5747.025 of 109322
the Revised Code, in an amount less than one cent, and the 109323
reported amount is not based on the computations required under 109324
division (A) of section 5747.01 or section 5747.025 of the Revised 109325
Code. 109326

(2) The person files a tax return that the tax commissioner 109327
determines to be incomplete, false, fraudulent, or frivolous. 109328

(3) The person fails to file a tax return, and the basis for 109329
this failure is not either of the following: 109330

(a) An assertion that the person has no nexus with this 109331
state; 109332

(b) The computations required under division (A) of section 109333
5747.01 of the Revised Code or the application of credits allowed 109334
under this chapter has the result that the person's tax liability 109335
is less than one dollar and one cent. 109336

(F) Notwithstanding the fact that a petition for reassessment 109337
is pending, the petitioner may pay all or a portion of the 109338
assessment that is the subject of the petition. The acceptance of 109339
a payment by the treasurer of state does not prejudice any claim 109340
for refund upon final determination of the petition. 109341

If upon final determination of the petition an error in the 109342
assessment is corrected by the tax commissioner, upon petition so 109343
filed or pursuant to a decision of the board of tax appeals or any 109344
court to which the determination or decision has been appealed, so 109345
that the amount due from the party assessed under the corrected 109346
assessment is less than the portion paid, there shall be issued to 109347
the petitioner or to the petitioner's assigns or legal 109348
representative a refund in the amount of the overpayment as 109349
provided by section 5747.11 of the Revised Code, with interest on 109350
that amount as provided by such section, subject to section 109351
5747.12 of the Revised Code. 109352

Sec. 5747.21. (A) This section applies solely for the 109353
purposes of computing the credit allowed under division (A) of 109354
section 5747.05 of the Revised Code, computing income taxable in 109355
this state under division (D) of section 5747.08 of the Revised 109356
Code, and computing the credit allowed under section 5747.057 of 109357
the Revised Code. 109358

(B) Except as otherwise provided under ~~sections 5747.211 and~~ 109359
section 5747.212 of the Revised Code, all items of business income 109360
and business deduction shall be apportioned to this state by 109361
multiplying the adjusted gross income by the fraction calculated 109362
under division (B)(2) of section 5733.05 and section 5733.057 of 109363
the Revised Code as if the taxpayer's business were a corporation 109364
subject to the tax imposed by section 5733.06 of the Revised Code. 109365

(C) If the allocation and apportionment provisions of 109366
sections 5747.20 to 5747.23 of the Revised Code or of any rule 109367

adopted by the tax commissioner, do not fairly represent the extent of business activity in this state of a taxpayer or pass-through entity, the taxpayer or pass-through entity may request, which request must be in writing accompanying ~~the~~ a timely filed return or timely filed amended return, or the tax commissioner may require, in respect of all or any part of the business activity, if reasonable, any one or more of the following:

- (1) Separate accounting;
- (2) The exclusion of one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the business activity in this state;
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of such business in this state. An alternative method will be effective only with approval of the tax commissioner.

The tax commissioner may adopt rules in the manner provided by sections 5703.14 and 5747.18 of the Revised Code providing for alternative methods of calculating business income and nonbusiness income applicable to all taxpayers and pass-through entities, to classes of taxpayers and pass-through entities, or only to taxpayers and pass-through entities within a certain industry.

Sec. 5747.47. (A)(1) By the ~~twentieth~~ twenty-fifth day of July of each year, the tax commissioner shall estimate and certify the following for each county to its county auditor:

- (a) Its guaranteed share of the ensuing year's fund balance;
- (b) Its share of the excess of the ensuing year's fund balance;
- (c) Its total entitlement.

(2) In December and in June following such estimations and certifications, the commissioner shall revise such estimates and certify such revised estimates to the respective county auditors.

(B) By the tenth day of each month the commissioner shall distribute the amount credited to the public library fund in the current month under section 131.51 of the Revised Code. The distributions shall be made as follows:

(1) During the first six months of each year, each county shall be paid a percentage of the balance that is the same per cent that the revised estimate of the county's total entitlement certified in December under division (A)(2) of this section is of the sum of such revised estimates of the total entitlements for all counties.

(2) During the last six months, each county shall be paid a percentage of the balance that is the same per cent that the revised estimate of the county's total entitlement certified in June under division (A)(2) of this section is of the sum of such revised estimates of the total entitlements for all counties.

(3) During each of the first six months of each year, the payments made to each county shall be adjusted as follows:

(a) If the county received an overpayment during the preceding distribution year, reduce the sum of the payments by the amount of such overpayment. The reduction shall be apportioned over the six months.

(b) If the county received an underpayment during the preceding distribution year, increase the sum of the payments by the amount of such underpayment. The increase shall be apportioned over the six months.

(C) By the twentieth day of December of each year, the tax commissioner shall determine and certify to the auditor of each county each of the following with respect to the current

distribution year:	109428
(1) The year's fund balance;	109429
(2) Each county's guaranteed share;	109430
(3) Each county's share of the excess;	109431
(4) Each county's total entitlement;	109432
(5) Each county's net distribution;	109433
(6) The amount by which each county's net distribution exceeded or was less than its total entitlement, which amount shall constitute the county's overpayment or underpayment for purposes of division (B)(3) of this section in the ensuing distribution year.	109434 109435 109436 109437 109438
Sec. 5747.501. (A) On or before the twenty-fifth day of July of each year, the tax commissioner shall estimate and certify to each county auditor the amount to be distributed from the local government fund to each undivided local government fund during the following calendar year under section 5747.50 of the Revised Code. The estimate shall equal the sum of the separate amounts computed under divisions (B)(1) and (2) of this section.	109439 109440 109441 109442 109443 109444 109445
(B)(1) The product obtained by multiplying the percentage described in division (B)(1)(a) of this section by the amount described in division (B)(1)(b) of this section.	109446 109447 109448
(a) Each county's proportionate share of the total amount distributed to the counties from the local government fund and the local government revenue assistance fund during calendar year 2007. <u>In fiscal year 2014 and thereafter, the amount distributed to any county undivided local government fund shall be an amount not less than seven hundred fifty thousand dollars or the amount distributed to such fund in fiscal year 2013, whichever amount is smaller. To the extent necessary to implement this minimum distribution requirement, the proportionate shares computed under</u>	109449 109450 109451 109452 109453 109454 109455 109456 109457

this division shall be adjusted accordingly. 109458

(b) The total amount distributed to counties from the local 109459
government fund and the local government revenue assistance fund 109460
during calendar year 2007 adjusted downward if, and to the extent 109461
that, total local government fund distributions to counties for 109462
the following year are projected to be less than what was 109463
distributed to counties from the local government fund and local 109464
government revenue assistance fund during calendar year 2007. 109465

(2) The product obtained by multiplying the percentage 109466
described in division (B)(2)(a) of this section by the amount 109467
described in division (B)(2)(b) of this section. 109468

(a) Each county's proportionate share of the state's 109469
population as reflected in the most recent federal decennial 109470
census or the federal government's most recent census estimates, 109471
whichever represents the most recent year. 109472

(b) The amount by which total estimated distributions from 109473
the local government fund during the immediately succeeding 109474
calendar year, less the total estimated amount to be distributed 109475
from the fund to municipal corporations under division (C) of 109476
section 5747.50 of the Revised Code during the immediately 109477
succeeding calendar year, exceed the total amount distributed to 109478
counties from the local government fund and local government 109479
revenue assistance fund during calendar year 2007. 109480

Sec. 5747.98. (A) To provide a uniform procedure for 109481
calculating the amount of tax due under section 5747.02 of the 109482
Revised Code, a taxpayer shall claim any credits to which the 109483
taxpayer is entitled in the following order: 109484

(1) The retirement income credit under division (B) of 109485
section 5747.055 of the Revised Code; 109486

(2) The senior citizen credit under division (C) of section 109487

5747.05 of the Revised Code;	109488
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	109489 109490
(4) The dependent care credit under section 5747.054 of the Revised Code;	109491 109492
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	109493 109494
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	109495 109496
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	109497 109498
(8) The low-income credit under section 5747.056 of the Revised Code;	109499 109500
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	109501 109502
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	109503 109504
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	109505 109506
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	109507 109508
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	109509 109510
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	109511 109512
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	109513 109514
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	109515 109516

(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	109517 109518
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	109519 109520
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	109521 109522
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	109523 109524
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	109525 109526 109527
(22) The job training credit under section 5747.39 of the Revised Code;	109528 109529
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	109530 109531
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	109532 109533
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	109534 109535
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	109536 109537
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	109538 109539
(28) The small business investment credit under section 5747.81 of the Revised Code;	109540 109541
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	109542 109543
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	109544 109545

(31) (30) The research and development credit under section 5747.331 of the Revised Code;	109546 109547
(32) (31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	109548 109549
(33) (32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	109550 109551
(34) (33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	109552 109553
(35) (34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	109554 109555
(36) (35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	109556 109557 109558
(37) (36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	109559 109560 109561
(38) (37) The refundable motion picture production credit under section 5747.66 of the Revised Code.	109562 109563
(39) (38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	109564 109565 109566
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a	109567 109568 109569 109570 109571 109572 109573 109574 109575

taxable year. 109576

Sec. 5749.02. (A) For the purpose of providing revenue to 109577
administer the state's coal mining and reclamation regulatory 109578
program, to meet the environmental and resource management needs 109579
of this state, and to reclaim land affected by mining, an excise 109580
tax is hereby levied on the privilege of engaging in the severance 109581
of natural resources from the soil or water of this state. The tax 109582
shall be imposed upon the severer ~~and shall be~~ at the rates 109583
prescribed by divisions (A)(1) to (9) of this section: 109584

(1) Ten cents per ton of coal; 109585

(2) Four cents per ton of salt; 109586

(3) Two cents per ton of limestone or dolomite; 109587

(4) Two cents per ton of sand and gravel; 109588

(5) Ten cents per barrel of oil; 109589

(6) Two and one-half cents per thousand cubic feet of natural 109590
gas; 109591

(7) One cent per ton of clay, sandstone or conglomerate, 109592
shale, gypsum, or quartzite; 109593

(8) Except as otherwise provided in this division or in rules 109594
adopted by the reclamation forfeiture fund advisory board under 109595
section 1513.182 of the Revised Code, an additional fourteen cents 109596
per ton of coal produced from an area under a coal mining and 109597
reclamation permit issued under Chapter 1513. of the Revised Code 109598
for which the performance security is provided under division 109599
(C)(2) of section 1513.08 of the Revised Code. Beginning July 1, 109600
2007, if at the end of a fiscal biennium the balance of the 109601
reclamation forfeiture fund created in section 1513.18 of the 109602
Revised Code is equal to or greater than ten million dollars, the 109603
rate levied shall be twelve cents per ton. Beginning July 1, 2007, 109604
if at the end of a fiscal biennium the balance of the fund is at 109605

least five million dollars, but less than ten million dollars, the 109606
rate levied shall be fourteen cents per ton. Beginning July 1, 109607
2007, if at the end of a fiscal biennium the balance of the fund 109608
is less than five million dollars, the rate levied shall be 109609
sixteen cents per ton. Beginning July 1, 2009, not later than 109610
thirty days after the close of a fiscal biennium, the chief of the 109611
division of mineral resources management shall certify to the tax 109612
commissioner the amount of the balance of the reclamation 109613
forfeiture fund as of the close of the fiscal biennium. Any 109614
necessary adjustment of the rate levied shall take effect on the 109615
first day of the following January and shall remain in effect 109616
during the calendar biennium that begins on that date. 109617

(9) An additional one and two-tenths cents per ton of coal 109618
mined by surface mining methods. 109619

(B) ~~Of~~ After the director of budget and management transfers 109620
money from the severance tax receipts fund as required in division 109621
(H) of section 5749.06 of the Revised Code, money remaining in the 109622
severance tax receipts fund, except for money in the fund from the 109623
amounts due under section 1509.50 of the Revised Code, shall be 109624
credited as follows: 109625

(1) Of the moneys received by the treasurer of state in the 109626
fund from the tax levied in division (A)(1) of this section, four 109627
and seventy-six-hundredths per cent shall be credited to the 109628
geological mapping fund created in section 1505.09 of the Revised 109629
Code, eighty and ninety-five-hundredths per cent shall be credited 109630
to the coal mining administration and reclamation reserve fund 109631
created in section 1513.181 of the Revised Code, and fourteen and 109632
twenty-nine-hundredths per cent shall be credited to the 109633
unreclaimed lands fund created in section 1513.30 of the Revised 109634
Code. 109635

(2) The money received by the treasurer of state in the fund 109636
from the tax levied in division (A)(2) of this section shall be 109637

credited to the geological mapping fund. 109638

(3) Of the moneys ~~received by the treasurer of state in the~~ 109639
fund from the tax levied in divisions (A)(3) and (4) of this 109640
section, seven and five-tenths per cent shall be credited to the 109641
geological mapping fund, forty-two and five-tenths per cent shall 109642
be credited to the unreclaimed lands fund, and the remainder shall 109643
be credited to the surface mining fund created in section 1514.06 109644
of the Revised Code. 109645

(4) Of the moneys ~~received by the treasurer of state in the~~ 109646
fund from the tax levied in divisions (A)(5) and (6) of this 109647
section, ninety per cent shall be credited to the oil and gas well 109648
fund created in section 1509.02 of the Revised Code and ten per 109649
cent shall be credited to the geological mapping fund. All of the 109650
moneys ~~received by the treasurer of state in the fund~~ from the tax 109651
levied in division (A)(7) of this section shall be credited to the 109652
surface mining fund. 109653

(5) All of the moneys ~~received by the treasurer of state in~~ 109654
the fund from the tax levied in division (A)(8) of this section 109655
shall be credited to the reclamation forfeiture fund. 109656

(6) All of the moneys ~~received by the treasurer of state in~~ 109657
the fund from the tax levied in division (A)(9) of this section 109658
shall be credited to the unreclaimed lands fund. 109659

(C) When, at the close of any fiscal year, the chief finds 109660
that the balance of the reclamation forfeiture fund, plus 109661
estimated transfers to it from the coal mining administration and 109662
reclamation reserve fund under section 1513.181 of the Revised 109663
Code, plus the estimated revenues from the tax levied by division 109664
(A)(8) of this section for the remainder of the calendar year that 109665
includes the close of the fiscal year, are sufficient to complete 109666
the reclamation of all lands for which the performance security 109667
has been provided under division (C)(2) of section 1513.08 of the 109668

Revised Code, the purposes for which the tax under division (A)(8) 109669
of this section is levied shall be deemed accomplished at the end 109670
of that calendar year. The chief, within thirty days after the 109671
close of the fiscal year, shall certify those findings to the tax 109672
commissioner, and the tax levied under division (A)(8) of this 109673
section shall cease to be imposed for the subsequent calendar year 109674
after the last day of that calendar year on coal produced under a 109675
coal mining and reclamation permit issued under Chapter 1513. of 109676
the Revised Code if the permittee has made tax payments under 109677
division (A)(8) of this section during each of the preceding five 109678
full calendar years. Not later than thirty days after the close of 109679
a fiscal year, the chief shall certify to the tax commissioner the 109680
identity of any permittees who accordingly no longer are required 109681
to pay the tax levied under division (A)(8) of this section for 109682
the subsequent calendar year. 109683

Sec. 5749.06. (A)(1) Each severer liable for the tax imposed 109684
by section 5749.02 of the Revised Code and each severer or owner 109685
liable for the amounts due under section 1509.50 of the Revised 109686
Code shall make and file returns with the tax commissioner in the 109687
prescribed form and as of the prescribed times, computing and 109688
reflecting therein the tax as required by this chapter and amounts 109689
due under section 1509.50 of the Revised Code. 109690

(2) The returns shall be filed for every quarterly period, 109691
which periods shall end on the thirty-first day of March, the 109692
thirtieth day of June, the thirtieth day of September, and the 109693
thirty-first day of December of each year, as required by this 109694
section, unless a different return period is prescribed for a 109695
taxpayer by the commissioner. 109696

(B)(1) A separate return shall be filed for each calendar 109697
quarterly period, or other period, or any part thereof, during 109698
which the severer holds a license as provided by section 5749.04 109699

of the Revised Code, or is required to hold the license, or during 109700
which an owner is required to file a return, ~~and the.~~ The return 109701
shall be filed within forty-five days after the last day of each 109702
such calendar month, or other period, or any part thereof, for 109703
which the return is required ~~and shall include remittance payable~~ 109704
~~to the treasurer of state of the amount of.~~ The tax due is payable 109705
along with the return. All such returns shall contain such 109706
information as the commissioner may require to fairly administer 109707
the tax. 109708

(2) All returns shall be signed by the severer or owner, as 109709
applicable, shall contain the full and complete information 109710
requested, and shall be made under penalty of perjury. 109711

(C) If the commissioner believes that quarterly payments of 109712
tax would result in a delay that might jeopardize the collection 109713
of such tax payments, the commissioner may order that such 109714
payments be made weekly, or more frequently if necessary, such 109715
payments to be made not later than seven days following the close 109716
of the period for which the jeopardy payment is required. Such an 109717
order shall be delivered to the taxpayer personally or by 109718
certified mail and shall remain in effect until the commissioner 109719
notifies the taxpayer to the contrary. 109720

(D) Upon good cause the commissioner may extend for thirty 109721
days the period for filing any notice or return required to be 109722
filed under this section, and may remit all or a part of penalties 109723
that may become due under this chapter. 109724

(E) Any tax and any amount due under section 1509.50 of the 109725
Revised Code not paid by the day the tax or amount is due shall 109726
bear interest computed at the rate per annum prescribed by section 109727
5703.47 of the Revised Code on that amount due from the day that 109728
the amount was originally required to be paid to the day of actual 109729
payment or to the day an assessment was issued under section 109730
5749.07 or 5749.10 of the Revised Code, whichever occurs first. 109731

(F) ~~The severer shall make all payments payable to the~~ 109732
~~treasurer of state. Except for the amounts due under section~~ 109733
~~1509.50 of the Revised Code, all A severer or owner, as~~ 109734
~~applicable, that fails to file a complete return or pay the full~~ 109735
~~amount due under this chapter within the time prescribed,~~ 109736
~~including any extensions of time granted by the commissioner,~~ 109737
~~shall be subject to a penalty not to exceed the greater of fifty~~ 109738
~~dollars or ten per cent of the amount due for the period.~~ 109739

(G)(1) A severer or owner, as applicable, shall remit 109740
payments electronically and, if required by the commissioner, file 109741
each return electronically. The commissioner may require that the 109742
severer or owner use the Ohio business gateway, as defined in 109743
section 718.051 of the Revised Code, or another electronic means 109744
to file returns and remit payments electronically. 109745

(2) A severer or owner that is required to remit payments 109746
electronically under this section may apply to the commissioner, 109747
in the manner prescribed by the commissioner, to be excused from 109748
that requirement. The commissioner may excuse a severer or owner 109749
from the requirements of division (G) of this section for good 109750
cause. 109751

(3) If a severer or owner that is required to remit payments 109752
or file returns electronically under this section fails to do so, 109753
the commissioner may impose a penalty on the severer or owner not 109754
to exceed the following: 109755

(a) For the first or second payment or return the severer or 109756
owner fails to remit or file electronically, the greater of five 109757
per cent of the amount of the payment that was required to be 109758
remitted or twenty-five dollars; 109759

(b) For every payment or return after the second that the 109760
severer or owner fails to remit or file electronically, the 109761
greater of ten per cent of the amount of the payment that was 109762

required to be remitted or fifty dollars. 109763

(H)(1) All amounts that the ~~tax~~ commissioner receives under this section shall be deemed to be revenue from taxes imposed under this chapter. ~~The commissioner shall immediately forward to the treasurer of state all amounts received under this section or from the amount due under section 1509.50 of the Revised Code, as applicable, and shall be deposited in the severance tax receipts fund, which is hereby created in the state treasury.~~ 109764
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(2) The director of budget and management shall transfer from the severance tax receipts fund to the tax refund fund amounts equal to the refunds certified by the commissioner under section 5749.08 of the Revised Code. Any amount transferred under division (H)(2) of this section shall be derived from receipts of the same tax or other amount from which the refund arose. 109771
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(3) After the director of budget and management makes any transfer required by division (H)(2) of this section, but not later than the fifteenth day of the month following the end of each calendar quarter, the commissioner shall certify to the director the total amount remaining in the severance tax receipts fund organized according to the amount attributable to each natural resource and according to the amount attributable to a tax imposed by this chapter and the amounts due under section 1509.50 of the Revised Code. 109777
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(I) Penalties imposed under this section are in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax levied under this chapter or the amount due under section 1509.50 of the Revised Code, as applicable. The commissioner may collect any penalty or interest imposed under this section in the same manner as provided for the making of an assessment in section 5749.07 of the Revised Code. The commissioner may abate all or a portion of such interest or penalties and may adopt rules governing such abatements. 109786
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Sec. 5749.07. (A) If any severer required by this chapter to 109795
make and file returns and pay the tax levied by section 5749.02 of 109796
the Revised Code, or any severer or owner liable for the amounts 109797
due under section 1509.50 of the Revised Code, fails to make such 109798
return or pay such tax ~~or amounts~~, the tax commissioner may make 109799
an assessment against the severer ~~or owner~~ based upon any 109800
information in the commissioner's possession. 109801

No assessment shall be made or issued against any severer for 109802
any tax imposed by section 5749.02 of the Revised Code or against 109803
any severer or owner for any amount due under section 1509.50 of 109804
the Revised Code more than four years after the return was due or 109805
was filed, whichever is later. This section does not bar an 109806
assessment against a severer or owner who fails to file a return 109807
as required by this chapter, or who files a fraudulent return. 109808

The commissioner shall give the party assessed written notice 109809
of such assessment in the manner provided in section 5703.37 of 109810
the Revised Code. With the notice, the commissioner shall provide 109811
instructions on how to petition for reassessment and request a 109812
hearing on the petition. 109813

(B) Unless the party assessed files with the commissioner 109814
within sixty days after service of the notice of assessment, 109815
either personally or by certified mail, a written petition for 109816
reassessment signed by the party assessed or that party's 109817
authorized agent having knowledge of the facts, the assessment 109818
becomes final and the amount of the assessment is due and payable 109819
from the party assessed to the treasurer of state. The petition 109820
shall indicate the objections of the party assessed, but 109821
additional objections may be raised in writing if received by the 109822
commissioner prior to the date shown on the final determination. 109823
If the petition has been properly filed, the commissioner shall 109824
proceed under section 5703.60 of the Revised Code. 109825

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party assessed resides or in which the party's business is conducted. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of such entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state severance tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment is issued, the portion of the assessment consisting of tax due or amounts due under section 1509.50 of the Revised Code shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the commissioner under this 109858
section shall be paid to the treasurer of state, and when paid 109859
shall be considered as revenue arising from the tax imposed by 109860
section 5749.02 of the Revised Code and the amount due under 109861
section 1509.50 of the Revised Code, as applicable. 109862

Sec. 5749.17. ~~Any~~ Except for purposes of enforcing Chapter 109863
1509. of the Revised Code, any information provided to the 109864
department of natural resources by the department of taxation in 109865
accordance with division (C)(12) of section 5703.21 of the Revised 109866
Code shall not be disclosed publicly by the department of natural 109867
resources, ~~but.~~ However the department of natural resources may 109868
provide such information to the attorney general for purposes of 109869
enforcement of ~~the law~~ Chapter 1509. of the Revised Code. 109870

Sec. 5751.01. As used in this chapter: 109871

(A) "Person" means, but is not limited to, individuals, 109872
combinations of individuals of any form, receivers, assignees, 109873
trustees in bankruptcy, firms, companies, joint-stock companies, 109874
business trusts, estates, partnerships, limited liability 109875
partnerships, limited liability companies, associations, joint 109876
ventures, clubs, societies, for-profit corporations, S 109877
corporations, qualified subchapter S subsidiaries, qualified 109878
subchapter S trusts, trusts, entities that are disregarded for 109879
federal income tax purposes, and any other entities. 109880

(B) "Consolidated elected taxpayer" means a group of two or 109881
more persons treated as a single taxpayer for purposes of this 109882
chapter as the result of an election made under section 5751.011 109883
of the Revised Code. 109884

(C) "Combined taxpayer" means a group of two or more persons 109885
treated as a single taxpayer for purposes of this chapter under 109886
section 5751.012 of the Revised Code. 109887

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

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(E) "Excluded person" means any of the following:

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(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

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(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

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(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

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(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

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(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

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As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A person directly or indirectly owned by one or more financial institutions, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter.

For the purposes of division (E)(4) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization.

(5) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold

or other expenses incurred, that contributes to the production of 109982
gross income of the person, including the fair market value of any 109983
property and any services received, and any debt transferred or 109984
forgiven as consideration. 109985

(1) The following are examples of gross receipts: 109986

(a) Amounts realized from the sale, exchange, or other 109987
disposition of the taxpayer's property to or with another; 109988

(b) Amounts realized from the taxpayer's performance of 109989
services for another; 109990

(c) Amounts realized from another's use or possession of the 109991
taxpayer's property or capital; 109992

(d) Any combination of the foregoing amounts. 109993

(2) "Gross receipts" excludes the following amounts: 109994

(a) Interest income except interest on credit sales; 109995

(b) Dividends and distributions from corporations, and 109996
distributive or proportionate shares of receipts and income from a 109997
pass-through entity as defined under section 5733.04 of the 109998
Revised Code; 109999

(c) Receipts from the sale, exchange, or other disposition of 110000
an asset described in section 1221 or 1231 of the Internal Revenue 110001
Code, without regard to the length of time the person held the 110002
asset. Notwithstanding section 1221 of the Internal Revenue Code, 110003
receipts from hedging transactions also are excluded to the extent 110004
the transactions are entered into primarily to protect a financial 110005
position, such as managing the risk of exposure to (i) foreign 110006
currency fluctuations that affect assets, liabilities, profits, 110007
losses, equity, or investments in foreign operations; (ii) 110008
interest rate fluctuations; or (iii) commodity price fluctuations. 110009
As used in division (F)(2)(c) of this section, "hedging 110010
transaction" has the same meaning as used in section 1221 of the 110011

Internal Revenue Code and also includes transactions accorded 110012
hedge accounting treatment under statement of financial accounting 110013
standards number 133 of the financial accounting standards board. 110014
For the purposes of division (F)(2)(c) of this section, the actual 110015
transfer of title of real or tangible personal property to another 110016
entity is not a hedging transaction. 110017

(d) Proceeds received attributable to the repayment, 110018
maturity, or redemption of the principal of a loan, bond, mutual 110019
fund, certificate of deposit, or marketable instrument; 110020

(e) The principal amount received under a repurchase 110021
agreement or on account of any transaction properly characterized 110022
as a loan to the person; 110023

(f) Contributions received by a trust, plan, or other 110024
arrangement, any of which is described in section 501(a) of the 110025
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 110026
1, Subchapter (D) of the Internal Revenue Code applies; 110027

(g) Compensation, whether current or deferred, and whether in 110028
cash or in kind, received or to be received by an employee, former 110029
employee, or the employee's legal successor for services rendered 110030
to or for an employer, including reimbursements received by or for 110031
an individual for medical or education expenses, health insurance 110032
premiums, or employee expenses, or on account of a dependent care 110033
spending account, legal services plan, any cafeteria plan 110034
described in section 125 of the Internal Revenue Code, or any 110035
similar employee reimbursement; 110036

(h) Proceeds received from the issuance of the taxpayer's own 110037
stock, options, warrants, puts, or calls, or from the sale of the 110038
taxpayer's treasury stock; 110039

(i) Proceeds received on the account of payments from 110040
insurance policies, except those proceeds received for the loss of 110041
business revenue; 110042

(j) Gifts or charitable contributions received; membership	110043
dues received by trade, professional, homeowners', or condominium	110044
associations; and payments received for educational courses,	110045
meetings, meals, or similar payments to a trade, professional, or	110046
other similar association; and fundraising receipts received by	110047
any person when any excess receipts are donated or used	110048
exclusively for charitable purposes;	110049
(k) Damages received as the result of litigation in excess of	110050
amounts that, if received without litigation, would be gross	110051
receipts;	110052
(l) Property, money, and other amounts received or acquired	110053
by an agent on behalf of another in excess of the agent's	110054
commission, fee, or other remuneration;	110055
(m) Tax refunds, other tax benefit recoveries, and	110056
reimbursements for the tax imposed under this chapter made by	110057
entities that are part of the same combined taxpayer or	110058
consolidated elected taxpayer group, and reimbursements made by	110059
entities that are not members of a combined taxpayer or	110060
consolidated elected taxpayer group that are required to be made	110061
for economic parity among multiple owners of an entity whose tax	110062
obligation under this chapter is required to be reported and paid	110063
entirely by one owner, pursuant to the requirements of sections	110064
5751.011 and 5751.012 of the Revised Code;	110065
(n) Pension reversions;	110066
(o) Contributions to capital;	110067
(p) Sales or use taxes collected as a vendor or an	110068
out-of-state seller on behalf of the taxing jurisdiction from a	110069
consumer or other taxes the taxpayer is required by law to collect	110070
directly from a purchaser and remit to a local, state, or federal	110071
tax authority;	110072
(q) In the case of receipts from the sale of cigarettes or	110073

tobacco products by a wholesale dealer, retail dealer, 110074
distributor, manufacturer, or seller, all as defined in section 110075
5743.01 of the Revised Code, an amount equal to the federal and 110076
state excise taxes paid by any person on or for such cigarettes or 110077
tobacco products under subtitle E of the Internal Revenue Code or 110078
Chapter 5743. of the Revised Code; 110079

(r) In the case of receipts from the sale of motor fuel by a 110080
licensed motor fuel dealer, licensed retail dealer, or licensed 110081
permissive motor fuel dealer, all as defined in section 5735.01 of 110082
the Revised Code, an amount equal to federal and state excise 110083
taxes paid by any person on such motor fuel under section 4081 of 110084
the Internal Revenue Code or Chapter 5735. of the Revised Code; 110085

(s) In the case of receipts from the sale of beer or 110086
intoxicating liquor, as defined in section 4301.01 of the Revised 110087
Code, by a person holding a permit issued under Chapter 4301. or 110088
4303. of the Revised Code, an amount equal to federal and state 110089
excise taxes paid by any person on or for such beer or 110090
intoxicating liquor under subtitle E of the Internal Revenue Code 110091
or Chapter 4301. or 4305. of the Revised Code; 110092

(t) Receipts realized by a new motor vehicle dealer or used 110093
motor vehicle dealer, as defined in section 4517.01 of the Revised 110094
Code, from the sale or other transfer of a motor vehicle, as 110095
defined in that section, to another motor vehicle dealer for the 110096
purpose of resale by the transferee motor vehicle dealer, but only 110097
if the sale or other transfer was based upon the transferee's need 110098
to meet a specific customer's preference for a motor vehicle; 110099

(u) Receipts from a financial institution described in 110100
division (E)(3) of this section for services provided to the 110101
financial institution in connection with the issuance, processing, 110102
servicing, and management of loans or credit accounts, if such 110103
financial institution and the recipient of such receipts have at 110104
least fifty per cent of their ownership interests owned or 110105

controlled, directly or constructively through related interests, 110106
by common owners; 110107

(v) Receipts realized from administering anti-neoplastic 110108
drugs and other cancer chemotherapy, biologicals, therapeutic 110109
agents, and supportive drugs in a physician's office to patients 110110
with cancer; 110111

(w) Funds received or used by a mortgage broker that is not a 110112
dealer in intangibles, other than fees or other consideration, 110113
pursuant to a table-funding mortgage loan or warehouse-lending 110114
mortgage loan. Terms used in division (F)(2)(w) of this section 110115
have the same meanings as in section 1322.01 of the Revised Code, 110116
except "mortgage broker" means a person assisting a buyer in 110117
obtaining a mortgage loan for a fee or other consideration paid by 110118
the buyer or a lender, or a person engaged in table-funding or 110119
warehouse-lending mortgage loans that are first lien mortgage 110120
loans. 110121

(x) Property, money, and other amounts received by a 110122
professional employer organization, as defined in section 4125.01 110123
of the Revised Code, from a client employer, as defined in that 110124
section, in excess of the administrative fee charged by the 110125
professional employer organization to the client employer; 110126

(y) In the case of amounts retained as commissions by a 110127
permit holder under Chapter 3769. of the Revised Code, an amount 110128
equal to the amounts specified under that chapter that must be 110129
paid to or collected by the tax commissioner as a tax and the 110130
amounts specified under that chapter to be used as purse money; 110131

(z) Qualifying distribution center receipts. 110132

(i) For purposes of division (F)(2)(z) of this section: 110133

(I) "Qualifying distribution center receipts" means receipts 110134
of a supplier from qualified property that is delivered to a 110135
qualified distribution center, multiplied by a quantity that 110136

equals one minus the Ohio delivery percentage. If the qualified 110137
distribution center is a refining facility, "supplier" includes 110138
all dealers, brokers, processors, sellers, vendors, cosigners, and 110139
distributors of qualified property. 110140

(II) "Qualified property" means tangible personal property 110141
delivered to a qualified distribution center that is shipped to 110142
that qualified distribution center solely for further shipping by 110143
the qualified distribution center to another location in this 110144
state or elsewhere or, in the case of gold, silver, platinum, or 110145
palladium delivered to a refining facility solely for refining to 110146
a grade and fineness acceptable for delivery to a registered 110147
commodities exchange. "Further shipping" includes storing and 110148
repackaging property into smaller or larger bundles, so long as 110149
the property is not subject to further manufacturing or 110150
processing. "Refining" is limited to extracting impurities from 110151
gold, silver, platinum, or palladium through smelting or some 110152
other process at a refining facility. 110153

(III) "Qualified distribution center" means a warehouse, a 110154
facility similar to a warehouse, or a refining facility in this 110155
state that, for the qualifying year, is operated by a person that 110156
is not part of a combined taxpayer group and that has a qualifying 110157
certificate. All warehouses or facilities similar to warehouses 110158
that are operated by persons in the same taxpayer group and that 110159
are located within one mile of each other shall be treated as one 110160
qualified distribution center. All refining facilities that are 110161
operated by persons in the same taxpayer group and that are 110162
located in the same or adjacent counties may be treated as one 110163
qualified distribution center. 110164

(IV) "Qualifying year" means the calendar year to which the 110165
qualifying certificate applies. 110166

(V) "Qualifying period" means the period of the first day of 110167
July of the second year preceding the qualifying year through the 110168

thirtieth day of June of the year preceding the qualifying year. 110169

(VI) "Qualifying certificate" means the certificate issued by 110170
the tax commissioner after the operator of a distribution center 110171
files an annual application with the commissioner. The application 110172
and annual fee shall be filed and paid for each qualified 110173
distribution center on or before the first day of September before 110174
the qualifying year or within forty-five days after the 110175
distribution center opens, whichever is later. 110176

The applicant must substantiate to the commissioner's 110177
satisfaction that, for the qualifying period, all persons 110178
operating the distribution center have more than fifty per cent of 110179
the cost of the qualified property shipped to a location such that 110180
it would be situated outside this state under the provisions of 110181
division (E) of section 5751.033 of the Revised Code. The 110182
applicant must also substantiate that the distribution center 110183
cumulatively had costs from its suppliers equal to or exceeding 110184
five hundred million dollars during the qualifying period. (For 110185
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 110186
excludes any person that is part of the consolidated elected 110187
taxpayer group, if applicable, of the operator of the qualified 110188
distribution center.) The commissioner may require the applicant 110189
to have an independent certified public accountant certify that 110190
the calculation of the minimum thresholds required for a qualified 110191
distribution center by the operator of a distribution center has 110192
been made in accordance with generally accepted accounting 110193
principles. The commissioner shall issue or deny the issuance of a 110194
certificate within sixty days after the receipt of the 110195
application. A denial is subject to appeal under section 5717.02 110196
of the Revised Code. If the operator files a timely appeal under 110197
section 5717.02 of the Revised Code, the operator shall be granted 110198
a qualifying certificate, provided that the operator is liable for 110199
any tax, interest, or penalty upon amounts claimed as qualifying 110200

distribution center receipts, other than those receipts exempt 110201
under division (C)(1) of section 5751.011 of the Revised Code, 110202
that would have otherwise not been owed by its suppliers if the 110203
qualifying certificate was valid. 110204

(VII) "Ohio delivery percentage" means the proportion of the 110205
total property delivered to a destination inside Ohio from the 110206
qualified distribution center during the qualifying period 110207
compared with total deliveries from such distribution center 110208
everywhere during the qualifying period. 110209

(VIII) "Refining facility" means one or more buildings 110210
located in a county in the Appalachian region of this state as 110211
defined by section 107.21 of the Revised Code and utilized for 110212
refining or smelting gold, silver, platinum, or palladium to a 110213
grade and fineness acceptable for delivery to a registered 110214
commodities exchange. 110215

(IX) "Registered commodities exchange" means a board of 110216
trade, such as New York mercantile exchange, inc. or commodity 110217
exchange, inc., designated as a contract market by the commodity 110218
futures trading commission under the "Commodity Exchange Act," 7 110219
U.S.C. 1 et seq., as amended. 110220

(ii) If the distribution center is new and was not open for 110221
the entire qualifying period, the operator of the distribution 110222
center may request that the commissioner grant a qualifying 110223
certificate. If the certificate is granted and it is later 110224
determined that more than fifty per cent of the qualified property 110225
during that year was not shipped to a location such that it would 110226
be situated outside of this state under the provisions of division 110227
(E) of section 5751.033 of the Revised Code or if it is later 110228
determined that the person that operates the distribution center 110229
had average monthly costs from its suppliers of less than forty 110230
million dollars during that year, then the operator of the 110231
distribution center shall be liable for any tax, interest, or 110232

penalty upon amounts claimed as qualifying distribution center 110233
receipts, other than those receipts exempt under division (C)(1) 110234
of section 5751.011 of the Revised Code, that would have not 110235
otherwise been owed by its suppliers during the qualifying year if 110236
the qualifying certificate was valid. (For purposes of division 110237
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 110238
is part of the consolidated elected taxpayer group, if applicable, 110239
of the operator of the qualified distribution center.) 110240

(iii) When filing an application for a qualifying certificate 110241
under division (F)(2)(z)(i)(VI) of this section, the operator of a 110242
qualified distribution center also shall provide documentation, as 110243
the commissioner requires, for the commissioner to ascertain the 110244
Ohio delivery percentage. The commissioner, upon issuing the 110245
qualifying certificate, also shall certify the Ohio delivery 110246
percentage. The operator of the qualified distribution center may 110247
appeal the commissioner's certification of the Ohio delivery 110248
percentage in the same manner as an appeal is taken from the 110249
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 110250
of this section. 110251

Within thirty days after all appeals have been exhausted, the 110252
operator of the qualified distribution center shall notify the 110253
affected suppliers of qualified property that such suppliers are 110254
required to file, within sixty days after receiving notice from 110255
the operator of the qualified distribution center, amended reports 110256
for the impacted calendar quarter or quarters or calendar year, 110257
whichever the case may be. Any additional tax liability or tax 110258
overpayment shall be subject to interest but shall not be subject 110259
to the imposition of any penalty so long as the amended returns 110260
are timely filed. The supplier of tangible personal property 110261
delivered to the qualified distribution center shall include in 110262
its report of taxable gross receipts the receipts from the total 110263
sales of property delivered to the qualified distribution center 110264

for the calendar quarter or calendar year, whichever the case may be, multiplied by the Ohio delivery percentage for the qualifying year. Nothing in division (F)(2)(z)(iii) of this section shall be construed as imposing liability on the operator of a qualified distribution center for the tax imposed by this chapter arising from any change to the Ohio delivery percentage.

(iv) In the case where the distribution center is new and not open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. A person receiving a qualifying certificate is responsible for paying the

tax, interest, and penalty upon amounts claimed as qualifying 110297
distribution center receipts that would not otherwise have been 110298
owed by the supplier if the qualifying certificate were available 110299
when it is later determined that the qualifying certificate should 110300
not have been issued because the statutory requirements were in 110301
fact not met. 110302

(vi) The annual fee for a qualifying certificate shall be one 110303
hundred thousand dollars for each qualified distribution center. 110304
If a qualifying certificate is not issued, the annual fee is 110305
subject to refund after the exhaustion of all appeals provided for 110306
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 110307
under this division may be assessed in the same manner as the tax 110308
imposed under this chapter. The first one hundred thousand dollars 110309
of the annual application fees collected each calendar year shall 110310
be credited to the revenue enhancement fund. The remainder of the 110311
annual application fees collected shall be distributed in the same 110312
manner required under section 5751.20 of the Revised Code. 110313

(vii) The tax commissioner may require that adequate security 110314
be posted by the operator of the distribution center on appeal 110315
when the commissioner disagrees that the applicant has met the 110316
minimum thresholds for a qualified distribution center as set 110317
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 110318
section. 110319

(aa) Receipts of an employer from payroll deductions relating 110320
to the reimbursement of the employer for advancing moneys to an 110321
unrelated third party on an employee's behalf; 110322

(bb) Cash discounts allowed and taken; 110323

(cc) Returns and allowances; 110324

(dd) Bad debts from receipts on the basis of which the tax 110325
imposed by this chapter was paid in a prior quarterly tax payment 110326
period. For the purpose of this division, "bad debts" means any 110327

debts that have become worthless or uncollectible between the 110328
preceding and current quarterly tax payment periods, have been 110329
uncollected for at least six months, and that may be claimed as a 110330
deduction under section 166 of the Internal Revenue Code and the 110331
regulations adopted under that section, or that could be claimed 110332
as such if the taxpayer kept its accounts on the accrual basis. 110333
"Bad debts" does not include repossessed property, uncollectible 110334
amounts on property that remains in the possession of the taxpayer 110335
until the full purchase price is paid, or expenses in attempting 110336
to collect any account receivable or for any portion of the debt 110337
recovered; 110338

(ee) Any amount realized from the sale of an account 110339
receivable to the extent the receipts from the underlying 110340
transaction giving rise to the account receivable were included in 110341
the gross receipts of the taxpayer; 110342

(ff) Any receipts directly attributed to providing public 110343
services pursuant to sections 126.60 to 126.605 of the Revised 110344
Code, or any receipts directly attributed to a transfer agreement 110345
or to the enterprise transferred under that agreement under 110346
section 4313.02 of the Revised Code. 110347

(gg)(i) As used in this division: 110348

(I) "Qualified uranium receipts" means receipts from the 110349
sale, exchange, lease, loan, production, processing, or other 110350
disposition of uranium within a uranium enrichment zone certified 110351
by the tax commissioner under division (F)(2)(gg)(ii) of this 110352
section. "Qualified uranium receipts" does not include any 110353
receipts with a situs in this state outside a uranium enrichment 110354
zone certified by the tax commissioner under division 110355
(F)(2)(gg)(ii) of this section. 110356

(II) "Uranium enrichment zone" means all real property that 110357
is part of a uranium enrichment facility licensed by the United 110358

States nuclear regulatory commission and that was or is owned or 110359
controlled by the United States department of energy or its 110360
successor. 110361

(ii) Any person that owns, leases, or operates real or 110362
tangible personal property constituting or located within a 110363
uranium enrichment zone may apply to the tax commissioner to have 110364
the uranium enrichment zone certified for the purpose of excluding 110365
qualified uranium receipts under division (F)(2)(gg) of this 110366
section. The application shall include such information that the 110367
tax commissioner prescribes. Within sixty days after receiving the 110368
application, the tax commissioner shall certify the zone for that 110369
purpose if the commissioner determines that the property qualifies 110370
as a uranium enrichment zone as defined in division (F)(2)(gg) of 110371
this section, or, if the tax commissioner determines that the 110372
property does not qualify, the commissioner shall deny the 110373
application or request additional information from the applicant. 110374
If the tax commissioner denies an application, the commissioner 110375
shall state the reasons for the denial. The applicant may appeal 110376
the denial of an application to the board of tax appeals pursuant 110377
to section 5717.02 of the Revised Code. If the applicant files a 110378
timely appeal, the tax commissioner shall conditionally certify 110379
the applicant's property. The conditional certification shall 110380
expire when all of the applicant's appeals are exhausted. Until 110381
final resolution of the appeal, the applicant shall retain the 110382
applicant's records in accordance with section 5751.12 of the 110383
Revised Code, notwithstanding any time limit on the preservation 110384
of records under that section. 110385

(hh) Amounts realized by licensed motor fuel dealers or 110386
licensed permissive motor fuel dealers from the exchange of 110387
petroleum products, including motor fuel, between such dealers, 110388
provided that delivery of the petroleum products occurs at a 110389
refinery, terminal, pipeline, or marine vessel and that the 110390

exchanging dealers agree neither dealer shall require monetary 110391
compensation from the other for the value of the exchanged 110392
petroleum products other than such compensation for differences in 110393
product location or grade. Division (F)(2)(hh) of this section 110394
does not apply to amounts realized as a result of differences in 110395
location or grade of exchanged petroleum products or from 110396
handling, lubricity, dye, or other additive injections fees, 110397
pipeline security fees, or similar fees. As used in this division, 110398
"motor fuel," "licensed motor fuel dealer," "licensed permissive 110399
motor fuel dealer," and "terminal" have the same meanings as in 110400
section 5735.01 of the Revised Code. 110401

(ii) In the case of amounts collected by a licensed casino 110402
operator from casino gaming, amounts in excess of the casino 110403
operator's gross casino revenue. In this division, "casino 110404
operator" and "casino gaming" have the meanings defined in section 110405
3772.01 of the Revised Code, and "gross casino revenue" has the 110406
meaning defined in section 5753.01 of the Revised Code. 110407

(jj) Receipts realized from the sale of agricultural 110408
commodities by an agricultural commodity handler, both as defined 110409
in section 926.01 of the Revised Code, that is licensed by the 110410
director of agriculture to handle agricultural commodities in this 110411
state. 110412

(kk) Any receipts for which the tax imposed by this chapter 110413
is prohibited by the constitution or laws of the United States or 110414
the constitution of this state. 110415

(3) In the case of a taxpayer when acting as a real estate 110416
broker, "gross receipts" includes only the portion of any fee for 110417
the service of a real estate broker, or service of a real estate 110418
salesperson associated with that broker, that is retained by the 110419
broker and not paid to an associated real estate salesperson or 110420
another real estate broker. For the purposes of this division, 110421
"real estate broker" and "real estate salesperson" have the same 110422

meanings as in section 4735.01 of the Revised Code. 110423

(4) A taxpayer's method of accounting for gross receipts for 110424
a tax period shall be the same as the taxpayer's method of 110425
accounting for federal income tax purposes for the taxpayer's 110426
federal taxable year that includes the tax period. If a taxpayer's 110427
method of accounting for federal income tax purposes changes, its 110428
method of accounting for gross receipts under this chapter shall 110429
be changed accordingly. 110430

(G) "Taxable gross receipts" means gross receipts situated to 110431
this state under section 5751.033 of the Revised Code. 110432

(H) A person has "substantial nexus with this state" if any 110433
of the following applies. The person: 110434

(1) Owns or uses a part or all of its capital in this state; 110435

(2) Holds a certificate of compliance with the laws of this 110436
state authorizing the person to do business in this state; 110437

(3) Has bright-line presence in this state; 110438

(4) Otherwise has nexus with this state to an extent that the 110439
person can be required to remit the tax imposed under this chapter 110440
under the Constitution of the United States. 110441

(I) A person has "bright-line presence" in this state for a 110442
reporting period and for the remaining portion of the calendar 110443
year if any of the following applies. The person: 110444

(1) Has at any time during the calendar year property in this 110445
state with an aggregate value of at least fifty thousand dollars. 110446
For the purpose of division (I)(1) of this section, owned property 110447
is valued at original cost and rented property is valued at eight 110448
times the net annual rental charge. 110449

(2) Has during the calendar year payroll in this state of at 110450
least fifty thousand dollars. Payroll in this state includes all 110451
of the following: 110452

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	110453 110454
(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and	110455 110456 110457
(c) Any amount the person pays for services performed in this state on its behalf by another.	110458 110459
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	110460 110461
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	110462 110463 110464
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	110465 110466
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	110467 110468
(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.	110469 110470 110471 110472 110473 110474 110475 110476
(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	110477 110478 110479
(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.	110480 110481 110482

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.	110483 110484
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	110485 110486
(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:	110487 110488 110489
(1) A person receiving a fee to sell financial instruments;	110490
(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;	110491 110492 110493
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	110494 110495
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	110496 110497
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	110498 110499
(Q) "Received" includes amounts accrued under the accrual method of accounting.	110500 110501
(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.	110502 110503 110504 110505 110506 110507 110508
Sec. 5751.014. All members of a consolidated elected taxpayer or combined taxpayer group during the tax period or periods for which additional tax, penalty, or interest is owed are jointly and	110509 110510 110511

severally liable for such amounts. Although the reporting person 110512
will be assessed for the liability, such amounts due may be 110513
collected by assessment against any member of the group as 110514
provided in section 5703.90 of the Revised Code or pursued against 110515
any member of the group when a liability is certified to the 110516
attorney general under section 131.02 of the Revised Code. 110517

Sec. 5751.07. (A) Any person required to file returns ~~for a~~ 110518
~~calendar quarter~~ under this chapter shall remit each tax payment, 110519
and, if required by the tax commissioner, file the tax return or 110520
the annual report, electronically. The commissioner may require 110521
taxpayers to use the Ohio business gateway as defined in section 110522
718.051 of the Revised Code to file returns and remit the tax, or 110523
may provide another means for taxpayers to file and remit the tax 110524
electronically. 110525

(B) A person required by this section to remit taxes or file 110526
returns electronically may apply to the tax commissioner, on the 110527
form prescribed by the commissioner, to be excused from that 110528
requirement. The commissioner may excuse a person from the 110529
requirements of this division for good cause. 110530

(C)(1) If a person required to remit taxes or file a return 110531
electronically under this section fails to do so, the commissioner 110532
may impose a penalty not to exceed the following: 110533

(a) For either of the first two ~~calendar quarters~~ tax periods 110534
the person so fails, the greater of twenty-five dollars or five 110535
per cent of the amount of the payment that was required to be 110536
remitted; 110537

(b) For the third and any subsequent ~~calendar quarters~~ tax 110538
periods the person so fails, the greater of fifty dollars or ten 110539
per cent of the amount of the payment that was required to be 110540
remitted. 110541

(2) The penalty imposed under division (C)(1) of this section 110542
is in addition to any other penalty imposed under this chapter and 110543
shall be considered as revenue arising from the tax imposed under 110544
this chapter. A penalty may be collected by assessment in the 110545
manner prescribed by section 5751.09 of the Revised Code. The tax 110546
commissioner may abate all or a portion of such a penalty. 110547

(D) The tax commissioner may adopt rules necessary to 110548
administer this section. 110549

Sec. 5751.081. As used in this section, "debt to this state" 110550
means unpaid taxes due the state, unpaid workers' compensation 110551
premiums due under section 4123.35 of the Revised Code, unpaid 110552
unemployment compensation contributions due under section 4141.25 110553
of the Revised Code, unpaid unemployment compensation payment in 110554
lieu of contribution under section 4141.241 of the Revised Code, 110555
unpaid fee payable to the state or to the clerk of courts pursuant 110556
to section 4505.06 of the Revised Code, incorrect ~~medical~~ 110557
~~assistance~~ payments for medicaid services under ~~section 5111.02 of~~ 110558
~~the Revised Code~~ the medicaid program, or any unpaid charge, 110559
penalty, or interest arising from any of the foregoing. 110560

If a taxpayer entitled to a refund under section 5751.08 of 110561
the Revised Code owes any debt to this state, the amount 110562
refundable may be applied in satisfaction of the debt. If the 110563
amount refundable is less than the amount of the debt, it may be 110564
applied in partial satisfaction of the debt. If the amount 110565
refundable is greater than the amount of the debt, the amount 110566
remaining after satisfaction of the debt shall be refunded. This 110567
section applies only to debts that have become final. For the 110568
purposes of this section, a debt becomes final when, under the 110569
applicable law, any time provided for petition for reassessment, 110570
request for reconsideration, or other appeal of the legality or 110571
validity of the amount giving rise to the debt expires without an 110572

appeal having been filed in the manner provided by law. 110573

Sec. 5751.09. (A) The tax commissioner may make an 110574
assessment, based on any information in the commissioner's 110575
possession, against any person that fails to file a return or pay 110576
any tax as required by this chapter. The commissioner shall give 110577
the person assessed written notice of the assessment as provided 110578
in section 5703.37 of the Revised Code. With the notice, the 110579
commissioner shall provide instructions on the manner in which to 110580
petition for reassessment and request a hearing with respect to 110581
the petition. The commissioner shall send any assessments against 110582
consolidated elected taxpayer and combined taxpayer groups under 110583
section 5751.011 or 5751.012 of the Revised Code to the taxpayer's 110584
"reporting person" as defined under division (R) of section 110585
5751.01 of the Revised Code. The reporting person shall notify all 110586
members of the group of the assessment and all outstanding taxes, 110587
interest, and penalties for which the assessment is issued. 110588

(B) Unless the person assessed, within sixty days after 110589
service of the notice of assessment, files with the tax 110590
commissioner, either personally or by certified mail, a written 110591
petition signed by the person or the person's authorized agent 110592
having knowledge of the facts, the assessment becomes final, and 110593
the amount of the assessment is due and payable from the person 110594
assessed to the treasurer of state. The petition shall indicate 110595
the objections of the person assessed, but additional objections 110596
may be raised in writing if received by the commissioner prior to 110597
the date shown on the final determination. 110598

If a petition for reassessment has been properly filed, the 110599
commissioner shall proceed under section 5703.60 of the Revised 110600
Code. 110601

(C)(1) After an assessment becomes final, if any portion of 110602
the assessment, including accrued interest, remains unpaid, a 110603

certified copy of the tax commissioner's entry making the 110604
assessment final may be filed in the office of the clerk of the 110605
court of common pleas in the county in which the person resides or 110606
has its principal place of business in this state, or in the 110607
office of the clerk of court of common pleas of Franklin county. 110608

(2) Immediately upon the filing of the entry, the clerk shall 110609
enter judgment for the state against the person assessed in the 110610
amount shown on the entry. The judgment may be filed by the clerk 110611
in a loose-leaf book entitled, "special judgments for the 110612
commercial activity tax" and shall have the same effect as other 110613
judgments. Execution shall issue upon the judgment at the request 110614
of the tax commissioner, and all laws applicable to sales on 110615
execution shall apply to sales made under the judgment. 110616

(3) ~~The portion of~~ If the assessment is not paid in its 110617
entirety within sixty days after the day the assessment was 110618
issued, the portion of the assessment consisting of tax due shall 110619
bear interest at the rate per annum prescribed by section 5703.47 110620
of the Revised Code from the day the tax commissioner issues the 110621
assessment until it is paid or until it is certified to the 110622
attorney general for collection under section 131.02 of the 110623
Revised Code, whichever comes first. If the unpaid portion of the 110624
assessment is certified to the attorney general for collection, 110625
the entire unpaid portion of the assessment shall bear interest at 110626
the rate per annum prescribed by section 5703.47 of the Revised 110627
Code from the date of certification until the date it is paid in 110628
its entirety. Interest shall be paid in the same manner as the tax 110629
and may be collected by the issuance of an assessment under this 110630
section. 110631

(D) If the tax commissioner believes that collection of the 110632
tax will be jeopardized unless proceedings to collect or secure 110633
collection of the tax are instituted without delay, the 110634
commissioner may issue a jeopardy assessment against the person 110635

liable for the tax. Immediately upon the issuance of the jeopardy 110636
assessment, the commissioner shall file an entry with the clerk of 110637
the court of common pleas in the manner prescribed by division (C) 110638
of this section. Notice of the jeopardy assessment shall be served 110639
on the person assessed or the person's authorized agent in the 110640
manner provided in section 5703.37 of the Revised Code within five 110641
days of the filing of the entry with the clerk. The total amount 110642
assessed is immediately due and payable, unless the person 110643
assessed files a petition for reassessment in accordance with 110644
division (B) of this section and provides security in a form 110645
satisfactory to the commissioner and in an amount sufficient to 110646
satisfy the unpaid balance of the assessment. Full or partial 110647
payment of the assessment does not prejudice the commissioner's 110648
consideration of the petition for reassessment. 110649

(E) The tax commissioner shall immediately forward to the 110650
treasurer of state all amounts the commissioner receives under 110651
this section, and such amounts shall be considered as revenue 110652
arising from the tax imposed under this chapter. 110653

(F) Except as otherwise provided in this division, no 110654
assessment shall be made or issued against a taxpayer for the tax 110655
imposed under this chapter more than four years after the due date 110656
for the filing of the return for the tax period for which the tax 110657
was reported, or more than four years after the return for the tax 110658
period was filed, whichever is later. The time limit may be 110659
extended if both the taxpayer and the commissioner consent in 110660
writing to the extension or enter into an agreement waiving or 110661
extending the time limit. Any such extension shall extend the 110662
four-year time limit in division (B) of section 5751.08 of the 110663
Revised Code for the same period of time. Nothing in this division 110664
bars an assessment against a taxpayer that fails to file a return 110665
required by this chapter or that files a fraudulent return. 110666

(G) If the tax commissioner possesses information that 110667

indicates that the amount of tax a taxpayer is required to pay 110668
under this chapter exceeds the amount the taxpayer paid, the tax 110669
commissioner may audit a sample of the taxpayer's gross receipts 110670
over a representative period of time to ascertain the amount of 110671
tax due, and may issue an assessment based on the audit. The tax 110672
commissioner shall make a good faith effort to reach agreement 110673
with the taxpayer in selecting a representative sample. The tax 110674
commissioner may apply a sampling method only if the commissioner 110675
has prescribed the method by rule. 110676

(H) If the whereabouts of a person subject to this chapter is 110677
not known to the tax commissioner, the commissioner shall follow 110678
the procedures under section 5703.37 of the Revised Code. 110679

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 110680
the Revised Code: 110681

(1) "School district," "joint vocational school district," 110682
"local taxing unit," "recognized valuation," "fixed-rate levy," 110683
and "fixed-sum levy" have the same meanings as used in section 110684
5727.84 of the Revised Code. 110685

(2) "State education aid" for a school district means the 110686
following: 110687

(a) For fiscal years prior to fiscal year 2010, the sum of 110688
state aid amounts computed for the district under the following 110689
provisions, as they existed for the applicable fiscal year: 110690
division (A) of section 3317.022 of the Revised Code, including 110691
the amounts calculated under ~~sections~~ former section 3317.029 and 110692
section 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), 110693
(D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) 110694
of section 3317.023; divisions (L) and (N) of section 3317.024; 110695
section 3317.0216; and any unit payments for gifted student 110696
services paid under ~~sections~~ section 3317.05~~7~~ and former sections 110697
3317.052~~7~~ and 3317.053 of the Revised Code; except that, for 110698

fiscal years 2008 and 2009, the amount computed for the district 110699
under Section 269.20.80 of H.B. 119 of the 127th general assembly 110700
and as that section subsequently may be amended shall be 110701
substituted for the amount computed under division (D) of section 110702
3317.022 of the Revised Code, and the amount computed under 110703
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 110704
that section subsequently may be amended shall be included. 110705

(b) For fiscal years 2010 and 2011, the sum of the amounts 110706
computed under former sections 3306.052, 3306.12, 3306.13, 110707
3306.19, 3306.191, and 3306.192 of the Revised Code; 110708

(c) For fiscal years 2012 and 2013, the sum of the amounts 110709
paid under Sections 267.30.50, 267.30.53, and 267.30.56 of H.B. 110710
153 of the 129th general assembly; 110711

(d) For fiscal year 2014 and each fiscal year thereafter, the 110712
sum of state amounts computed for the district under section 110713
3317.022 of the Revised Code; except that, for fiscal years 2014 110714
and 2015, the amount computed for the district under the section 110715
of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND 110716
EXEMPTED VILLAGE SCHOOL DISTRICTS" shall be included. 110717

(3) "State education aid" for a joint vocational school 110718
district means the following: 110719

(a) For fiscal years prior to fiscal year 2010, the sum of 110720
the state aid computed for the district under division (N) of 110721
section 3317.024 and former section 3317.16 of the Revised Code, 110722
except that, for fiscal years 2008 and 2009, the amount computed 110723
under Section 269.30.80 of H.B. 119 of the 127th general assembly 110724
and as that section subsequently may be amended shall be included. 110725

(b) For fiscal years 2010 and 2011, the amount paid in 110726
accordance with Section 265.30.50 of H.B. 1 of the 128th general 110727
assembly. 110728

(c) For fiscal years 2012 and 2013, the amount paid in 110729

accordance with Section 267.30.60 of H.B. 153 of the 129th general assembly. 110730
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(d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under section 3317.16 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included. 110732
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(4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code. 110738
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(5) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section. 110741
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(6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section. 110743
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(7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section. 110745
110746

(8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section. 110747
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(9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section. 110749
110750

(10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section. 110751
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(11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss. 110753
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(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section. 110757
110758

(13) "Machinery and equipment" means personal property 110759

subject to the assessment rate specified in division (F) of 110760
section 5711.22 of the Revised Code. 110761

(14) "Inventory" means personal property subject to the 110762
assessment rate specified in division (E) of section 5711.22 of 110763
the Revised Code. 110764

(15) "Furniture and fixtures" means personal property subject 110765
to the assessment rate specified in division (G) of section 110766
5711.22 of the Revised Code. 110767

(16) "Qualifying levies" are levies in effect for tax year 110768
2004 or applicable to tax year 2005 or approved at an election 110769
conducted before September 1, 2005. For the purpose of determining 110770
the rate of a qualifying levy authorized by section 5705.212 or 110771
5705.213 of the Revised Code, the rate shall be the rate that 110772
would be in effect for tax year 2010. 110773

(17) "Telephone property" means tangible personal property of 110774
a telephone, telegraph, or interexchange telecommunications 110775
company subject to an assessment rate specified in section 110776
5727.111 of the Revised Code in tax year 2004. 110777

(18) "Telephone property tax value loss" means the amount 110778
determined under division (C)(4) of this section. 110779

(19) "Telephone property fixed-rate levy loss" means the 110780
amount determined under division (D)(4) of this section. 110781

(20) "Taxes charged and payable" means taxes charged and 110782
payable after the reduction required by section 319.301 of the 110783
Revised Code but before the reductions required by sections 110784
319.302 and 323.152 of the Revised Code. 110785

(21) "Median estate tax collections" means, in the case of a 110786
municipal corporation to which revenue from the taxes levied in 110787
Chapter 5731. of the Revised Code was distributed in each of 110788
calendar years 2006, 2007, 2008, and 2009, the median of those 110789

distributions. In the case of a municipal corporation to which no 110790
distributions were made in one or more of those years, "median 110791
estate tax collections" means zero. 110792

(22) "Total resources," in the case of a school district, 110793
means the sum of the amounts in divisions (A)(22)(a) to (h) of 110794
this section less any reduction required under division (A)(32) or 110795
(33) of this section. 110796

(a) The state education aid for fiscal year 2010; 110797

(b) The sum of the payments received by the school district 110798
in fiscal year 2010 for current expense levy losses pursuant to 110799
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 110800
section 5751.21 of the Revised Code, excluding the portion of such 110801
payments attributable to levies for joint vocational school 110802
district purposes; 110803

(c) The sum of fixed-sum levy loss payments received by the 110804
school district in fiscal year 2010 pursuant to division (E)(1) of 110805
section 5727.85 and division (E)(1) of section 5751.21 of the 110806
Revised Code for fixed-sum levies charged and payable for a 110807
purpose other than paying debt charges; 110808

(d) Fifty per cent of the school district's taxes charged and 110809
payable against all property on the tax list of real and public 110810
utility property for current expense purposes for tax year 2008, 110811
including taxes charged and payable from emergency levies charged 110812
and payable under section 5709.194 of the Revised Code and 110813
excluding taxes levied for joint vocational school district 110814
purposes; 110815

(e) Fifty per cent of the school district's taxes charged and 110816
payable against all property on the tax list of real and public 110817
utility property for current expenses for tax year 2009, including 110818
taxes charged and payable from emergency levies and excluding 110819
taxes levied for joint vocational school district purposes; 110820

(f) The school district's taxes charged and payable against 110821
all property on the general tax list of personal property for 110822
current expenses for tax year 2009, including taxes charged and 110823
payable from emergency levies; 110824

(g) The amount certified for fiscal year 2010 under division 110825
(A)(2) of section 3317.08 of the Revised Code; 110826

(h) Distributions received during calendar year 2009 from 110827
taxes levied under section 718.09 of the Revised Code. 110828

(23) "Total resources," in the case of a joint vocational 110829
school district, means the sum of amounts in divisions (A)(23)(a) 110830
to (g) of this section less any reduction required under division 110831
(A)(32) of this section. 110832

(a) The state education aid for fiscal year 2010; 110833

(b) The sum of the payments received by the joint vocational 110834
school district in fiscal year 2010 for current expense levy 110835
losses pursuant to division (C)(2) of section 5727.85 and 110836
divisions (C)(8) and (9) of section 5751.21 of the Revised Code; 110837

(c) Fifty per cent of the joint vocational school district's 110838
taxes charged and payable against all property on the tax list of 110839
real and public utility property for current expense purposes for 110840
tax year 2008; 110841

(d) Fifty per cent of the joint vocational school district's 110842
taxes charged and payable against all property on the tax list of 110843
real and public utility property for current expenses for tax year 110844
2009; 110845

(e) Fifty per cent of a city, local, or exempted village 110846
school district's taxes charged and payable against all property 110847
on the tax list of real and public utility property for current 110848
expenses of the joint vocational school district for tax year 110849
2008; 110850

(f) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2009;

(g) The joint vocational school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009.

(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for mental health and developmental disability related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for senior services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such

purposes against all property on the tax list of real and public utility property for tax year 2009. 110882
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(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section. 110884
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(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 110888
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(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009. 110892
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(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section. 110896
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(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 110900
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(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009. 110904
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(28) "Total resources," in the case of all county functions not included in divisions (A)(24) to (27) of this section, means the sum of the amounts in divisions (A)(28)(a) to (d) of this section less any reduction required under division (A)(32) or (33) of this section. 110908
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(a) The sum of the payments received by the county for all 110913
other purposes in calendar year 2010 under division (A)(1) of 110914
section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of 110915
the Revised Code as they existed at that time; 110916

(b) The county's percentage share of county undivided local 110917
government fund allocations as certified to the tax commissioner 110918
for calendar year 2010 by the county auditor under division (J) of 110919
section 5747.51 of the Revised Code or division (F) of section 110920
5747.53 of the Revised Code multiplied by the total amount 110921
actually distributed in calendar year 2010 from the county 110922
undivided local government fund; 110923

(c) With respect to taxes levied by the county for all other 110924
purposes, the taxes charged and payable for such purposes against 110925
all property on the tax list of real and public utility property 110926
for tax year 2009, excluding taxes charged and payable for the 110927
purpose of paying debt charges; 110928

(d) The sum of the amounts distributed to the county in 110929
calendar year 2010 for the taxes levied pursuant to sections 110930
5739.021 and 5741.021 of the Revised Code. 110931

(29) "Total resources," in the case of a municipal 110932
corporation, means the sum of the amounts in divisions (A)(29)(a) 110933
to (g) of this section less any reduction required under division 110934
(A)(32) or (33) of this section. 110935

(a) The sum of the payments received by the municipal 110936
corporation in calendar year 2010 for current expense levy losses 110937
under division (A)(1) of section 5727.86 and divisions (A)(1) and 110938
(2) of section 5751.22 of the Revised Code as they existed at that 110939
time; 110940

(b) The municipal corporation's percentage share of county 110941
undivided local government fund allocations as certified to the 110942
tax commissioner for calendar year 2010 by the county auditor 110943

under division (J) of section 5747.51 of the Revised Code or 110944
division (F) of section 5747.53 of the Revised Code multiplied by 110945
the total amount actually distributed in calendar year 2010 from 110946
the county undivided local government fund; 110947

(c) The sum of the amounts distributed to the municipal 110948
corporation in calendar year 2010 pursuant to section 5747.50 of 110949
the Revised Code; 110950

(d) With respect to taxes levied by the municipal 110951
corporation, the taxes charged and payable against all property on 110952
the tax list of real and public utility property for current 110953
expenses, defined in division (A)(35) of this section, for tax 110954
year 2009; 110955

(e) The amount of admissions tax collected by the municipal 110956
corporation in calendar year 2008, or if such information has not 110957
yet been reported to the tax commissioner, in the most recent year 110958
before 2008 for which the municipal corporation has reported data 110959
to the commissioner; 110960

(f) The amount of income taxes collected by the municipal 110961
corporation in calendar year 2008, or if such information has not 110962
yet been reported to the tax commissioner, in the most recent year 110963
before 2008 for which the municipal corporation has reported data 110964
to the commissioner; 110965

(g) The municipal corporation's median estate tax 110966
collections. 110967

(30) "Total resources," in the case of a township, means the 110968
sum of the amounts in divisions (A)(30)(a) to (c) of this section 110969
less any reduction required under division (A)(32) or (33) of this 110970
section. 110971

(a) The sum of the payments received by the township in 110972
calendar year 2010 pursuant to division (A)(1) of section 5727.86 110973
of the Revised Code and divisions (A)(1) and (2) of section 110974

5751.22 of the Revised Code as they existed at that time, 110975
excluding payments received for debt purposes; 110976

(b) The township's percentage share of county undivided local 110977
government fund allocations as certified to the tax commissioner 110978
for calendar year 2010 by the county auditor under division (J) of 110979
section 5747.51 of the Revised Code or division (F) of section 110980
5747.53 of the Revised Code multiplied by the total amount 110981
actually distributed in calendar year 2010 from the county 110982
undivided local government fund; 110983

(c) With respect to taxes levied by the township, the taxes 110984
charged and payable against all property on the tax list of real 110985
and public utility property for tax year 2009 excluding taxes 110986
charged and payable for the purpose of paying debt charges. 110987

(31) "Total resources," in the case of a local taxing unit 110988
that is not a county, municipal corporation, or township, means 110989
the sum of the amounts in divisions (A)(31)(a) to (e) of this 110990
section less any reduction required under division (A)(32) of this 110991
section. 110992

(a) The sum of the payments received by the local taxing unit 110993
in calendar year 2010 pursuant to division (A)(1) of section 110994
5727.86 of the Revised Code and divisions (A)(1) and (2) of 110995
section 5751.22 of the Revised Code as they existed at that time; 110996

(b) The local taxing unit's percentage share of county 110997
undivided local government fund allocations as certified to the 110998
tax commissioner for calendar year 2010 by the county auditor 110999
under division (J) of section 5747.51 of the Revised Code or 111000
division (F) of section 5747.53 of the Revised Code multiplied by 111001
the total amount actually distributed in calendar year 2010 from 111002
the county undivided local government fund; 111003

(c) With respect to taxes levied by the local taxing unit, 111004
the taxes charged and payable against all property on the tax list 111005

of real and public utility property for tax year 2009 excluding 111006
taxes charged and payable for the purpose of paying debt charges; 111007

(d) The amount received from the tax commissioner during 111008
calendar year 2010 for sales or use taxes authorized under 111009
sections 5739.023 and 5741.022 of the Revised Code; 111010

(e) For institutions of higher education receiving tax 111011
revenue from a local levy, as identified in section 3358.02 of the 111012
Revised Code, the final state share of instruction allocation for 111013
fiscal year 2010 as calculated by the board of regents and 111014
reported to the state controlling board. 111015

(32) If a fixed-rate levy that is a qualifying levy is not 111016
charged and payable in any year after tax year 2010, "total 111017
resources" used to compute payments to be made under division 111018
(C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 111019
5751.22 of the Revised Code in the tax years following the last 111020
year the levy is charged and payable shall be reduced to the 111021
extent that the payments are attributable to the fixed-rate levy 111022
loss of that levy as would be computed under division (C)(2) of 111023
section 5727.85, division (A)(1) of section 5727.85, divisions 111024
(C)(8) and (9) of section 5751.21, or division (A)(1) of section 111025
5751.22 of the Revised Code. 111026

(33) In the case of a county, municipal corporation, school 111027
district, or township with fixed-rate levy losses attributable to 111028
a tax levied under section 5705.23 of the Revised Code, "total 111029
resources" used to compute payments to be made under division 111030
(C)(3) of section 5727.85, division (A)(1)(d) of section 5727.86, 111031
division (C)(12) of section 5751.21, or division (A)(1)(c) of 111032
section 5751.22 of the Revised Code shall be reduced by the 111033
amounts described in divisions (A)(34)(a) to (c) of this section 111034
to the extent that those amounts were included in calculating the 111035
"total resources" of the school district or local taxing unit 111036
under division (A)(22), (28), (29), or (30) of this section. 111037

(34) "Total library resources," in the case of a county, 111038
municipal corporation, school district, or township public library 111039
that receives the proceeds of a tax levied under section 5705.23 111040
of the Revised Code, means the sum of the amounts in divisions 111041
(A)(34)(a) to (c) of this section less any reduction required 111042
under division (A)(32) of this section. 111043

(a) The sum of the payments received by the county, municipal 111044
corporation, school district, or township public library in 111045
calendar year 2010 pursuant to sections 5727.86 and 5751.22 of the 111046
Revised Code, as they existed at that time, for fixed-rate levy 111047
losses attributable to a tax levied under section 5705.23 of the 111048
Revised Code for the benefit of the public library; 111049

(b) The public library's percentage share of county undivided 111050
local government fund allocations as certified to the tax 111051
commissioner for calendar year 2010 by the county auditor under 111052
division (J) of section 5747.51 of the Revised Code or division 111053
(F) of section 5747.53 of the Revised Code multiplied by the total 111054
amount actually distributed in calendar year 2010 from the county 111055
undivided local government fund; 111056

(c) With respect to a tax levied pursuant to section 5705.23 111057
of the Revised Code for the benefit of the public library, the 111058
amount of such tax that is charged and payable against all 111059
property on the tax list of real and public utility property for 111060
tax year 2009 excluding any tax that is charged and payable for 111061
the purpose of paying debt charges. 111062

(35) "Municipal current expense property tax levies" means 111063
all property tax levies of a municipality, except those with the 111064
following levy names: airport resurfacing; bond or any levy name 111065
including the word "bond"; capital improvement or any levy name 111066
including the word "capital"; debt or any levy name including the 111067
word "debt"; equipment or any levy name including the word 111068
"equipment," unless the levy is for combined operating and 111069

equipment; employee termination fund; fire pension or any levy 111070
containing the word "pension," including police pensions; 111071
fireman's fund or any practically similar name; sinking fund; road 111072
improvements or any levy containing the word "road"; fire truck or 111073
apparatus; flood or any levy containing the word "flood"; 111074
conservancy district; county health; note retirement; sewage, or 111075
any levy containing the words "sewage" or "sewer"; park 111076
improvement; parkland acquisition; storm drain; street or any levy 111077
name containing the word "street"; lighting, or any levy name 111078
containing the word "lighting"; and water. 111079

(36) "Current expense TPP allocation" means, in the case of a 111080
school district or joint vocational school district, the sum of 111081
the payments received by the school district in fiscal year 2011 111082
pursuant to divisions (C)(10) and (11) of section 5751.21 of the 111083
Revised Code to the extent paid for current expense levies. In the 111084
case of a municipal corporation, "current expense TPP allocation" 111085
means the sum of the payments received by the municipal 111086
corporation in calendar year 2010 pursuant to divisions (A)(1) and 111087
(2) of section 5751.22 of the Revised Code to the extent paid for 111088
municipal current expense property tax levies as defined in 111089
division (A)(35) of this section, excluding any such payments 111090
received for current expense levy losses attributable to a tax 111091
levied under section 5705.23 of the Revised Code. If a fixed-rate 111092
levy that is a qualifying levy is not charged and payable in any 111093
year after tax year 2010, "current expense TPP allocation" used to 111094
compute payments to be made under division (C)(12) of section 111095
5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the 111096
Revised Code in the tax years following the last year the levy is 111097
charged and payable shall be reduced to the extent that the 111098
payments are attributable to the fixed-rate levy loss of that levy 111099
as would be computed under divisions (C)(10) and (11) of section 111100
5751.21 or division (A)(1) of section 5751.22 of the Revised Code. 111101

(37) "TPP allocation" means the sum of payments received by a local taxing unit in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "TPP allocation" used to compute payments to be made under division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of that section.

(38) "Total TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(10) and (11) and (D) of section 5751.21 of the Revised Code. In the case of a local taxing unit, "total TPP allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1), (2), and (3) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "total TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code.

(39) "Non-current expense TPP allocation" means the difference of total TPP allocation minus the sum of current

expense TPP allocation and the portion of total TPP allocation 111134
constituting reimbursement for debt levies, pursuant to division 111135
(D) of section 5751.21 of the Revised Code in the case of a school 111136
district or joint vocational school district and pursuant to 111137
division (A)(3) of section 5751.22 of the Revised Code in the case 111138
of a municipal corporation. 111139

(40) "TPP allocation for library purposes" means the sum of 111140
payments received by a county, municipal corporation, school 111141
district, or township public library in calendar year 2010 111142
pursuant to section 5751.22 of the Revised Code for fixed-rate 111143
levy losses attributable to a tax levied under section 5705.23 of 111144
the Revised Code. If a fixed-rate levy authorized under section 111145
5705.23 of the Revised Code that is a qualifying levy is not 111146
charged and payable in any year after tax year 2010, "TPP 111147
allocation for library purposes" used to compute payments to be 111148
made under division (A)(1)(d) of section 5751.22 of the Revised 111149
Code in the tax years following the last year the levy is charged 111150
and payable shall be reduced to the extent that the payments are 111151
attributable to the fixed-rate levy loss of that levy as would be 111152
computed under division (A)(1) of section 5751.22 of the Revised 111153
Code. 111154

(41) "Threshold per cent" means, in the case of a school 111155
district or joint vocational school district, two per cent for 111156
fiscal year 2012 and four per cent for fiscal years 2013 and 111157
thereafter. In the case of a local taxing unit or public library 111158
that receives the proceeds of a tax levied under section 5705.23 111159
of the Revised Code, "threshold per cent" means two per cent for 111160
tax year 2011, four per cent for tax year 2012, and six per cent 111161
for tax years 2013 and thereafter. 111162

(B) The commercial activities tax receipts fund is hereby 111163
created in the state treasury and shall consist of money arising 111164
from the tax imposed under this chapter. Eighty-five 111165

one-hundredths of one per cent of the money credited to that fund 111166
 shall be credited to the revenue enhancement fund and shall be 111167
 used to defray the costs incurred by the department of taxation in 111168
 administering the tax imposed by this chapter and in implementing 111169
 tax reform measures. The remainder in the commercial activities 111170
 tax receipts fund shall be credited for each fiscal year in the 111171
 following percentages to the general revenue fund, to the school 111172
 district tangible property tax replacement fund, which is hereby 111173
 created in the state treasury for the purpose of making the 111174
 payments described in section 5751.21 of the Revised Code, and to 111175
 the local government tangible property tax replacement fund, which 111176
 is hereby created in the state treasury for the purpose of making 111177
 the payments described in section 5751.22 of the Revised Code, in 111178
 the following percentages: 111179

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund	
2006	67.7%	22.6%	9.7%	111181
2007	0%	70.0%	30.0%	111182
2008	0%	70.0%	30.0%	111183
2009	0%	70.0%	30.0%	111184
2010	0%	70.0%	30.0%	111185
2011	0%	70.0%	30.0%	111186
2012	25.0%	52.5%	22.5%	111187
2013 and thereafter	50.0%	35.0%	15.0%	111188

(C) Not later than September 15, 2005, the tax commissioner 111189
 shall determine for each school district, joint vocational school 111190
 district, and local taxing unit its machinery and equipment, 111191
 inventory property, furniture and fixtures property, and telephone 111192
 property tax value losses, which are the applicable amounts 111193
 described in divisions (C)(1), (2), (3), and (4) of this section, 111194

except as provided in division (C)(5) of this section:	111195
(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:	111196
(a) For tax year 2006, thirty-three and eight-tenths per cent;	111197
(b) For tax year 2007, sixty-one and three-tenths per cent;	111198
(c) For tax year 2008, eighty-three per cent;	111199
(d) For tax year 2009 and thereafter, one hundred per cent.	111200
(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:	111201
(a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;	111202
(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;	111203
(c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;	111204
(d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.	111205
(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004 multiplied by:	111206
(a) For tax year 2006, twenty-five per cent;	111207
(b) For tax year 2007, fifty per cent;	111208
(c) For tax year 2008, seventy-five per cent;	111209

(d) For tax year 2009 and thereafter, one hundred per cent. 111224

The taxable value of property reported by taxpayers used in 111225
divisions (C)(1), (2), and (3) of this section shall be such 111226
values as determined to be final by the tax commissioner as of 111227
August 31, 2005. Such determinations shall be final except for any 111228
correction of a clerical error that was made prior to August 31, 111229
2005, by the tax commissioner. 111230

(4) Telephone property tax value loss is the taxable value of 111231
telephone property as taxpayers would have reported that property 111232
for tax year 2004 if the assessment rate for all telephone 111233
property for that year were twenty-five per cent, multiplied by: 111234

(a) For tax year 2006, zero per cent; 111235

(b) For tax year 2007, zero per cent; 111236

(c) For tax year 2008, zero per cent; 111237

(d) For tax year 2009, sixty per cent; 111238

(e) For tax year 2010, eighty per cent; 111239

(f) For tax year 2011 and thereafter, one hundred per cent. 111240

(5) Division (C)(5) of this section applies to any school 111241
district, joint vocational school district, or local taxing unit 111242
in a county in which is located a facility currently or formerly 111243
devoted to the enrichment or commercialization of uranium or 111244
uranium products, and for which the total taxable value of 111245
property listed on the general tax list of personal property for 111246
any tax year from tax year 2001 to tax year 2004 was fifty per 111247
cent or less of the taxable value of such property listed on the 111248
general tax list of personal property for the next preceding tax 111249
year. 111250

In computing the fixed-rate levy losses under divisions 111251
(D)(1), (2), and (3) of this section for any school district, 111252
joint vocational school district, or local taxing unit to which 111253

division (C)(5) of this section applies, the taxable value of such 111254
property as listed on the general tax list of personal property 111255
for tax year 2000 shall be substituted for the taxable value of 111256
such property as reported by taxpayers for tax year 2004, in the 111257
taxing district containing the uranium facility, if the taxable 111258
value listed for tax year 2000 is greater than the taxable value 111259
reported by taxpayers for tax year 2004. For the purpose of making 111260
the computations under divisions (D)(1), (2), and (3) of this 111261
section, the tax year 2000 valuation is to be allocated to 111262
machinery and equipment, inventory, and furniture and fixtures 111263
property in the same proportions as the tax year 2004 values. For 111264
the purpose of the calculations in division (A) of section 5751.21 111265
of the Revised Code, the tax year 2004 taxable values shall be 111266
used. 111267

To facilitate the calculations required under division (C) of 111268
this section, the county auditor, upon request from the tax 111269
commissioner, shall provide by August 1, 2005, the values of 111270
machinery and equipment, inventory, and furniture and fixtures for 111271
all single-county personal property taxpayers for tax year 2004. 111272

(D) Not later than September 15, 2005, the tax commissioner 111273
shall determine for each tax year from 2006 through 2009 for each 111274
school district, joint vocational school district, and local 111275
taxing unit its machinery and equipment, inventory, and furniture 111276
and fixtures fixed-rate levy losses, and for each tax year from 111277
2006 through 2011 its telephone property fixed-rate levy loss. 111278
Except as provided in division (F) of this section, such losses 111279
are the applicable amounts described in divisions (D)(1), (2), 111280
(3), and (4) of this section: 111281

(1) The machinery and equipment fixed-rate levy loss is the 111282
machinery and equipment property tax value loss multiplied by the 111283
sum of the tax rates of fixed-rate qualifying levies. 111284

(2) The inventory fixed-rate loss is the inventory property 111285

tax value loss multiplied by the sum of the tax rates of 111286
fixed-rate qualifying levies. 111287

(3) The furniture and fixtures fixed-rate levy loss is the 111288
furniture and fixture property tax value loss multiplied by the 111289
sum of the tax rates of fixed-rate qualifying levies. 111290

(4) The telephone property fixed-rate levy loss is the 111291
telephone property tax value loss multiplied by the sum of the tax 111292
rates of fixed-rate qualifying levies. 111293

(E) Not later than September 15, 2005, the tax commissioner 111294
shall determine for each school district, joint vocational school 111295
district, and local taxing unit its fixed-sum levy loss. The 111296
fixed-sum levy loss is the amount obtained by subtracting the 111297
amount described in division (E)(2) of this section from the 111298
amount described in division (E)(1) of this section: 111299

(1) The sum of the machinery and equipment property tax value 111300
loss, the inventory property tax value loss, and the furniture and 111301
fixtures property tax value loss, and, for 2008 through 2010, the 111302
telephone property tax value loss of the district or unit 111303
multiplied by the sum of the fixed-sum tax rates of qualifying 111304
levies. For 2006 through 2010, this computation shall include all 111305
qualifying levies remaining in effect for the current tax year and 111306
any school district levies charged and payable under section 111307
5705.194 or 5705.213 of the Revised Code that are qualifying 111308
levies not remaining in effect for the current year. For 2011 111309
through 2017 in the case of school district levies charged and 111310
payable under section 5705.194 or 5705.213 of the Revised Code and 111311
for all years after 2010 in the case of other fixed-sum levies, 111312
this computation shall include only qualifying levies remaining in 111313
effect for the current year. For purposes of this computation, a 111314
qualifying school district levy charged and payable under section 111315
5705.194 or 5705.213 of the Revised Code remains in effect in a 111316
year after 2010 only if, for that year, the board of education 111317

levies a school district levy charged and payable under section 111318
5705.194, 5705.199, 5705.213, or 5705.219 of the Revised Code for 111319
an annual sum at least equal to the annual sum levied by the board 111320
in tax year 2004 less the amount of the payment certified under 111321
this division for 2006. 111322

(2) The total taxable value in tax year 2004 less the sum of 111323
the machinery and equipment, inventory, furniture and fixtures, 111324
and telephone property tax value losses in each school district, 111325
joint vocational school district, and local taxing unit multiplied 111326
by one-half of one mill per dollar. 111327

(3) For the calculations in divisions (E)(1) and (2) of this 111328
section, the tax value losses are those that would be calculated 111329
for tax year 2009 under divisions (C)(1), (2), and (3) of this 111330
section and for tax year 2011 under division (C)(4) of this 111331
section. 111332

(4) To facilitate the calculation under divisions (D) and (E) 111333
of this section, not later than September 1, 2005, any school 111334
district, joint vocational school district, or local taxing unit 111335
that has a qualifying levy that was approved at an election 111336
conducted during 2005 before September 1, 2005, shall certify to 111337
the tax commissioner a copy of the county auditor's certificate of 111338
estimated property tax millage for such levy as required under 111339
division (B) of section 5705.03 of the Revised Code, which is the 111340
rate that shall be used in the calculations under such divisions. 111341

If the amount determined under division (E) of this section 111342
for any school district, joint vocational school district, or 111343
local taxing unit is greater than zero, that amount shall equal 111344
the reimbursement to be paid pursuant to division (E) of section 111345
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 111346
and the one-half of one mill that is subtracted under division 111347
(E)(2) of this section shall be apportioned among all contributing 111348
fixed-sum levies in the proportion that each levy bears to the sum 111349

of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(F) If a school district levies a tax under section 5705.219 of the Revised Code, the fixed-rate levy loss for qualifying levies, to the extent repealed under that section, shall equal the sum of the following amounts in lieu of the amounts computed for such levies under division (D) of this section:

(1) The sum of the rates of qualifying levies to the extent so repealed multiplied by the sum of the machinery and equipment, inventory, and furniture and fixtures tax value losses for 2009 as determined under that division;

(2) The sum of the rates of qualifying levies to the extent so repealed multiplied by the telephone property tax value loss for 2011 as determined under that division.

The fixed-rate levy losses for qualifying levies to the extent not repealed under section 5705.219 of the Revised Code shall be as determined under division (D) of this section. The revised fixed-rate levy losses determined under this division and division (D) of this section first apply in the year following the first year the district levies the tax under section 5705.219 of the Revised Code.

(G) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, furniture and fixtures, and telephone fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section shall separately

display the levy loss for each levy eligible for reimbursement. 111381

(H) Not later than October 1, 2005, the tax commissioner 111382
shall certify the amount of the fixed-sum levy losses to the 111383
county auditor of each county in which a school district, joint 111384
vocational school district, or local taxing unit with a fixed-sum 111385
levy loss reimbursement has territory. 111386

(I) Not later than the twenty-eighth day of February each 111387
year beginning in 2011 and ending in 2014, the tax commissioner 111388
shall certify to the department of education for each school 111389
district first levying a tax under section 5705.219 of the Revised 111390
Code in the preceding year the revised fixed-rate levy losses 111391
determined under divisions (D) and (F) of this section. 111392

(J) There is hereby created in the state treasury the 111393
commercial activity tax motor fuel receipts fund. 111394

Sec. 5751.21. (A) Not later than the thirtieth day of July of 111395
2007 through 2010, the department of education shall consult with 111396
the director of budget and management and determine the following 111397
for each school district and each joint vocational school district 111398
eligible for payment under division (B) of this section: 111399
111400

(1) The state education aid offset, which, except as provided 111401
in division (A)(1)(c) of this section, is the difference obtained 111402
by subtracting the amount described in division (A)(1)(b) of this 111403
section from the amount described in division (A)(1)(a) of this 111404
section: 111405

(a) The state education aid computed for the school district 111406
or joint vocational school district for the current fiscal year as 111407
of the thirtieth day of July; 111408

(b) The state education aid that would be computed for the 111409
school district or joint vocational school district for the 111410

current fiscal year as of the thirtieth day of July if the 111411
valuation used in the calculation in division (B)(1) of section 111412
3306.13 of the Revised Code as that division existed for fiscal 111413
years 2010 and 2011 included the machinery and equipment, 111414
inventory, furniture and fixtures, and telephone property tax 111415
value losses for the school district or joint vocational school 111416
district for the second preceding tax year, and if taxes charged 111417
and payable associated with the tax value losses are accounted for 111418
in any state education aid computation dependent on taxes charged 111419
and payable. 111420

(c) The state education aid offset for fiscal year 2010 and 111421
fiscal year 2011 equals the greater of the state education aid 111422
offset calculated for that fiscal year under divisions (A)(1)(a) 111423
and (b) of this section and the state education aid offset 111424
calculated for fiscal year 2009. For fiscal year 2012 and 2013, 111425
the state education aid offset equals the state education aid 111426
offset for fiscal year 2011. 111427

(2) For fiscal years 2008 through 2011, the greater of zero 111428
or the difference obtained by subtracting the state education aid 111429
offset determined under division (A)(1) of this section from the 111430
sum of the machinery and equipment fixed-rate levy loss, the 111431
inventory fixed-rate levy loss, furniture and fixtures fixed-rate 111432
levy loss, and telephone property fixed-rate levy loss certified 111433
under divisions (G) and (I) of section 5751.20 of the Revised Code 111434
for all taxing districts in each school district and joint 111435
vocational school district for the second preceding tax year. 111436

By the thirtieth day of July of each such year, the 111437
department of education and the director of budget and management 111438
shall agree upon the amount to be determined under division (A)(1) 111439
of this section. 111440

(B) On or before the thirty-first day of August of 2008, 111441
2009, and 2010, the department of education shall recalculate the 111442

offset described under division (A) of this section for the 111443
previous fiscal year and recalculate the payments made under 111444
division (C) of this section in the preceding fiscal year using 111445
the offset calculated under this division. If the payments 111446
calculated under this division differ from the payments made under 111447
division (C) of this section in the preceding fiscal year, the 111448
difference shall either be paid to a school district or recaptured 111449
from a school district through an adjustment at the same times 111450
during the current fiscal year that the payments under division 111451
(C) of this section are made. In August and October of the current 111452
fiscal year, the amount of each adjustment shall be three-sevenths 111453
of the amount calculated under this division. In May of the 111454
current fiscal year, the adjustment shall be one-seventh of the 111455
amount calculated under this division. 111456

(C) The department of education shall pay from the school 111457
district tangible property tax replacement fund to each school 111458
district and joint vocational school district all of the following 111459
for fixed-rate levy losses certified under divisions (G) and (I) 111460
of section 5751.20 of the Revised Code: 111461

(1) On or before May 31, 2006, one-seventh of the total 111462
fixed-rate levy loss for tax year 2006; 111463

(2) On or before August 31, 2006, and October 31, 2006, 111464
one-half of six-sevenths of the total fixed-rate levy loss for tax 111465
year 2006; 111466

(3) On or before May 31, 2007, one-seventh of the total 111467
fixed-rate levy loss for tax year 2007; 111468

(4) On or before August 31, 2007, and October 31, 2007, 111469
forty-three per cent of the amount determined under division 111470
(A)(2) of this section for fiscal year 2008, but not less than 111471
zero, plus one-half of six-sevenths of the difference between the 111472
total fixed-rate levy loss for tax year 2007 and the total 111473

fixed-rate levy loss for tax year 2006. 111474

(5) On or before May 31, 2008, fourteen per cent of the 111475
amount determined under division (A)(2) of this section for fiscal 111476
year 2008, but not less than zero, plus one-seventh of the 111477
difference between the total fixed-rate levy loss for tax year 111478
2008 and the total fixed-rate levy loss for tax year 2006. 111479

(6) On or before August 31, 2008, and October 31, 2008, 111480
forty-three per cent of the amount determined under division 111481
(A)(2) of this section for fiscal year 2009, but not less than 111482
zero, plus one-half of six-sevenths of the difference between the 111483
total fixed-rate levy loss in tax year 2008 and the total 111484
fixed-rate levy loss in tax year 2007. 111485

(7) On or before May 31, 2009, fourteen per cent of the 111486
amount determined under division (A)(2) of this section for fiscal 111487
year 2009, but not less than zero, plus one-seventh of the 111488
difference between the total fixed-rate levy loss for tax year 111489
2009 and the total fixed-rate levy loss for tax year 2007. 111490

(8) On or before August 31, 2009, and October 31, 2009, 111491
forty-three per cent of the amount determined under division 111492
(A)(2) of this section for fiscal year 2010, but not less than 111493
zero, plus one-half of six-sevenths of the difference between the 111494
total fixed-rate levy loss in tax year 2009 and the total 111495
fixed-rate levy loss in tax year 2008. 111496

(9) On or before May 31, 2010, fourteen per cent of the 111497
amount determined under division (A)(2) of this section for fiscal 111498
year 2010, but not less than zero, plus one-seventh of the 111499
difference between the total fixed-rate levy loss in tax year 2010 111500
and the total fixed-rate levy loss in tax year 2008. 111501

(10) On or before August 31, 2010, and October 31, 2010, 111502
forty-three per cent of the amount determined under division 111503
(A)(2) of this section for fiscal year 2011, but not less than 111504

zero, plus one-half of six-sevenths of the difference between the 111505
telephone property fixed-rate levy loss for tax year 2010 and the 111506
telephone property fixed-rate levy loss for tax year 2009. 111507

(11) On or before May 31, 2011, fourteen per cent of the 111508
amount determined under division (A)(2) of this section for fiscal 111509
year 2011, but not less than zero, plus one-seventh of the 111510
difference between the telephone property fixed-rate levy loss for 111511
tax year 2011 and the telephone property fixed-rate levy loss for 111512
tax year 2009. 111513

(12) For fiscal years 2012 and thereafter, the sum of the 111514
amounts in divisions (C)(12)(a) or (b) and (c) of this section 111515
shall be paid on or before the ~~twentieth~~ last day of November and 111516
the last day of May: 111517

(a) If the ratio of current expense TPP allocation to total 111518
resources is equal to or less than the threshold per cent, zero; 111519

(b) If the ratio of current expense TPP allocation to total 111520
resources is greater than the threshold per cent, fifty per cent 111521
of the difference of current expense TPP allocation minus the 111522
product of total resources multiplied by the threshold per cent; 111523

(c) Fifty per cent of the product of non-current expense TPP 111524
allocation multiplied by seventy-five per cent for fiscal year 111525
2012 and fifty per cent for fiscal years 2013 and thereafter. 111526

The department of education shall report to each school 111527
district and joint vocational school district the apportionment of 111528
the payments among the school district's or joint vocational 111529
school district's funds based on the certifications under 111530
divisions (G) and (I) of section 5751.20 of the Revised Code. 111531

(D) For taxes levied within the ten-mill limitation for debt 111532
purposes in tax year 2005, payments shall be made equal to one 111533
hundred per cent of the loss computed as if the tax were a 111534
fixed-rate levy, but those payments shall extend from fiscal year 111535

2006 through fiscal year 2018, as long as the qualifying levy 111536
continues to be used for debt purposes. If the purpose of such a 111537
qualifying levy is changed, that levy becomes subject to the 111538
payments determined in division (C) of this section. 111539

(E)(1) Not later than January 1, 2006, for each fixed-sum 111540
levy of each school district or joint vocational school district 111541
and for each year for which a determination is made under division 111542
(E) of section 5751.20 of the Revised Code that a fixed-sum levy 111543
loss is to be reimbursed, the tax commissioner shall certify to 111544
the department of education the fixed-sum levy loss determined 111545
under that division. The certification shall cover a time period 111546
sufficient to include all fixed-sum levies for which the 111547
commissioner made such a determination. On or before the last day 111548
of May of the current year, the department shall pay from the 111549
school district property tax replacement fund to the school 111550
district or joint vocational school district one-third of the 111551
fixed-sum levy loss so certified, plus one-third of the amount 111552
certified under division (I) of section 5751.20 of the Revised 111553
Code, and on or before the ~~twentieth~~ last day of November, 111554
two-thirds of the fixed-sum levy loss so certified, plus 111555
two-thirds of the amount certified under division (I) of section 111556
5751.20 of the Revised Code. Payments under this division of the 111557
amounts certified under division (I) of section 5751.20 of the 111558
Revised Code shall continue until the levy adopted under section 111559
5705.219 of the Revised Code expires. 111560

(2) Beginning in 2006, by the first day of January of each 111561
year, the tax commissioner shall review the certification 111562
originally made under division (E)(1) of this section. If the 111563
commissioner determines that a debt levy that had been scheduled 111564
to be reimbursed in the current year has expired, a revised 111565
certification for that and all subsequent years shall be made to 111566
the department of education. 111567

(F) Beginning in September 2007 and through June 2013, the director of budget and management shall transfer from the school district tangible property tax replacement fund to the general revenue fund each of the following:

(1) On the first day of September, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section.

If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year.

(G) If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school

district tangible property tax replacement fund. 111599

(H) On the fifteenth day of June of each year, the director 111600
of budget and management may transfer any balance in the school 111601
district tangible property tax replacement fund to the general 111602
revenue fund. 111603

(I) If all of the territory of a school district or joint 111604
vocational school district is merged with another district, or if 111605
a part of the territory of a school district or joint vocational 111606
school district is transferred to an existing or newly created 111607
district, the department of education, in consultation with the 111608
tax commissioner, shall adjust the payments made under this 111609
section as follows: 111610

(1) For a merger of two or more districts, the fixed-sum levy 111611
losses, total resources, current expense TPP allocation, total TPP 111612
allocation, and non-current expense TPP allocation of the 111613
successor district shall be the sum of such items for each of the 111614
districts involved in the merger. 111615

(2) If property is transferred from one district to a 111616
previously existing district, the amount of total resources, 111617
current expense TPP allocation, total TPP allocation, and 111618
non-current expense TPP allocation that shall be transferred to 111619
the recipient district shall be an amount equal to total 111620
resources, current expense TPP allocation, total TPP allocation, 111621
and non-current expense TPP allocation of the transferor district 111622
times a fraction, the numerator of which is the number of pupils 111623
being transferred to the recipient district, measured, in the case 111624
of a school district, by average daily membership as reported 111625
under division (A) of section 3317.03 of the Revised Code or, in 111626
the case of a joint vocational school district, by formula ADM as 111627
reported in division (D) of that section, and the denominator of 111628
which is the average daily membership or formula ADM of the 111629
transferor district. 111630

(3) After December 31, 2010, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any total resources, current expense TPP allocation, total TPP allocation, or non-current expense TPP allocation.

(4) If the recipient district under division (I)(2) of this section or the newly created district under division (I)(3) of this section is assuming debt from one or more of the districts from which the property was transferred and any of the districts losing the property had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy loss reimbursements.

Sec. 5753.01. As used in Chapter 5753. of the Revised Code and for no other purpose under Title LVII of the Revised Code:

(A) "Casino facility" has the same meaning as in section 3772.01 of the Revised Code.

(B) "Casino gaming" has the same meaning as in section 3772.01 of the Revised Code.

(C) "Casino operator" has the same meaning as in section 3772.01 of the Revised Code.

(D) "Gross casino revenue" means the total amount of money exchanged for the purchase of chips, tokens, tickets, electronic cards, or similar objects by casino patrons, less winnings paid to wagerers. "Gross casino revenue" does not include ~~the~~:

(1) The issuance to casino patrons or wagering by casino patrons of any promotional gaming credit as defined in section 3772.01 of the Revised Code. When issuance of the promotional gaming credit requires money exchanged as a match from the patron, the excludible portion of the promotional gaming credit does not

include the portion of the wager purchased by the patron. 111661

(2) Bad debts from receipts on the basis of which the tax 111662
imposed by this chapter was paid in a prior tax period to the 111663
extent not previously excluded. For the purposes of this division, 111664
"bad debts" means any debts that have become worthless or 111665
uncollectible in a prior tax period, have been uncollected for at 111666
least six months, and that may be claimed as a deduction under 111667
section 166 of the Internal Revenue Code and the regulations 111668
adopted under that section, or that could be claimed as such if 111669
the taxpayer kept its accounts on the accrual basis. "Bad debts" 111670
does not include repossessed property, uncollectible amounts on 111671
property that remains in the possession of the casino operator 111672
until the full purchase price is paid, or expenses in attempting 111673
to collect any account receivable or for any portion of the debt 111674
recovered. 111675

(E) "Person" has the same meaning as in section 3772.01 of 111676
the Revised Code. 111677

(F) "Slot machine" has the same meaning as in section 3772.01 111678
of the Revised Code. 111679

(G) "Table game" has the same meaning as in section 3772.01 111680
of the Revised Code. 111681

(H) "Tax period" means one twenty-four-hour period with 111682
regard to which a casino operator is required to pay the tax 111683
levied by this chapter. 111684

Sec. 5753.03. (A) For the purpose of receiving and 111685
distributing, and accounting for, revenue received from the tax 111686
levied by section 5753.02 of the Revised Code, the following funds 111687
are created in the state treasury: 111688

(1) The casino tax revenue fund; 111689

(2) The gross casino revenue county fund; 111690

(3) The gross casino revenue county student fund;	111691
(4) The gross casino revenue host city fund;	111692
(5) The Ohio state racing commission fund;	111693
(6) The Ohio law enforcement training fund;	111694
(7) The problem casino gambling and addictions fund;	111695
(8) The casino control commission fund;	111696
(9) The casino tax administration fund;	111697
(10) The peace officer training academy fund;	111698
(11) The criminal justice services casino tax revenue fund.	111699
(B) All moneys collected from the tax levied under this chapter shall be deposited into the casino tax revenue fund.	111700 111701
(C) From the casino tax revenue fund the director of budget and management shall transfer as needed to the tax refund fund amounts equal to the refunds certified by the tax commissioner under section 5753.06 of the Revised Code.	111702 111703 111704 111705
(D) After making any transfers required by division (C) of this section, but not later than the fifteenth day of the month following the end of each calendar quarter, the director of budget and management shall transfer amounts to each fund as follows:	111706 111707 111708 111709
(1) Fifty-one per cent to the gross casino revenue county fund to make payments as required by Section 6(C)(3)(a) of Article XV, Ohio Constitution;	111710 111711 111712
(2) Thirty-four per cent to the gross casino revenue county student fund to make payments as required by Section 6(C)(3)(b) of Article XV, Ohio Constitution and as provided in section 5753.11 of the Revised Code;	111713 111714 111715 111716
(3) Five per cent to the gross casino revenue host city fund for the benefit of the cities in which casino facilities are located;	111717 111718 111719

(4) Three per cent to the Ohio state racing commission fund 111720
to support the efforts and activities of the Ohio state racing 111721
commission to promote horse racing in this state at which the 111722
pari-mutuel system of wagering is conducted; 111723

(5) Two per cent to the Ohio law enforcement training fund to 111724
support law enforcement functions in the state; 111725

(6) Two per cent to the problem casino gambling and 111726
addictions fund to support efforts of the department of ~~alcohol~~ 111727
~~and drug addiction services~~ mental health and addiction services 111728
to alleviate problem gambling and substance abuse and related 111729
research in the state under section ~~3793.032~~ 5119.47 of the 111730
Revised Code; 111731

(7) Three per cent to the casino control commission fund to 111732
support the operations of the Ohio casino control commission and 111733
to defray the cost of administering the tax levied under section 111734
5753.02 of the Revised Code. 111735

Payments under divisions (D)(1) and (3) of this section shall 111736
be made by the end of the month following the end of the quarterly 111737
period. The tax commissioner shall make the data available to the 111738
director of budget and management for this purpose. 111739

Money in the Ohio state racing commission fund shall be 111740
distributed at the discretion of the Ohio state racing commission 111741
for the purpose stated in division (D)(4) of this section by the 111742
end of the month following the end of the quarterly period. The 111743
commission may retain up to five per cent of the amount 111744
transferred to the fund under division (D)(4) of this section for 111745
operating expenses necessary for the administration of the fund. 111746

Payments from the gross casino revenue county student fund as 111747
required under section 5753.11 of the Revised Code shall be made 111748
by the last day of January and by the last day of August of each 111749
year, beginning in 2013. The tax commissioner shall make the data 111750

available to the director of budget and management for this 111751
purpose. 111752

Of the money credited to the Ohio law enforcement training 111753
fund, the director of budget and management shall distribute 111754
eighty-five per cent of the money to the police officer training 111755
academy fund for the purpose of supporting the law enforcement 111756
training efforts of the Ohio peace officer training academy and 111757
fifteen per cent of the money to the criminal justice services 111758
casino tax revenue fund for the purpose of supporting the law 111759
enforcement training efforts of the division of criminal justice 111760
services. 111761

(E)(1) The tax commissioner shall serve as an agent of the 111762
counties of this state only for the purposes of this division and 111763
solely to make payments directly to municipal corporations and 111764
school districts, as applicable, on the counties' behalf. 111765

(2) On or before the last day of the month following the end 111766
of each calendar quarter, the tax commissioner shall provide for 111767
payment from the funds referenced in divisions (D)(1) and (3) of 111768
this section to each county and municipal corporation as 111769
prescribed in those divisions. 111770

(3) On or before the last day of January and the last day of 111771
August each year, the commissioner shall provide for payments from 111772
the fund referenced in division (D)(2) of this section to each 111773
school district as prescribed in that division. 111774

(F) The director of budget and management shall transfer one 111775
per cent of the money credited to the casino control commission 111776
fund to the casino tax administration fund. The tax commissioner 111777
shall use the casino tax administration fund to defray the costs 111778
incurred in administering the tax levied by this chapter. 111779

(G) All investment earnings of the gross casino revenue 111780
county student fund shall be credited to the fund. 111781

Sec. 5753.07. (A)(1) The tax commissioner may issue an 111782
assessment, based on any information in the tax commissioner's 111783
possession, against a casino operator who fails to pay the tax 111784
levied under section 5753.02 of the Revised Code or to file a 111785
return under section 5753.04 of the Revised Code. The tax 111786
commissioner shall give the casino operator written notice of the 111787
assessment under section 5703.37 of the Revised Code. With the 111788
notice, the tax commissioner shall include instructions on how to 111789
petition for reassessment and on how to request a hearing with 111790
respect to the petition. 111791

(2) Unless the casino operator, within sixty days after 111792
service of the notice of assessment, files with the tax 111793
commissioner, either personally or by certified mail, a written 111794
petition signed by the casino operator, or by the casino 111795
operator's authorized agent who has knowledge of the facts, the 111796
assessment becomes final, and the amount of the assessment is due 111797
and payable from the casino operator to the treasurer of state. 111798
The petition shall indicate the casino operator's objections to 111799
the assessment. Additional objections may be raised in writing if 111800
they are received by the tax commissioner before the date shown on 111801
the final determination. 111802

(3) If a petition for reassessment has been properly filed, 111803
the tax commissioner shall proceed under section 5703.60 of the 111804
Revised Code. 111805

(4) After an assessment becomes final, if any portion of the 111806
assessment, including penalties and accrued interest, remains 111807
unpaid, the tax commissioner may file a certified copy of the 111808
entry making the assessment final in the office of the clerk of 111809
the court of common pleas of Franklin county or in the office of 111810
the clerk of the court of common pleas of the county in which the 111811
casino operator resides, the casino operator's casino facility is 111812

located, or the casino operator's principal place of business in 111813
this state is located. Immediately upon the filing of the entry, 111814
the clerk shall enter a judgment for the state against the 111815
taxpayer assessed in the amount shown on the entry. The judgment 111816
may be filed by the clerk in a loose-leaf book entitled, "special 111817
judgments for the gross casino revenue tax." The judgment has the 111818
same effect as other judgments. Execution shall issue upon the 111819
judgment at the request of the tax commissioner, and all laws 111820
applicable to sales on execution apply to sales made under the 111821
judgment. 111822

(5) ~~The portion of an~~ If the assessment is not paid in its 111823
entirety within sixty days after the day the assessment was issued 111824
~~bears, the portion of the assessment consisting of tax due shall~~ 111825
bear interest at the rate per annum prescribed by section 5703.47 111826
of the Revised Code from the day the tax commissioner issued the 111827
assessment until the assessment is paid or until it is certified 111828
to the attorney general for collection under section 131.02 of the 111829
Revised Code, whichever comes first. If the unpaid portion of the 111830
assessment is certified to the attorney general for collection, 111831
the entire unpaid portion of the assessment shall bear interest at 111832
the rate per annum prescribed by section 5703.47 of the Revised 111833
Code from the date of certification until the date it is paid in 111834
its entirety. Interest shall be paid in the same manner as the tax 111835
levied under section 5753.02 of the Revised Code and may be 111836
collected by the issuance of an assessment under this section. 111837

(B) If the tax commissioner believes that collection of the 111838
tax levied under section 5753.02 of the Revised Code will be 111839
jeopardized unless proceedings to collect or secure collection of 111840
the tax are instituted without delay, the commissioner may issue a 111841
jeopardy assessment against the casino operator who is liable for 111842
the tax. Immediately upon the issuance of a jeopardy assessment, 111843
the tax commissioner shall file an entry with the clerk of the 111844

court of common pleas in the manner prescribed by division (A)(4) 111845
of this section, and the clerk shall proceed as directed in that 111846
division. Notice of the jeopardy assessment shall be served on the 111847
casino operator or the casino operator's authorized agent under 111848
section 5703.37 of the Revised Code within five days after the 111849
filing of the entry with the clerk. The total amount assessed is 111850
immediately due and payable, unless the casino operator assessed 111851
files a petition for reassessment under division (A)(2) of this 111852
section and provides security in a form satisfactory to the tax 111853
commissioner that is in an amount sufficient to satisfy the unpaid 111854
balance of the assessment. If a petition for reassessment has been 111855
filed, and if satisfactory security has been provided, the tax 111856
commissioner shall proceed under division (A)(3) of this section. 111857
Full or partial payment of the assessment does not prejudice the 111858
tax commissioner's consideration of the petition for reassessment. 111859

(C) The tax commissioner shall immediately forward to the 111860
treasurer of state all amounts the tax commissioner receives under 111861
this section, and the amounts forwarded shall be treated as if 111862
they were revenue arising from the tax levied under section 111863
5753.02 of the Revised Code. 111864

(D) Except as otherwise provided in this division, no 111865
assessment shall be issued against a casino operator for the tax 111866
levied under section 5753.02 of the Revised Code more than four 111867
years after the due date for filing the return for the tax period 111868
for which the tax was reported, or more than four years after the 111869
return for the tax period was filed, whichever is later. This 111870
division does not bar an assessment against a casino operator who 111871
fails to file a return as required by section 5753.04 of the 111872
Revised Code or who files a fraudulent return, or when the casino 111873
operator and the tax commissioner waive in writing the time 111874
limitation. 111875

(E) If the tax commissioner possesses information that 111876

indicates that the amount of tax a casino operator is liable to 111877
pay under section 5753.02 of the Revised Code exceeds the amount 111878
the casino operator paid, the tax commissioner may audit a sample 111879
of the casino operator's gross casino revenue over a 111880
representative period of time to ascertain the amount of tax due, 111881
and may issue an assessment based on the audit. The tax 111882
commissioner shall make a good faith effort to reach agreement 111883
with the casino operator in selecting a representative sample. The 111884
tax commissioner may apply a sampling method only if the tax 111885
commissioner has prescribed the method by rule. 111886

(F) If the whereabouts of a casino operator who is liable for 111887
the tax levied under section 5753.02 of the Revised Code are 111888
unknown to the tax commissioner, the tax commissioner shall 111889
proceed under section 5703.37 of the Revised Code. 111890

(G) If a casino operator fails to pay the tax levied under 111891
section 5753.02 of the Revised Code within a period of one year 111892
after the due date for remitting the tax, the Ohio casino control 111893
commission may suspend the casino operator's license. 111894

Sec. 5815.28. (A) As used in this section: 111895

(1) "Ascertainable standard" includes a standard in a trust 111896
instrument requiring the trustee to provide for the care, comfort, 111897
maintenance, welfare, education, or general well-being of the 111898
beneficiary. 111899

(2) "Disability" means any substantial, medically 111900
determinable impairment that can be expected to result in death or 111901
that has lasted or can be expected to last for a continuous period 111902
of at least twelve months, except that "disability" does not 111903
include an impairment that is the result of abuse of alcohol or 111904
drugs. 111905

(3) "Political subdivision" and "state" have the same 111906

meanings as in section 2744.01 of the Revised Code. 111907

(4) "Supplemental services" means services specified by rule 111908
of the department of ~~mental health~~ mental health and addiction 111909
services under section ~~5119.01~~ 5119.10 of the Revised Code or the 111910
department of developmental disabilities under section 5123.04 of 111911
the Revised Code that are provided to an individual with a 111912
disability in addition to services the individual is eligible to 111913
receive under programs authorized by federal or state law. 111914

(B) Any person may create a trust under this section to 111915
provide funding for supplemental services for the benefit of 111916
another individual who meets either of the following conditions: 111917

(1) The individual has a physical or mental disability and is 111918
eligible to receive services through the department of 111919
developmental disabilities or a county board of developmental 111920
disabilities; 111921

(2) The individual has a mental disability and is eligible to 111922
receive services through the department of ~~mental health~~ mental 111923
health and addiction services or a board of alcohol, drug 111924
addiction, and mental health services. 111925

The trust may confer discretion upon the trustee and may 111926
contain specific instructions or conditions governing the exercise 111927
of the discretion. 111928

(C) The general division of the court of common pleas and the 111929
probate court of the county in which the beneficiary of a trust 111930
authorized by division (B) of this section resides or is confined 111931
have concurrent original jurisdiction to hear and determine 111932
actions pertaining to the trust. In any action pertaining to the 111933
trust in a court of common pleas or probate court and in any 111934
appeal of the action, all of the following apply to the trial or 111935
appellate court: 111936

(1) The court shall render determinations consistent with the 111937

testator's or other settlor's intent in creating the trust, as 111938
evidenced by the terms of the trust instrument. 111939

(2) The court may order the trustee to exercise discretion 111940
that the trust instrument confers upon the trustee only if the 111941
instrument contains specific instructions or conditions governing 111942
the exercise of that discretion and the trustee has failed to 111943
comply with the instructions or conditions. In issuing an order 111944
pursuant to this division, the court shall require the trustee to 111945
exercise the trustee's discretion only in accordance with the 111946
instructions or conditions. 111947

(3) The court may order the trustee to maintain the trust and 111948
distribute assets in accordance with rules adopted by the director 111949
of ~~mental health~~ mental health and addiction services under 111950
section ~~5119.04~~ 5119.10 of the Revised Code or the director of 111951
developmental disabilities under section 5123.04 of the Revised 111952
Code if the trustee has failed to comply with such rules. 111953

(D) To the extent permitted by federal law and subject to the 111954
provisions of division (C)(2) of this section pertaining to the 111955
enforcement of specific instructions or conditions governing a 111956
trustee's discretion, a trust authorized by division (B) of this 111957
section that confers discretion upon the trustee shall not be 111958
considered an asset or resource of the beneficiary, the 111959
beneficiary's estate, the settlor, or the settlor's estate and 111960
shall be exempt from the claims of creditors, political 111961
subdivisions, the state, other governmental entities, and other 111962
claimants against the beneficiary, the beneficiary's estate, the 111963
settlor, or the settlor's estate, including claims regarding the 111964
medicaid program or based on provisions of Chapters ~~5111.7~~ 5121.7 111965
or 5123. of the Revised Code and claims sought to be satisfied by 111966
way of a civil action, subrogation, execution, garnishment, 111967
attachment, judicial sale, or other legal process, if all of the 111968
following apply: 111969

(1) At the time the trust is created, the trust principal 111970
does not exceed the maximum amount determined under division (E) 111971
of this section; 111972

(2) The trust instrument contains a statement of the 111973
settlor's intent, or otherwise clearly evidences the settlor's 111974
intent, that the beneficiary does not have authority to compel the 111975
trustee under any circumstances to furnish the beneficiary with 111976
minimal or other maintenance or support, to make payments from the 111977
principal of the trust or from the income derived from the 111978
principal, or to convert any portion of the principal into cash, 111979
whether pursuant to an ascertainable standard specified in the 111980
instrument or otherwise; 111981

(3) The trust instrument provides that trust assets can be 111982
used only to provide supplemental services, as defined by rule of 111983
the director of ~~mental health~~ mental health and addiction services 111984
under section ~~5119.01~~ 5119.10 of the Revised Code or the director 111985
of developmental disabilities under section 5123.04 of the Revised 111986
Code, to the beneficiary; 111987

(4) The trust is maintained and assets are distributed in 111988
accordance with rules adopted by the director of ~~mental health~~ 111989
mental health and addiction services under section ~~5119.01~~ 5119.10 111990
of the Revised Code or the director of developmental disabilities 111991
under section 5123.04 of the Revised Code; 111992

(5) The trust instrument provides that on the death of the 111993
beneficiary, a portion of the remaining assets of the trust, which 111994
shall be not less than fifty per cent of such assets, will be 111995
deposited to the credit of the services fund for individuals with 111996
mental illness created by section ~~5119.17~~ 5119.51 of the Revised 111997
Code or the services fund for individuals with mental retardation 111998
and developmental disabilities created by section 5123.40 of the 111999
Revised Code. 112000

(E) In 1994, the trust principal maximum amount for a trust 112001
created under this section shall be two hundred thousand dollars. 112002
The maximum amount for a trust created under this section prior to 112003
November 11, 1994, may be increased to two hundred thousand 112004
dollars. 112005

In 1995, the maximum amount for a trust created under this 112006
section shall be two hundred two thousand dollars. Each year 112007
thereafter, the maximum amount shall be the prior year's amount 112008
plus two thousand dollars. 112009

(F) This section does not limit or otherwise affect the 112010
creation, validity, interpretation, or effect of any trust that is 112011
not created under this section. 112012

(G) Once a trustee takes action on a trust created by a 112013
settlor under this section and disburses trust funds on behalf of 112014
the beneficiary of the trust, then the trust may not be terminated 112015
or otherwise revoked by a particular event or otherwise without 112016
payment into the services fund created pursuant to section ~~5119.17~~ 112017
5119.51 or 5123.40 of the Revised Code of an amount that is equal 112018
to the disbursements made on behalf of the beneficiary for medical 112019
care by the state from the date the trust vests but that is not 112020
more than fifty per cent of the trust corpus. 112021

Sec. 5905.02. Whenever it appears that a person is eligible 112022
for care or treatment by the veterans' administration or other 112023
agency of the United States, and hospitalization is necessary for 112024
the proper care or treatment of such person, the probate court, 112025
upon receipt of a certificate from the veterans' administration or 112026
such other agency showing that facilities are available and such 112027
person is eligible for care or treatment therein, may order such 112028
person to said veterans' administration or other agency for care 112029
and treatment. 112030

Upon admission, such person shall be subject to the 112031

applicable regulations of the veterans' administration or other 112032
agency of the United States. The chief officer of any hospital to 112033
which any person is admitted pursuant to hospitalization as 112034
provided in sections 5905.01 to 5905.19 of the Revised Code, or 112035
under the law in effect at the time of such admission, shall have 112036
the same powers as are exercised by heads of hospitals for mental 112037
diseases and the department of ~~mental health~~ mental health and 112038
addiction services with respect to the retention, transfer, 112039
parole, or discharge of the person hospitalized; provided no 112040
person shall be transferred to a hospital operated by the state or 112041
any political subdivision thereof without the consent of such 112042
department. 112043

The right of such person to appear and defend shall not be 112044
denied. 112045

The judgment or order of hospitalization by a court of 112046
competent jurisdiction of another state ordering a person to the 112047
veterans' administration or other agency of the United States, or 112048
any hospital operated by any such agency, for care or treatment 112049
shall have the same effect as to such person while in this state 112050
as in the state in which the court entering such judgment or 112051
making such order is situated, provided that no nonresident 112052
ordered to a veterans' administration facility located in Ohio 112053
shall thereby acquire a legal settlement in Ohio. 112054

Upon receipt of a certificate that facilities are available 112055
in any such hospital operated by the United States for the care or 112056
treatment of any person ordered to any hospital for the mentally 112057
ill or other hospital in this state for the care of persons 112058
similarly afflicted, and that such person is eligible for such 112059
care or treatment, such department may transfer any such person to 112060
the veterans' administration or other agency of the United States 112061
in the state. Upon effecting any such transfer, the ordering court 112062
shall be notified thereof by the transferring agency; provided 112063

that no such person shall be transferred if ~~he~~ the person is 112064
confined pursuant to conviction of any crime or misdemeanor, or if 112065
~~he~~ the person has been acquitted of any such charge solely on the 112066
ground of insanity, unless prior to such transfer the court 112067
originally ordering such person enters an order for such transfer 112068
after appropriate motion and hearing. 112069

Any person transferred as provided in this section is ordered 112070
to the veterans' administration or other agency of the United 112071
States pursuant to the original order as though ~~he~~ the person had 112072
been originally so ordered. 112073

Sec. 5910.02. There is hereby created an Ohio war orphans 112074
scholarship board as part of the department of veterans services. 112075
The board consists of eight members as follows: the chancellor of 112076
the Ohio board of regents or the chancellor's designee; the 112077
director of veterans services or the director's designee; one 112078
member of the house of representatives, appointed by the speaker; 112079
one member of the senate, appointed by the president of the 112080
senate; and four members appointed by the governor, one of whom 112081
shall be a representative of the American Legion, one of whom 112082
shall be a representative of the Veterans of Foreign Wars, one of 112083
whom shall be a representative of the Disabled American Veterans, 112084
and one of whom shall be a representative of the AMVETS. At least 112085
ninety days prior to the expiration of the term of office of the 112086
representative of a veterans organization appointed by the 112087
governor, the governor shall notify the state headquarters of the 112088
affected organization of the need for an appointment and request 112089
the organization to make at least three nominations. Within sixty 112090
days after making the request for nominations, the governor may 112091
make the appointment from the nominations received, or may reject 112092
all the nominations and request at least three new nominations, 112093
from which the governor shall make an appointment within thirty 112094
days after making the request for the new nominations. If the 112095

governor receives no nominations during this thirty-day period, 112096
the governor may appoint any veteran. 112097

Terms of office for the four members appointed by the 112098
governor shall be for four years, commencing on the first day of 112099
January and ending on the thirty-first day of December, except 112100
that the term of the AMVETS representative shall expire December 112101
31, 1998, and the new term that succeeds it shall commence on 112102
January 1, 1999, and end on December 31, 2002. Each member shall 112103
hold office from the date of the member's appointment until the 112104
end of the term for which the member was appointed. The other 112105
members shall serve during their terms of office. Any vacancy 112106
shall be filled by appointment in the same manner as by original 112107
appointment. Any member appointed to fill a vacancy occurring 112108
prior to the expiration of the term for which the member's 112109
predecessor was appointed shall hold office for the remainder of 112110
such term. Any appointed member shall continue in office 112111
subsequent to the expiration date of the member's term until the 112112
member's successor takes office, or until a period of sixty days 112113
has elapsed, whichever occurs first. The members of the board 112114
shall serve without pay but shall be reimbursed for travel 112115
expenses and for other actual and necessary expenses incurred in 112116
the performance of their duties, not to exceed ten dollars per day 112117
for ten days in any one year to be appropriated out of any moneys 112118
in the state treasury to the credit of the general revenue fund. 112119

The chancellor of the board of regents shall act as secretary 112120
to the board and shall furnish such clerical and other assistance 112121
as may be necessary to the performance of the duties of the board. 112122

The board shall determine the number of scholarships to be 112123
made available, receive applications for scholarships, pass upon 112124
the eligibility of applicants, decide which applicants are to 112125
receive scholarships, and do all other things necessary for the 112126
proper administration of this chapter. 112127

The board may apply for, and may receive and accept, grants, 112128
and may receive and accept gifts, bequests, and contributions, 112129
from public and private sources, including agencies and 112130
instrumentalities of the United States and this state, and shall 112131
deposit the grants, gifts, bequests, or contributions into the 112132
Ohio war orphans scholarship donation fund. 112133

Sec. 5910.07. The Ohio war orphans scholarship donation fund 112134
is created in the state treasury. The fund shall consist of gifts, 112135
bequests, grants, and contributions made to the fund under section 112136
5910.02 of the Revised Code. Investment earnings of the fund shall 112137
be deposited into the fund. The fund shall be used to operate the 112138
war orphans scholarship program and to provide grants under 112139
sections 5910.01 to 5910.06 of the Revised Code. 112140

Sec. 5910.08. There is hereby created in the state treasury 112141
the war orphans scholarship reserve fund. Not later than the first 112142
day of July of each fiscal year, the chancellor of the Ohio board 112143
of regents shall certify to the director of budget and management 112144
the unencumbered balance of the general revenue fund 112145
appropriations made in the immediately preceding fiscal year for 112146
purposes of the war orphans scholarship program created in Chapter 112147
5910. of the Revised Code. Upon receipt of the certification, the 112148
director may transfer an amount not exceeding the certified amount 112149
from the general revenue fund to the war orphans scholarship 112150
reserve fund. Moneys in the war orphans scholarship reserve fund 112151
shall be used to pay scholarship obligations in excess of the 112152
general revenue fund appropriations made for that purpose. 112153

The director may transfer any unencumbered balance from the 112154
war orphans scholarship reserve fund to the general revenue fund. 112155

Sec. 5919.34. (A) As used in this section: 112156

(1) "Academic term" means any one of the following: 112157

(a) Fall term, which consists of fall semester or fall quarter, as appropriate;	112158 112159
(b) Winter term, which consists of winter semester, winter quarter, or spring semester, as appropriate;	112160 112161
(c) Spring term, which consists of spring quarter;	112162
(d) Summer term, which consists of summer semester or summer quarter, as appropriate.	112163 112164
(2) "Eligible applicant" means any individual to whom all of the following apply:	112165 112166
(a) The individual does not possess a baccalaureate degree.	112167
(b) The individual has enlisted, re-enlisted, or extended current enlistment in the Ohio national guard or is an individual to which division (F) of this section applies.	112168 112169 112170
(c) The individual is actively enrolled as a full-time or part-time student for at least three credit hours of course work in a semester or quarter in a two-year or four-year degree-granting program at a state institution of higher education or a private institution of higher education, or in a diploma-granting program at a state or private institution of higher education that is a school of nursing.	112171 112172 112173 112174 112175 112176 112177
(d) The individual has not accumulated ninety-six eligibility units under division (E) of this section.	112178 112179
(3) "State institution of higher education" means any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college established under Chapter 3354. of the Revised Code, state community college established under Chapter 3358. of the Revised Code, university branch established under Chapter 3355. of the Revised Code, or technical college established under Chapter 3357. of the Revised Code.	112180 112181 112182 112183 112184 112185 112186 112187

(4) "Private institution of higher education" means an Ohio institution of higher education that is nonprofit and has received a certificate of authorization pursuant to Chapter 1713. of the Revised Code, that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or that holds a certificate of registration and program authorization issued by the state board of career colleges and schools pursuant to section 3332.05 of the Revised Code.

(5) "Tuition" means the charges imposed to attend an institution of higher education and includes general and instructional fees. "Tuition" does not include laboratory fees, room and board, or other similar fees and charges.

(B) There is hereby created a scholarship program to be known as the Ohio national guard scholarship program.

(C) The adjutant general shall approve scholarships for all eligible applicants. The adjutant general shall process all applications for scholarships for each academic term in the order in which they are received. The scholarships shall be made without regard to financial need. At no time shall one person be placed in priority over another because of sex, race, or religion.

(D)(1) Except as provided in divisions (I) and (J) of this section, for each academic term that an eligible applicant is approved for a scholarship under this section and either remains a current member in good standing of the Ohio national guard or is eligible for a scholarship under division (F)(1) of this section, the institution of higher education in which the applicant is enrolled shall, if the applicant's enlistment obligation extends beyond the end of that academic term or if division (F)(1) of this section applies, be paid on the applicant's behalf the applicable one of the following amounts:

(a) If the institution is a state institution of higher education, an amount equal to one hundred per cent of the institution's tuition charges;

(b) If the institution is a nonprofit private institution or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, an amount equal to one hundred per cent of the average tuition charges of all state universities;

(c) If the institution is an institution that holds a certificate of registration from the state board of career colleges and schools, the lesser of the following:

(i) An amount equal to one hundred per cent of the institution's tuition;

(ii) An amount equal to one hundred per cent of the average tuition charges of all state universities, as that term is defined in section 3345.011 of the Revised Code.

(2) An eligible applicant's scholarship shall not be reduced by the amount of that applicant's benefits under "the Montgomery G.I. Bill Act of 1984," Pub. L. No. 98-525, 98 Stat. 2553 (1984).

(E) A scholarship recipient under this section shall be entitled to receive scholarships under this section for the number of quarters or semesters it takes the recipient to accumulate ninety-six eligibility units as determined under divisions (E)(1) to (3) of this section.

(1) To determine the maximum number of semesters or quarters for which a recipient is entitled to a scholarship under this section, the adjutant general shall convert a recipient's credit hours of enrollment for each academic term into eligibility units in accordance with the following table:

The

Number of		following		The following	112249
credit hours		number of		number of	112250
of enrollment		eligibility		eligibility	112251
in an academic		units if a		units if a	112252
term	equals	semester	or	quarter	112253
					112254
12 or more hours		12 units		8 units	112255
9 but less than 12		9 units		6 units	112256
6 but less than 9		6 units		4 units	112257
3 but less than 6		3 units		2 units	112258

(2) A scholarship recipient under this section may continue 112259
to apply for scholarships under this section until the recipient 112260
has accumulated ninety-six eligibility units. 112261

(3) If a scholarship recipient withdraws from courses prior 112262
to the end of an academic term so that the recipient's enrollment 112263
for that academic term is less than three credit hours, no 112264
scholarship shall be paid on behalf of that person for that 112265
academic term. Except as provided in division (F)(3) of this 112266
section, if a scholarship has already been paid on behalf of the 112267
person for that academic term, the adjutant general shall add to 112268
that person's accumulated eligibility units the number of 112269
eligibility units for which the scholarship was paid. 112270

(F) This division applies to any eligible applicant called 112271
into active duty on or after September 11, 2001. As used in this 112272
division, "active duty" means active duty pursuant to an executive 112273
order of the president of the United States, an act of the 112274
congress of the United States, or section 5919.29 or 5923.21 of 112275
the Revised Code. 112276

(1) For a period of up to five years from when an 112277
individual's enlistment obligation in the Ohio national guard 112278
ends, an individual to whom this division applies is eligible for 112279
scholarships under this section for those academic terms that were 112280

missed or could have been missed as a result of the individual's 112281
call into active duty. Scholarships shall not be paid for the 112282
academic term in which an eligible applicant's enlistment 112283
obligation ends unless an applicant is eligible under this 112284
division for a scholarship for such academic term due to previous 112285
active duty. 112286

(2) When an individual to whom this division applies 112287
withdraws or otherwise fails to complete courses, for which 112288
scholarships have been awarded under this section, because the 112289
individual was called into active duty, the institution of higher 112290
education shall grant the individual a leave of absence from the 112291
individual's education program and shall not impose any academic 112292
penalty for such withdrawal or failure to complete courses. 112293
Division (F)(2) of this section applies regardless of whether or 112294
not the scholarship amount was paid to the institution of higher 112295
education. 112296

(3) If an individual to whom this division applies withdraws 112297
or otherwise fails to complete courses because the individual was 112298
called into active duty, and if scholarships for those courses 112299
have already been paid, either: 112300

(a) The adjutant general shall not add to that person's 112301
accumulated eligibility units calculated under division (E) of 112302
this section the number of eligibility units for the academic 112303
courses or term for which the scholarship was paid and the 112304
institution of higher education shall repay the scholarship amount 112305
to the state. 112306

(b) The adjutant general shall add to that individual's 112307
accumulated eligibility units calculated under division (E) of 112308
this section the number of eligibility units for the academic 112309
courses or term for which the scholarship was paid if the 112310
institution of higher education agrees to permit the individual to 112311
complete the remainder of the academic courses in which the 112312

individual was enrolled at the time the individual was called into active duty. 112313
112314

(4) No individual who is discharged from the Ohio national guard under other than honorable conditions shall be eligible for scholarships under this division. 112315
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(G) A scholarship recipient under this section who fails to complete the term of enlistment, re-enlistment, or extension of current enlistment the recipient was serving at the time a scholarship was paid on behalf of the recipient under this section is liable to the state for repayment of a percentage of all Ohio national guard scholarships paid on behalf of the recipient under this section, plus interest at the rate of ten per cent per annum calculated from the dates the scholarships were paid. This percentage shall equal the percentage of the current term of enlistment, re-enlistment, or extension of enlistment a recipient has not completed as of the date the recipient is discharged from the Ohio national guard. 112318
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The attorney general may commence a civil action on behalf of the chancellor of the Ohio board of regents to recover the amount of the scholarships and the interest provided for in this division and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. A scholarship recipient is not liable under this division if the recipient's failure to complete the term of enlistment being served at the time a scholarship was paid on behalf of the recipient under this section is due to the recipient's death or discharge from the national guard due to disability. 112330
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(H) On or before the first day of each academic term, the adjutant general shall provide an eligibility roster to the chancellor and to each institution of higher education at which one or more scholarship recipients have applied for enrollment. The institution shall use the roster to certify the actual 112340
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full-time or part-time enrollment of each scholarship recipient 112345
listed as enrolled at the institution and return the roster to the 112346
adjutant general and the chancellor. Except as provided in 112347
division (J) of this section, the chancellor shall provide for 112348
payment of the appropriate number and amount of scholarships to 112349
each institution of higher education pursuant to division (D) of 112350
this section. If an institution of higher education fails to 112351
certify the actual enrollment of a scholarship recipient listed as 112352
enrolled at the institution within thirty days of the end of an 112353
academic term, the institution shall not be eligible to receive 112354
payment from the Ohio national guard scholarship program or from 112355
the individual enrollee. The adjutant general shall report on a 112356
semiannual basis to the director of budget and management, the 112357
speaker of the house of representatives, the president of the 112358
senate, and the chancellor the number of Ohio national guard 112359
scholarship recipients, the size of the scholarship-eligible 112360
population, and a projection of the cost of the program for the 112361
remainder of the biennium. 112362

(I) The chancellor and the adjutant general may adopt rules 112363
pursuant to Chapter 119. of the Revised Code governing the 112364
administration and fiscal management of the Ohio national guard 112365
scholarship program and the procedure by which the chancellor and 112366
the department of the adjutant general may modify the amount of 112367
scholarships a member receives based on the amount of other state 112368
financial aid a member receives. 112369

(J) The adjutant general, the chancellor, and the director, 112370
or their designees, shall jointly estimate the costs of the Ohio 112371
national guard scholarship program for each upcoming fiscal 112372
biennium, and shall report that estimate prior to the beginning of 112373
the fiscal biennium to the chairpersons of the finance committees 112374
in the general assembly. During each fiscal year of the biennium, 112375
the adjutant general, the chancellor, and the director, or their 112376

designees, shall meet regularly to monitor the actual costs of the 112377
Ohio national guard scholarship program and update cost 112378
projections for the remainder of the biennium as necessary. If the 112379
amounts appropriated for the Ohio national guard scholarship 112380
program and any funds in the Ohio national guard scholarship 112381
reserve fund and the Ohio national guard scholarship donation fund 112382
are not adequate to provide scholarships in the amounts specified 112383
in division (D)(1) of this section for all eligible applicants, 112384
the chancellor shall do all of the following: 112385

(1) Notify each private institution of higher education, 112386
where a scholarship recipient is enrolled, that, by accepting the 112387
Ohio national guard scholarship program as payment for all or part 112388
of the institution's tuition, the institution agrees that if the 112389
chancellor reduces the amount of each scholarship, the institution 112390
shall provide each scholarship recipient a grant or tuition waiver 112391
in an amount equal to the amount the recipient's scholarship was 112392
reduced by the chancellor. 112393

(2) Reduce the amount of each scholarship under division 112394
(D)(1)(a) of this section proportionally based on the amount of 112395
remaining available funds. Each state institution of higher 112396
education shall provide each scholarship recipient under division 112397
(D)(1)(a) of this section a grant or tuition waiver in an amount 112398
equal to the amount the recipient's scholarship was reduced by the 112399
chancellor. 112400

(K) Notwithstanding division (A) of section 127.14 of the 112401
Revised Code, the controlling board shall not transfer all or part 112402
of any appropriation for the Ohio national guard scholarship 112403
program. 112404

(L) The chancellor and the adjutant general may apply for, 112405
and may receive and accept grants, and may receive and accept 112406
gifts, bequests, and contributions, from public and private 112407
sources, including agencies and instrumentalities of the United 112408

States and this state, and shall deposit the grants, gifts, 112409
bequests, or contributions into the national guard scholarship 112410
~~reserve~~ donation fund. 112411

Sec. 5919.342. The national guard scholarship donation fund 112412
is created in the state treasury. The fund shall consist of gifts, 112413
bequests, grants, and contributions made to the fund under 112414
division (L) of section 5919.34 of the Revised Code. Investment 112415
earnings of the fund shall be deposited into the fund. The fund 112416
shall be used to operate the Ohio national guard scholarship 112417
program created under section 5919.34 of the Revised Code. 112418

Sec. 5924.502. (A) If the issue of an accused's competence to 112419
stand trial is raised or if an accused enters a plea of not guilty 112420
by reason of insanity, the court may order one or more evaluations 112421
of the accused's present mental condition or, in the case of a 112422
plea of not guilty by reason of insanity, of the accused's mental 112423
condition at the time of the offense charged. An examiner shall 112424
conduct the evaluation. 112425

(B) If the court orders more than one evaluation under 112426
division (A) of this section, the trial counsel and the defense 112427
counsel may recommend to the court an examiner whom each prefers 112428
to perform one of the evaluations. If an accused enters a plea of 112429
not guilty by reason of insanity and if the court does not 112430
designate an examiner recommended by the defense counsel, the 112431
court shall inform the accused that the accused may have 112432
independent expert evaluation and that it will be obtained for the 112433
accused at public expense. 112434

(C) If the court orders an evaluation under division (A) of 112435
this section, the accused shall be available at the times and 112436
places established by the examiners who are to conduct the 112437
evaluation. The court may order an accused who is not being held 112438

in pretrial confinement to submit to an evaluation under this 112439
section. If an accused who is not being held in pretrial 112440
confinement refuses to submit to a complete evaluation, the court 112441
may order the sheriff to take the accused into custody and deliver 112442
the accused to a center, program, or facility operated or 112443
certified by the department of ~~mental health~~ mental health and 112444
addiction services where the accused may be held for evaluation 112445
for a reasonable period of time not to exceed twenty days. 112446

(D) An accused who is being held in pretrial confinement may 112447
be evaluated at the accused's place of detention. Upon the request 112448
of the examiner, the court may order the sheriff to transport the 112449
accused to a program or facility operated or certified by the 112450
department of ~~mental health~~ mental health and addiction services, 112451
where the accused may be held for evaluation for a reasonable 112452
period of time not to exceed twenty days, and to return the 112453
accused to the place of detention after the evaluation. 112454

(E) If a court orders the evaluation to determine an 112455
accused's mental condition at the time of the offense charged, the 112456
court shall inform the examiner of the offense with which the 112457
accused is charged. 112458

(F) In conducting an evaluation of an accused's mental 112459
condition at the time of the offense charged, the examiner shall 112460
consider all relevant evidence. If the offense charged involves 112461
the use of force against another person, the relevant evidence to 112462
be considered includes, but is not limited to, any evidence that 112463
the accused suffered at the time of the commission of the offense 112464
from the "battered woman syndrome." 112465

(G) The examiner shall file a written report with the court 112466
within thirty days after entry of a court order for evaluation, 112467
and the court shall provide copies of the report to the trial 112468
counsel and defense counsel. The report shall include all of the 112469
following: 112470

- (1) The examiner's findings; 112471
- (2) The facts in reasonable detail on which the findings are based; 112472
112473
- (3) If the evaluation was ordered to determine the accused's competence to stand trial, all of the following findings or recommendations that are applicable: 112474
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112476
- (a) Whether the accused is capable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense; 112477
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- (b) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense, whether the accused presently is mentally ill; 112480
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- (c) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense, the examiner's opinion as to the likelihood of the accused becoming capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense within one year if the accused is provided with a course of treatment; 112484
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- (d) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense and that the accused presently is mentally ill, the examiner's recommendation as to the least restrictive placement or commitment alternative, consistent with the accused's treatment needs for restoration to competency and with the safety of the community; 112492
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- (e) If the accused is charged before a special or summary court-martial with an offense that is not a violation of section 112500
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5924.120, 5924.127, or 5924.128 of the Revised Code and the 112502
examiner's opinion is that the accused is incapable of 112503
understanding the nature and objective of the proceedings against 112504
the accused or of assisting in the accused's defense and that the 112505
accused is presently mentally ill, the examiner's recommendation 112506
as to whether the accused is amenable to engagement in mental 112507
health treatment. 112508

(4) If the evaluation was ordered to determine the accused's 112509
mental condition at the time of the offense charged, the 112510
examiner's findings as to whether the accused at the time of the 112511
offense charged did not know, as a result of a severe mental 112512
disease or defect, the wrongfulness of the accused's acts charged. 112513

(H) An examiner appointed under divisions (A) and (B) of this 112514
section to evaluate an accused to determine the accused's 112515
competence to stand trial also may be appointed to evaluate an 112516
accused who has entered a plea of not guilty by reason of 112517
insanity, but an examiner of that nature shall prepare separate 112518
reports on the issue of competence to stand trial and the defense 112519
of not guilty by reason of insanity. 112520

(I) No statement that an accused makes in an evaluation or 112521
hearing under divisions (A) to (H) of this section relating to the 112522
accused's competence to stand trial or to the accused's mental 112523
condition at the time of the offense charged may be used against 112524
the accused on the issue of guilt in any criminal action or 112525
proceeding, but, in a criminal action or proceeding, the trial 112526
counsel or defense counsel may call as a witness any person who 112527
evaluated the accused or prepared a report pursuant to a referral 112528
under this section. Neither the appointment nor the testimony of 112529
an examiner appointed under this section precludes the trial 112530
counsel or defense counsel from calling other witnesses or 112531
presenting other evidence on competency or insanity issues. 112532

(J) Persons appointed as examiners under divisions (A) and 112533

(B) of this section or under division (H) of this section shall be 112534
paid a reasonable amount for their services and expenses, as 112535
certified by the court. 112536

Sec. 5924.503. (A) If the issue of an accused's competence to 112537
stand trial is raised and if the court, upon conducting the 112538
hearing provided for in section 5924.502 of the Revised Code, 112539
finds that the accused is competent to stand trial, the accused 112540
shall be proceeded against as provided by law. If the court finds 112541
the accused competent to stand trial and the accused is receiving 112542
psychotropic drugs or other medication, the court may authorize 112543
the continued administration of the drugs or medication or other 112544
appropriate treatment in order to maintain the accused's 112545
competence to stand trial unless the accused's attending physician 112546
advises the court against continuation of the drugs, other 112547
medication, or treatment. 112548

(B)(1)(a) If, after taking into consideration all relevant 112549
reports, information, and other evidence, the court finds that the 112550
accused is incompetent to stand trial and that there is a 112551
substantial probability that the accused will become competent to 112552
stand trial within one year if the accused is provided with a 112553
course of treatment, the court shall order the accused to undergo 112554
treatment. If the accused is being tried by a general 112555
court-martial and if, after taking into consideration all relevant 112556
reports, information, and other evidence, the court finds that the 112557
accused is incompetent to stand trial, but the court is unable at 112558
that time to determine whether there is a substantial probability 112559
that the accused will become competent to stand trial within one 112560
year if the accused is provided with a course of treatment, the 112561
court shall order continuing evaluation and treatment of the 112562
accused for a period not to exceed four months to determine 112563
whether there is a substantial probability that the accused will 112564
become competent to stand trial within one year if the accused is 112565

provided with a course of treatment. 112566

(b) The court order for the accused to undergo treatment or 112567
continuing evaluation and treatment under division (B)(1)(a) of 112568
this section shall specify that the accused, if determined to 112569
require mental health treatment or continuing evaluation and 112570
treatment, shall be committed to the department of ~~mental health~~ 112571
mental health and addiction services for treatment or continuing 112572
evaluation and treatment at a hospital, facility, or agency 112573
determined to be clinically appropriate by the department of 112574
~~mental health~~ mental health and addiction services. The order may 112575
restrict the accused's freedom of movement as the court considers 112576
necessary. The trial counsel in the accused's case shall send to 112577
the chief clinical officer of the hospital, facility, or ~~agency~~ 112578
services provider where the accused is placed by the department of 112579
~~mental health~~ mental health and addiction services or to the 112580
managing officer of the institution, the director of the facility, 112581
or the person to which the accused is committed copies of relevant 112582
investigative reports and other background information that 112583
pertains to the accused and is available to the trial counsel 112584
unless the trial counsel determines that the release of any of the 112585
information in the investigative reports or any of the other 112586
background information to unauthorized persons would interfere 112587
with the effective prosecution of any person or would create a 112588
substantial risk of harm to any person. 112589

In committing the accused to the department of ~~mental health~~ 112590
mental health and addiction services, the court shall consider the 112591
extent to which the person is a danger to the person and to 112592
others, the need for security, and the type of crime involved and, 112593
if the court finds that restrictions on the accused's freedom of 112594
movement are necessary, shall specify the least restrictive 112595
limitations on the person's freedom of movement determined to be 112596
necessary to protect public safety. In weighing these factors, the 112597

court shall give preference to protecting public safety. 112598

(c) If the accused is found incompetent to stand trial, if 112599
the chief clinical officer of the hospital, facility, or ~~agency~~ 112600
services provider where the accused is placed, or the managing 112601
officer of the institution, the director of the facility, or the 112602
person to which the accused is committed for treatment or 112603
continuing evaluation and treatment under division (B)(1)(b) of 112604
this section determines that medication is necessary to restore 112605
the accused's competency to stand trial, and if the accused lacks 112606
the capacity to give informed consent or refuses medication, the 112607
chief clinical officer of the hospital, facility, or ~~agency~~ 112608
services provider where the accused is placed or the managing 112609
officer of the institution, the director of the facility, or the 112610
person to which the accused is committed for treatment or 112611
continuing evaluation and treatment may petition the court for 112612
authorization for the involuntary administration of medication. 112613
The court shall hold a hearing on the petition within five days of 112614
the filing of the petition. Following the hearing, the court may 112615
authorize the involuntary administration of medication or may 112616
dismiss the petition. 112617

(d) If the accused is charged before a special or summary 112618
court-martial with an offense that is not a violation of section 112619
5924.120, 5924.127, or 5924.128 of the Revised Code, the trial 112620
counsel may hold the charges in abeyance while the accused engages 112621
in mental health treatment. 112622

(2) If the court finds that the accused is incompetent to 112623
stand trial and that, even if the accused is provided with a 112624
course of treatment, there is not a substantial probability that 112625
the accused will become competent to stand trial within one year, 112626
the court shall order the discharge of the accused, unless upon 112627
motion of the trial counsel or on its own motion, the court either 112628
seeks to retain jurisdiction over the accused pursuant to division 112629

(A)(2) of section 5924.504 of the Revised Code or files an affidavit in the probate court for the civil commitment of the accused pursuant to Chapter 5122. of the Revised Code alleging that the accused is a mentally ill person subject to hospitalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the accused's mental condition that were prepared pursuant to section 5924.502 of the Revised Code.

The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. of the Revised Code.

(C) No accused shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

(1) One year, if the accused is being tried by a general court-martial;

(2) Six months, if the accused is being tried before a special court-martial;

(3) Sixty days, if the accused is being tried before a summary court-martial.

(D) Any accused who is committed pursuant to this section shall not voluntarily admit the accused or be voluntarily admitted to a hospital or institution pursuant to section 5122.02 or 5122.15 of the Revised Code.

(E) Except as otherwise provided in this division, an accused who is charged with an offense and is committed by the court under

this section to the department of ~~mental health~~ mental health and 112661
addiction services with restrictions on the accused's freedom of 112662
movement shall not be granted unsupervised on-grounds movement, 112663
supervised off-grounds movement, or nonsecured status except in 112664
accordance with the court order. The court may grant an accused 112665
supervised off-grounds movement to obtain medical treatment or 112666
specialized habilitation treatment services if the person who 112667
supervises the treatment or the continuing evaluation and 112668
treatment of the accused ordered under division (B)(1)(a) of this 112669
section informs the court that the treatment or continuing 112670
evaluation and treatment cannot be provided at the hospital or 112671
facility where the accused is placed by the department of ~~mental~~ 112672
~~health~~ mental health and addiction services. The chief clinical 112673
officer of the hospital or facility where the accused is placed by 112674
the department of ~~mental health~~ mental health and addiction 112675
services or the managing officer of the institution or director of 112676
the facility to which the accused is committed or a designee of 112677
any of those persons may grant an accused movement to a medical 112678
facility for an emergency medical situation with appropriate 112679
supervision to ensure the safety of the accused, staff, and 112680
community during that emergency medical situation. The chief 112681
clinical officer of the hospital or facility where the accused is 112682
placed by the department of ~~mental health~~ mental health and 112683
addiction services or the managing officer of the institution or 112684
director of the facility to which the accused is committed shall 112685
notify the court within twenty-four hours of the accused's 112686
movement to the medical facility for an emergency medical 112687
situation under this division. 112688

(F) The person who supervises the treatment or continuing 112689
evaluation and treatment of an accused ordered to undergo 112690
treatment or continuing evaluation and treatment under division 112691
(B)(1)(a) of this section shall file a written report with the 112692
court at the following times: 112693

(1) Whenever the person believes the accused is capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense;

(2) Fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of an accused ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the accused will become capable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense even if the accused is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the accused's capability of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense. If, in the examiner's opinion, the accused remains incapable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense and there is a substantial probability that the accused will become capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense if the accused is provided with a course of treatment, if in the examiner's opinion the accused remains mentally ill, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least

restrictive placement or commitment alternative that is consistent 112726
with the accused's treatment needs for restoration to competency 112727
and with the safety of the community. The court shall provide 112728
copies of the report to the trial counsel and defense counsel. 112729

(H) If an accused is committed pursuant to division (B)(1) of 112730
this section, within ten days after the treating physician of the 112731
accused or the examiner of the accused who is employed or retained 112732
by the treating facility advises that there is not a substantial 112733
probability that the accused will become capable of understanding 112734
the nature and objective of the proceedings against the accused or 112735
of assisting in the accused's defense even if the accused is 112736
provided with a course of treatment, within ten days after the 112737
expiration of the maximum time for treatment as specified in 112738
division (C) of this section, within ten days after the expiration 112739
of the maximum time for continuing evaluation and treatment as 112740
specified in division (B)(1)(a) of this section, within thirty 112741
days after an accused's request for a hearing that is made after 112742
six months of treatment, or within thirty days after being advised 112743
by the treating physician or examiner that the accused is 112744
competent to stand trial, whichever is the earliest, the court 112745
shall conduct another hearing to determine if the accused is 112746
competent to stand trial and shall do whichever of the following 112747
is applicable: 112748

(1) If the court finds that the accused is competent to stand 112749
trial, the accused shall be proceeded against as provided by law. 112750

(2) If the court finds that the accused is incompetent to 112751
stand trial, but that there is a substantial probability that the 112752
accused will become competent to stand trial if the accused is 112753
provided with a course of treatment, and the maximum time for 112754
treatment as specified in division (C) of this section has not 112755
expired, the court, after consideration of the examiner's 112756
recommendation, shall order that treatment be continued, may 112757

change least restrictive limitations on the accused's freedom of 112758
movement. 112759

(3) If the court finds that the accused is incompetent to 112760
stand trial, if the accused is being tried by a general 112761
court-martial, and if the court finds that there is not a 112762
substantial probability that the accused will become competent to 112763
stand trial even if the accused is provided with a course of 112764
treatment, or if the maximum time for treatment as specified in 112765
division (C) of this section has expired, further proceedings 112766
shall be as provided in sections 5924.504 to 5924.506 of the 112767
Revised Code. 112768

(4) If the court finds that the accused is incompetent to 112769
stand trial, if the accused is being tried before a special 112770
court-martial, and if the court finds that there is not a 112771
substantial probability that the accused will become competent to 112772
stand trial even if the accused is provided with a course of 112773
treatment, or if the maximum time for treatment as specified in 112774
division (C) of this section has expired, the court shall dismiss 112775
the charge against the accused. A dismissal under this division is 112776
not a bar to further prosecution based on the same conduct. The 112777
court shall discharge the accused unless the court or trial 112778
counsel files an affidavit in probate court for civil commitment 112779
pursuant to Chapter 5122. of the Revised Code. If an affidavit for 112780
civil commitment is filed, the court may detain the accused for 112781
ten days pending civil commitment. All of the following provisions 112782
apply to persons being tried by a special court-martial who are 112783
committed by the probate court subsequent to the court's or trial 112784
counsel's filing of an affidavit for civil commitment under 112785
authority of this division: 112786

(a) The chief clinical officer of the entity, hospital, or 112787
facility, the managing officer of the institution, or the person 112788
to which the accused is committed or admitted shall do all of the 112789

following: 112790

(i) Notify the trial counsel in writing of the discharge of 112791
the accused, send the notice at least ten days prior to the 112792
discharge unless the discharge is by the probate court, and state 112793
in the notice the date on which the accused will be discharged; 112794

(ii) Notify the trial counsel in writing when the accused is 112795
absent without leave or is granted unsupervised, off-grounds 112796
movement and send this notice promptly after the discovery of the 112797
absence without leave or prior to the granting of the 112798
unsupervised, off-grounds movement, whichever is applicable; 112799

(iii) Notify the trial counsel in writing of the change of 112800
the accused's commitment or admission to voluntary status, send 112801
the notice promptly upon learning of the change to voluntary 112802
status, and state in the notice the date on which the accused was 112803
committed or admitted on a voluntary status. 112804

(b) The trial counsel shall promptly inform the convening 112805
authority of any notification received under division (H)(4)(a) of 112806
this section. Upon receiving notice that the accused will be 112807
granted unsupervised, off-grounds movement, the convening 112808
authority either shall refer the charges against the accused to an 112809
investigating officer again or promptly notify the court that the 112810
convening authority does not intend to refer the charges against 112811
the accused again. 112812

(I) If an accused is convicted of a crime and sentenced to 112813
confinement, the accused's sentence shall be reduced by the total 112814
number of days the accused is confined for evaluation to determine 112815
the accused's competence to stand trial or treatment under this 112816
section and sections 5924.502 and 5924.504 of the Revised Code or 112817
by the total number of days the accused is confined for evaluation 112818
to determine the accused's mental condition at the time of the 112819
offense charged. 112820

Sec. 5924.504. (A) If an accused being tried by a general court-martial is found incompetent to stand trial, after the expiration of the maximum time for treatment as specified in division (C) of section 5924.503 of the Revised Code or after the court finds that there is not a substantial probability that the accused will become competent to stand trial even if the accused is provided with a course of treatment, one of the following applies:

(1) The court or the trial counsel may file an affidavit in probate court for civil commitment of the accused in the manner provided in Chapter 5122. of the Revised Code. If the court or trial counsel files an affidavit for civil commitment, the court may detain the accused for ten days pending civil commitment. If the probate court commits the accused subsequent to the court's or trial counsel's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, or the person to which the accused is committed or admitted shall send to the trial counsel the notices described in divisions (H)(4)(a)(i) to (iii) of section 5924.503 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the trial counsel or on its own motion, the court may retain jurisdiction over the accused if at a hearing the court finds both of the following by clear and convincing evidence:

(a) The accused committed the offense with which the accused is charged.

(b) The accused is a mentally ill person subject to hospitalization by court order.

(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the accused, the

court may consider all relevant evidence, including, but not 112852
limited to, any relevant psychiatric, psychological, or medical 112853
testimony or reports, the acts constituting the offense charged, 112854
and any history of the accused that is relevant to the accused's 112855
ability to conform to the law. 112856

(C) If the court conducts a hearing as described in division 112857
(A)(2) of this section and if the court does not make both 112858
findings described in divisions (A)(2)(a) and (b) of this section 112859
by clear and convincing evidence, the court shall dismiss the 112860
charges against the accused. Upon the dismissal, the court shall 112861
discharge the accused unless the court or trial counsel files an 112862
affidavit in probate court for civil commitment of the accused 112863
pursuant to Chapter 5122. of the Revised Code. If the court or 112864
trial counsel files an affidavit for civil commitment, the court 112865
may order that the accused be detained for up to ten days pending 112866
the civil commitment. If the probate court commits the accused 112867
subsequent to the court's or trial counsel's filing of an 112868
affidavit for civil commitment, the chief clinical officer of the 112869
entity, hospital, or facility, the managing officer of the 112870
institution, or the person to which the accused is committed or 112871
admitted shall send to the trial counsel the notices described in 112872
divisions (H)(4)(a)(i) to (iii) of section 5924.503 of the Revised 112873
Code within the periods of time and under the circumstances 112874
specified in those divisions. A dismissal of charges under this 112875
division is not a bar to further criminal proceedings based on the 112876
same conduct. 112877

(D)(1) If the court conducts a hearing as described in 112878
division (A)(2) of this section and if the court makes the 112879
findings described in divisions (A)(2)(a) and (b) of this section 112880
by clear and convincing evidence, the court shall commit the 112881
accused, if determined to require mental health treatment, to the 112882
department of ~~mental health~~ mental health and addiction services 112883

for treatment at a hospital, facility, or ~~agency services provider~~ 112884
as determined clinically appropriate by the department of ~~mental~~ 112885
~~health~~ mental health and addiction services. In committing the 112886
accused to the department of ~~mental health~~ mental health and 112887
addiction services, the court shall specify the least restrictive 112888
limitations on the accused's freedom of movement determined to be 112889
necessary to protect public safety. 112890

(2) If a court makes a commitment of an accused under 112891
division (D)(1) of this section, the trial counsel shall send to 112892
the hospital, facility, or ~~agency services provider~~ where the 112893
accused is placed by the department of ~~mental health~~ mental health 112894
and addiction services or to the accused's place of commitment all 112895
reports of the accused's current mental condition and, except as 112896
otherwise provided in this division, any other relevant 112897
information, including, but not limited to, a transcript of the 112898
hearing held pursuant to division (A)(2) of this section, copies 112899
of relevant investigative reports, and copies of any prior arrest 112900
and conviction records that pertain to the accused and that the 112901
trial counsel possesses. The trial counsel shall send the reports 112902
of the accused's current mental condition in every case of 112903
commitment, and, unless the trial counsel determines that the 112904
release of any of the other relevant information to unauthorized 112905
persons would interfere with the effective prosecution of any 112906
person or would create a substantial risk of harm to any person, 112907
the trial counsel also shall send the other relevant information. 112908

(3) If a court makes a commitment under division (D)(1) of 112909
this section, all further proceedings shall be in accordance with 112910
Chapter 5122. of the Revised Code. 112911

Sec. 5924.506. (A) If an accused person is found not guilty 112912
by reason of insanity, the verdict shall state that finding, and 112913
the trial court shall conduct a full hearing to determine whether 112914

the person is a mentally ill person subject to hospitalization by 112915
court order. Prior to the hearing, if the military judge believes 112916
that there is probable cause that the person found not guilty by 112917
reason of insanity is a mentally ill person subject to 112918
hospitalization by court order, the military judge may issue a 112919
temporary order of detention for that person to remain in effect 112920
for ten court days or until the hearing, whichever occurs first. 112921

Any person detained pursuant to a temporary order of 112922
detention issued under this division shall be held in a suitable 112923
facility, taking into consideration the place and type of 112924
confinement prior to and during trial. 112925

(B) The court shall hold the hearing under division (A) of 112926
this section to determine whether the person found not guilty by 112927
reason of insanity is a mentally ill person subject to 112928
hospitalization by court order within ten court days after the 112929
finding of not guilty by reason of insanity. Failure to conduct 112930
the hearing within the ten-day period shall cause the immediate 112931
discharge of the respondent, unless the judge grants a continuance 112932
for not longer than ten court days for good cause shown or for any 112933
period of time upon motion of the respondent. 112934

(C) If a person is found not guilty by reason of insanity, 112935
the person has the right to attend a hearing conducted pursuant to 112936
this section. At the hearing, the court shall inform the person 112937
that the person has all of the following rights: 112938

(1) The right to be represented by defense counsel or to 112939
retain civilian counsel, if the person so chooses; 112940

(2) The right to have independent expert evaluation; 112941

(3) The right to subpoena witnesses and documents, to present 112942
evidence on the person's behalf, and to cross-examine witnesses 112943
against the person; 112944

(4) The right to testify in the person's own behalf and to 112945

not be compelled to testify; 112946

(5) The right to have copies of any relevant medical or 112947
mental health document in the custody of the state or of any place 112948
of commitment other than a document for which the court finds that 112949
the release to the person of information contained in the document 112950
would create a substantial risk of harm to any person. 112951

(D) The hearing under division (A) of this section shall be 112952
open to the public, and the court shall conduct the hearing in 112953
accordance with regulations prescribed by the adjutant general. 112954
The court shall make and maintain a full transcript and record of 112955
the hearing proceedings. The court may consider all relevant 112956
evidence, including, but not limited to, any relevant psychiatric, 112957
psychological, or medical testimony or reports, the acts 112958
constituting the offense in relation to which the person was found 112959
not guilty by reason of insanity, and any history of the person 112960
that is relevant to the person's ability to conform to the law. 112961

(E) Upon completion of the hearing under division (A) of this 112962
section, if the court finds there is not clear and convincing 112963
evidence that the person is a mentally ill person subject to 112964
hospitalization by court order, the court shall discharge the 112965
person, unless a detainer has been placed upon the person by the 112966
department of rehabilitation and correction, in which case the 112967
person shall be returned to that department. 112968

(F) If, at the hearing under division (A) of this section, 112969
the court finds by clear and convincing evidence that the person 112970
is a mentally ill person subject to hospitalization by court 112971
order, it shall commit the person to the department of ~~mental~~ 112972
~~health~~ mental health and addiction services for placement in a 112973
hospital, facility, or ~~agency~~ services provider as determined 112974
clinically appropriate by the department of ~~mental health~~ mental 112975
health and addiction services. Further proceedings shall be in 112976
accordance with Chapter 5122. or 5123. of the Revised Code. In 112977

committing the accused to the department of ~~mental health~~ mental 112978
health and addiction services, the court shall specify the least 112979
restrictive limitations on the accused's freedom of movement 112980
determined to be necessary to protect public safety. 112981

(G) If a court makes a commitment of a person under division 112982
(F) of this section, the trial counsel shall send to the hospital, 112983
facility, or ~~agency~~ services provider where the defendant is 112984
placed by the department of ~~mental health~~ mental health and 112985
addiction services or to the accused's place of commitment all 112986
reports of the person's current mental condition, and, except as 112987
otherwise provided in this division, any other relevant 112988
information, including, but not limited to, a transcript of the 112989
hearing held pursuant to division (A) of this section, copies of 112990
relevant investigative reports, and copies of any prior arrest and 112991
conviction records that pertain to the person and that the trial 112992
counsel possesses. The trial counsel shall send the reports of the 112993
person's current mental condition in every case of commitment, 112994
and, unless the trial counsel determines that the release of any 112995
of the other relevant information to unauthorized persons would 112996
interfere with the effective prosecution of any person or would 112997
create a substantial risk of harm to any person, the trial counsel 112998
also shall send the other relevant information. 112999

(H) A person who is committed pursuant to this section shall 113000
not voluntarily admit the person or be voluntarily admitted to a 113001
hospital or institution pursuant to sections 5122.02 and 5122.15 113002
of the Revised Code. 113003

Sec. 6109.21. (A) Except as provided in divisions (I) and (J) 113004
of this section, no person shall operate a public water system in 113005
this state without a license issued by the director of 113006
environmental protection. 113007

(B)~~(1)~~ A person who proposes to operate a new public water 113008

system, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall obtain an initial license from the director. The person shall submit an application for the initial license at least forty-five days prior to commencing the operation of the system.

(C) A license shall expire on the thirtieth day of January in the year following its issuance.

(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license.

(E) ~~Through June 30, 2014, each~~ Each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code. However, an applicant for an initial license who is proposing to operate a new public water system shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(F) Not later than thirty days after receiving a completed application and the appropriate license fee for a license or license renewal for a public water system, the director shall do one of the following:

(1) Issue the license or license renewal for the public water system;

(2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license or license renewal if the director finds that the public water system cannot be operated in substantial compliance with this chapter and rules adopted under it.

(G) The director may condition, suspend, or revoke a license 113039
or license renewal issued under this section at any time if the 113040
director finds that the public water system was not or will not be 113041
operated in substantial compliance with this chapter and rules 113042
adopted under it. 113043

(H) The director shall adopt rules in accordance with Chapter 113044
119. of the Revised Code establishing procedures and requirements 113045
governing both of the following: 113046

(1) Information to be included on applications for licenses 113047
and license renewals issued under this section; 113048

(2) The issuance, conditioning, suspension, revocation, and 113049
denial of licenses and license renewals under this section. 113050

(I)(1) As used in division (I) of this section, "church" 113051
means a fellowship of believers, congregation, society, 113052
corporation, convention, or association that is formed primarily 113053
or exclusively for religious purposes and that is not formed or 113054
operated for the private profit of any person. 113055

(2) This section does not apply to a church that operates or 113056
maintains a public water system solely to provide water for that 113057
church or for a campground that is owned by the church and 113058
operated primarily or exclusively for members of the church and 113059
their families. 113060

(J) This section does not apply to any public or nonpublic 113061
school that meets minimum standards of the state board of 113062
education that operates or maintains a public water system solely 113063
to provide water for that school. 113064

(K) The environmental protection agency shall collect well 113065
log filing fees on behalf of the division of soil and water 113066
resources in the department of natural resources in accordance 113067
with section 1521.05 of the Revised Code and rules adopted under 113068
it. The fees shall be submitted to the division quarterly as 113069

provided in those rules. 113070

~~Sec. 6111.037. (A) There is hereby created in the state~~ 113071
~~treasury the nonpoint source pollution management fund. The fund~~ 113072
~~shall consist of grant moneys received under~~ For purposes of state 113073
nonpoint source pollution management and pursuant to section 319 113074
of the "Federal Water Pollution Control Act," ~~for purposes of~~ 113075
~~assisting with the development and implementation of a~~ 113076
~~comprehensive nonpoint source pollution management program~~ 113077
~~pursuant to that section of the act. Moneys credited to the fund~~ 113078
~~may be used for purposes of research, planning, water quality~~ 113079
~~assessments, demonstration projects, enforcement, technical~~ 113080
~~assistance, education, and training regarding management of~~ 113081
~~nonpoint sources of water pollution. The~~ the director of 113082
environmental protection may enter into agreements to receive 113083
grant moneys for ~~the nonpoint source pollution management fund and~~ 113084
for deposit into the state treasury to the credit of the water 113085
quality protection fund created in section 6111.0381 of the 113086
Revised Code. The director may enter into agreements to make 113087
grants of moneys credited to the fund under this section, 113088
including, without limitation, passthrough grants to other state 113089
departments or agencies. 113090

(B) The director shall periodically prepare and, by rules 113091
adopted under division (O) of section 6111.036 of the Revised 113092
Code, establish a priority system for identifying activities 113093
eligible for assistance under this section. The priority system 113094
shall ensure that financial assistance available under this 113095
section is first provided to: 113096

(1) Control particularly difficult or serious nonpoint source 113097
pollution problems, including, without limitation, problems 113098
resulting from mining activities; 113099

(2) Implement innovative methods or practices for controlling 113100

nonpoint sources of pollution, including, without limitation, 113101
regulatory programs that the director determines are appropriate; 113102

(3) Control interstate nonpoint source pollution problems; 113103

(4) Implement ground and surface water quality protection 113104
activities that the director determines are part of a 113105
comprehensive nonpoint source pollution control program, which 113106
activities include research, planning, ~~ground~~ water quality 113107
assessments, demonstration programs, enforcement, technical 113108
assistance, education, and training to protect ~~ground~~ water 113109
quality from nonpoint sources of pollution. 113110

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5119.53, 5119.57, 5119.60, 5119.61, 5119.611, 5119.612, 5119.613, 113268
5119.62, 5119.621, 5119.622, 5119.63, 5119.631, 5119.69, 5119.691, 113269
5119.99, 5120.07, 5120.09, 5120.135, 5120.17, 5120.171, 5120.652, 113270
5120.654, 5121.051, 5121.30, 5121.32, 5121.33, 5121.34, 5121.35, 113271
5121.36, 5121.37, 5121.38, 5121.40, 5121.42, 5121.43, 5121.44, 113272
5121.45, 5121.46, 5121.47, 5121.49, 5121.50, 5121.51, 5121.52, 113273
5121.55, 5122.01, 5122.03, 5122.10, 5122.11, 5122.12, 5122.13, 113274
5122.15, 5122.17, 5122.18, 5122.19, 5122.20, 5122.21, 5122.23, 113275
5122.25, 5122.26, 5122.27, 5122.271, 5122.31, 5122.311, 5122.32, 113276
5122.33, 5122.34, 5122.341, 5122.39, 5122.43, 5122.44, 5122.45, 113277
5122.46, 5122.47, 5123.01, 5123.021, 5123.022, 5123.03, 5123.0412, 113278
5123.0417, 5123.09, 5123.171, 5123.19, 5123.192, 5123.197, 113279
5123.198, 5123.38, 5123.61, 5123.86, 5126.01, 5126.026, 5126.05, 113280
5126.051, 5126.054, 5126.055, 5126.24, 5139.03, 5139.04, 5139.08, 113281
5139.34, 5145.162, 5145.18, 5153.16, 5302.221, 5309.082, 5505.12, 113282
5507.46, 5511.03, 5701.13, 5703.052, 5703.059, 5703.21, 5703.37, 113283
5703.82, 5705.19, 5705.221, 5705.412, 5709.17, 5709.212, 5709.75, 113284
5725.18, 5726.20, 5727.26, 5727.75, 5727.84, 5727.89, 5728.10, 113285
5729.03, 5731.39, 5733.01, 5733.06, 5733.11, 5733.98, 5735.01, 113286
5735.012, 5735.12, 5735.34, 5739.01, 5739.09, 5739.12, 5739.13, 113287
5741.01, 5741.12, 5741.17, 5743.081, 5743.15, 5743.56, 5745.12, 113288
5747.01, 5747.02, 5747.022, 5747.025, 5747.08, 5747.10, 5747.11, 113289
5747.113, 5747.122, 5747.13, 5747.21, 5747.47, 5747.501, 5747.98, 113290
5749.02, 5749.06, 5749.07, 5749.17, 5751.01, 5751.014, 5751.07, 113291

5751.081, 5751.09, 5751.20, 5751.21, 5753.01, 5753.03, 5753.07, 113292
5815.28, 5905.02, 5910.02, 5910.07, 5919.34, 5924.502, 5924.503, 113293
5924.504, 5924.506, 6109.21, and 6111.037 of the Revised Code are 113294
hereby repealed. 113295

Section 105.01. That sections 122.076, 122.15, 122.151, 113296
122.152, 122.153, 122.154, 122.29, 122.97, 123.23, 125.837, 113297
125.838, 166.22, 166.28, 173.425, 173.433, 183.28, 184.04, 113298
340.022, 340.033, 340.06, 340.14, 1321.461, 1513.371, 1531.34, 113299
1547.721, 1547.722, 1547.723, 1547.724, 1547.725, 1547.726, 113300
3302.043, 3313.481, 3313.482, 3313.4811, 3314.088, 3314.13, 113301
3317.012, 3317.014, 3317.018, 3317.02, 3317.022, 3317.029, 113302
3317.0217, 3317.051, 3317.052, 3317.053, 3317.11, 3317.13, 113303
3317.16, 3317.62, 3317.63, 3317.64, 3318.023, 3323.16, 3326.39, 113304
3327.02, 3345.81, 3353.02, 3353.03, 3353.04, 3353.09, 3353.15, 113305
3353.20, 3383.02, 3383.03, 3383.04, 3383.05, 3383.06, 3383.08, 113306
3383.09, 3701.072, 3701.263, 3701.343, 3701.90, 3701.901, 113307
3701.902, 3701.903, 3701.904, 3701.905, 3701.906, 3701.907, 113308
3721.026, 3793.02, 3793.03, 3793.04, 3793.041, 3793.05, 3793.06, 113309
3793.061, 3793.08, 3793.09, 3793.19, 3793.20, 3793.21, 3793.99, 113310
5101.503, 5101.514, 5101.515, 5101.518, 5101.523, 5101.525, 113311
5101.526, 5101.528, 5101.529, 5111.012, 5111.014, 5111.015, 113312
5111.0110, 5111.0111, 5111.0113, 5111.0115, 5111.0120, 5111.0121, 113313
5111.0122, 5111.0123, 5111.0124, 5111.0125, 5111.176, 5111.211, 113314
5111.236, 5111.65, 5111.70, 5111.701, 5111.702, 5111.703, 113315
5111.704, 5111.705, 5111.706, 5111.707, 5111.708, 5111.709, 113316
5111.7011, 5111.83, 5111.8710, 5111.8811, 5111.913, 5111.942, 113317
5111.946, 5119.011, 5119.013, 5119.03, 5119.05, 5119.47, 5119.623, 113318
5119.64, 5119.65, 5119.66, 5119.67, 5119.68, 5707.05, 5727.41, 113319
5733.35, 5747.211, 5747.33, 6101.451, and 6111.029 of the Revised 113320
Code are hereby repealed. 113321

Section 110.10. That section 3313.88 of the Revised Code as 113322
it results from Section 101.01 of this act be amended and 113323
recodified as section 3313.482 of the Revised Code to read as 113324
follows: 113325

Sec. ~~3313.88~~ 3313.482. (A)(1) Prior to the first day of 113326
August of each school year, the board of education of any school 113327
district or the governing authority of any chartered nonpublic 113328
school may submit to the department of education a plan to require 113329
students to access and complete classroom lessons posted on the 113330
district's or nonpublic school's web portal or web site in order 113331
to make up ~~days~~ hours in that school year on which it is necessary 113332
to close schools for ~~any of the reasons specified in division (B)~~ 113333
~~of section 3317.01 of the Revised Code in excess of the number of~~ 113334
~~days permitted under sections 3313.48, 3313.481, and 3317.01 of~~ 113335
~~the Revised Code~~ disease epidemic, hazardous weather conditions, 113336
law enforcement emergencies, inoperability of school buses or 113337
other equipment necessary to the school's operation, damage to a 113338
school building, or other temporary circumstances due to utility 113339
failure rendering the school building unfit for school use. 113340

Prior to the first day of August of each school year, the 113342
governing authority of any community school established under 113343
Chapter 3314. that is not an internet- or computer-based community 113344
school, as defined in section 3314.02 of the Revised Code, may 113345
submit to the department a plan to require students to access and 113346
complete classroom lessons posted on the school's web portal or 113347
web site in order to make up ~~days or~~ hours in that school year on 113348
which it is necessary to close the school for any of the reasons 113349
specified in division (H)(4) of section 3314.08 of the Revised 113350
Code so that the school is in compliance with the minimum number 113351
of hours required under Chapter 3314. of the Revised Code. 113352

A plan submitted by a school district board ~~or~~ chartered nonpublic school governing authority ~~shall provide for making up any number of days, up to a maximum of three days. A plan submitted by a,~~ or community school governing authority shall provide for making up any number of hours, up to a maximum of the number of hours that are the equivalent of three school days. Provided the plan meets all requirements of this section, the department shall permit the board or governing authority to implement the plan for the applicable school year.

(2) Each plan submitted under this section by a school district board of education shall include the written consent of the teachers' employee representative designated under division (B) of section 4117.04 of the Revised Code.

(3) Each plan submitted under this section shall provide for the following:

(a) Not later than the first day of November of the school year, each classroom teacher shall develop a sufficient number of lessons for each course taught by the teacher that school year to cover the number of make-up ~~days or~~ hours specified in the plan. The teacher shall designate the order in which the lessons are to be posted on the district's, community school's, or nonpublic school's web portal or web site in the event of a school closure. Teachers may be granted up to one professional development day to create lesson plans for those lessons.

(b) To the extent possible and necessary, a classroom teacher shall update or replace, based on current instructional progress, one or more of the lesson plans developed under division (A)(3)(a) of this section before they are posted on the web portal or web site under division (A)(3)(c) of this section or distributed under division (B) of this section.

(c) As soon as practicable after a school closure, a district

or school employee responsible for web portal or web site 113384
operations shall make the designated lessons available to students 113385
on the district's, community school's, or nonpublic school's 113386
portal or site. A lesson shall be posted for each course that was 113387
scheduled to meet on the day or hours of the closure. 113388

(d) Each student enrolled in a course for which a lesson is 113389
posted on the portal or site shall be granted a two-week period 113390
from the date of posting to complete the lesson. The student's 113391
classroom teacher shall grade the lesson in the same manner as 113392
other lessons. The student may receive an incomplete or failing 113393
grade if the lesson is not completed on time. 113394

(e) If a student does not have access to a computer at the 113395
student's residence and the plan does not include blizzard bags 113396
under division (B) of this section, the student shall be permitted 113397
to work on the posted lessons at school after the student's school 113398
reopens. If the lessons were posted prior to the reopening, the 113399
student shall be granted a two-week period from the date of the 113400
reopening, rather than from the date of posting as otherwise 113401
required under division (A)(3)(d) of this section, to complete the 113402
lessons. The district board or community school or nonpublic 113403
school governing authority may provide the student access to a 113404
computer before, during, or after the regularly scheduled school 113405
day or may provide a substantially similar paper lesson in order 113406
to complete the lessons. 113407

(B)(1) In addition to posting classroom lessons online under 113408
division (A) of this section, the board of education of any school 113409
district or governing authority of any community or chartered 113410
nonpublic school may include in the plan distribution of "blizzard 113411
bags," which are paper copies of the lessons posted online. 113412

(2) If a school opts to use blizzard bags, teachers shall 113413
prepare paper copies in conjunction with the lessons to be posted 113414
online and update the paper copies whenever the teacher updates 113415

the online lesson plans. 113416

(3) The board of education of any school district or 113417
governing authority of any community or chartered nonpublic school 113418
that opts to use blizzard bags shall specify in the plan the 113419
method of distribution of blizzard bag lessons, which may include, 113420
but not be limited to, requiring distribution by a specific 113421
deadline or requiring distribution prior to anticipated school 113422
closure as directed by the superintendent of a school district or 113423
the principal, director, chief administrative officer, or the 113424
equivalent, of a school. 113425

(4) Students shall turn in completed lessons in accordance 113426
with division (A)(3)(d) of this section. 113427

(C)(1) No school district that implements a plan in 113428
accordance with this section shall be considered to have failed to 113429
comply with division (B) of section 3317.01 of the Revised Code 113430
with respect to the number of make-up ~~days~~ hours specified in the 113431
plan. 113432

(2) No community school that implements a plan in accordance 113433
with this section shall be considered to have failed to comply 113434
with the minimum number of hours required under Chapter 3314. of 113435
the Revised Code with respect to the number of make-up hours 113436
specified in the plan. 113437

Section 110.11. That existing section 3313.88 of the Revised 113438
Code is hereby repealed. 113439

Section 110.12. Sections 110.10 and 110.11 of this act shall 113440
take effect July 1, 2014. 113441

Section 110.20. That the versions of sections 109.57, 113442
2151.011, 2923.126, 5104.012, 5104.013, 5104.03, 5104.08, and 113443
5104.32 of the Revised Code that are scheduled to take effect 113444

January 1, 2014, be amended to read as follows: 113445

Sec. 109.57. (A)(1) The superintendent of the bureau of 113446
criminal identification and investigation shall procure from 113447
wherever procurable and file for record photographs, pictures, 113448
descriptions, fingerprints, measurements, and other information 113449
that may be pertinent of all persons who have been convicted of 113450
committing within this state a felony, any crime constituting a 113451
misdemeanor on the first offense and a felony on subsequent 113452
offenses, or any misdemeanor described in division (A)(1)(a), 113453
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of 113454
all children under eighteen years of age who have been adjudicated 113455
delinquent children for committing within this state an act that 113456
would be a felony or an offense of violence if committed by an 113457
adult or who have been convicted of or pleaded guilty to 113458
committing within this state a felony or an offense of violence, 113459
and of all well-known and habitual criminals. The person in charge 113460
of any county, multicounty, municipal, municipal-county, or 113461
multicounty-municipal jail or workhouse, community-based 113462
correctional facility, halfway house, alternative residential 113463
facility, or state correctional institution and the person in 113464
charge of any state institution having custody of a person 113465
suspected of having committed a felony, any crime constituting a 113466
misdemeanor on the first offense and a felony on subsequent 113467
offenses, or any misdemeanor described in division (A)(1)(a), 113468
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or 113469
having custody of a child under eighteen years of age with respect 113470
to whom there is probable cause to believe that the child may have 113471
committed an act that would be a felony or an offense of violence 113472
if committed by an adult shall furnish such material to the 113473
superintendent of the bureau. Fingerprints, photographs, or other 113474
descriptive information of a child who is under eighteen years of 113475

age, has not been arrested or otherwise taken into custody for 113476
committing an act that would be a felony or an offense of violence 113477
who is not in any other category of child specified in this 113478
division, if committed by an adult, has not been adjudicated a 113479
delinquent child for committing an act that would be a felony or 113480
an offense of violence if committed by an adult, has not been 113481
convicted of or pleaded guilty to committing a felony or an 113482
offense of violence, and is not a child with respect to whom there 113483
is probable cause to believe that the child may have committed an 113484
act that would be a felony or an offense of violence if committed 113485
by an adult shall not be procured by the superintendent or 113486
furnished by any person in charge of any county, multicounty, 113487
municipal, municipal-county, or multicounty-municipal jail or 113488
workhouse, community-based correctional facility, halfway house, 113489
alternative residential facility, or state correctional 113490
institution, except as authorized in section 2151.313 of the 113491
Revised Code. 113492

(2) Every clerk of a court of record in this state, other 113493
than the supreme court or a court of appeals, shall send to the 113494
superintendent of the bureau a weekly report containing a summary 113495
of each case involving a felony, involving any crime constituting 113496
a misdemeanor on the first offense and a felony on subsequent 113497
offenses, involving a misdemeanor described in division (A)(1)(a), 113498
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or 113499
involving an adjudication in a case in which a child under 113500
eighteen years of age was alleged to be a delinquent child for 113501
committing an act that would be a felony or an offense of violence 113502
if committed by an adult. The clerk of the court of common pleas 113503
shall include in the report and summary the clerk sends under this 113504
division all information described in divisions (A)(2)(a) to (f) 113505
of this section regarding a case before the court of appeals that 113506
is served by that clerk. The summary shall be written on the 113507

standard forms furnished by the superintendent pursuant to 113508
division (B) of this section and shall include the following 113509
information: 113510

(a) The incident tracking number contained on the standard 113511
forms furnished by the superintendent pursuant to division (B) of 113512
this section; 113513

(b) The style and number of the case; 113514

(c) The date of arrest, offense, summons, or arraignment; 113515

(d) The date that the person was convicted of or pleaded 113516
guilty to the offense, adjudicated a delinquent child for 113517
committing the act that would be a felony or an offense of 113518
violence if committed by an adult, found not guilty of the 113519
offense, or found not to be a delinquent child for committing an 113520
act that would be a felony or an offense of violence if committed 113521
by an adult, the date of an entry dismissing the charge, an entry 113522
declaring a mistrial of the offense in which the person is 113523
discharged, an entry finding that the person or child is not 113524
competent to stand trial, or an entry of a nolle prosequi, or the 113525
date of any other determination that constitutes final resolution 113526
of the case; 113527

(e) A statement of the original charge with the section of 113528
the Revised Code that was alleged to be violated; 113529

(f) If the person or child was convicted, pleaded guilty, or 113530
was adjudicated a delinquent child, the sentence or terms of 113531
probation imposed or any other disposition of the offender or the 113532
delinquent child. 113533

If the offense involved the disarming of a law enforcement 113534
officer or an attempt to disarm a law enforcement officer, the 113535
clerk shall clearly state that fact in the summary, and the 113536
superintendent shall ensure that a clear statement of that fact is 113537
placed in the bureau's records. 113538

(3) The superintendent shall cooperate with and assist 113539
sheriffs, chiefs of police, and other law enforcement officers in 113540
the establishment of a complete system of criminal identification 113541
and in obtaining fingerprints and other means of identification of 113542
all persons arrested on a charge of a felony, any crime 113543
constituting a misdemeanor on the first offense and a felony on 113544
subsequent offenses, or a misdemeanor described in division 113545
(A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the 113546
Revised Code and of all children under eighteen years of age 113547
arrested or otherwise taken into custody for committing an act 113548
that would be a felony or an offense of violence if committed by 113549
an adult. The superintendent also shall file for record the 113550
fingerprint impressions of all persons confined in a county, 113551
multicounty, municipal, municipal-county, or multicounty-municipal 113552
jail or workhouse, community-based correctional facility, halfway 113553
house, alternative residential facility, or state correctional 113554
institution for the violation of state laws and of all children 113555
under eighteen years of age who are confined in a county, 113556
multicounty, municipal, municipal-county, or multicounty-municipal 113557
jail or workhouse, community-based correctional facility, halfway 113558
house, alternative residential facility, or state correctional 113559
institution or in any facility for delinquent children for 113560
committing an act that would be a felony or an offense of violence 113561
if committed by an adult, and any other information that the 113562
superintendent may receive from law enforcement officials of the 113563
state and its political subdivisions. 113564

(4) The superintendent shall carry out Chapter 2950. of the 113565
Revised Code with respect to the registration of persons who are 113566
convicted of or plead guilty to a sexually oriented offense or a 113567
child-victim oriented offense and with respect to all other duties 113568
imposed on the bureau under that chapter. 113569

(5) The bureau shall perform centralized recordkeeping 113570

functions for criminal history records and services in this state 113571
for purposes of the national crime prevention and privacy compact 113572
set forth in section 109.571 of the Revised Code and is the 113573
criminal history record repository as defined in that section for 113574
purposes of that compact. The superintendent or the 113575
superintendent's designee is the compact officer for purposes of 113576
that compact and shall carry out the responsibilities of the 113577
compact officer specified in that compact. 113578

(B) The superintendent shall prepare and furnish to every 113579
county, multicounty, municipal, municipal-county, or 113580
multicounty-municipal jail or workhouse, community-based 113581
correctional facility, halfway house, alternative residential 113582
facility, or state correctional institution and to every clerk of 113583
a court in this state specified in division (A)(2) of this section 113584
standard forms for reporting the information required under 113585
division (A) of this section. The standard forms that the 113586
superintendent prepares pursuant to this division may be in a 113587
tangible format, in an electronic format, or in both tangible 113588
formats and electronic formats. 113589

(C)(1) The superintendent may operate a center for 113590
electronic, automated, or other data processing for the storage 113591
and retrieval of information, data, and statistics pertaining to 113592
criminals and to children under eighteen years of age who are 113593
adjudicated delinquent children for committing an act that would 113594
be a felony or an offense of violence if committed by an adult, 113595
criminal activity, crime prevention, law enforcement, and criminal 113596
justice, and may establish and operate a statewide communications 113597
network to be known as the Ohio law enforcement gateway to gather 113598
and disseminate information, data, and statistics for the use of 113599
law enforcement agencies and for other uses specified in this 113600
division. The superintendent may gather, store, retrieve, and 113601
disseminate information, data, and statistics that pertain to 113602

children who are under eighteen years of age and that are gathered 113603
pursuant to sections 109.57 to 109.61 of the Revised Code together 113604
with information, data, and statistics that pertain to adults and 113605
that are gathered pursuant to those sections. 113606

(2) The superintendent or the superintendent's designee shall 113607
gather information of the nature described in division (C)(1) of 113608
this section that pertains to the offense and delinquency history 113609
of a person who has been convicted of, pleaded guilty to, or been 113610
adjudicated a delinquent child for committing a sexually oriented 113611
offense or a child-victim oriented offense for inclusion in the 113612
state registry of sex offenders and child-victim offenders 113613
maintained pursuant to division (A)(1) of section 2950.13 of the 113614
Revised Code and in the internet database operated pursuant to 113615
division (A)(13) of that section and for possible inclusion in the 113616
internet database operated pursuant to division (A)(11) of that 113617
section. 113618

(3) In addition to any other authorized use of information, 113619
data, and statistics of the nature described in division (C)(1) of 113620
this section, the superintendent or the superintendent's designee 113621
may provide and exchange the information, data, and statistics 113622
pursuant to the national crime prevention and privacy compact as 113623
described in division (A)(5) of this section. 113624

(4) The attorney general may adopt rules under Chapter 119. 113625
of the Revised Code establishing guidelines for the operation of 113626
and participation in the Ohio law enforcement gateway. The rules 113627
may include criteria for granting and restricting access to 113628
information gathered and disseminated through the Ohio law 113629
enforcement gateway. The attorney general shall permit the state 113630
medical board and board of nursing to access and view, but not 113631
alter, information gathered and disseminated through the Ohio law 113632
enforcement gateway. 113633

The attorney general may appoint a steering committee to 113634

advise the attorney general in the operation of the Ohio law enforcement gateway that is comprised of persons who are representatives of the criminal justice agencies in this state that use the Ohio law enforcement gateway and is chaired by the superintendent or the superintendent's designee.

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

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

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

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

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

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

109.572 of the Revised Code, the request shall be treated as a 113666
single request and only one fee shall be charged. 113667

(2) Except as otherwise provided in this division, a rule 113668
adopted under division (E)(1) of this section may provide only for 113669
the release of information gathered pursuant to division (A) of 113670
this section that relates to the conviction of a person, or a 113671
person's plea of guilty to, a criminal offense. The superintendent 113672
shall not release, and the attorney general shall not adopt any 113673
rule under division (E)(1) of this section that permits the 113674
release of, any information gathered pursuant to division (A) of 113675
this section that relates to an adjudication of a child as a 113676
delinquent child, or that relates to a criminal conviction of a 113677
person under eighteen years of age if the person's case was 113678
transferred back to a juvenile court under division (B)(2) or (3) 113679
of section 2152.121 of the Revised Code and the juvenile court 113680
imposed a disposition or serious youthful offender disposition 113681
upon the person under either division, unless either of the 113682
following applies with respect to the adjudication or conviction: 113683

(a) The adjudication or conviction was for a violation of 113684
section 2903.01 or 2903.02 of the Revised Code. 113685

(b) The adjudication or conviction was for a sexually 113686
oriented offense, the juvenile court was required to classify the 113687
child a juvenile offender registrant for that offense under 113688
section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that 113689
classification has not been removed. 113690

(F)(1) As used in division (F)(2) of this section, "head 113691
start agency" means an entity in this state that has been approved 113692
to be an agency for purposes of subchapter II of the "Community 113693
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 113694
as amended. 113695

(2)(a) In addition to or in conjunction with any request that 113696

is required to be made under section 109.572, 2151.86, 3301.32, 113697
3301.541, division (C) of section 3310.58, or section 3319.39, 113698
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, or 113699
5153.111 of the Revised Code or that is made under section 113700
3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the 113701
board of education of any school district; the director of 113702
developmental disabilities; any county board of developmental 113703
disabilities; any provider or subcontractor as defined in section 113704
5123.081 of the Revised Code; the chief administrator of any 113705
chartered nonpublic school; the chief administrator of a 113706
registered private provider that is not also a chartered nonpublic 113707
school; the chief administrator of any home health agency; the 113708
chief administrator of or person operating any child day-care 113709
center, type A family day-care home, or type B family day-care 113710
home licensed under Chapter 5104. of the Revised Code; the chief 113711
administrator of any head start agency; the executive director of 113712
a public children services agency; a private company described in 113713
section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised 113714
Code; or an employer described in division (J)(2) of section 113715
3327.10 of the Revised Code may request that the superintendent of 113716
the bureau investigate and determine, with respect to any 113717
individual who has applied for employment in any position after 113718
October 2, 1989, or any individual wishing to apply for employment 113719
with a board of education may request, with regard to the 113720
individual, whether the bureau has any information gathered under 113721
division (A) of this section that pertains to that individual. On 113722
receipt of the request, subject to division (E)(2) of this 113723
section, the superintendent shall determine whether that 113724
information exists and, upon request of the person, board, or 113725
entity requesting information, also shall request from the federal 113726
bureau of investigation any criminal records it has pertaining to 113727
that individual. The superintendent or the superintendent's 113728
designee also may request criminal history records from other 113729

states or the federal government pursuant to the national crime 113730
prevention and privacy compact set forth in section 109.571 of the 113731
Revised Code. Within thirty days of the date that the 113732
superintendent receives a request, subject to division (E)(2) of 113733
this section, the superintendent shall send to the board, entity, 113734
or person a report of any information that the superintendent 113735
determines exists, including information contained in records that 113736
have been sealed under section 2953.32 of the Revised Code, and, 113737
within thirty days of its receipt, subject to division (E)(2) of 113738
this section, shall send the board, entity, or person a report of 113739
any information received from the federal bureau of investigation, 113740
other than information the dissemination of which is prohibited by 113741
federal law. 113742

(b) When a board of education or a registered private 113743
provider is required to receive information under this section as 113744
a prerequisite to employment of an individual pursuant to division 113745
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 113746
may accept a certified copy of records that were issued by the 113747
bureau of criminal identification and investigation and that are 113748
presented by an individual applying for employment with the 113749
district in lieu of requesting that information itself. In such a 113750
case, the board shall accept the certified copy issued by the 113751
bureau in order to make a photocopy of it for that individual's 113752
employment application documents and shall return the certified 113753
copy to the individual. In a case of that nature, a district or 113754
provider only shall accept a certified copy of records of that 113755
nature within one year after the date of their issuance by the 113756
bureau. 113757

(c) Notwithstanding division (F)(2)(a) of this section, in 113758
the case of a request under section 3319.39, 3319.391, or 3327.10 113759
of the Revised Code only for criminal records maintained by the 113760
federal bureau of investigation, the superintendent shall not 113761

determine whether any information gathered under division (A) of 113762
this section exists on the person for whom the request is made. 113763

(3) The state board of education may request, with respect to 113764
any individual who has applied for employment after October 2, 113765
1989, in any position with the state board or the department of 113766
education, any information that a school district board of 113767
education is authorized to request under division (F)(2) of this 113768
section, and the superintendent of the bureau shall proceed as if 113769
the request has been received from a school district board of 113770
education under division (F)(2) of this section. 113771

(4) When the superintendent of the bureau receives a request 113772
for information under section 3319.291 of the Revised Code, the 113773
superintendent shall proceed as if the request has been received 113774
from a school district board of education and shall comply with 113775
divisions (F)(2)(a) and (c) of this section. 113776

(5) When a recipient of a classroom reading improvement grant 113777
paid under section 3301.86 of the Revised Code requests, with 113778
respect to any individual who applies to participate in providing 113779
any program or service funded in whole or in part by the grant, 113780
the information that a school district board of education is 113781
authorized to request under division (F)(2)(a) of this section, 113782
the superintendent of the bureau shall proceed as if the request 113783
has been received from a school district board of education under 113784
division (F)(2)(a) of this section. 113785

(G) In addition to or in conjunction with any request that is 113786
required to be made under section 3701.881, 3712.09, or 3721.121 113787
of the Revised Code with respect to an individual who has applied 113788
for employment in a position that involves providing direct care 113789
to an older adult or adult resident, the chief administrator of a 113790
home health agency, hospice care program, home licensed under 113791
Chapter 3721. of the Revised Code, or adult day-care program 113792
operated pursuant to rules adopted under section 3721.04 of the 113793

Revised Code may request that the superintendent of the bureau 113794
investigate and determine, with respect to any individual who has 113795
applied after January 27, 1997, for employment in a position that 113796
does not involve providing direct care to an older adult or adult 113797
resident, whether the bureau has any information gathered under 113798
division (A) of this section that pertains to that individual. 113799

In addition to or in conjunction with any request that is 113800
required to be made under section 173.27 of the Revised Code with 113801
respect to an individual who has applied for employment in a 113802
position that involves providing ~~ombudsperson~~ ombudsman services 113803
to residents of long-term care facilities or recipients of 113804
community-based long-term care services, the state long-term care 113805
~~ombudsperson~~ ombudsman, ~~ombudsperson's designee, or the~~ director 113806
of ~~health aging, a regional long-term care ombudsman program, or~~ 113807
~~the designee of the ombudsman, director, or program~~ may request 113808
that the superintendent investigate and determine, with respect to 113809
any individual who has applied for employment in a position that 113810
does not involve providing such ~~ombudsperson~~ ombudsman services, 113811
whether the bureau has any information gathered under division (A) 113812
of this section that pertains to that applicant. 113813

In addition to or in conjunction with any request that is 113814
required to be made under section ~~173.394~~ 173.38 of the Revised 113815
Code with respect to an individual who has applied for employment 113816
in a direct-care position ~~that involves providing direct care to~~ 113817
~~an individual~~, the chief administrator of a ~~community-based~~ 113818
~~long-term care agency~~ provider, as defined in section 173.39 of 113819
the Revised Code, may request that the superintendent investigate 113820
and determine, with respect to any individual who has applied for 113821
employment in a position that ~~does is not involve providing direct~~ 113822
~~care~~ a direct-care position, whether the bureau has any 113823
information gathered under division (A) of this section that 113824
pertains to that applicant. 113825

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

On receipt of a request under this division, the superintendent shall determine whether that information exists and, on request of the individual requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to the applicant. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, subject to division (E)(2) of this section, the superintendent shall send to the requester a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the requester a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

(I) The superintendent may charge a reasonable fee for

providing information or criminal records under division (F)(2) or 113858
(G) of this section. 113859

(J) As used in this section: 113860

(1) "Pediatric respite care program" and "pediatric care 113861
patient" have the same meanings as in section 3712.01 of the 113862
Revised Code. 113863

(2) "Sexually oriented offense" and "child-victim oriented 113864
offense" have the same meanings as in section 2950.01 of the 113865
Revised Code. 113866

(3) "Registered private provider" means a nonpublic school or 113867
entity registered with the superintendent of public instruction 113868
under section 3310.41 of the Revised Code to participate in the 113869
autism scholarship program or section 3310.58 of the Revised Code 113870
to participate in the Jon Peterson special needs scholarship 113871
program. 113872

Sec. 2151.011. (A) As used in the Revised Code: 113873

(1) "Juvenile court" means whichever of the following is 113874
applicable that has jurisdiction under this chapter and Chapter 113875
2152. of the Revised Code: 113876

(a) The division of the court of common pleas specified in 113877
section 2101.022 or 2301.03 of the Revised Code as having 113878
jurisdiction under this chapter and Chapter 2152. of the Revised 113879
Code or as being the juvenile division or the juvenile division 113880
combined with one or more other divisions; 113881

(b) The juvenile court of Cuyahoga county or Hamilton county 113882
that is separately and independently created by section 2151.08 or 113883
Chapter 2153. of the Revised Code and that has jurisdiction under 113884
this chapter and Chapter 2152. of the Revised Code; 113885

(c) If division (A)(1)(a) or (b) of this section does not 113886
apply, the probate division of the court of common pleas. 113887

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.	113888 113889
(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.	113890 113891 113892 113893 113894
(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:	113895 113896 113897 113898 113899
(a) Receives and cares for children for two or more consecutive weeks;	113900 113901
(b) Participates in the placement of children in certified foster homes;	113902 113903
(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.	113904 113905
(B) As used in this chapter:	113906
(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.	113907 113908 113909 113910 113911 113912
(2) "Adult" means an individual who is eighteen years of age or older.	113913 113914
(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children	113915 113916 113917

services agency or a private child placing agency. 113918

(4) "Alternative response" means the public children services 113919
agency's response to a report of child abuse or neglect that 113920
engages the family in a comprehensive evaluation of child safety, 113921
risk of subsequent harm, and family strengths and needs and that 113922
does not include a determination as to whether child abuse or 113923
neglect occurred. 113924

(5) "Certified foster home" means a foster home, as defined 113925
in section 5103.02 of the Revised Code, certified under section 113926
5103.03 of the Revised Code. 113927

(6) "Child" means a person who is under eighteen years of 113928
age, except that the juvenile court has jurisdiction over any 113929
person who is adjudicated an unruly child prior to attaining 113930
eighteen years of age until the person attains twenty-one years of 113931
age, and, for purposes of that jurisdiction related to that 113932
adjudication, a person who is so adjudicated an unruly child shall 113933
be deemed a "child" until the person attains twenty-one years of 113934
age. 113935

(7) "Child day camp," "child care," "child day-care center," 113936
"part-time child day-care center," "type A family day-care home," 113937
"licensed type B family day-care home," "type B family day-care 113938
home," "administrator of a child day-care center," "administrator 113939
of a type A family day-care home," and "in-home aide" have the 113940
same meanings as in section 5104.01 of the Revised Code. 113941

(8) "Child care provider" means an individual who is a 113942
child-care staff member or administrator of a child day-care 113943
center, a type A family day-care home, or a type B family day-care 113944
home, or an in-home aide or an individual who is licensed, is 113945
regulated, is approved, operates under the direction of, or 113946
otherwise is certified by the department of job and family 113947
services, department of developmental disabilities, or the early 113948

childhood programs of the department of education. 113949

(9) "Chronic truant" has the same meaning as in section 113950
2152.02 of the Revised Code. 113951

(10) "Commit" means to vest custody as ordered by the court. 113952

(11) "Counseling" includes both of the following: 113953

(a) General counseling services performed by a public 113954
children services agency or shelter for victims of domestic 113955
violence to assist a child, a child's parents, and a child's 113956
siblings in alleviating identified problems that may cause or have 113957
caused the child to be an abused, neglected, or dependent child. 113958

(b) Psychiatric or psychological therapeutic counseling 113959
services provided to correct or alleviate any mental or emotional 113960
illness or disorder and performed by a licensed psychiatrist, 113961
licensed psychologist, or a person licensed under Chapter 4757. of 113962
the Revised Code to engage in social work or professional 113963
counseling. 113964

(12) "Custodian" means a person who has legal custody of a 113965
child or a public children services agency or private child 113966
placing agency that has permanent, temporary, or legal custody of 113967
a child. 113968

(13) "Delinquent child" has the same meaning as in section 113969
2152.02 of the Revised Code. 113970

(14) "Detention" means the temporary care of children pending 113971
court adjudication or disposition, or execution of a court order, 113972
in a public or private facility designed to physically restrict 113973
the movement and activities of children. 113974

(15) "Developmental disability" has the same meaning as in 113975
section 5123.01 of the Revised Code. 113976

(16) "Differential response approach" means an approach that 113977
a public children services agency may use to respond to accepted 113978

reports of child abuse or neglect with either an alternative 113979
response or a traditional response. 113980

(17) "Foster caregiver" has the same meaning as in section 113981
5103.02 of the Revised Code. 113982

(18) "Guardian" means a person, association, or corporation 113983
that is granted authority by a probate court pursuant to Chapter 113984
2111. of the Revised Code to exercise parental rights over a child 113985
to the extent provided in the court's order and subject to the 113986
residual parental rights of the child's parents. 113987

(19) "Habitual truant" means any child of compulsory school 113988
age who is absent without legitimate excuse for absence from the 113989
public school the child is supposed to attend for five or more 113990
consecutive school days, seven or more school days in one school 113991
month, or twelve or more school days in a school year. 113992

(20) "Juvenile traffic offender" has the same meaning as in 113993
section 2152.02 of the Revised Code. 113994

(21) "Legal custody" means a legal status that vests in the 113995
custodian the right to have physical care and control of the child 113996
and to determine where and with whom the child shall live, and the 113997
right and duty to protect, train, and discipline the child and to 113998
provide the child with food, shelter, education, and medical care, 113999
all subject to any residual parental rights, privileges, and 114000
responsibilities. An individual granted legal custody shall 114001
exercise the rights and responsibilities personally unless 114002
otherwise authorized by any section of the Revised Code or by the 114003
court. 114004

(22) A "legitimate excuse for absence from the public school 114005
the child is supposed to attend" includes, but is not limited to, 114006
any of the following: 114007

(a) The fact that the child in question has enrolled in and 114008
is attending another public or nonpublic school in this or another 114009

state; 114010

(b) The fact that the child in question is excused from 114011
attendance at school for any of the reasons specified in section 114012
3321.04 of the Revised Code; 114013

(c) The fact that the child in question has received an age 114014
and schooling certificate in accordance with section 3331.01 of 114015
the Revised Code. 114016

(23) "Mental illness" and "mentally ill person subject to 114017
hospitalization by court order" have the same meanings as in 114018
section 5122.01 of the Revised Code. 114019

(24) "Mental injury" means any behavioral, cognitive, 114020
emotional, or mental disorder in a child caused by an act or 114021
omission that is described in section 2919.22 of the Revised Code 114022
and is committed by the parent or other person responsible for the 114023
child's care. 114024

(25) "Mentally retarded person" has the same meaning as in 114025
section 5123.01 of the Revised Code. 114026

(26) "Nonsecure care, supervision, or training" means care, 114027
supervision, or training of a child in a facility that does not 114028
confine or prevent movement of the child within the facility or 114029
from the facility. 114030

(27) "Of compulsory school age" has the same meaning as in 114031
section 3321.01 of the Revised Code. 114032

(28) "Organization" means any institution, public, 114033
semipublic, or private, and any private association, society, or 114034
agency located or operating in the state, incorporated or 114035
unincorporated, having among its functions the furnishing of 114036
protective services or care for children, or the placement of 114037
children in certified foster homes or elsewhere. 114038

(29) "Out-of-home care" means detention facilities, shelter 114039

facilities, certified children's crisis care facilities, certified 114040
foster homes, placement in a prospective adoptive home prior to 114041
the issuance of a final decree of adoption, organizations, 114042
certified organizations, child day-care centers, type A family 114043
day-care homes, type B family day-care homes, child care provided 114044
by in-home aides, group home providers, group homes, institutions, 114045
state institutions, residential facilities, residential care 114046
facilities, residential camps, day camps, public schools, 114047
chartered nonpublic schools, educational service centers, 114048
hospitals, and medical clinics that are responsible for the care, 114049
physical custody, or control of children. 114050

(30) "Out-of-home care child abuse" means any of the 114051
following when committed by a person responsible for the care of a 114052
child in out-of-home care: 114053

(a) Engaging in sexual activity with a child in the person's 114054
care; 114055

(b) Denial to a child, as a means of punishment, of proper or 114056
necessary subsistence, education, medical care, or other care 114057
necessary for a child's health; 114058

(c) Use of restraint procedures on a child that cause injury 114059
or pain; 114060

(d) Administration of prescription drugs or psychotropic 114061
medication to the child without the written approval and ongoing 114062
supervision of a licensed physician; 114063

(e) Commission of any act, other than by accidental means, 114064
that results in any injury to or death of the child in out-of-home 114065
care or commission of any act by accidental means that results in 114066
an injury to or death of a child in out-of-home care and that is 114067
at variance with the history given of the injury or death. 114068

(31) "Out-of-home care child neglect" means any of the 114069
following when committed by a person responsible for the care of a 114070

child in out-of-home care:	114071
(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;	114072 114073 114074
(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;	114075 114076 114077 114078
(c) Failure to develop a process for all of the following:	114079
(i) Administration of prescription drugs or psychotropic drugs for the child;	114080 114081
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	114082 114083
(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.	114084 114085 114086
(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;	114087 114088 114089
(e) Confinement of the child to a locked room without monitoring by staff;	114090 114091
(f) Failure to provide ongoing security for all prescription and nonprescription medication;	114092 114093
(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.	114094 114095 114096
(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or	114097 114098 114099 114100

adoptive parents of all parental rights, privileges, and 114101
obligations, including all residual rights and obligations. 114102

(33) "Permanent surrender" means the act of the parents or, 114103
if a child has only one parent, of the parent of a child, by a 114104
voluntary agreement authorized by section 5103.15 of the Revised 114105
Code, to transfer the permanent custody of the child to a public 114106
children services agency or a private child placing agency. 114107

(34) "Person" means an individual, association, corporation, 114108
or partnership and the state or any of its political subdivisions, 114109
departments, or agencies. 114110

(35) "Person responsible for a child's care in out-of-home 114111
care" means any of the following: 114112

(a) Any foster caregiver, in-home aide, or provider; 114113

(b) Any administrator, employee, or agent of any of the 114114
following: a public or private detention facility; shelter 114115
facility; certified children's crisis care facility; organization; 114116
certified organization; child day-care center; type A family 114117
day-care home; licensed type B family day-care home; group home; 114118
institution; state institution; residential facility; residential 114119
care facility; residential camp; day camp; school district; 114120
community school; chartered nonpublic school; educational service 114121
center; hospital; or medical clinic; 114122

(c) Any person who supervises or coaches children as part of 114123
an extracurricular activity sponsored by a school district, public 114124
school, or chartered nonpublic school; 114125

(d) Any other person who performs a similar function with 114126
respect to, or has a similar relationship to, children. 114127

(36) "Physically impaired" means having one or more of the 114128
following conditions that substantially limit one or more of an 114129
individual's major life activities, including self-care, receptive 114130

and expressive language, learning, mobility, and self-direction:	114131
(a) A substantial impairment of vision, speech, or hearing;	114132
(b) A congenital orthopedic impairment;	114133
(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.	114134 114135 114136
(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.	114137 114138 114139 114140
(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.	114141 114142 114143 114144
(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:	114145 114146
(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.	114147 114148 114149
(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.	114150 114151 114152 114153
(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.	114154 114155 114156
(41) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.	114157 114158 114159 114160

(42) "Protective supervision" means an order of disposition 114161
pursuant to which the court permits an abused, neglected, 114162
dependent, or unruly child to remain in the custody of the child's 114163
parents, guardian, or custodian and stay in the child's home, 114164
subject to any conditions and limitations upon the child, the 114165
child's parents, guardian, or custodian, or any other person that 114166
the court prescribes, including supervision as directed by the 114167
court for the protection of the child. 114168

(43) "Psychiatrist" has the same meaning as in section 114169
5122.01 of the Revised Code. 114170

(44) "Psychologist" has the same meaning as in section 114171
4732.01 of the Revised Code. 114172

(45) "Residential camp" means a program in which the care, 114173
physical custody, or control of children is accepted overnight for 114174
recreational or recreational and educational purposes. 114175

(46) "Residential care facility" means an institution, 114176
residence, or facility that is licensed by the department of 114177
~~mental health~~ mental health and addiction services under section 114178
~~5119.22~~ 5119.34 of the Revised Code and that provides care for a 114179
child. 114180

(47) "Residential facility" means a home or facility that is 114181
licensed by the department of developmental disabilities under 114182
section 5123.19 of the Revised Code and in which a child with a 114183
developmental disability resides. 114184

(48) "Residual parental rights, privileges, and 114185
responsibilities" means those rights, privileges, and 114186
responsibilities remaining with the natural parent after the 114187
transfer of legal custody of the child, including, but not 114188
necessarily limited to, the privilege of reasonable visitation, 114189
consent to adoption, the privilege to determine the child's 114190
religious affiliation, and the responsibility for support. 114191

(49) "School day" means the school day established by the state board of education of the applicable school district pursuant to section ~~3313.48~~ 3313.481 of the Revised Code.

(50) "School ~~month~~ and "school year" ~~have~~ has the same ~~meanings~~ meaning as in section 3313.62 of the Revised Code.

(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to

visit or maintain contact with the child for more than ninety 114222
days, regardless of whether the parents resume contact with the 114223
child after that period of ninety days. 114224

Sec. 2923.126. (A) A concealed handgun license that is issued 114225
under section 2923.125 of the Revised Code shall expire five years 114226
after the date of issuance. A licensee who has been issued a 114227
license under that section shall be granted a grace period of 114228
thirty days after the licensee's license expires during which the 114229
licensee's license remains valid. Except as provided in divisions 114230
(B) and (C) of this section, a licensee who has been issued a 114231
concealed handgun license under section 2923.125 or 2923.1213 of 114232
the Revised Code may carry a concealed handgun anywhere in this 114233
state if the licensee also carries a valid license and valid 114234
identification when the licensee is in actual possession of a 114235
concealed handgun. The licensee shall give notice of any change in 114236
the licensee's residence address to the sheriff who issued the 114237
license within forty-five days after that change. 114238

If a licensee is the driver or an occupant of a motor vehicle 114239
that is stopped as the result of a traffic stop or a stop for 114240
another law enforcement purpose and if the licensee is 114241
transporting or has a loaded handgun in the motor vehicle at that 114242
time, the licensee shall promptly inform any law enforcement 114243
officer who approaches the vehicle while stopped that the licensee 114244
has been issued a concealed handgun license and that the licensee 114245
currently possesses or has a loaded handgun; the licensee shall 114246
not knowingly disregard or fail to comply with lawful orders of a 114247
law enforcement officer given while the motor vehicle is stopped, 114248
knowingly fail to remain in the motor vehicle while stopped, or 114249
knowingly fail to keep the licensee's hands in plain sight after 114250
any law enforcement officer begins approaching the licensee while 114251
stopped and before the officer leaves, unless directed otherwise 114252
by a law enforcement officer; and the licensee shall not knowingly 114253

have contact with the loaded handgun by touching it with the 114254
licensee's hands or fingers, in any manner in violation of 114255
division (E) of section 2923.16 of the Revised Code, after any law 114256
enforcement officer begins approaching the licensee while stopped 114257
and before the officer leaves. Additionally, if a licensee is the 114258
driver or an occupant of a commercial motor vehicle that is 114259
stopped by an employee of the motor carrier enforcement unit for 114260
the purposes defined in section 5503.04 of the Revised Code and if 114261
the licensee is transporting or has a loaded handgun in the 114262
commercial motor vehicle at that time, the licensee shall promptly 114263
inform the employee of the unit who approaches the vehicle while 114264
stopped that the licensee has been issued a concealed handgun 114265
license and that the licensee currently possesses or has a loaded 114266
handgun. 114267

If a licensee is stopped for a law enforcement purpose and if 114268
the licensee is carrying a concealed handgun at the time the 114269
officer approaches, the licensee shall promptly inform any law 114270
enforcement officer who approaches the licensee while stopped that 114271
the licensee has been issued a concealed handgun license and that 114272
the licensee currently is carrying a concealed handgun; the 114273
licensee shall not knowingly disregard or fail to comply with 114274
lawful orders of a law enforcement officer given while the 114275
licensee is stopped or knowingly fail to keep the licensee's hands 114276
in plain sight after any law enforcement officer begins 114277
approaching the licensee while stopped and before the officer 114278
leaves, unless directed otherwise by a law enforcement officer; 114279
and the licensee shall not knowingly remove, attempt to remove, 114280
grasp, or hold the loaded handgun or knowingly have contact with 114281
the loaded handgun by touching it with the licensee's hands or 114282
fingers, in any manner in violation of division (B) of section 114283
2923.12 of the Revised Code, after any law enforcement officer 114284
begins approaching the licensee while stopped and before the 114285
officer leaves. 114286

(B) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under division (B) of section 2923.12 of the Revised Code or in any manner prohibited under section 2923.16 of the Revised Code. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

(1) A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation, a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution that is maintained, operated, managed, and governed pursuant to division (A) of section ~~5119.02~~ 5119.14 of the Revised Code or division (A)(1) of section 5123.03 of the Revised Code;

(2) A school safety zone if the licensee's carrying the concealed handgun is in violation of section 2923.122 of the Revised Code;

(3) A courthouse or another building or structure in which a courtroom is located, in violation of section 2923.123 of the Revised Code;

(4) Any premises or open air arena for which a D permit has been issued under Chapter 4303. of the Revised Code if the licensee's carrying the concealed handgun is in violation of section 2923.121 of the Revised Code;

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship

posts or permits otherwise; 114318

(7) A child day-care center, a type A family day-care home, 114319
or a type B family day-care home, except that this division does 114320
not prohibit a licensee who resides in a type A family day-care 114321
home or a type B family day-care home from carrying a concealed 114322
handgun at any time in any part of the home that is not dedicated 114323
or used for day-care purposes, or from carrying a concealed 114324
handgun in a part of the home that is dedicated or used for 114325
day-care purposes at any time during which no children, other than 114326
children of that licensee, are in the home; 114327

(8) An aircraft that is in, or intended for operation in, 114328
foreign air transportation, interstate air transportation, 114329
intrastate air transportation, or the transportation of mail by 114330
aircraft; 114331

(9) Any building that is a government facility of this state 114332
or a political subdivision of this state and that is not a 114333
building that is used primarily as a shelter, restroom, parking 114334
facility for motor vehicles, or rest facility and is not a 114335
courthouse or other building or structure in which a courtroom is 114336
located that is subject to division (B)(3) of this section; 114337

(10) A place in which federal law prohibits the carrying of 114338
handguns. 114339

(C)(1) Nothing in this section shall negate or restrict a 114340
rule, policy, or practice of a private employer that is not a 114341
private college, university, or other institution of higher 114342
education concerning or prohibiting the presence of firearms on 114343
the private employer's premises or property, including motor 114344
vehicles owned by the private employer. Nothing in this section 114345
shall require a private employer of that nature to adopt a rule, 114346
policy, or practice concerning or prohibiting the presence of 114347
firearms on the private employer's premises or property, including 114348

motor vehicles owned by the private employer. 114349

(2)(a) A private employer shall be immune from liability in a 114350
civil action for any injury, death, or loss to person or property 114351
that allegedly was caused by or related to a licensee bringing a 114352
handgun onto the premises or property of the private employer, 114353
including motor vehicles owned by the private employer, unless the 114354
private employer acted with malicious purpose. A private employer 114355
is immune from liability in a civil action for any injury, death, 114356
or loss to person or property that allegedly was caused by or 114357
related to the private employer's decision to permit a licensee to 114358
bring, or prohibit a licensee from bringing, a handgun onto the 114359
premises or property of the private employer. As used in this 114360
division, "private employer" includes a private college, 114361
university, or other institution of higher education. 114362

(b) A political subdivision shall be immune from liability in 114363
a civil action, to the extent and in the manner provided in 114364
Chapter 2744. of the Revised Code, for any injury, death, or loss 114365
to person or property that allegedly was caused by or related to a 114366
licensee bringing a handgun onto any premises or property owned, 114367
leased, or otherwise under the control of the political 114368
subdivision. As used in this division, "political subdivision" has 114369
the same meaning as in section 2744.01 of the Revised Code. 114370

(3)(a) Except as provided in division (C)(3)(b) of this 114371
section, the owner or person in control of private land or 114372
premises, and a private person or entity leasing land or premises 114373
owned by the state, the United States, or a political subdivision 114374
of the state or the United States, may post a sign in a 114375
conspicuous location on that land or on those premises prohibiting 114376
persons from carrying firearms or concealed firearms on or onto 114377
that land or those premises. Except as otherwise provided in this 114378
division, a person who knowingly violates a posted prohibition of 114379
that nature is guilty of criminal trespass in violation of 114380

division (A)(4) of section 2911.21 of the Revised Code and is 114381
guilty of a misdemeanor of the fourth degree. If a person 114382
knowingly violates a posted prohibition of that nature and the 114383
posted land or premises primarily was a parking lot or other 114384
parking facility, the person is not guilty of criminal trespass in 114385
violation of division (A)(4) of section 2911.21 of the Revised 114386
Code and instead is subject only to a civil cause of action for 114387
trespass based on the violation. 114388

(b) A landlord may not prohibit or restrict a tenant who is a 114389
licensee and who on or after September 9, 2008, enters into a 114390
rental agreement with the landlord for the use of residential 114391
premises, and the tenant's guest while the tenant is present, from 114392
lawfully carrying or possessing a handgun on those residential 114393
premises. 114394

(c) As used in division (C)(3) of this section: 114395

(i) "Residential premises" has the same meaning as in section 114396
5321.01 of the Revised Code, except "residential premises" does 114397
not include a dwelling unit that is owned or operated by a college 114398
or university. 114399

(ii) "Landlord," "tenant," and "rental agreement" have the 114400
same meanings as in section 5321.01 of the Revised Code. 114401

(D) A person who holds a concealed handgun license issued by 114402
another state that is recognized by the attorney general pursuant 114403
to a reciprocity agreement entered into pursuant to section 109.69 114404
of the Revised Code has the same right to carry a concealed 114405
handgun in this state as a person who was issued a concealed 114406
handgun license under section 2923.125 of the Revised Code and is 114407
subject to the same restrictions that apply to a person who 114408
carries a license issued under that section. 114409

(E) A peace officer has the same right to carry a concealed 114410
handgun in this state as a person who was issued a concealed 114411

handgun license under section 2923.125 of the Revised Code. For 114412
purposes of reciprocity with other states, a peace officer shall 114413
be considered to be a licensee in this state. 114414

(F)(1) A qualified retired peace officer who possesses a 114415
retired peace officer identification card issued pursuant to 114416
division (F)(2) of this section and a valid firearms 114417
requalification certification issued pursuant to division (F)(3) 114418
of this section has the same right to carry a concealed handgun in 114419
this state as a person who was issued a concealed handgun license 114420
under section 2923.125 of the Revised Code and is subject to the 114421
same restrictions that apply to a person who carries a license 114422
issued under that section. For purposes of reciprocity with other 114423
states, a qualified retired peace officer who possesses a retired 114424
peace officer identification card issued pursuant to division 114425
(F)(2) of this section and a valid firearms requalification 114426
certification issued pursuant to division (F)(3) of this section 114427
shall be considered to be a licensee in this state. 114428

(2)(a) Each public agency of this state or of a political 114429
subdivision of this state that is served by one or more peace 114430
officers shall issue a retired peace officer identification card 114431
to any person who retired from service as a peace officer with 114432
that agency, if the issuance is in accordance with the agency's 114433
policies and procedures and if the person, with respect to the 114434
person's service with that agency, satisfies all of the following: 114435

(i) The person retired in good standing from service as a 114436
peace officer with the public agency, and the retirement was not 114437
for reasons of mental instability. 114438

(ii) Before retiring from service as a peace officer with 114439
that agency, the person was authorized to engage in or supervise 114440
the prevention, detection, investigation, or prosecution of, or 114441
the incarceration of any person for, any violation of law and the 114442
person had statutory powers of arrest. 114443

(iii) At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.

(iv) Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of fifteen years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.

(b) A retired peace officer identification card issued to a person under division (F)(2)(a) of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (F)(2)(a) of this section may include the firearms requalification certification described in division (F)(3) of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (F)(2)(a) of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section, provided that the

credentials so issued to retired peace officers are stamped with 114476
the word "RETIRED." 114477

(c) A public agency of this state or of a political 114478
subdivision of this state may charge persons who retired from 114479
service as a peace officer with the agency a reasonable fee for 114480
issuing to the person a retired peace officer identification card 114481
pursuant to division (F)(2)(a) of this section. 114482

(3) If a person retired from service as a peace officer with 114483
a public agency of this state or of a political subdivision of 114484
this state and the person satisfies the criteria set forth in 114485
divisions (F)(2)(a)(i) to (iv) of this section, the public agency 114486
may provide the retired peace officer with the opportunity to 114487
attend a firearms requalification program that is approved for 114488
purposes of firearms requalification required under section 114489
109.801 of the Revised Code. The retired peace officer may be 114490
required to pay the cost of the course. 114491

If a retired peace officer who satisfies the criteria set 114492
forth in divisions (F)(2)(a)(i) to (iv) of this section attends a 114493
firearms requalification program that is approved for purposes of 114494
firearms requalification required under section 109.801 of the 114495
Revised Code, the retired peace officer's successful completion of 114496
the firearms requalification program requalifies the retired peace 114497
officer for purposes of division (F) of this section for five 114498
years from the date on which the program was successfully 114499
completed, and the requalification is valid during that five-year 114500
period. If a retired peace officer who satisfies the criteria set 114501
forth in divisions (F)(2)(a)(i) to (iv) of this section 114502
satisfactorily completes such a firearms requalification program, 114503
the retired peace officer shall be issued a firearms 114504
requalification certification that identifies the retired peace 114505
officer by name, identifies the entity that taught the program, 114506
specifies that the retired peace officer successfully completed 114507

the program, specifies the date on which the course was 114508
successfully completed, and specifies that the requalification is 114509
valid for five years from that date of successful completion. The 114510
firearms requalification certification for a retired peace officer 114511
may be included in the retired peace officer identification card 114512
issued to the retired peace officer under division (F)(2) of this 114513
section. 114514

A retired peace officer who attends a firearms 114515
requalification program that is approved for purposes of firearms 114516
requalification required under section 109.801 of the Revised Code 114517
may be required to pay the cost of the program. 114518

(G) As used in this section: 114519

(1) "Qualified retired peace officer" means a person who 114520
satisfies all of the following: 114521

(a) The person satisfies the criteria set forth in divisions 114522
(F)(2)(a)(i) to (v) of this section. 114523

(b) The person is not under the influence of alcohol or 114524
another intoxicating or hallucinatory drug or substance. 114525

(c) The person is not prohibited by federal law from 114526
receiving firearms. 114527

(2) "Retired peace officer identification card" means an 114528
identification card that is issued pursuant to division (F)(2) of 114529
this section to a person who is a retired peace officer. 114530

(3) "Government facility of this state or a political 114531
subdivision of this state" means any of the following: 114532

(a) A building or part of a building that is owned or leased 114533
by the government of this state or a political subdivision of this 114534
state and where employees of the government of this state or the 114535
political subdivision regularly are present for the purpose of 114536
performing their official duties as employees of the state or 114537

political subdivision; 114538

(b) The office of a deputy registrar serving pursuant to 114539
Chapter 4503. of the Revised Code that is used to perform deputy 114540
registrar functions. 114541

Sec. 5104.012. (A)(1) At the times specified in this 114542
division, the administrator of a child day-care center or a type A 114543
family day-care home shall request the superintendent of the 114544
bureau of criminal identification and investigation to conduct a 114545
criminal records check with respect to any applicant who has 114546
applied to the center or type A home for employment as a person 114547
responsible for the care, custody, or control of a child. 114548

The administrator shall request a criminal records check 114549
pursuant to this division at the time of the applicant's initial 114550
application for employment and every ~~four~~ five years thereafter. 114551
When the administrator requests pursuant to this division a 114552
criminal records check for an applicant at the time of the 114553
applicant's initial application for employment, the administrator 114554
shall request that the superintendent obtain information from the 114555
federal bureau of investigation as a part of the criminal records 114556
check for the applicant, including fingerprint-based checks of 114557
national crime information databases as described in 42 U.S.C. 114558
671, for the person subject to the criminal records check. In all 114559
other cases in which the administrator requests a criminal records 114560
check for an applicant pursuant to this division, the 114561
administrator may request that the superintendent include 114562
information from the federal bureau of investigation in the 114563
criminal records check, including fingerprint-based checks of 114564
national crime information databases as described in 42 U.S.C. 114565
671. 114566

(2) A person required by division (A)(1) of this section to 114567
request a criminal records check shall provide to each applicant a 114568

copy of the form prescribed pursuant to division (C)(1) of section 114569
109.572 of the Revised Code, provide to each applicant a standard 114570
impression sheet to obtain fingerprint impressions prescribed 114571
pursuant to division (C)(2) of section 109.572 of the Revised 114572
Code, obtain the completed form and impression sheet from each 114573
applicant, and forward the completed form and impression sheet to 114574
the superintendent of the bureau of criminal identification and 114575
investigation at the time the person requests a criminal records 114576
check pursuant to division (A)(1) of this section. On and after 114577
August 14, 2008, the administrator of a child day-care center or a 114578
type A family day-care home shall review the results of the 114579
criminal records check before the applicant has sole 114580
responsibility for the care, custody, or control of any child. 114581

(3) An applicant who receives pursuant to division (A)(2) of 114582
this section a copy of the form prescribed pursuant to division 114583
(C)(1) of section 109.572 of the Revised Code and a copy of an 114584
impression sheet prescribed pursuant to division (C)(2) of that 114585
section and who is requested to complete the form and provide a 114586
set of fingerprint impressions shall complete the form or provide 114587
all the information necessary to complete the form and shall 114588
provide the impression sheet with the impressions of the 114589
applicant's fingerprints. If an applicant, upon request, fails to 114590
provide the information necessary to complete the form or fails to 114591
provide impressions of the applicant's fingerprints, the center or 114592
type A home shall not employ that applicant for any position for 114593
which a criminal records check is required by division (A)(1) of 114594
this section. 114595

(B)(1) Except as provided in rules adopted under division (E) 114596
of this section, no child day-care center or type A family 114597
day-care home shall employ or contract with another entity for the 114598
services of a person as a person responsible for the care, 114599
custody, or control of a child if the person previously has been 114600

convicted of or pleaded guilty to any of the violations described 114601
in division (A)(5) of section 109.572 of the Revised Code. 114602

(2) A child day-care center or type A family day-care home 114603
may employ an applicant conditionally until the criminal records 114604
check required by this section is completed and the center or home 114605
receives the results of the criminal records check. If the results 114606
of the criminal records check indicate that, pursuant to division 114607
(B)(1) of this section, the applicant does not qualify for 114608
employment, the center or home shall release the applicant from 114609
employment. 114610

(C)(1) Each child day-care center and type A family day-care 114611
home shall pay to the bureau of criminal identification and 114612
investigation the fee prescribed pursuant to division (C)(3) of 114613
section 109.572 of the Revised Code for each criminal records 114614
check conducted in accordance with that section upon the request 114615
pursuant to division (A)(1) of this section of the administrator 114616
or provider of the center or home. 114617

(2) A child day-care center and type A family day-care home 114618
may charge an applicant a fee for the costs it incurs in obtaining 114619
a criminal records check under this section. A fee charged under 114620
this division shall not exceed the amount of fees the center or 114621
home pays under division (C)(1) of this section. If a fee is 114622
charged under this division, the center or home shall notify the 114623
applicant at the time of the applicant's initial application for 114624
employment of the amount of the fee and that, unless the fee is 114625
paid, the center or type A home will not consider the applicant 114626
for employment. 114627

(D) The report of any criminal records check conducted by the 114628
bureau of criminal identification and investigation in accordance 114629
with section 109.572 of the Revised Code and pursuant to a request 114630
under division (A)(1) of this section is not a public record for 114631
the purposes of section 149.43 of the Revised Code and shall not 114632

be made available to any person other than the applicant who is 114633
the subject of the criminal records check or the applicant's 114634
representative; the center or type A home requesting the criminal 114635
records check or its representative; the department of job and 114636
family services or a county department of job and family services; 114637
and any court, hearing officer, or other necessary individual 114638
involved in a case dealing with the denial of employment to the 114639
applicant. 114640

(E) The director of job and family services shall adopt rules 114641
pursuant to Chapter 119. of the Revised Code to implement this 114642
section, including rules specifying circumstances under which a 114643
center or home may hire a person who has been convicted of an 114644
offense listed in division (B)(1) of this section but who meets 114645
standards in regard to rehabilitation set by the department. 114646

(F) Any person required by division (A)(1) of this section to 114647
request a criminal records check shall inform each person, at the 114648
time of the person's initial application for employment, that the 114649
person is required to provide a set of impressions of the person's 114650
fingerprints and that a criminal records check is required to be 114651
conducted and satisfactorily completed in accordance with section 114652
109.572 of the Revised Code if the person comes under final 114653
consideration for appointment or employment as a precondition to 114654
employment for that position. 114655

(G) As used in this section: 114656

(1) "Applicant" means a person who is under final 114657
consideration for appointment to or employment in a position with 114658
a child day-care center or a type A family day-care home as a 114659
person responsible for the care, custody, or control of a child or 114660
any person who would serve in any position with a child day-care 114661
center or a type A family day-care home as a person responsible 114662
for the care, custody, or control of a child pursuant to a 114663
contract with another entity. 114664

(2) "Criminal records check" has the same meaning as in 114665
section 109.572 of the Revised Code. 114666

Sec. 5104.013. (A)(1) At the times specified in division 114667
(A)(3) of this section, the director of job and family services, 114668
as part of the process of licensure of child day-care centers, 114669
type A family day-care homes, and licensed type B family day-care 114670
homes shall request the superintendent of the bureau of criminal 114671
identification and investigation to conduct a criminal records 114672
check with respect to the following persons: 114673

(a) Any owner, licensee, or administrator of a child day-care 114674
center; 114675

(b) Any owner, licensee, or administrator of a type A family 114676
day-care home and any person eighteen years of age or older who 114677
resides in a type A family day-care home; 114678

(c) Any administrator of a licensed type B family day-care 114679
home and any person eighteen years of age or older who resides in 114680
a licensed type B family day-care home. 114681

(2) At the time specified in division (A)(3) of this section, 114682
the director of a county department of job and family services, as 114683
part of the process of certification of in-home aides, shall 114684
request the superintendent of the bureau of criminal 114685
identification and investigation to conduct a criminal records 114686
check with respect to any in-home aide. 114687

(3) The director of job and family services shall request a 114688
criminal records check pursuant to division (A)(1) of this section 114689
at the time of the initial application for licensure and every 114690
~~four~~ five years thereafter. The director of a county department of 114691
job and family services shall request a criminal records check 114692
pursuant to division (A)(2) of this section at the time of the 114693
initial application for certification and every ~~four~~ five years 114694

thereafter. When the director of job and family services or the 114695
director of a county department of job and family services 114696
requests pursuant to division (A)(1) or (2) of this section a 114697
criminal records check for a person at the time of the person's 114698
initial application for licensure or certification, the director 114699
shall request that the superintendent of the bureau of criminal 114700
identification and investigation obtain information from the 114701
federal bureau of investigation as a part of the criminal records 114702
check for the person, including fingerprint-based checks of 114703
national crime information databases as described in 42 U.S.C. 671 114704
for the person subject to the criminal records check. In all other 114705
cases in which the director of job and family services or the 114706
director of a county department of job and family services 114707
requests a criminal records check for an applicant pursuant to 114708
division (A)(1) or (2) of this section, the director may request 114709
that the superintendent include information from the federal 114710
bureau of investigation in the criminal records check, including 114711
fingerprint-based checks of national crime information databases 114712
as described in 42 U.S.C. 671. 114713

(4) The director of job and family services shall review the 114714
results of a criminal records check subsequent to a request made 114715
pursuant to divisions (A)(1) and (3) of this section prior to 114716
approval of a license. The director of a county department of job 114717
and family services shall review the results of a criminal records 114718
check subsequent to a request made pursuant to divisions (A)(2) 114719
and (3) of this section prior to approval of certification. 114720

(B) The director of job and family services or the director 114721
of a county department of job and family services shall provide to 114722
each person for whom a criminal records check is required under 114723
this section a copy of the form prescribed pursuant to division 114724
(C)(1) of section 109.572 of the Revised Code and a standard 114725
impression sheet to obtain fingerprint impressions prescribed 114726

pursuant to division (C)(2) of that section, obtain the completed 114727
form and impression sheet from that person, and forward the 114728
completed form and impression sheet to the superintendent of the 114729
bureau of criminal identification and investigation. 114730

(C) A person who receives pursuant to division (B) of this 114731
section a copy of the form and standard impression sheet described 114732
in that division and who is requested to complete the form and 114733
provide a set of fingerprint impressions shall complete the form 114734
or provide all the information necessary to complete the form and 114735
shall provide the impression sheet with the impressions of the 114736
person's fingerprints. If the person, upon request, fails to 114737
provide the information necessary to complete the form or fails to 114738
provide impressions of the person's fingerprints, the director may 114739
consider the failure as a reason to deny licensure or 114740
certification. 114741

(D) Except as provided in rules adopted under division (G) of 114742
this section, the director of job and family services shall not 114743
grant a license to a child day-care center, type A family day-care 114744
home, or type B family day-care home and a county director of job 114745
and family services shall not certify an in-home aide if a person 114746
for whom a criminal records check was required in connection with 114747
the center or home previously has been convicted of or pleaded 114748
guilty to any of the violations described in division (A)(5) of 114749
section 109.572 of the Revised Code. 114750

(E) Each child day-care center, type A family day-care home, 114751
and type B family day-care home shall pay to the bureau of 114752
criminal identification and investigation the fee prescribed 114753
pursuant to division (C)(3) of section 109.572 of the Revised Code 114754
for each criminal records check conducted in accordance with that 114755
section upon a request made pursuant to division (A) of this 114756
section. 114757

(F) The report of any criminal records check conducted by the 114758

bureau of criminal identification and investigation in accordance 114759
with section 109.572 of the Revised Code and pursuant to a request 114760
made under division (A) of this section is not a public record for 114761
the purposes of section 149.43 of the Revised Code and shall not 114762
be made available to any person other than the person who is the 114763
subject of the criminal records check or the person's 114764
representative, the director of job and family services, the 114765
director of a county department of job and family services, the 114766
center, type A home, or type B home involved, and any court, 114767
hearing officer, or other necessary individual involved in a case 114768
dealing with a denial of licensure or certification related to the 114769
criminal records check. 114770

(G) The director of job and family services shall adopt rules 114771
in accordance with Chapter 119. of the Revised Code to implement 114772
this section, including rules specifying exceptions to the 114773
prohibition in division (D) of this section for persons who have 114774
been convicted of an offense listed in that division but who meet 114775
standards in regard to rehabilitation set by the director. 114776

(H) As used in this section, "criminal records check" has the 114777
same meaning as in section 109.572 of the Revised Code. 114778

Sec. 5104.03. (A) Any person, firm, organization, 114779
institution, or agency seeking to establish a child day-care 114780
center, type A family day-care home, or licensed type B family 114781
day-care home shall apply for a license to the director of job and 114782
family services on such form as the director prescribes. The 114783
director shall provide at no charge to each applicant for 114784
licensure a copy of the child care license requirements in this 114785
chapter and a copy of the rules adopted pursuant to this chapter. 114786
The copies may be provided in paper or electronic form. 114787

Fees shall be set by the director pursuant to sections 114788
5104.015, 5104.017, and 5104.018 of the Revised Code and shall be 114789

paid at the time of application for a license to operate a center, 114790
type A home, or type B home. Fees collected under this section 114791
shall be paid into the state treasury to the credit of the general 114792
revenue fund. 114793

(B)(1) Upon filing of the application for a license, the 114794
director shall investigate and inspect the center, type A home, or 114795
type B home to determine the license capacity for each age 114796
category of children of the center, type A home, or type B home 114797
and to determine whether the center, type A home, or type B home 114798
complies with this chapter and rules adopted pursuant to this 114799
chapter. When, after investigation and inspection, the director is 114800
satisfied that this chapter and rules adopted pursuant to it are 114801
complied with, subject to division (H) of this section, a license 114802
shall be issued as soon as practicable in such form and manner as 114803
prescribed by the director. The license shall be designated as 114804
provisional and shall be valid for twelve months from the date of 114805
issuance unless revoked. 114806

(2) The director may contract with a government entity or a 114807
private nonprofit entity for the entity to inspect and license 114808
type B family day-care homes pursuant to this section. The 114809
department, government entity, or nonprofit entity shall conduct 114810
the inspection prior to the issuance of a license for the type B 114811
home and, as part of that inspection, ensure that the type B home 114812
is safe and sanitary. 114813

(C)(1) On receipt of an application for licensure as a type B 114814
family day-care home to provide publicly funded child care, the 114815
department shall search the uniform statewide automated child 114816
welfare information system for information concerning any abuse or 114817
neglect report made pursuant to section 2151.421 of the Revised 114818
Code of which the applicant, any other adult residing in the 114819
applicant's home, or a person designated by the applicant to be an 114820
emergency or substitute caregiver for the applicant is the 114821

subject. 114822

(2) The department shall consider any information it 114823
discovers pursuant to division (C)(1) of this section or that is 114824
provided by a public children services agency pursuant to section 114825
5153.175 of the Revised Code. If the department determines that 114826
the information, when viewed within the totality of the 114827
circumstances, reasonably leads to the conclusion that the 114828
applicant may directly or indirectly endanger the health, safety, 114829
or welfare of children, the department shall deny the application 114830
for licensure or revoke the license of a type B family day-care 114831
home. 114832

(D) The director shall investigate and inspect the center, 114833
type A home, or type B home at least once during operation under a 114834
license designated as provisional. If after the investigation and 114835
inspection the director determines that the requirements of this 114836
chapter and rules adopted pursuant to this chapter are met, 114837
subject to division (H) of this section, the director shall issue 114838
a new license to the center or home. 114839

(E) Each license shall state the name of the licensee, the 114840
name of the administrator, the address of the center, type A home, 114841
or licensed type B home, and the license capacity for each age 114842
category of children. The license shall include thereon, in 114843
accordance with sections 5104.015, 5104.017, and 5104.018 of the 114844
Revised Code, the toll-free telephone number to be used by persons 114845
suspecting that the center, type A home, or licensed type B home 114846
has violated a provision of this chapter or rules adopted pursuant 114847
to this chapter. A license is valid only for the licensee, 114848
administrator, address, and license capacity for each age category 114849
of children designated on the license. The license capacity 114850
specified on the license is the maximum number of children in each 114851
age category that may be cared for in the center, type A home, or 114852
licensed type B home at one time. 114853

The center or type A home licensee shall notify the director 114854
when the administrator of the center or home changes. The director 114855
shall amend the current license to reflect a change in an 114856
administrator, if the administrator meets the requirements of this 114857
chapter and rules adopted pursuant to this chapter, or a change in 114858
license capacity for any age category of children as determined by 114859
the director of job and family services. 114860

(F) If the director revokes the license of a center, a type A 114861
home, or a type B home, the director shall not issue another 114862
license to the owner of the center, type A home, or type B home 114863
until five years have elapsed from the date the license is 114864
revoked. 114865

If the director denies an application for a license, the 114866
director shall not accept another application from the applicant 114867
until five years have elapsed from the date the application is 114868
denied. 114869

(G) If during the application for licensure process the 114870
director determines that the license of the owner has been 114871
revoked, the investigation of the center, type A home, or type B 114872
home shall cease. This action does not constitute denial of the 114873
application and may not be appealed under division (H) of this 114874
section. 114875

(H) All actions of the director with respect to licensing 114876
centers, type A homes, or type B homes, refusal to license, and 114877
revocation of a license shall be in accordance with Chapter 119. 114878
of the Revised Code. Any applicant who is denied a license or any 114879
owner whose license is revoked may appeal in accordance with 114880
section 119.12 of the Revised Code. 114881

(I) In no case shall the director issue a license under this 114882
section for a center, type A home, or type B home if the director, 114883
based on documentation provided by the appropriate county 114884

department of job and family services, determines that the 114885
applicant had been certified as a type B family day-care home when 114886
such certifications were issued by county departments prior to ~~the~~ 114887
~~effective date of this amendment~~ January 1, 2014, that the county 114888
department revoked that certification within the immediately 114889
preceding five years, that the revocation was based on the 114890
applicant's refusal or inability to comply with the criteria for 114891
certification, and that the refusal or inability resulted in a 114892
risk to the health or safety of children. 114893

(J)(1) Except as provided in division (J)(2) of this section, 114894
an administrator of a type B family day-care home that receives a 114895
license pursuant to this section to provide publicly funded child 114896
care is an independent contractor and is not an employee of the 114897
department of job and family services. 114898

(2) For purposes of Chapter 4141. of the Revised Code, 114899
determinations concerning the employment of an administrator of a 114900
type B family day-care home that receives a license pursuant to 114901
this section shall be determined under Chapter 4141. of the 114902
Revised Code. 114903

Sec. 5104.08. (A) There is hereby created in the department 114904
of job and family services a child care advisory council to advise 114905
and assist the department in the administration of this chapter 114906
and in the development of child care. The council shall consist of 114907
twenty-two voting members appointed by the director of job and 114908
family services with the approval of the governor. The director of 114909
job and family services, the director of developmental 114910
disabilities, the director of ~~mental health~~ mental health and 114911
addiction services, the superintendent of public instruction, the 114912
director of health, the director of commerce, and the state fire 114913
marshal shall serve as nonvoting members of the council. 114914

Six members shall be representatives of child care centers 114915

subject to licensing, the members to represent a variety of 114916
centers, including nonprofit and proprietary, from different 114917
geographical areas of the state. At least three members shall be 114918
parents, guardians, or custodians of children receiving child care 114919
or publicly funded child care in the child's own home, a center, a 114920
type A home, a head start program, a licensed type B home, or a 114921
type B home at the time of appointment. Three members shall be 114922
representatives of in-home aides, type A homes, licensed type B 114923
homes, or type B homes or head start programs. At least six 114924
members shall represent county departments of job and family 114925
services. The remaining members shall be representatives of the 114926
teaching, child development, and health professions, and other 114927
individuals interested in the welfare of children. At least six 114928
members of the council shall not be employees or licensees of a 114929
child day-care center, head start program, or type A home, or 114930
providers operating a licensed type B home or type B home, or 114931
in-home aides. 114932

Appointments shall be for three-year terms. Vacancies shall 114933
be filled for the unexpired terms. A member of the council is 114934
subject to removal by the director of job and family services for 114935
a willful and flagrant exercise of authority or power that is not 114936
authorized by law, for a refusal or willful neglect to perform any 114937
official duty as a member of the council imposed by law, or for 114938
being guilty of misfeasance, malfeasance, nonfeasance, or gross 114939
neglect of duty as a member of the council. 114940

There shall be two co-chairpersons of the council. One 114941
co-chairperson shall be the director of job and family services or 114942
the director's designee, and one co-chairperson shall be elected 114943
by the members of the council. The council shall meet as often as 114944
is necessary to perform its duties, provided that it shall meet at 114945
least once in each quarter of each calendar year and at the call 114946
of the co-chairpersons. The co-chairpersons or their designee 114947

shall send to each member a written notice of the date, time, and 114948
place of each meeting. 114949

Members of the council shall serve without compensation, but 114950
shall be reimbursed for necessary expenses. 114951

(B) The child care advisory council shall advise the director 114952
on matters affecting the licensing of centers, type A homes, and 114953
type B homes and the certification of in-home aides. The council 114954
shall make an annual report to the director of job and family 114955
services that addresses the availability, affordability, 114956
accessibility, and quality of child care and that summarizes the 114957
recommendations and plans of action that the council has proposed 114958
to the director during the preceding fiscal year. The director of 114959
job and family services shall provide copies of the report to the 114960
governor, speaker and minority leader of the house of 114961
representatives, and the president and minority leader of the 114962
senate and, on request, shall make copies available to the public. 114963

(C) The director of job and family services shall adopt rules 114964
in accordance with Chapter 119. of the Revised Code to implement 114965
this section. 114966

Sec. 5104.32. (A) Except as provided in division (C) of this 114967
section, all purchases of publicly funded child care shall be made 114968
under a contract entered into by a licensed child day-care center, 114969
licensed type A family day-care home, licensed type B family 114970
day-care home, certified in-home aide, approved child day camp, 114971
licensed preschool program, licensed school child program, or 114972
border state child care provider and the department of job and 114973
family services. All contracts for publicly funded child care 114974
shall be contingent upon the availability of state and federal 114975
funds. The department shall prescribe a standard form to be used 114976
for all contracts for the purchase of publicly funded child care, 114977
regardless of the source of public funds used to purchase the 114978

child care. To the extent permitted by federal law and 114979
notwithstanding any other provision of the Revised Code that 114980
regulates state contracts or contracts involving the expenditure 114981
of state or federal funds, all contracts for publicly funded child 114982
care shall be entered into in accordance with the provisions of 114983
this chapter and are exempt from any other provision of the 114984
Revised Code that regulates state contracts or contracts involving 114985
the expenditure of state or federal funds. 114986

(B) Each contract for publicly funded child care shall 114987
specify at least the following: 114988

(1) That the provider of publicly funded child care agrees to 114989
be paid for rendering services at the lower of the rate 114990
customarily charged by the provider for children enrolled for 114991
child care or the reimbursement ceiling or rate of payment 114992
established pursuant to section 5104.30 of the Revised Code; 114993

(2) That, if a provider provides child care to an individual 114994
potentially eligible for publicly funded child care who is 114995
subsequently determined to be eligible, the department agrees to 114996
pay for all child care provided between the date the county 114997
department of job and family services receives the individual's 114998
completed application and the date the individual's eligibility is 114999
determined; 115000

(3) Whether the county department of job and family services, 115001
the provider, or a child care resource and referral service 115002
organization will make eligibility determinations, whether the 115003
provider or a child care resource and referral service 115004
organization will be required to collect information to be used by 115005
the county department to make eligibility determinations, and the 115006
time period within which the provider or child care resource and 115007
referral service organization is required to complete required 115008
eligibility determinations or to transmit to the county department 115009
any information collected for the purpose of making eligibility 115010

determinations; 115011

(4) That the provider, other than a border state child care 115012
provider, shall continue to be licensed, approved, or certified 115013
pursuant to this chapter and shall comply with all standards and 115014
other requirements in this chapter and in rules adopted pursuant 115015
to this chapter for maintaining the provider's license, approval, 115016
or certification; 115017

(5) That, in the case of a border state child care provider, 115018
the provider shall continue to be licensed, certified, or 115019
otherwise approved by the state in which the provider is located 115020
and shall comply with all standards and other requirements 115021
established by that state for maintaining the provider's license, 115022
certificate, or other approval; 115023

(6) Whether the provider will be paid by the state department 115024
of job and family services or in some other manner as prescribed 115025
by rules adopted under section 5104.42 of the Revised Code; 115026

(7) That the contract is subject to the availability of state 115027
and federal funds. 115028

(C) Unless specifically prohibited by federal law or by rules 115029
adopted under section 5104.42 of the Revised Code, the county 115030
department of job and family services shall give individuals 115031
eligible for publicly funded child care the option of obtaining 115032
certificates that the individual may use to purchase services from 115033
any provider qualified to provide publicly funded child care under 115034
section 5104.31 of the Revised Code. Providers of publicly funded 115035
child care may present these certificates for payment in 115036
accordance with rules that the director of job and family services 115037
shall adopt. Only providers may receive payment for certificates. 115038
The value of the certificate shall be based on the lower of the 115039
rate customarily charged by the provider or the rate of payment 115040
established pursuant to section 5104.30 of the Revised Code. The 115041

county department may provide the certificates to the individuals 115042
or may contract with child care providers or child care resource 115043
and referral service organizations that make determinations of 115044
eligibility for publicly funded child care pursuant to contracts 115045
entered into under section 5104.34 of the Revised Code for the 115046
providers or resource and referral service organizations to 115047
provide the certificates to individuals whom they determine are 115048
eligible for publicly funded child care. 115049

For each six-month period a provider of publicly funded child 115050
care provides publicly funded child care to the child of an 115051
individual given certificates, the individual shall provide the 115052
provider certificates for days the provider would have provided 115053
publicly funded child care to the child had the child been 115054
present. The maximum number of days providers shall be provided 115055
certificates shall not exceed ten days in a six-month period 115056
during which publicly funded child care is provided to the child 115057
regardless of the number of providers that provide publicly funded 115058
child care to the child during that period. 115059

(D)(1) The department shall establish the Ohio electronic 115060
child care system to track attendance and calculate payments for 115061
publicly funded child care. The system shall include issuing an 115062
electronic child care card to each caretaker parent to swipe 115063
through a point of service device issued to an eligible provider, 115064
as described in section 5104.31 of the Revised Code. 115065

(2) Each eligible provider that provides publicly funded 115066
child care shall participate in the Ohio electronic child care 115067
system. A provider participating in the system shall not do any of 115068
the following: 115069

(a) Use or have possession of an electronic child care card 115070
issued to a caretaker parent; 115071

(b) Falsify attendance records; 115072

<u>(c) Knowingly seek payment for publicly funded child care that was not provided;</u>	115073
	115074
<u>(d) Knowingly accept reimbursement for publicly funded child care that was not provided.</u>	115075
	115076
Section 110.21. That the existing versions of sections 109.57, 2151.011, 2923.126, 5104.012, 5104.013, 5104.03, 5104.08, and 5104.32 of the Revised Code that are scheduled to take effect January 1, 2014, are hereby repealed.	115077
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	115079
	115080
Section 110.22. Sections 110.20 and 110.21 of this act shall take effect January 1, 2014, except that the amendments by Sections 110.20 and 110.21 of this act to divisions (B)(49) and (50) of section 2151.011 of the Revised Code shall take effect July 1, 2014.	115081
	115082
	115083
	115084
	115085
Section 110.30. That the version of section 4507.06 of the Revised Code that is scheduled to take effect January 1, 2017, be amended to read as follows:	115086
	115087
	115088
Sec. 4507.06. (A)(1) Every application for a driver's license, motorcycle operator's license or endorsement, or motor-driven cycle or motor scooter license or endorsement, or duplicate of any such license or endorsement, shall be made upon the approved form furnished by the registrar of motor vehicles and shall be signed by the applicant.	115089
	115090
	115091
	115092
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	115094
Every application shall state the following:	115095
(a) The applicant's name, date of birth, social security number if such has been assigned, sex, general description, including height, weight, color of hair, and eyes, residence address, including county of residence, duration of residence in this state, and country of citizenship;	115096
	115097
	115098
	115099
	115100

(b) Whether the applicant previously has been licensed as an operator, chauffeur, driver, commercial driver, or motorcycle operator and, if so, when, by what state, and whether such license is suspended or canceled at the present time and, if so, the date of and reason for the suspension or cancellation;

(c) Whether the applicant is now or ever has been afflicted with epilepsy, or whether the applicant now is suffering from any physical or mental disability or disease and, if so, the nature and extent of the disability or disease, giving the names and addresses of physicians then or previously in attendance upon the applicant;

(d) Whether an applicant for a duplicate driver's license, duplicate license containing a motorcycle operator endorsement, or duplicate license containing a motor-driven cycle or motor scooter endorsement has pending a citation for violation of any motor vehicle law or ordinance, a description of any such citation pending, and the date of the citation;

(e) ~~Whether~~ If an applicant has not certified the applicant's willingness to make an anatomical gift under section 2108.05 of the Revised Code, whether the applicant wishes to certify willingness to make such an anatomical gift ~~under section 2108.05 of the Revised Code~~, which shall be given no consideration in the issuance of a license or endorsement;

(f) Whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the applicant's license to indicate that the applicant has executed the instrument;

(g) On and after October 7, 2009, whether the applicant is a 115133
veteran, active duty, or reservist of the armed forces of the 115134
United States and, if the applicant is such, whether the applicant 115135
wishes the applicant's license to indicate that the applicant is a 115136
veteran, active duty, or reservist of the armed forces of the 115137
United States by a military designation on the license. 115138

(2) Every applicant for a driver's license shall be 115139
photographed in color at the time the application for the license 115140
is made. The application shall state any additional information 115141
that the registrar requires. 115142

(B) The registrar or a deputy registrar, in accordance with 115143
section 3503.11 of the Revised Code, shall register as an elector 115144
any person who applies for a license or endorsement under division 115145
(A) of this section, or for a renewal or duplicate of the license 115146
or endorsement, if the applicant is eligible and wishes to be 115147
registered as an elector. The decision of an applicant whether to 115148
register as an elector shall be given no consideration in the 115149
decision of whether to issue the applicant a license or 115150
endorsement, or a renewal or duplicate. 115151

(C) The registrar or a deputy registrar, in accordance with 115152
section 3503.11 of the Revised Code, shall offer the opportunity 115153
of completing a notice of change of residence or change of name to 115154
any applicant for a driver's license or endorsement under division 115155
(A) of this section, or for a renewal or duplicate of the license 115156
or endorsement, if the applicant is a registered elector who has 115157
changed the applicant's residence or name and has not filed such a 115158
notice. 115159

(D) In addition to any other information it contains, on and 115160
after October 7, 2009, the approved form furnished by the 115161
registrar of motor vehicles for an application for a license or 115162
endorsement or an application for a duplicate of any such license 115163
or endorsement shall inform applicants that the applicant must 115164

present a copy of the applicant's DD-214 or an equivalent document 115165
in order to qualify to have the license or duplicate indicate that 115166
the applicant is a veteran, active duty, or reservist of the armed 115167
forces of the United States based on a request made pursuant to 115168
division (A)(1)(g) of this section. 115169

Section 110.31. That the existing version of section 4507.06 115170
of the Revised Code that is scheduled to take effect January 1, 115171
2017, is hereby repealed. 115172

Section 110.32. Sections 110.30 and 110.31 of this act shall 115173
take effect January 1, 2017. 115174

Section 125.10. (A) Sections 5168.01, 5168.02, 5168.03, 115175
5168.04, 5168.05, 5168.06, 5168.07, 5168.08, 5168.09, 5168.10, 115176
5168.11, 5168.12, 5168.13, 5168.99, and 5168.991 of the Revised 115177
Code are hereby repealed, effective October 16, 2015. 115178

(B) Any money remaining in the Legislative Budget Services 115179
Fund on October 16, 2015, the date that section 5168.12 of the 115180
Revised Code is repealed by division (A) of this section, shall be 115181
used solely for the purposes stated in then former section 5168.12 115182
of the Revised Code. When all money in the Legislative Budget 115183
Services Fund has been spent after then former section 5168.12 of 115184
the Revised Code is repealed under division (A) of this section, 115185
the fund shall cease to exist. 115186

Section 125.11. Sections 5168.20, 5168.21, 5168.22, 5168.23, 115187
5168.24, 5168.25, 5168.26, 5168.27, and 5168.28 of the Revised 115188
Code are hereby repealed, effective October 1, 2015. 115189

Section 125.11.10. That Section 267.60.31 of Am. Sub. H.B. 115190
153 of the 129th General Assembly is hereby repealed. 115191

Section 125.12. That Section 153 of Am. Sub. H.B. 117 of the 115192
 121st General Assembly, as most recently amended by Am. Sub. H.B. 115193
 153 of the 129th General Assembly, is hereby repealed. 115194

Section 125.13. That Section 125.10 of Am. Sub. H.B. 1 of the 115195
 128th General Assembly, as most recently amended by Am. Sub. H.B. 115196
 153 of the 129th General Assembly, is hereby repealed. 115197

Section 201.10. Except as otherwise provided in this act, all 115198
 appropriation items in this act are appropriated out of any moneys 115199
 in the state treasury to the credit of the designated fund that 115200
 are not otherwise appropriated. For all appropriations made in 115201
 this act, the amounts in the first column are for fiscal year 2014 115202
 and the amounts in the second column are for fiscal year 2015. 115203
 115204

Section 203.10. ACC ACCOUNTANCY BOARD OF OHIO 115205

General Services Fund Group 115206

4J80	889601	CPA Education	\$	325,000	\$	325,000	115207
		Assistance					
4K90	889609	Operating Expenses	\$	977,500	\$	977,500	115208
TOTAL GSF General Services Fund							115209
Group							\$ 1,302,500 \$ 1,302,500 115210
TOTAL ALL BUDGET FUND GROUPS							\$ 1,302,500 \$ 1,302,500 115211

Section 205.10. ADJ ADJUTANT GENERAL 115213

General Revenue Fund 115214

GRF	745401	Ohio Military Reserve	\$	12,308	\$	12,308	115215
GRF	745404	Air National Guard	\$	1,810,606	\$	1,810,606	115216
GRF	745407	National Guard	\$	400,000	\$	400,000	115217
		Benefits					
GRF	745409	Central	\$	2,682,098	\$	2,682,098	115218

		Administration				
GRF	745499	Army National Guard	\$	3,689,871	\$	3,689,871 115219
TOTAL GRF		General Revenue Fund	\$	8,594,883	\$	8,594,883 115220
		General Services Fund Group				115221
5340	745612	Property Operations	\$	534,304	\$	534,304 115222
		Management				
5360	745605	Marksmanship	\$	128,600	\$	128,600 115223
		Activities				
5360	745620	Camp Perry and	\$	978,846	\$	978,846 115224
		Buckeye Inn				
		Operations				
5370	745604	Ohio National Guard	\$	62,000	\$	62,000 115225
		Facilities				
		Maintenance				
TOTAL GSF		General Services Fund	\$	1,703,750	\$	1,703,750 115226
		Group				
		Federal Special Revenue Fund Group				115227
3410	745615	Air National Guard	\$	2,919,000	\$	2,919,000 115228
		Base Security				
3420	745616	Army National Guard	\$	15,063,000	\$	15,063,000 115229
		Service Agreement				
3E80	745628	Air National Guard	\$	16,850,000	\$	16,850,000 115230
		Operations and				
		Maintenance				
3R80	745603	Counter Drug	\$	15,000	\$	15,000 115231
		Operations				
TOTAL FED		Federal Special Revenue	\$	34,847,000	\$	34,847,000 115232
		Fund Group				
		State Special Revenue Fund Group				115233
5U80	745613	Community Match	\$	350,000	\$	350,000 115234
		Armories				
TOTAL SSR		State Special Revenue	\$	350,000	\$	350,000 115235

Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	45,495,633	\$	45,495,633
NATIONAL GUARD BENEFITS				115237
The foregoing appropriation item 745407, National Guard				115238
Benefits, shall be used for purposes of sections 5919.31 and				115239
5919.33 of the Revised Code, and for administrative costs of the				115240
associated programs.				115241
If necessary, in order to pay benefits in a timely manner				115242
pursuant to sections 5919.31 and 5919.33 of the Revised Code, the				115243
Adjutant General may request the Director of Budget and Management				115244
transfer appropriation from any appropriation item used by the				115245
Adjutant General to appropriation item 745407, National Guard				115246
Benefits. The Adjutant General may subsequently seek Controlling				115247
Board approval to restore the appropriation in the appropriation				115248
item from which such a transfer was made.				115249
For active duty members of the Ohio National Guard who died				115250
after October 7, 2001, while performing active duty, the death				115251
benefit, pursuant to section 5919.33 of the Revised Code, shall be				115252
paid to the beneficiary or beneficiaries designated on the				115253
member's Servicemembers' Group Life Insurance Policy.				115254
STATE ACTIVE DUTY COSTS				115255
Of the foregoing appropriation item 745409, Central				115256
Administration, \$50,000 in each fiscal year shall be used for the				115257
purpose of paying expenses related to state active duty of members				115258
of the Ohio organized militia, in accordance with a proclamation				115259
of the Governor. Expenses include, but are not limited to, the				115260
cost of equipment, supplies, and services, as determined by the				115261
Adjutant General's Department.				115262
Section 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES				115263
General Revenue Fund				115264

GRF	100403	Public Employees Health Care Program	\$	309,600	\$	309,600	115265
GRF	100414	MARCS Lease Rental Payments	\$	5,133,700	\$	5,135,800	115266
GRF	100415	OAKS Lease Rental Payments	\$	22,998,500	\$	22,982,500	115267
GRF	100416	STARS Lease Rental Payments	\$	4,976,500	\$	4,973,200	115268
GRF	100447	Administrative Building Lease Rental Payments	\$	85,847,800	\$	91,059,600	115269
GRF	100448	Office Building Operating Payments	\$	20,000,000	\$	20,000,000	115270
GRF	100449	DAS - Building Operating Payments	\$	7,551,571	\$	7,551,571	115271
GRF	100452	Lean Ohio	\$	1,059,624	\$	1,059,624	115272
GRF	100456	State IT Services	\$	1,739,038	\$	1,739,038	115273
GRF	100457	Equal Opportunity Services	\$	1,910,516	\$	1,910,516	115274
GRF	100459	Ohio Business Gateway	\$	4,049,094	\$	4,049,094	115275
GRF	100460	Local Government Information Exchange Grants	\$	2,500,000	\$	0	115276
GRF	130321	State Agency Support Services	\$	2,477,008	\$	2,477,008	115277
TOTAL GRF		General Revenue Fund	\$	160,552,951	\$	163,247,551	115278
		General Services Fund Group					115279
1120	100616	DAS Administration	\$	6,127,659	\$	6,147,659	115280
1150	100632	Central Service Agency	\$	911,580	\$	927,699	115281
1170	100644	General Services Division - Operating	\$	12,993,870	\$	12,993,870	115282
1220	100637	Fleet Management	\$	4,200,000	\$	4,200,000	115283
1250	100622	Human Resources	\$	16,649,839	\$	16,649,839	115284

		Division - Operating				
1250	100657	Benefits Communication	\$	712,316	\$	712,316 115285
1280	100620	Office of Collective Bargaining	\$	3,329,507	\$	3,329,507 115286
1300	100606	Risk Management Reserve	\$	6,635,784	\$	6,635,784 115287
1320	100631	DAS Building Management	\$	19,743,170	\$	19,743,170 115288
1330	100607	IT Services Delivery	\$	57,521,975	\$	57,521,975 115289
1880	100649	Equal Opportunity	\$	863,013	\$	863,013 115290
		Division - Operating				
2100	100612	State Printing	\$	20,459,526	\$	20,459,526 115291
2290	100630	IT Governance	\$	16,446,474	\$	16,446,474 115292
2290	100640	Leveraged Enterprise Purchases	\$	7,065,639	\$	7,065,639 115293
4270	100602	Investment Recovery	\$	3,885,000	\$	2,900,000 115294
4N60	100617	Major IT Purchases	\$	56,888,635	\$	56,888,635 115295
4P30	100603	DAS Information Services	\$	6,400,070	\$	6,400,070 115296
5C20	100605	MARCS Administration	\$	14,292,596	\$	14,512,028 115297
5C30	100608	Minor Construction Project Management	\$	204,375	\$	204,375 115298
5EB0	100635	OAKS Support Organization	\$	25,813,077	\$	19,813,077 115299
5EB0	100656	OAKS Updates and Developments	\$	9,886,923	\$	2,636,923 115300
5HU0	100655	Construction Reform Demo Compliance	\$	150,000	\$	150,000 115301
5KZ0	100659	Building Improvement	\$	500,000	\$	500,000 115302
5L70	100610	Professional Development	\$	2,100,000	\$	2,100,000 115303
5LA0	100660	Building Operation	\$	27,000,767	\$	27,214,648 115304
5LJ0	100661	IT Development	\$	13,200,000	\$	13,200,000 115305

5V60 100619	Employee Educational Development	\$	800,000	\$	800,000	115306
TOTAL GSF General Services Fund						115307
Group		\$	334,781,795	\$	321,016,227	115308
Federal Special Revenue Fund Group						115309
3AJ0 100654	ARRA Broadband Mapping Grant	\$	1,723,009	\$	1,723,009	115310
TOTAL FED Federal Special Revenue						115311
Fund Group		\$	1,723,009	\$	1,723,009	115312
State Special Revenue Fund Group						115313
5JQ0 100658	Professionals Licensing System	\$	3,028,366	\$	990,000	115314
5MV0 100662	Theatre Equipment Maintenance	\$	80,891	\$	80,891	115315
TOTAL SSR State Special Revenue						115316
Fund Group		\$	3,109,257	\$	1,070,891	115317
TOTAL ALL BUDGET FUND GROUPS						115318

Section 207.20. OAKS LEASE RENTAL PAYMENTS 115320

The foregoing appropriation item 100415, OAKS Lease Rental 115321
 Payments, shall be used for payments at the times they are 115322
 required to be made for the period from July 1, 2013, through June 115323
 30, 2015, pursuant to leases and agreements entered into under 115324
 Chapter 125. of the Revised Code, as supplemented by Section 115325
 281.10 of Am. Sub. H.B. 562 of the 127th General Assembly and 115326
 other prior acts of the General Assembly, with respect to 115327
 financing the costs associated with the acquisition, development, 115328
 installation, and implementation of the Ohio Administrative 115329
 Knowledge System. If it is determined that additional 115330
 appropriations are necessary for this purpose, the amounts are 115331
 hereby appropriated. 115332

Section 207.30. STARS LEASE RENTAL PAYMENTS 115333

The foregoing appropriation item 100416, STARS Lease Rental 115334
Payments, shall be used for payments at the times they are 115335
required to be made for the period from July 1, 2013, through June 115336
30, 2015, pursuant to leases and agreements entered into under 115337
Chapter 125. of the Revised Code, as supplemented by Section 115338
207.10.30 of Am. Sub. H.B. 1 of the 128th General Assembly and 115339
other prior acts of the General Assembly, with respect to 115340
financing the cost for the acquisition, development, installation, 115341
and implementation of the State Taxation Accounting and Revenue 115342
System (STARS). If it is determined that additional appropriations 115343
are necessary for this purpose, the amounts are appropriated. 115344

The State Taxation Accounting and Revenue System (STARS) is 115345
an integrated tax collection and audit system that will replace 115346
all of the state's existing separate tax software and 115347
administration systems for the various taxes collected by the 115348
state. The Department of Administrative Services, in conjunction 115349
with the Department of Taxation, may acquire STARS, including, but 115350
not limited to, the application hardware and software and 115351
installation and implementation thereof, for the use of the 115352
Department of Taxation. Any lease-purchase agreement used under 115353
Chapter 125. of the Revised Code to acquire STARS, including any 115354
fractionalized interests as defined in division (N) of section 115355
133.01 of the Revised Code in the lease payments under that 115356
agreement, shall provide at the end of the lease period that the 115357
financed asset becomes the property of the state. The principal 115358
amount of any new such financing is limited, excluding the 115359
principal amounts of any lease-purchase financing heretofore 115360
completed for STARS, to the amount of \$20,000,000. 115361

Section 207.40. MARCS LEASE RENTAL PAYMENTS 115362

The foregoing appropriation item 100414, MARCS Lease Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2013, through June 30, 2015, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 701.20 of Sub. H.B. 482 of the 129th General Assembly, with respect to financing the cost for the acquisition, development, installation, and implementation of the Multi-Agency Radio Communication System (MARCS) upgrade. If it is determined that additional appropriations are necessary for this purpose, the amounts are hereby appropriated.

Section 207.50. MULTI-AGENCY RADIO COMMUNICATION SYSTEM UPGRADE

The Multi-Agency Radio Communications System (MARCS) is a statewide computer and communications network designed to provide instant voice and data communication and supply a communications backbone to public safety and emergency management. The Department of Administrative Services may update or add functionality to MARCS to upgrade the existing system to a 700/800 megahertz voice and data system specifically designed to support interoperable communications for public safety law enforcement and first responders. The improvements may include, but are not limited to, hardware and software and the installation and implementation thereof. Any lease-purchase agreement utilized under Chapter 125. of the Revised Code to acquire MARCS and the enhancements described above, including any fractionalized interest as defined in division (N) of section 133.01 of the Revised Code in the lease payments under that agreement, shall provide at the end of the lease period that the financed asset becomes the property of the state. The principal amount of any new such financing is limited, in addition to the principal amounts of lease-purchase financing heretofore completed for MARCS, to the amount of \$27,000,000.

Section 207.60. ADMINISTRATIVE BUILDING LEASE RENTAL PAYMENTS 115395

The foregoing appropriation item 100447, Administrative 115396
Building Lease Rental Payments, shall be used to meet all payments 115397
at the times they are required to be made during the period from 115398
July 1, 2013, through June 30, 2015, by the Department of 115399
Administrative Services pursuant to leases and agreements under 115400
Chapters 152. and 154. of the Revised Code. These appropriations 115401
are the source of funds pledged for bond service charges on 115402
related obligations issued under Chapters 152. and 154. of the 115403
Revised Code. 115404

The foregoing appropriation item 100448, Office Building 115405
Operating Payments, shall be used to pay the expenses of vacant 115406
space, space undergoing renovation, agencies funded by the General 115407
Revenue Fund, and the rent expenses of tenants that have been 115408
relocated because of building renovations that occupy space in the 115409
James A. Rhodes State Office Tower, the Vern Riffe Center for 115410
Government and the Arts, the Frank J. Lausche State Office 115411
Building, the Michael V. DiSalle Government Center, and the Oliver 115412
R. Ocasek Government Office Building. 115413

At least once per year, the portion of appropriation item 115414
100448, Office Building Operating Payments, that is not used for 115415
expenses of agencies funded by the General Revenue Fund, vacant 115416
space, space undergoing renovation, and the rent expenses of 115417
tenants that are relocated because of building renovations shall 115418
be processed by the Department of Administrative Services through 115419
intrastate voucher and placed in the Building Improvements Fund 115420
(Fund 5KZ0). 115421

Section 207.70. DAS - BUILDING OPERATING PAYMENTS 115422

The foregoing appropriation item 100449, DAS - Building 115423
Operating Payments, shall be used to pay the rent expenses of 115424

veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2014 and 2015.

The foregoing appropriation item, 100449, DAS - Building Operating Payments, also may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants, or other costs associated with the Voinovich Center in Youngstown, Ohio. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated because of building renovations. These payments may be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 1320) or the Information Technology Services Fund (Fund 1330).

CASH TRANSFER FROM THE WORKFORCE DEVELOPMENT FUND TO THE HUMAN RESOURCES SERVICES FUND

Upon request of the Director of Administrative Services, during the FY 2014 - FY 2015 biennium, the Director of Budget and Management shall transfer up to \$975,000 from the Workforce Development Fund (Fund 5D70) to the Human Resources Services Fund (Fund 1250) to support one-time human resources administration activities for state agencies.

Section 207.73. LOCAL GOVERNMENT INFORMATION GRANTS

Of the foregoing appropriation item 100460, Local Government

Information Exchange Grants, up to \$100,000 in fiscal year 2014 115455
shall be used by the Director of Administrative Services for 115456
administration and maintenance of the Ohio Local Government 115457
Information Exchange Grant Program and for administration of Local 115458
Government Information Exchange grants. The remainder of the 115459
foregoing appropriation item 100460, Local Government Information 115460
Exchange Grants, shall be used by the Director of Administrative 115461
Services to disburse grant awards to eligible local governments 115462
under section 149.60 of the Revised Code. 115463

On July 1, 2014, or as soon as possible thereafter, the Chief 115464
Information Officer may request that the Director of Budget and 115465
Management approve the reappropriation of the unexpended, 115466
unencumbered balance at the end of fiscal year 2014 of the 115467
foregoing appropriation item 100460, Local Government Information 115468
Exchange Grants, for fiscal year 2015. The Director of Budget and 115469
Management may request additional information necessary for 115470
evaluating the request, and the Director of Administrative 115471
Services shall provide the requested information to the Director 115472
of Budget and Management. Based on the information provided by the 115473
Director of Administrative Services, the Director of Budget and 115474
Management shall determine the amounts to be reappropriated, and 115475
those amounts are hereby reappropriated for fiscal year 2015. 115476

Section 207.80. CENTRAL SERVICE AGENCY FUND 115477

Appropriation item 100632, Central Service Agency, shall be 115478
used to purchase the equipment, products, and services that are 115479
needed to maintain existing automated applications for the 115480
professional licensing boards and the Casino Control Commission to 115481
support board licensing functions in fiscal years 2014 and 2015 115482
until these functions are replaced by the Ohio Professionals 115483
Licensing System. The Department of Administrative Services shall 115484
establish charges for recovering the costs of carrying out these 115485

functions. The charges shall be billed to the professional 115486
licensing boards and the Casino Control Commission, and deposited 115487
via intrastate transfer vouchers to the credit of the Central 115488
Service Agency Fund (Fund 1150). 115489

Upon implementation of the replacement Ohio Professionals 115490
Licensing System and the decommissioning of the existing automated 115491
applications, the Director of Budget and Management may transfer 115492
any cash balances that remain in the Central Service Agency Fund 115493
(Fund 1150) and that are attributable to the operation of the 115494
existing automated applications to the Professions Licensing 115495
System Fund (Fund 5JQ0). 115496

Section 207.90. GENERAL SERVICE CHARGES 115497

The Department of Administrative Services, with the approval 115498
of the Director of Budget and Management, shall establish charges 115499
for recovering the costs of administering the programs funded by 115500
the General Services Fund (Fund 1170) and the State Printing Fund 115501
(Fund 2100). Such charges within Fund 1170 may be used to recover 115502
the cost of paying a vendor to establish reduced pricing for 115503
contracted supplies or services. 115504

If the Director of Administrative Services determines that 115505
additional amounts are necessary to pay for consulting and 115506
administrative costs related to securing lower pricing, the 115507
Director of Administrative Services may request that the Director 115508
of Budget and Management approve additional expenditures. Such 115509
approved additional amounts are appropriated to appropriation item 115510
100644, General Services Division-Operating. 115511

Section 207.100. COLLECTIVE BARGAINING ARBITRATION EXPENSES 115512

With approval of the Director of Budget and Management, the 115513
Department of Administrative Services may seek reimbursement from 115514
state agencies for the actual costs and expenses the Department 115515

incurs in the collective bargaining arbitration process. The 115516
reimbursements shall be processed through intrastate transfer 115517
vouchers and credited to the Collective Bargaining Fund (Fund 115518
1280). 115519

Section 207.110. EQUAL OPPORTUNITY PROGRAM 115520

The Department of Administrative Services, with the approval 115521
of the Director of Budget and Management, shall establish charges 115522
for recovering the costs of administering the activities supported 115523
by the State EEO Fund (Fund 1880). These charges shall be 115524
deposited to the credit of the State EEO Fund (Fund 1880) upon 115525
payment made by state agencies, state-supported or state-assisted 115526
institutions of higher education, and tax-supported agencies, 115527
municipal corporations, and other political subdivisions of the 115528
state, for services rendered. 115529

Section 207.113. LEVERAGED ENTERPRISE PURCHASES 115530

The foregoing appropriation item 100640, Leveraged Enterprise 115531
Purchases, shall be used by the Department of Administrative 115532
Services to make information technology purchases for the benefit 115533
of one or more government entities as authorized under division 115534
(G) of section 125.18 of the Revised Code. If the Director of 115535
Administrative Services determines that additional amounts are 115536
necessary to pay for pass-through information technology purchases 115537
that will be billed to one or more state agencies, the Director of 115538
Administrative Services shall seek Controlling Board approval for 115539
an increase in appropriation to make the requested purchases. 115540

Section 207.120. INVESTMENT RECOVERY FUND 115541

Notwithstanding division (B) of section 125.14 of the Revised 115542
Code, cash balances in the Investment Recovery Fund (Fund 4270) 115543
may be used to support the operating expenses of the Federal 115544

Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code. 115545
115546

Of the foregoing appropriation item 100602, Investment Recovery, up to \$1,618,062 in fiscal year 2014 and up to \$1,638,515 in fiscal year 2015 may be used to pay the operating expenses of the State Surplus Property Program and the Surplus Federal Property Program, under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code. 115547
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Of the foregoing appropriation item 100602, Investment Recovery, up to \$2,266,938 in fiscal year 2014 and up to \$1,261,485 in fiscal year 2015 shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional amounts are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to authorize additional amounts. Such authorized additional amounts are hereby appropriated. 115556
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Section 207.130. MAJOR IT PURCHASES CHARGES 115567

The Department of Administrative Services may bill agencies for actual expenditures made for major IT purchases if those expenditures are not recovered as part of the information technology services rates the Department charges and deposits into the Information Technology Fund (Fund 1330) created in section 125.15 of the Revised Code. These charges shall be deposited to the credit of the Major IT Purchases Fund (Fund 4N60). 115568
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Section 207.140. DAS INFORMATION SERVICES 115575

There is hereby established in the State Treasury the DAS 115576
Information Services Fund. The foregoing appropriation item 115577
100603, DAS Information Services, shall be used to pay the costs 115578
of providing information systems and services in the Department of 115579
Administrative Services. Any state agency, board, or commission 115580
may use DAS Information Services by paying for the services 115581
rendered. 115582

The Department of Administrative Services shall establish 115583
user charges for all information systems and services that are 115584
allowable in the statewide indirect cost allocation plan submitted 115585
annually to the United States Department of Health and Human 115586
Services. These charges shall comply with federal regulations and 115587
shall be deposited to the credit of the DAS Information Services 115588
Fund (Fund 4P30). 115589

Section 207.150. CASH TRANSFER FROM THE MARCS ADMINISTRATION 115590
FUND TO GRF 115591

Upon the request of the Director of Administrative Services, 115592
the Director of Budget and Management may transfer unobligated 115593
cash in the MARCS Administration Fund (Fund 5C20) to the General 115594
Revenue Fund to reimburse the General Revenue Fund for lease 115595
rental payments made on behalf of the MARCS upgrade. 115596

Section 207.160. PROFESSIONS LICENSING SYSTEM 115597

There is hereby created in the state treasury the Professions 115598
Licensing System Fund (Fund 5JQ0). Appropriation item 100658, Ohio 115599
Professionals Licensing System, shall be used to make payments 115600
from the fund. The fund shall be used to purchase the equipment, 115601
products, and services necessary to develop and maintain a 115602
replacement automated licensing system for the professional 115603

licensing boards. The Director of Budget and Management may 115604
transfer up to a total of \$990,000 in cash from the Occupational 115605
Licensing and Regulatory Fund (4K90), the State Medical Board 115606
Operating Fund (Fund 5C60), and the Casino Control Commission - 115607
Operating Fund (Fund 5HS0) to the Professions Licensing System 115608
Fund during the FY 2014 - FY 2015 biennium. These transfers shall 115609
be in proportion to the number of current licensees issued by the 115610
professional licensing boards and current and anticipated licenses 115611
in the case of the Casino Control Commission. The purpose of these 115612
cash transfers is to fund the initial acquisition and development 115613
of the system. Any cash balances not expended in fiscal year 2014 115614
are hereby reappropriated in fiscal year 2015. 115615

Effective with the implementation of the replacement 115616
licensing system, the Department of Administrative Services shall 115617
establish charges for recovering the costs of ongoing maintenance 115618
of the system. The charges shall be billed to the professional 115619
licensing boards and the Casino Control Commission, and deposited 115620
via intrastate transfer vouchers to the credit of the Professions 115621
Licensing System Fund. 115622

Section 207.170. BUILDING IMPROVEMENT FUND 115623

The foregoing appropriation item 100659, Building 115624
Improvement, shall be used to make payments from the Building 115625
Improvement Fund (Fund 5KZ0) for major maintenance or improvements 115626
required in the James A. Rhodes State Office Tower, the Vern Riffe 115627
Center for Government and the Arts, the Frank J. Lausche State 115628
Office Building, the Michael V. DiSalle Government Center, and the 115629
Oliver R. Ocasek Government Office. The Department of 115630
Administrative Services shall conduct or contract for regular 115631
assessments of these buildings and shall maintain a cash balance 115632
in the Building Improvement Fund equal to the cost of the repairs 115633
and improvements that are recommended to occur within the next 115634

five years, with the following exception described below. 115635

Upon request of the Director of Administrative Services, the 115636
Director of Budget and Management may permit a cash transfer from 115637
the Building Improvement Fund (Fund 5KZ0) to the Building 115638
Operating Fund (Fund 5LA0) to pay costs of operating and 115639
maintaining the James A. Rhodes State Office Tower, the Vern Riffe 115640
Center for Government and the Arts, the Frank J. Lausche State 115641
Office Building, the Michael V. DiSalle Government Center, and the 115642
Oliver R. Ocasek Government Office that are not charged to tenants 115643
during the same fiscal year. 115644

Should the cash balance in the Building Operating Fund (Fund 115645
5LA0) be determined to be sufficient, the Director of 115646
Administrative Services may request that the Director of Budget 115647
and Management transfer cash from the Building Operating Fund 115648
(Fund 5LA0) to the Building Improvement Fund (Fund 5KZ0) in an 115649
amount equal to the initial cash transfer made under this section 115650
plus applicable interest. 115651

Section 207.180. PROFESSIONAL DEVELOPMENT FUND 115652

The foregoing appropriation item 100610, Professional 115653
Development, shall be used to make payments from the Professional 115654
Development Fund (Fund 5L70) under section 124.182 of the Revised 115655
Code. If it is determined by the Director of Administrative 115656
Services that additional amounts are necessary, the Director of 115657
Administrative Services may request that the Director of Budget 115658
and Management approve additional amounts. Such approved 115659
additional amounts are hereby appropriated. 115660

Section 207.190. BUILDING OPERATING FUND 115661

The foregoing appropriation item 100660, Building Operation, 115662
shall be used to make payments from the Building Operating Fund 115663
(Fund 5LA0) to pay costs of operating and maintaining the James A. 115664

Rhodes State Office Tower, the Vern Riffe Center for Government 115665
and the Arts, the Frank J. Lausche State Office Building, the 115666
Michael V. DiSalle Government Center, and the Oliver R. Ocasek 115667
Government Office. 115668

The Department of Administrative Services, with the approval 115669
of the Director of Budget and Management, shall establish charges 115670
to be reimbursed for the cost of operating these buildings. These 115671
charges shall include the cost of applicable depreciation on the 115672
buildings and the resulting revenue shall be deposited in the 115673
Building Operating Fund (Fund 5LA0). 115674

Section 207.200. INFORMATION TECHNOLOGY DEVELOPMENT 115675

The foregoing appropriation item 100661, IT Development, 115676
shall be used by the Department of Administrative Services to pay 115677
the costs of modernizing the state's information technology 115678
management and investment practices away from a limited, 115679
agency-specific focus in favor of a statewide methodology 115680
supporting development of enterprise solutions. 115681

The Department of Administrative Services, with the approval 115682
of the Director of Budget and Management, may charge state 115683
agencies an information technology development assessment based on 115684
state agencies' information technology expenditures or other 115685
methodology. The revenue from this assessment shall be deposited 115686
in the Information Technology Development Fund (Fund 5LJ0), which 115687
is hereby created. 115688

Section 207.210. EMPLOYEE EDUCATIONAL DEVELOPMENT 115689

The foregoing appropriation item 100619, Employee Educational 115690
Development, shall be used to make payments from the Employee 115691
Educational Development Fund (Fund 5V60) under section 124.86 of 115692
the Revised Code. The fund shall be used to pay the costs of 115693
administering educational programs under existing collective 115694

bargaining agreements with District 1199, the Health Care and 115695
Social Service Union; State Council of Professional Educators; 115696
Ohio Education Association and National Education Association; the 115697
Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio 115698
State Troopers Association, Units 1 and 15. 115699

If it is determined by the Director of Administrative 115700
Services that additional amounts are necessary, the Director of 115701
Administrative Services may request that the Director of Budget 115702
and Management approve additional amounts. Such approved 115703
additional amounts are hereby appropriated. 115704

Section 207.220. CASH TRANSFERS TO THE MAJOR IT PURCHASES 115705
FUND 115706

Upon request of the Director of Administrative Services, the 115707
Director of Budget and Management may transfer up to \$4,000,000 115708
from the OAKS Support Organization Fund (Fund 5EB0) to the Major 115709
IT Purchases Fund (Fund 4N60). This amount represents cash 115710
transferred from Fund 4N60 during fiscal year 2010 pursuant to 115711
Section 207.30.80 of Am. Sub. H.B. 1 of the 128th General 115712
Assembly. Any portion of appropriation item 100617, Major IT 115713
Purchases, that is unencumbered and unexpended at the end of 115714
fiscal year 2014 is hereby reappropriated for fiscal year 2015. 115715

Section 207.230. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT 115716
SERVICE PAYMENTS 115717

The Director of Administrative Services, in consultation with 115718
the Multi-Agency Radio Communication System (MARCS) Steering 115719
Committee and the Director of Budget and Management, shall 115720
determine the share of debt service payments attributable to 115721
spending for MARCS components that are not specific to any one 115722
agency and that shall be charged to agencies supported by the 115723
motor fuel tax. Such share of debt service payments shall be 115724

calculated for MARCS capital disbursements made beginning July 1, 115725
1997. Within thirty days of any payment made from appropriation 115726
item 100447, Administrative Building Lease Payments, the Director 115727
of Administrative Services shall certify to the Director of Budget 115728
and Management the amount of this share. The Director of Budget 115729
and Management shall transfer such amounts to the General Revenue 115730
Fund from the State Highway Safety Fund (Fund 7036) established in 115731
section 4501.06 of the Revised Code. 115732

The Director of Administrative Services shall consider 115733
renting or leasing existing tower sites at reasonable or current 115734
market rates, so long as these existing sites are equipped with 115735
the technical capabilities to support the MARCS project. 115736

Section 207.240. ENTERPRISE IT STRATEGY IMPLEMENTATION 115737

The Director of Administrative Services shall determine and 115738
implement strategies that benefit the enterprise by improving 115739
efficiency, reducing costs or enhancing capacity of information 115740
technology (IT) services. Such improvements and efficiencies may 115741
result in the consolidation and transfer of such services. As 115742
determined to be necessary for successful implementation of this 115743
section and notwithstanding any provision of law to the contrary, 115744
the Director of Administrative Services may request the Director 115745
of Budget and Management to consolidate or transfer IT-specific 115746
budget authority between agencies as necessary to implement 115747
enterprise IT cost containment strategies and related 115748
efficiencies. Once the Director of Budget and Management is 115749
satisfied that the proposed initiative is cost advantageous to the 115750
enterprise, the Director of Budget and Management may transfer 115751
appropriations, funds and cash as needed to implement the proposed 115752
initiative. The establishment of any new fund or total increased 115753
appropriation as a result of this section will be subject to 115754
approval by the Controlling Board. 115755

The Director of Budget and Management and the Director of Administrative Services may transfer any employees, assets, and liabilities, including, but not limited to, records, contracts, and agreements in order to facilitate the improvements determined in accordance with this section.

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Section 209.10. AGE DEPARTMENT OF AGING

115761

General Revenue Fund

115762

GRF 490321 Operating Expenses \$ 1,487,418 \$ 1,487,418 115763

GRF 490410 Long-Term Care \$ 477,448 \$ 477,448 115764

Ombudsman

GRF 490411 Senior Community \$ 7,060,844 \$ 7,060,844 115765

Services

GRF 490414 Alzheimer's Respite \$ 1,895,245 \$ 1,895,245 115766

GRF 490506 National Senior \$ 241,413 \$ 241,413 115767

Service Corps

GRF 656423 Long-Term Care \$ 3,385,057 \$ 3,385,057 115768

Program Support -

State

TOTAL GRF General Revenue Fund \$ 14,547,425 \$ 14,547,425 115769

General Services Fund Group

115770

4800 490606 Senior Community \$ 372,523 \$ 372,523 115771

Outreach and

Education

TOTAL GSF General Services Fund 115772

Group \$ 372,523 \$ 372,523 115773

Federal Special Revenue Fund Group

115774

3220 490618 Federal Aging Grants \$ 12,000,000 \$ 12,000,000 115775

3C40 656623 Long-Term Care \$ 3,385,057 \$ 3,385,057 115776

Program Support -

Federal

3M40 490612 Federal Independence \$ 58,655,080 \$ 58,655,080 115777

Services

TOTAL FED Federal Special Revenue				115778
Fund Group	\$	74,040,137	\$ 74,040,137	115779
State Special Revenue Fund Group				115780
4C40 490609 Regional Long-Term Care Ombudsman Program	\$	935,000	\$ 935,000	115781
5BA0 490620 Ombudsman Support	\$	1,250,000	\$ 1,250,000	115782
5K90 490613 Long-Term Care Consumers Guide	\$	1,059,400	\$ 1,059,400	115783
5MT0 490627 Board of Executives of LTSS	\$	600,000	\$ 600,000	115784
5W10 490616 Resident Services Coordinator Program	\$	344,700	\$ 344,700	115785
TOTAL SSR State Special Revenue				115786
Fund Group	\$	4,189,100	\$ 4,189,100	115787
TOTAL ALL BUDGET FUND GROUPS	\$	93,149,185	\$ 93,149,185	115788

Section 209.20. LONG-TERM CARE 115790

Pursuant to an interagency agreement, the Department of 115791
 Medicaid may designate the Department of Aging to perform 115792
 assessments under section 5165.04 of the Revised Code. The 115793
 Department of Aging shall provide long-term care consultations 115794
 under section 173.42 of the Revised Code to assist individuals in 115795
 planning for their long-term health care needs. 115796

The Department of Aging shall administer the Medicaid 115797
 waiver-funded PASSPORT Home Care Program, the Choices Program, the 115798
 Assisted Living Program, and PACE as delegated by the Department 115799
 of Medicaid in an interagency agreement. The foregoing 115800
 appropriation items 656423, Long-Term Care Program Support - 115801
 State, and 656623, Long-Term Care Program Support - Federal, may 115802
 be used to support the Department of Aging's administrative costs 115803

associated with operating the PASSPORT, Choices, Assisted Living, 115804
and PACE programs. 115805

PERFORMANCE-BASED REIMBURSEMENT 115806

The Department of Aging may design and utilize a payment 115807
method for PASSPORT administrative agency operations that includes 115808
a pay-for-performance incentive component that is earned by a 115809
PASSPORT administrative agency when defined consumer and policy 115810
outcomes are achieved. 115811

Section 209.30. LONG-TERM CARE OMBUDSMAN 115812

The foregoing appropriation item 490410, Long-Term Care 115813
Ombudsman, shall be used to fund ombudsman program activities as 115814
authorized in sections 173.14 to 173.27 and section 173.99 of the 115815
Revised Code. 115816

The State Ombudsman may explore the design of a payment 115817
method for the Ombudsman Program that includes a 115818
pay-for-performance incentive component that is earned by 115819
designated regional long-term care ombudsman programs. 115820

SENIOR COMMUNITY SERVICES 115821

The foregoing appropriation item 490411, Senior Community 115822
Services, shall be used for services designated by the Department 115823
of Aging, including, but not limited to, home-delivered and 115824
congregate meals, transportation services, personal care services, 115825
respite services, adult day services, home repair, care 115826
coordination, prevention and disease self-management, and decision 115827
support systems. Service priority shall be given to low income, 115828
frail, and cognitively impaired persons 60 years of age and over. 115829
The department shall promote cost sharing by service recipients 115830
for those services funded with senior community services funds, 115831
including, when possible, sliding-fee scale payment systems based 115832
on the income of service recipients. 115833

ALZHEIMER'S RESPITE 115834

The foregoing appropriation item 490414, Alzheimer's Respite, 115835
shall be used to fund only Alzheimer's disease services under 115836
section 173.04 of the Revised Code. 115837

NATIONAL SENIOR SERVICE CORPS 115838

The foregoing appropriation item 490506, National Senior 115839
Service Corps, shall be used by the Department of Aging to fund 115840
grants for three Corporation for National and Community 115841
Service/Senior Corps programs: the Foster Grandparents Program, 115842
the Senior Companion Program, and the Retired Senior Volunteer 115843
Program. A recipient of these grant funds shall use the funds to 115844
support priorities established by the Department and the Ohio 115845
State Office of the Corporation for National and Community 115846
Service. The expenditure of these funds by any grant recipient 115847
shall be in accordance with Senior Corps policies and procedures, 115848
as stated in the Domestic Volunteer Service Act of 1973, as 115849
amended. Neither the Department nor any area agencies on aging 115850
that are involved in the distribution of these funds to 115851
lower-tiered grant recipients may use any portion of these funds 115852
to cover administrative costs. 115853

SENIOR COMMUNITY OUTREACH AND EDUCATION 115854

The foregoing appropriation item 490606, Senior Community 115855
Outreach and Education, may be used to provide training to workers 115856
in the field of aging pursuant to division (G) of section 173.02 115857
of the Revised Code. 115858

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES 115859
AND FEDERAL AGING GRANTS 115860

At the request of the Director of Aging, the Director of 115861
Budget and Management may transfer appropriation between 115862
appropriation items 490612, Federal Independence Services, and 115863
490618, Federal Aging Grants. The amounts transferred shall not 115864

exceed 30 per cent of the appropriation from which the transfer is 115865
made. Any transfers shall be reported by the Department of Aging 115866
to the Controlling Board at the next scheduled meeting of the 115867
board. 115868

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 115869

The foregoing appropriation item 490609, Regional Long-Term 115870
Care Ombudsman Program, shall be used to pay the costs of 115871
operating the regional long-term care ombudsman programs 115872
designated by the State Long-Term Care Ombudsman. 115873

TRANSFER OF RESIDENT PROTECTION FUNDS 115874

In each fiscal year, the Director of Budget and Management 115875
may transfer up to \$1,250,000 cash from the Resident Protection 115876
Fund (Fund 4E30), which is used by the Department of Medicaid, to 115877
the Ombudsman Support Fund (Fund 5BA0), which is used by the 115878
Department of Aging. 115879

The Director of Aging and the Office of the State Long-Term 115880
Care Ombudsman may use moneys in the Ombudsman Support Fund (Fund 115881
5BA0) to implement a nursing home quality initiative as specified 115882
in section 173.60 of the Revised Code. 115883

LONG-TERM CARE CONSUMERS GUIDE 115884

The foregoing appropriation item 490613, Long-Term Care 115885
Consumers Guide, shall be used to conduct annual consumer 115886
satisfaction surveys and to pay for other administrative expenses 115887
related to the publication of the Ohio Long-Term Care Consumer 115888
Guide. 115889

CASH TRANSFER FROM THE GENERAL OPERATIONS FUND TO THE BOARD 115890
OF EXECUTIVES OF LONG-TERM SERVICES AND SUPPORTS FUND 115891

On July 1, 2013, or as soon as possible thereafter, the 115892
Director of Health shall certify to the Director of Budget and 115893
Management the cash balance relating to the Board of Examiners of 115894

Nursing Home Administrators in the General Operations Fund (Fund 115895
4700), used by the Department of Health. Upon receiving this 115896
certification, the Director of Budget and Management may transfer 115897
this cash from the General Operations Fund (Fund 4700) to the 115898
Board of Executives of Long-Term Services and Supports Fund (Fund 115899
5MT0), used by the Department of Aging. If this transfer occurs, 115900
the Director of Budget and Management shall cancel any existing 115901
encumbrances pertaining to the Board of Examiners of Nursing Home 115902
Administrators against appropriation item 440647, Fee Supported 115903
Programs, and re-establish them against appropriation item 490627, 115904
Board of Executives of LTSS. The re-established encumbrance 115905
amounts are hereby appropriated. 115906

Section 209.40. DEPARTMENT OF AGING'S APPROPRIATION ITEM 115907
STRUCTURE 115908

Upon request from the Director of Aging, the Director of 115909
Budget and Management may establish new funds, new appropriation 115910
items, and appropriations in order to support the transition to a 115911
new appropriation item structure in the Department of Aging's 115912
budget. Also, upon request of the Director of Aging, the Director 115913
of Budget and Management may transfer appropriations between GRF 115914
appropriation items, transfer cash between any funds used by the 115915
Department of Aging, abolish existing funds used by the Department 115916
of Aging, and cancel and reestablish encumbrances. Any 115917
establishment of new funds or appropriation items, any transfers 115918
of appropriations or cash, and any increases in appropriation 115919
under this section are subject to Controlling Board approval. 115920

Section 209.50. UPDATING AUTHORIZING STATUTE CITATIONS 115921

As used in this section, "authorizing statute" means a 115922
Revised Code section or provision of a Revised Code section that 115923
is cited in the Ohio Administrative Code as the statute that 115924

authorizes the adoption of a rule. 115925

The Director of Aging is not required to amend any rule for 115926
the sole purpose of updating the citation in the Ohio 115927
Administrative Code to the rule's authorizing statute to reflect 115928
that this act renumbers the authorizing statute or relocates it to 115929
another Revised Code section. Such citations shall be updated as 115930
the Director amends the rules for other purposes. 115931

Section 211.10. AGR DEPARTMENT OF AGRICULTURE 115932

General Revenue Fund 115933

GRF 700401	Animal Disease Control	\$	3,936,687	\$	3,936,687	115934
GRF 700403	Dairy Division	\$	1,088,115	\$	1,088,115	115935
GRF 700404	Ohio Proud	\$	50,000	\$	50,000	115936
GRF 700406	Consumer Analytical Lab	\$	1,287,556	\$	1,287,556	115937
GRF 700407	Food Safety	\$	848,792	\$	848,792	115938
GRF 700409	Farmland Preservation	\$	72,750	\$	72,750	115939
GRF 700412	Weights and Measures	\$	600,000	\$	600,000	115940
GRF 700415	Poultry Inspection	\$	392,978	\$	392,978	115941
GRF 700418	Livestock Regulation Program	\$	1,108,071	\$	1,108,071	115942
GRF 700424	Livestock Testing and Inspections	\$	102,770	\$	102,770	115943
GRF 700426	Dangerous and Restricted Animals	\$	800,000	\$	800,000	115944
GRF 700427	High Volume Breeder Kennel Control	\$	400,000	\$	200,000	115945
GRF 700499	Meat Inspection Program - State Share	\$	4,175,097	\$	4,175,097	115946
GRF 700501	County Agricultural Societies	\$	391,415	\$	391,415	115947
TOTAL GRF	General Revenue Fund	\$	15,254,231	\$	15,054,231	115948

General Services Fund Group				115949
5DA0	700644	Laboratory	\$ 1,115,000 \$	1,115,000 115950
		Administration		
		Support		
5GH0	700655	Central Support	\$ 4,368,013 \$	4,404,073 115951
		Indirect Cost		
TOTAL GSF	General Services Fund		\$ 5,483,013 \$	5,519,073 115952
Group				
Federal Special Revenue Fund Group				115953
3260	700618	Meat Inspection	\$ 4,450,000 \$	4,450,000 115954
		Program - Federal		
		Share		
3360	700617	Ohio Farm Loan	\$ 150,000 \$	150,000 115955
		Revolving Fund		
3820	700601	Cooperative Contracts	\$ 4,500,000 \$	4,500,000 115956
3AB0	700641	Agricultural Easement	\$ 1,000,000 \$	1,000,000 115957
3J40	700607	Indirect Cost	\$ 1,100,000 \$	1,100,000 115958
3R20	700614	Federal Plant	\$ 1,606,000 \$	1,606,000 115959
		Industry		
TOTAL FED	Federal Special Revenue			115960
Fund Group			\$ 12,806,000 \$	12,806,000 115961
State Special Revenue Fund Group				115962
4900	700651	License Plates -	\$ 10,000 \$	10,000 115963
		Sustainable		
		Agriculture		
4940	700612	Agricultural	\$ 218,000 \$	213,000 115964
		Commodity Marketing		
		Program		
4960	700626	Ohio Grape Industries	\$ 970,000 \$	970,000 115965
4970	700627	Commodity Handlers	\$ 482,672 \$	482,672 115966
		Regulatory Program		
4C90	700605	Commercial Feed and	\$ 1,760,000 \$	1,760,000 115967

		Seed				
4D20	700609	Auction Education	\$	35,000	\$	35,000 115968
4E40	700606	Utility Radiological	\$	130,000	\$	130,000 115969
		Safety				
4P70	700610	Food Safety	\$	1,017,328	\$	1,017,328 115970
		Inspection				
4R00	700636	Ohio Proud Marketing	\$	45,500	\$	45,500 115971
4R20	700637	Dairy Industry	\$	1,738,247	\$	1,738,247 115972
		Inspection				
4T60	700611	Poultry and Meat	\$	120,000	\$	120,000 115973
		Inspection				
5780	700620	Ride Inspection Fees	\$	1,175,142	\$	1,175,142 115974
5880	700633	Brand Registration	\$	5,000	\$	5,000 115975
5B80	700629	Auctioneers	\$	340,000	\$	340,000 115976
5CP0	700652	License Plate	\$	10,000	\$	10,000 115977
		Scholarships				
5FC0	700648	Plant Pest Program	\$	1,190,000	\$	1,190,000 115978
5H20	700608	Metrology Lab and	\$	552,000	\$	552,000 115979
		Scale Certification				
5L80	700604	Livestock Management	\$	145,000	\$	145,000 115980
		Program				
5MA0	700657	Dangerous and	\$	195,000	\$	195,000 115981
		Restricted Animals				
6520	700634	Animal and Consumer	\$	4,966,383	\$	4,966,383 115982
		Analytical Laboratory				
6690	700635	Pesticide,	\$	3,418,041	\$	3,418,041 115983
		Fertilizer, and Lime				
		Inspection Program				
TOTAL SSR		State Special Revenue				115984
Fund Group			\$	18,523,313	\$	18,518,313 115985
Clean Ohio Conservation Fund Group						115986
7057	700632	Clean Ohio	\$	310,000	\$	310,000 115987
		Agricultural Easement				

TOTAL CLF Clean Ohio Conservation	\$	310,000	\$	310,000	115988
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	52,376,557	\$	52,207,617	115989
DANGEROUS AND RESTRICTED WILD ANIMALS					115990
The foregoing GRF appropriation item 700426, Dangerous and					115991
Restricted Animals, shall be used to administer the Dangerous and					115992
Restricted Wild Animal Permitting Program.					115993
COUNTY AGRICULTURAL SOCIETIES					115994
The foregoing appropriation item 700501, County Agricultural					115995
Societies, shall be used to reimburse county and independent					115996
agricultural societies for expenses related to Junior Fair					115997
activities.					115998
CLEAN OHIO AGRICULTURAL EASEMENT					115999
The foregoing appropriation item 700632, Clean Ohio					116000
Agricultural Easement, shall be used by the Department of					116001
Agriculture in administering Ohio Agricultural Easement Fund (Fund					116002
7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to					116003
5301.70 of the Revised Code.					116004
Section 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY					116005
General Services Fund Group					116006
5EG0 898608	Energy Strategy	\$	240,681	\$	240,681
	Development				
TOTAL GSF	General Services Fund	\$	240,681	\$	240,681
State Special Revenue Fund Group					116009
4Z90 898602	Small Business	\$	288,232	\$	288,232
	Ombudsman				
5700 898601	Operating Expenses	\$	323,980	\$	323,980
5A00 898603	Small Business	\$	900,000	\$	1,125,000
	Assistance				
TOTAL SSR	State Special Revenue	\$	1,512,212	\$	1,737,212

1350	Supportive Services	Development Services Agency	\$27,405	\$27,439	116042
2190	Central Support Indirect Cost	Environmental Protection Agency	\$27,405	\$27,439	116043
1570	Central Support Indirect Chargeback	Department of Natural Resources	\$27,405	\$27,439	116044
7002	Highway Operating	Department of Transportation	\$39,150	\$39,199	116045

Section 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT 116046
AUTHORITY TRUST ACCOUNT 116047

Notwithstanding any other provision of law to the contrary, 116048
the Air Quality Development Authority may reimburse the Air 116049
Quality Development Authority trust account established under 116050
section 3706.10 of the Revised Code from all operating funds of 116051
the agency for expenses pertaining to the administration and 116052
shared costs incurred by the Air Quality Development Authority in 116053
the execution of responsibilities as prescribed in Chapter 3706. 116054
of the Revised Code. Reimbursement shall be made by voucher and 116055
completed in accordance with the administrative indirect costs 116056
allocation plan approved by the Office of Budget and Management. 116057

Section 215.10. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS 116058
General Services Fund Group 116059
4K90 891609 Operating \$ 481,379 \$ 485,954 116060
TOTAL GSF General Services Fund 116061
Group \$ 481,379 \$ 485,954 116062
TOTAL ALL BUDGET FUND GROUPS \$ 481,379 \$ 485,954 116063

Section 217.10. ART OHIO ARTS COUNCIL 116065
General Revenue Fund 116066

GRF 370321	Operating Expenses	\$	1,599,204	\$	1,599,204	116067
GRF 370502	State Program	\$	8,850,000	\$	8,850,000	116068
	Subsidies					
TOTAL GRF	General Revenue Fund	\$	10,449,204	\$	10,449,204	116069
	General Services Fund Group					116070
4600 370602	Management Expenses	\$	247,000	\$	247,000	116071
	and Donations					
4B70 370603	Percent for Art	\$	247,000	\$	247,000	116072
	Acquisitions					
TOTAL GSF	General Services Fund	\$	494,000	\$	494,000	116073
	Group					
	Federal Special Revenue Fund Group					116074
3140 370601	Federal Support	\$	1,000,000	\$	1,000,000	116075
TOTAL FED	Federal Special Revenue	\$	1,000,000	\$	1,000,000	116076
	Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$	11,943,204	\$	11,943,204	116077
	FEDERAL SUPPORT					116078
	Notwithstanding any provision of law to the contrary, the					116079
	foregoing appropriation item 370601, Federal Support, shall be					116080
	used by the Ohio Arts Council for subsidies only, and not for its					116081
	administrative costs, unless the Council is required to use a					116082
	portion of the funds for administrative costs under conditions of					116083
	the federal grant.					116084
	Section 219.10. ATH ATHLETIC COMMISSION					116085
	General Services Fund Group					116086
4K90 175609	Operating Expenses	\$	312,000	\$	320,000	116087
TOTAL GSF	General Services Fund	\$	312,000	\$	320,000	116088
	Group					
TOTAL ALL BUDGET FUND GROUPS		\$	312,000	\$	320,000	116089
	Section 221.10. AGO ATTORNEY GENERAL					116091

	General Revenue Fund					116092	
GRF	055321	Operating Expenses	\$	42,514,169	\$	42,514,169	116093
GRF	055405	Law-Related Education	\$	100,000	\$	100,000	116094
GRF	055407	Tobacco Settlement	\$	1,500,000	\$	1,500,000	116095
		Enforcement					
GRF	055411	County Sheriffs' Pay	\$	757,921	\$	757,921	116096
		Supplement					
GRF	055415	County Prosecutors'	\$	831,499	\$	831,499	116097
		Pay Supplement					
TOTAL GRF		General Revenue Fund	\$	45,703,589	\$	45,703,589	116098
	General Services Fund Group					116099	
1060	055612	General Reimbursement	\$	54,806,192	\$	55,820,716	116100
1950	055660	Workers' Compensation	\$	8,415,504	\$	8,415,504	116101
		Section					
4180	055615	Charitable	\$	8,286,000	\$	8,286,000	116102
		Foundations					
4200	055603	Attorney General	\$	1,839,074	\$	1,839,074	116103
		Antitrust					
4210	055617	Police Officers'	\$	500,000	\$	500,000	116104
		Training Academy Fee					
4Z20	055609	BCI Asset Forfeiture	\$	1,000,000	\$	1,000,000	116105
		and Cost					
		Reimbursement					
5900	055633	Peace Officer Private	\$	79,438	\$	95,325	116106
		Security Fund					
5A90	055618	Telemarketing Fraud	\$	45,000	\$	10,000	116107
		Enforcement					
5L50	055619	Law Enforcement	\$	375,255	\$	187,627	116108
		Assistance Program					
5LR0	055655	Peace Officer	\$	4,629,409	\$	4,629,409	116109
		Training - Casino					
5MP0	055657	Peace Officer	\$	25,000	\$	25,000	116110

		Training Commission				
6310	055637	Consumer Protection	\$	6,700,000	\$	6,834,000 116111
		Enforcement				
TOTAL GSF General Services Fund						116112
Group			\$	86,700,872	\$	87,642,655 116113
Federal Special Revenue Fund Group						116114
3060	055620	Medicaid Fraud	\$	4,537,408	\$	4,628,156 116115
		Control				
3810	055611	Civil Rights Legal	\$	75,000	\$	35,574 116116
		Service				
3830	055634	Crime Victims	\$	15,000,000	\$	15,000,000 116117
		Assistance				
3E50	055638	Attorney General	\$	599,999	\$	599,999 116118
		Pass-Through Funds				
3FV0	055656	Crime Victim	\$	7,000,000	\$	7,000,000 116119
		Compensation				
3R60	055613	Attorney General	\$	999,999	\$	999,999 116120
		Federal Funds				
TOTAL FED Federal Special Revenue						116121
Fund Group			\$	28,212,406	\$	28,263,728 116122
State Special Revenue Fund Group						116123
4020	055616	Victims of Crime	\$	16,456,769	\$	16,456,769 116124
4190	055623	Claims Section	\$	55,920,716	\$	56,937,131 116125
4L60	055606	DARE Programs	\$	3,578,901	\$	3,486,209 116126
4Y70	055608	Title Defect Recision	\$	600,000	\$	600,000 116127
6590	055641	Solid and Hazardous	\$	310,730	\$	310,730 116128
		Waste Background				
		Investigations				
TOTAL SSR State Special Revenue						116129
Fund Group			\$	76,867,116	\$	77,790,839 116130
Holding Account Redistribution Fund Group						116131
R004	055631	General Holding	\$	1,000,000	\$	1,000,000 116132

	Account				
R005	055632	Antitrust Settlements	\$	1,000	\$ 1,000 116133
R018	055630	Consumer Frauds	\$	750,000	\$ 750,000 116134
R042	055601	Organized Crime	\$	25,025	\$ 25,025 116135
		Commission			
		Distributions			
R054	055650	Collection Payment	\$	4,500,000	\$ 4,500,000 116136
		Redistribution			
TOTAL	090	Holding Account			116137
		Redistribution Fund Group	\$	6,276,025	\$ 6,276,025 116138
		Tobacco Master Settlement Agreement Fund Group			116139
U087	055402	Tobacco Settlement	\$	500,000	\$ 500,000 116140
		Oversight,			
		Administration, and			
		Enforcement			
TOTAL	TSF	Tobacco Master Settlement	\$	500,000	\$ 500,000 116141
		Agreement Fund Group			
TOTAL	ALL BUDGET FUND GROUPS		\$	244,260,008	\$ 246,176,836 116142
		COUNTY SHERIFFS' PAY SUPPLEMENT			116143
		The foregoing appropriation item 055411, County Sheriffs' Pay			116144
		Supplement, shall be used for the purpose of supplementing the			116145
		annual compensation of county sheriffs as required by section			116146
		325.06 of the Revised Code.			116147
		At the request of the Attorney General, the Director of			116148
		Budget and Management may transfer appropriation from			116149
		appropriation item 055321, Operating Expenses, to appropriation			116150
		item 055411, County Sheriffs' Pay Supplement. Any appropriation so			116151
		transferred shall be used to supplement the annual compensation of			116152
		county sheriffs as required by section 325.06 of the Revised Code.			116153
		COUNTY PROSECUTORS' PAY SUPPLEMENT			116154
		The foregoing appropriation item 055415, County Prosecutors'			116155

Pay Supplement, shall be used for the purpose of supplementing the 116156
annual compensation of certain county prosecutors as required by 116157
section 325.111 of the Revised Code. 116158

At the request of the Attorney General, the Director of 116159
Budget and Management may transfer appropriation from 116160
appropriation item 055321, Operating Expenses, to appropriation 116161
item 055415, County Prosecutors' Pay Supplement. Any appropriation 116162
so transferred shall be used to supplement the annual compensation 116163
of county prosecutors as required by section 325.111 of the 116164
Revised Code. 116165

CASH TRANSFER FROM THE GENERAL REVENUE FUND TO THE GENERAL 116166
REIMBURSEMENT FUND 116167

Notwithstanding any other provision of law to the contrary, 116168
on July 1, 2013, or as soon as possible thereafter, the Director 116169
of Budget and Management shall transfer \$80,000 cash from the 116170
General Revenue Fund to the General Reimbursement Fund (Fund 116171
1060). 116172

WORKERS' COMPENSATION SECTION 116173

The Workers' Compensation Fund (Fund 1950) is entitled to 116174
receive payments from the Bureau of Workers' Compensation and the 116175
Ohio Industrial Commission at the beginning of each quarter of 116176
each fiscal year to fund legal services to be provided to the 116177
Bureau of Workers' Compensation and the Ohio Industrial Commission 116178
during the ensuing quarter. The advance payment shall be subject 116179
to adjustment. 116180

In addition, the Bureau of Workers' Compensation shall 116181
transfer payments at the beginning of each quarter for the support 116182
of the Workers' Compensation Fraud Unit. 116183

All amounts shall be mutually agreed upon by the Attorney 116184
General, the Bureau of Workers' Compensation, and the Ohio 116185
Industrial Commission. 116186

ATTORNEY GENERAL PASS-THROUGH FUNDS 116187

The foregoing appropriation item 055638, Attorney General 116188
Pass-Through Funds, shall be used to receive federal grant funds 116189
provided to the Attorney General by other state agencies, 116190
including, but not limited to, the Department of Youth Services 116191
and the Department of Public Safety. 116192

GENERAL HOLDING ACCOUNT 116193

The foregoing appropriation item 055631, General Holding 116194
Account, shall be used to distribute moneys under the terms of 116195
relevant court orders or other settlements received in a variety 116196
of cases involving the Office of the Attorney General. If it is 116197
determined that additional amounts are necessary for this purpose, 116198
the amounts are hereby appropriated. 116199

ANTITRUST SETTLEMENTS 116200

The foregoing appropriation item 055632, Antitrust 116201
Settlements, shall be used to distribute moneys under the terms of 116202
relevant court orders or other out of court settlements in 116203
antitrust cases or antitrust matters involving the Office of the 116204
Attorney General. If it is determined that additional amounts are 116205
necessary for this purpose, the amounts are hereby appropriated. 116206

CONSUMER FRAUDS 116207

The foregoing appropriation item 055630, Consumer Frauds, 116208
shall be used for distribution of moneys from court-ordered 116209
judgments against sellers in actions brought by the Office of 116210
Attorney General under sections 1334.08 and 4549.48 and division 116211
(B) of section 1345.07 of the Revised Code. These moneys shall be 116212
used to provide restitution to consumers victimized by the fraud 116213
that generated the court-ordered judgments. If it is determined 116214
that additional amounts are necessary for this purpose, the 116215
amounts are hereby appropriated. 116216

ORGANIZED CRIME COMMISSION DISTRIBUTIONS 116217

The foregoing appropriation item 055601, Organized Crime 116218
 Commission Distributions, shall be used by the Organized Crime 116219
 Investigations Commission, as provided by section 177.011 of the 116220
 Revised Code, to reimburse political subdivisions for the expenses 116221
 the political subdivisions incur when their law enforcement 116222
 officers participate in an organized crime task force. If it is 116223
 determined that additional amounts are necessary for this purpose, 116224
 the amounts are hereby appropriated. 116225

COLLECTION PAYMENT REDISTRIBUTION 116226

The foregoing appropriation item 055650, Collection Payment 116227
 Redistribution, shall be used for the purpose of allocating the 116228
 revenue where debtors mistakenly paid the client agencies instead 116229
 of the Attorney General's Collections Enforcement Section. If it 116230
 is determined that additional amounts are necessary for this 116231
 purpose, the amounts are hereby appropriated. 116232

Section 223.10. AUD AUDITOR OF STATE 116233

General Revenue Fund 116234

GRF 070321	Operating Expenses	\$ 27,434,452	\$ 27,434,452	116235
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GRF 070403	Fiscal	\$ 800,000	\$ 800,000	116236
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Watch/Emergency
 Technical Assistance

TOTAL GRF	General Revenue Fund	\$ 28,234,452	\$ 28,234,452	116237
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Auditor of State Fund Group 116238

1090 070601	Public Audit Expense	\$ 9,069,804	\$ 9,196,081	116239
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- Intra-State

4220 070602	Public Audit Expense	\$ 31,052,999	\$ 31,031,044	116240
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- Local Government

5840 070603	Training Program	\$ 181,730	\$ 181,250	116241
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5JZ0 070606	LEAP Revolving Loans	\$ 650,000	\$ 650,000	116242
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6750 070605	Uniform Accounting	\$	3,241,533	\$	3,160,637	116243
	Network					
TOTAL AUD Auditor of State Fund						116244
Group		\$	44,196,066	\$	44,219,012	116245
TOTAL ALL BUDGET FUND GROUPS						116246
FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE						116247
The foregoing appropriation item 070403, Fiscal						116248
Watch/Emergency Technical Assistance, shall be used for expenses						116249
incurred by the Office of the Auditor of State in its role						116250
relating to fiscal watch or fiscal emergency activities under						116251
Chapters 118. and 3316. of the Revised Code. Expenses include, but						116252
are not limited to, the following: duties related to the						116253
determination or termination of fiscal watch or fiscal emergency						116254
of municipal corporations, counties, townships, or school						116255
districts; development of preliminary accounting reports;						116256
performance of annual forecasts; provision of performance audits;						116257
and supervisory, accounting, or auditing services for the						116258
municipal corporations, counties, townships, or school districts.						116259
Section 225.10. BRB BOARD OF BARBER EXAMINERS						116260
General Services Fund Group						116261
4K90 877609	Operating Expenses	\$	670,882	\$	674,272	116262
TOTAL GSF General Services Fund						116263
Group		\$	670,882	\$	674,272	116264
TOTAL ALL BUDGET FUND GROUPS						116265
Section 227.10. OBM OFFICE OF BUDGET AND MANAGEMENT						116267
General Revenue Fund						116268
GRF 042321	Budget Development	\$	2,703,189	\$	2,697,483	116269
	and Implementation					
GRF 042409	Commission Closures	\$	304,000	\$	155,000	116270
GRF 042416	Office of Health	\$	484,486	\$	498,571	116271

		Transformation				
GRF	042425	Shared Services	\$	1,250,000	\$	1,250,000 116272
		Development				
TOTAL GRF		General Revenue Fund	\$	4,741,675	\$	4,601,054 116273
		General Services Fund Group				116274
1050	042603	Financial Management	\$	14,060,275	\$	14,451,086 116275
1050	042620	Shared Services	\$	8,837,518	\$	8,924,830 116276
		Operating				
TOTAL GSF		General Services Fund	\$	22,897,793	\$	23,375,916 116277
		Group				
		Federal Special Revenue Fund Group				116278
3CM0	042606	Office of Health	\$	438,723	\$	438,723 116279
		Transformation -				
		Federal				
TOTAL FED		Federal Special Revenue	\$	438,723	\$	438,723 116280
		Fund Group				
		Agency Fund Group				116281
5EH0	042604	Forgery Recovery	\$	40,000	\$	40,000 116282
TOTAL AGY		Agency Fund Group	\$	40,000	\$	40,000 116283
TOTAL ALL BUDGET FUND GROUPS			\$	28,118,191	\$	28,455,693 116284
		COMMISSION CLOSURES				116285
		The foregoing appropriation item 042409, Commission Closures,				116286
		may be used to pay obligations associated with the closure of any				116287
		state agency, whether in the executive, legislative, or judicial				116288
		branch of government. Notwithstanding any provision of law to the				116289
		contrary, this appropriation item may also be used to pay final				116290
		payroll expenses occurring after the closure of any state agency,				116291
		whether in the executive, legislative, or judicial branch of				116292
		government in the event that appropriations or cash in the closing				116293
		agency are insufficient to do so.				116294
		The Director of Budget and Management may request Controlling				116295

Board approval for funds to be transferred to appropriation item 116296
042409, Commission Closures, from appropriation item 911614, CB 116297
Emergency Purposes, for anticipated expenses associated with 116298
agency closures. 116299

AUDIT COSTS AND DUES 116300

All centralized audit costs associated with either Single 116301
Audit Schedules or financial statements prepared in conformance 116302
with generally accepted accounting principles for the state shall 116303
be paid from the foregoing appropriation item 042603, Financial 116304
Management. 116305

Costs associated with the audit of the Auditor of State and 116306
national association dues shall be paid from the foregoing 116307
appropriation item 042321, Budget Development and Implementation. 116308

SHARED SERVICES CENTER 116309

The foregoing appropriation items 042425, Shared Services 116310
Development, and 042620, Shared Services Operating, shall be used 116311
by the Director of Budget and Management to support a Shared 116312
Services Center within the Office of Budget and Management for the 116313
purpose of consolidating statewide business functions and common 116314
transactional processes. 116315

The Director of Budget and Management shall include the 116316
recovery of costs to operate the Shared Services Center in the 116317
accounting and budgeting services payroll rate and through a 116318
direct charges using intrastate transfer vouchers to agencies for 116319
services rendered. The Director of Budget and Management shall 116320
determine the cost recovery methodology. Such cost recovery 116321
revenues shall be deposited to the credit of Fund 1050. 116322

INTERNAL AUDIT 116323

The Director of Budget and Management shall include the 116324
recovery of costs to operate the Internal Audit Program in the 116325

accounting and budgeting services payroll rate and through a 116326
 direct charge using intrastate transfer vouchers to agencies 116327
 reviewed by the program. The Director of Budget and Management, 116328
 with advice from the Internal Audit Advisory Council, shall 116329
 determine the cost recovery methodology. Such cost recovery 116330
 revenues shall be deposited to the credit of the Accounting and 116331
 Budgeting Fund (Fund 1050). 116332

FORGERY RECOVERY 116333

The foregoing appropriation item 042604, Forgery Recovery, 116334
 shall be used to reissue warrants that have been certified as 116335
 forgeries by the rightful recipient as determined by the Bureau of 116336
 Criminal Identification and Investigation and the Treasurer of 116337
 State. Upon receipt of funds to cover the reissuance of the 116338
 warrant, the Director of Budget and Management shall reissue a 116339
 state warrant of the same amount. Any additional amounts needed to 116340
 reissue warrants backed by the receipt of funds are hereby 116341
 appropriated. 116342

ABOLISHMENT OF FUND 5N40 AND FUND 5Z80 116343

On or before December 31, 2013, the Director of Budget and 116344
 Management shall transfer the cash balances of the OAKS Project 116345
 Implementation Fund (Fund 5N40) and the Office of Health 116346
 Transformation Administration Fund (Fund 5Z80) to the General 116347
 Revenue Fund. Upon completion of the transfers, Fund 5N40 and Fund 116348
 5Z80 are abolished. 116349

Section 229.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD 116350

General Revenue Fund				116351
GRF	874100	Personal Services	\$ 2,417,467 \$ 2,417,467	116352
GRF	874320	Maintenance and	\$ 1,161,098 \$ 1,161,098	116353
Equipment				
TOTAL GRF	General Revenue Fund		\$ 3,578,565 \$ 3,578,565	116354

General Services Fund Group					116355
4G50 874603 Capitol Square	\$	5,882	\$	5,882	116356
Education Center and					
Arts					
4S70 874602 Statehouse Gift	\$	629,409	\$	629,409	116357
Shop/Events					
TOTAL GSF General Services					116358
Fund Group	\$	635,291	\$	635,291	116359
Underground Parking Garage					116360
2080 874601 Underground Parking	\$	3,039,740	\$	2,981,740	116361
Garage Operations					
TOTAL UPG Underground Parking					116362
Garage	\$	3,039,740	\$	2,981,740	116363
TOTAL ALL BUDGET FUND GROUPS	\$	7,253,596	\$	7,195,596	116364
WAREHOUSE PAYMENTS					116365
Of the foregoing appropriation item 874601, Underground					116366
Parking Garage Operations, \$48,000 in each fiscal year shall be					116367
used to meet all payments at the times they are required to be					116368
made during the period from July 1, 2013, through June 30, 2015,					116369
to the Department of Administrative Services for bond service					116370
charges relating to the purchase and improvement of a warehouse					116371
acquired pursuant to section 105.41 of the Revised Code, in which					116372
to store items of the Capitol Collection Trust and, whenever					116373
necessary, equipment or other property of the Board.					116374
UNDERGROUND PARKING GARAGE FUND					116375
Notwithstanding division (G) of section 105.41 of the Revised					116376
Code and any other provision to the contrary, moneys in the					116377
Underground Parking Garage Fund (Fund 2080) may be used for					116378
personnel and operating costs related to the operations of the					116379
Statehouse and the Statehouse Underground Parking Garage.					116380

Section 231.10.	SCR STATE BOARD OF CAREER COLLEGES AND				116381
	SCHOOLS				116382
	General Services Fund Group				116383
4K90 233601	Operating Expenses	\$	579,328	\$	579,328 116384
TOTAL GSF	General Services Fund	\$	579,328	\$	579,328 116385
	Group				
TOTAL ALL BUDGET FUND GROUPS		\$	579,328	\$	579,328 116386
Section 233.10.	CAC CASINO CONTROL COMMISSION				116388
	State Special Revenue Fund Group				116389
5HS0 955321	Casino Control -	\$	13,121,283	\$	13,542,674 116390
	Operating				
TOTAL SSR	State Special Revenue	\$	13,121,283	\$	13,542,674 116391
	Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$	13,121,283	\$	13,542,674 116392
Section 235.10.	CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD				116394
	General Services Fund Group				116395
4K90 930609	Operating Expenses	\$	476,642	\$	469,349 116396
TOTAL GSF	General Services Fund	\$	476,642	\$	469,349 116397
	Group				
TOTAL ALL BUDGET FUND GROUPS		\$	476,642	\$	469,349 116398
Section 237.10.	CHR STATE CHIROPRACTIC BOARD				116400
	General Services Fund Group				116401
4K90 878609	Operating Expenses	\$	617,829	\$	630,775 116402
TOTAL GSF	General Services Fund	\$	617,829	\$	630,775 116403
	Group				
TOTAL ALL BUDGET FUND GROUPS		\$	617,829	\$	630,775 116404
Section 239.10.	CIV OHIO CIVIL RIGHTS COMMISSION				116406

General Revenue Fund				116407
GRF 876321 Operating Expenses	\$	4,725,784	\$ 4,725,784	116408
TOTAL GRF General Revenue Fund	\$	4,725,784	\$ 4,725,784	116409
General Services Fund Group				116410
2170 876604 Operations Support	\$	4,000	\$ 4,000	116411
TOTAL GSF General Services				116412
Fund Group	\$	4,000	\$ 4,000	116413
Federal Special Revenue Fund Group				116414
3340 876601 Federal Programs	\$	2,820,670	\$ 2,947,983	116415
TOTAL FED Federal Special Revenue				116416
Fund Group	\$	2,820,670	\$ 2,947,983	116417
TOTAL ALL BUDGET FUND GROUPS	\$	7,550,454	\$ 7,677,767	116418
Section 241.10. COM DEPARTMENT OF COMMERCE				116420
General Services Fund Group				116421
1630 800620 Division of Administration	\$	6,200,000	\$ 6,200,000	116422
1630 800637 Information Technology	\$	6,011,977	\$ 6,011,977	116423
5430 800602 Unclaimed Funds-Operating	\$	7,737,546	\$ 7,737,546	116424
5430 800625 Unclaimed Funds-Claims	\$	64,000,000	\$ 64,000,000	116425
5F10 800635 Small Government Fire Departments	\$	300,000	\$ 300,000	116426
TOTAL GSF General Services Fund				116427
Group	\$	84,249,523	\$ 84,249,523	116428
Federal Special Revenue Fund Group				116429
3480 800622 Underground Storage Tanks	\$	1,129,518	\$ 1,129,518	116430
3480 800624 Leaking Underground Storage Tanks	\$	1,556,211	\$ 1,556,211	116431
TOTAL FED Federal Special Revenue				116432

Fund Group		\$	2,685,729	\$	2,685,729	116433
State Special Revenue Fund Group						116434
4B20 800631	Real Estate Appraisal	\$	35,000	\$	35,000	116435
	Recovery					
4H90 800608	Cemeteries	\$	266,688	\$	266,688	116436
4X20 800619	Financial Institutions	\$	1,854,298	\$	1,854,298	116437
5440 800612	Banks	\$	6,836,589	\$	6,836,589	116438
5450 800613	Savings Institutions	\$	2,259,536	\$	2,259,536	116439
5460 800610	Fire Marshal	\$	15,315,738	\$	15,324,574	116440
5460 800639	Fire Department Grants	\$	2,198,802	\$	2,198,802	116441
5470 800603	Real Estate	\$	69,655	\$	69,655	116442
	Education/Research					
5480 800611	Real Estate Recovery	\$	50,000	\$	50,000	116443
5490 800614	Real Estate	\$	3,310,412	\$	3,310,412	116444
5500 800617	Securities	\$	4,238,814	\$	4,238,814	116445
5520 800604	Credit Union	\$	3,297,888	\$	3,297,888	116446
5530 800607	Consumer Finance	\$	3,481,692	\$	3,481,692	116447
5560 800615	Industrial Compliance	\$	26,612,520	\$	27,104,205	116448
5FW0 800616	Financial Literacy	\$	200,000	\$	200,000	116449
	Education					
5GK0 800609	Securities Investor	\$	432,150	\$	432,150	116450
	Education/Enforcement					
5HV0 800641	Cigarette Enforcement	\$	118,800	\$	118,800	116451
5LP0 800646	Liquor Regulatory	\$	7,988,921	\$	7,844,537	116452
	Operating Expenses					
5X60 800623	Video Service	\$	337,224	\$	337,224	116453
6530 800629	UST Registration/Permit	\$	3,831,888	\$	3,612,588	116454
	Fee					
6A40 800630	Real Estate	\$	672,973	\$	672,973	116455
	Appraiser-Operating					
TOTAL SSR State Special Revenue						116456
Fund Group		\$	83,409,588	\$	83,546,425	116457
Liquor Control Fund Group						116458

5LC0 800644	Liquor JobsOhio	\$	209,279	\$	198,097	116459
	Extraordinary					
	Allowance					
5LN0 800645	Liquor Operating	\$	5,231,967	\$	4,952,417	116460
	Services					
TOTAL LCF Liquor Control						116461
Fund Group		\$	5,441,246	\$	5,150,514	116462
TOTAL ALL BUDGET FUND GROUPS		\$	175,786,086	\$	175,632,191	116463

ADMINISTRATIVE ASSESSMENTS 116464

Notwithstanding any other provision of law to the contrary, 116465
the Division of Administration Fund (Fund 1630) is entitled to 116466
receive assessments from all operating funds of the Department in 116467
accordance with procedures prescribed by the Director of Commerce 116468
and approved by the Director of Budget and Management. 116469

UNCLAIMED FUNDS PAYMENTS 116470

The foregoing appropriation item 800625, Unclaimed 116471
Funds-Claims, shall be used to pay claims under section 169.08 of 116472
the Revised Code. If it is determined that additional amounts are 116473
necessary, the amounts are appropriated. 116474

FIRE DEPARTMENT GRANTS 116475

Of the foregoing appropriation item 800639, Fire Department 116476
Grants, up to \$2,198,802 in each fiscal year shall be used to make 116477
annual grants to the following eligible recipients: volunteer fire 116478
departments, fire departments that serve one or more small 116479
municipalities or small townships, joint fire districts comprised 116480
of fire departments that primarily serve small municipalities or 116481
small townships, local units of government responsible for such 116482
fire departments, and local units of government responsible for 116483
the provision of fire protection services for small municipalities 116484
or small townships. For the purposes of these grants, a private 116485
fire company, as that phrase is defined in section 9.60 of the 116486

Revised Code, that is providing fire protection services under a 116487
contract to a political subdivision of the state, is an additional 116488
eligible recipient for a training grant. 116489

Eligible recipients that consist of small municipalities or 116490
small townships that all intend to contract with the same fire 116491
department or private fire company for fire protection services 116492
may jointly apply and be considered for a grant. If a joint 116493
applicant is awarded a grant, the State Fire Marshal shall, if 116494
feasible, proportionately award the grant and any equipment 116495
purchased with grant funds to each of the joint applicants based 116496
upon each applicant's contribution to and demonstrated need for 116497
fire protection services. 116498

If the grant awarded to joint applicants is an equipment 116499
grant and the equipment to be purchased cannot be readily 116500
distributed or possessed by multiple recipients, each of the joint 116501
applicants shall be awarded by the State Fire Marshal an ownership 116502
interest in the equipment so purchased in proportion to each 116503
applicant's contribution to and demonstrated need for fire 116504
protection services. The joint applicants shall then mutually 116505
agree on how the equipment is to be maintained, operated, stored, 116506
or disposed of. If, for any reason, the joint applicants cannot 116507
agree as to how jointly owned equipment is to be maintained, 116508
operated, stored, or disposed of or any of the joint applicants no 116509
longer maintain a contract with the same fire protection service 116510
provider as the other applicants, then the joint applicants shall, 116511
with the assistance of the State Fire Marshal, mutually agree as 116512
to how the jointly owned equipment is to be maintained, operated, 116513
stored, disposed of, or owned. If the joint applicants cannot 116514
agree how the grant equipment is to be maintained, operated, 116515
stored, disposed of, or owned, the State Fire Marshal may, in its 116516
discretion, require all of the equipment acquired by the joint 116517
applicants with grant funds to be returned to the State Fire 116518

Marshal. The State Fire Marshal may then award the returned 116519
equipment to any eligible recipients. 116520

Except as otherwise provided in this section, the grants 116521
shall be used by recipients to purchase firefighting or rescue 116522
equipment or gear or similar items, to provide full or partial 116523
reimbursement for the documented costs of firefighter training, 116524
or, at the discretion of the State Fire Marshal, to cover fire 116525
department costs for providing fire protection services in that 116526
grant recipient's jurisdiction. 116527

Of the foregoing appropriation item 800639, up to \$500,000 116528
per fiscal year may be used to pay for the State Fire Marshal's 116529
costs of providing firefighter I certification classes or other 116530
firefighter classes approved by the Department of Public Safety in 116531
accordance with section 4765.55 of the Revised Code at no cost to 116532
selected students attending the Ohio Fire Academy or other class 116533
providers approved by the State Fire Marshal. The State Fire 116534
Marshal may establish the qualifications and selection processes 116535
for students to attend such classes by written policy, and such 116536
students shall be considered eligible recipients of fire 116537
department grants for the purposes of this portion of the grant 116538
program. 116539

Grant awards for firefighting or rescue equipment or gear or 116540
for fire department costs of providing fire protection services 116541
shall be up to \$15,000 per fiscal year, or up to \$25,000 per 116542
fiscal year if an eligible entity serves a jurisdiction in which 116543
the Governor declared a natural disaster during the preceding or 116544
current fiscal year in which the grant was awarded. In addition to 116545
any grant funds awarded for rescue equipment or gear, or for fire 116546
department costs associated with the provision of fire protection 116547
services, an eligible entity may receive a grant for up to \$15,000 116548
per fiscal year for full or partial reimbursement of the 116549
documented costs of firefighter training. For each fiscal year, 116550

the State Fire Marshal shall determine the total amounts to be 116551
allocated for each eligible purpose. 116552

The grant program shall be administered by the State Fire 116553
Marshal in accordance with rules the State Fire Marshal adopts as 116554
part of the state fire code adopted pursuant to section 3737.82 of 116555
the Revised Code that are necessary for the administration and 116556
operation of the grant program. The rules may further define the 116557
entities eligible to receive grants and establish criteria for the 116558
awarding and expenditure of grant funds, including methods the 116559
State Fire Marshal may use to verify the proper use of grant funds 116560
or to obtain reimbursement for or the return of equipment for 116561
improperly used grant funds. Any amounts in appropriation item 116562
800639, Fire Department Grants, in excess of the amount allocated 116563
for these grants may be used for the administration of the grant 116564
program. 116565

CASH TRANSFERS TO DIVISION OF REAL ESTATE OPERATING FUND 116566

The Director of Budget and Management, upon the request of 116567
the Director of Commerce, may transfer up to \$500,000 in cash from 116568
the Real Estate Recovery Fund (Fund 5480) and up to \$250,000 in 116569
cash from the Real Estate Appraiser Recovery Fund (Fund 4B20) to 116570
the Division of Real Estate Operating Fund (Fund 5490) during the 116571
biennium ending June 30, 2015. 116572

Section 243.10. OCC OFFICE OF CONSUMERS' COUNSEL 116573

General Services Fund Group 116574

5F50 053601 Operating Expenses \$ 5,641,093 \$ 5,641,093 116575

TOTAL GSF General Services Fund \$ 5,641,093 \$ 5,641,093 116576

Group

TOTAL ALL BUDGET FUND GROUPS \$ 5,641,093 \$ 5,641,093 116577

Section 245.10. CEB CONTROLLING BOARD 116579

General Revenue Fund 116580

GRF 911441	Ballot Advertising	\$	475,000	\$	475,000	116581
	Costs					
TOTAL GRF	General Revenue Fund	\$	475,000	\$	475,000	116582
	General Services Fund Group					116583
5KM0 911614	CB Emergency Purposes	\$	10,000,000	\$	10,000,000	116584
TOTAL GSF	General Services Fund	\$	10,000,000	\$	10,000,000	116585
	Group					
TOTAL ALL BUDGET FUND GROUPS		\$	10,475,000	\$	10,475,000	116586

FEDERAL SHARE 116587

In transferring appropriations to or from appropriation items 116588
that have federal shares identified in this act, the Controlling 116589
Board shall add or subtract corresponding amounts of federal 116590
matching funds at the percentages indicated by the state and 116591
federal division of the appropriations in this act. Such changes 116592
are hereby appropriated. 116593

DISASTER SERVICES 116594

Pursuant to requests submitted by the Department of Public 116595
Safety, the Controlling Board may approve transfers from the 116596
Disaster Services Fund (5E20) to a fund and appropriation item 116597
used by the Department of Public Safety to provide for assistance 116598
to political subdivisions made necessary by natural disasters or 116599
emergencies. These transfers may be requested and approved prior 116600
to the occurrence of any specific natural disasters or emergencies 116601
in order to facilitate the provision of timely assistance. The 116602
Emergency Management Agency of the Department of Public Safety 116603
shall use the funding to fund the State Disaster Relief Program 116604
for disasters that have a written Governor's authorization, and 116605
the State Individual Assistance Program for disasters that have a 116606
written Governor's authorization and is declared by the federal 116607
Small Business Administration. The Ohio Emergency Management 116608
Agency shall publish and make available application packets 116609
outlining procedures for the State Disaster Relief Program and the 116610

State Individual Assistance Program. 116611

Fund 5E20 shall be used by the Controlling Board, pursuant to 116612
requests submitted by state agencies, to transfer cash and 116613
appropriations to any fund and appropriation item for the payment 116614
of state agency disaster relief program expenses for disasters 116615
that have a written Governor's authorization, if the Director of 116616
Budget and Management determines that sufficient funds exist. 116617

BALLOT ADVERTISING COSTS 116618

Pursuant to section 3501.17 of the Revised Code, and upon 116619
requests submitted by the Secretary of State, the Controlling 116620
Board shall approve transfers from the foregoing appropriation 116621
item 911441, Ballot Advertising Costs, to appropriation item 116622
050621, Statewide Ballot Advertising, in order to pay for the cost 116623
of public notices associated with statewide ballot initiatives. 116624

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS 116625
ELIGIBILITY 116626

A state agency director shall request that the Controlling 116627
Board increase the amount of the agency's capital appropriations 116628
if the director determines such an increase is necessary for the 116629
agency to receive and use funds under the federal American 116630
Recovery and Reinvestment Act of 2009. The Controlling Board may 116631
increase the capital appropriations pursuant to the request up to 116632
the exact amount necessary under the federal act if the Board 116633
determines it is necessary for the agency to receive and use those 116634
federal funds. 116635

Section 247.10. COS STATE BOARD OF COSMETOLOGY 116636

General Services Fund Group 116637
4K90 879609 Operating Expenses \$ 3,474,030 \$ 3,474,030 116638
TOTAL GSF General Services Fund 116639
Group \$ 3,474,030 \$ 3,474,030 116640

TOTAL ALL BUDGET FUND GROUPS	\$	3,474,030	\$	3,474,030	116641
Section 249.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE					116643
AND FAMILY THERAPIST BOARD					116644
General Services Fund Group					116645
4K90 899609 Operating Expenses	\$	1,265,856	\$	1,281,478	116646
TOTAL GSF General Services Fund					116647
Group	\$	1,265,856	\$	1,281,478	116648
TOTAL ALL BUDGET FUND GROUPS	\$	1,265,856	\$	1,281,478	116649
Section 251.10. CLA COURT OF CLAIMS					116651
General Revenue Fund					116652
GRF 015321 Operating Expenses	\$	2,501,052	\$	2,501,052	116653
TOTAL GRF General Revenue Fund	\$	2,501,052	\$	2,501,052	116654
State Special Revenue Fund Group					116655
5K20 015603 CLA Victims of Crime	\$	415,556	\$	415,953	116656
TOTAL SSR State Special Revenue					116657
Fund Group	\$	415,556	\$	415,953	116658
TOTAL ALL BUDGET FUND GROUPS	\$	2,916,608	\$	2,917,005	116659
Section 253.10. DEN STATE DENTAL BOARD					116661
General Services Fund Group					116662
4K90 880609 Operating Expenses	\$	1,566,484	\$	1,566,484	116663
TOTAL GSF General Services Fund					116664
Group	\$	1,566,484	\$	1,566,484	116665
TOTAL ALL BUDGET FUND GROUPS	\$	1,566,484	\$	1,566,484	116666
Section 255.10. BDP BOARD OF DEPOSIT					116668
General Services Fund Group					116669
4M20 974601 Board of Deposit	\$	1,876,000	\$	1,876,000	116670
TOTAL GSF General Services Fund					116671
Group	\$	1,876,000	\$	1,876,000	116672

TOTAL ALL BUDGET FUND GROUPS			\$	1,876,000	\$	1,876,000	116673
BOARD OF DEPOSIT EXPENSE FUND							116674
Upon receiving certification of expenses from the Treasurer							116675
of State, the Director of Budget and Management shall transfer							116676
cash from the Investment Earnings Redistribution Fund (Fund 6080)							116677
to the Board of Deposit Expense Fund (Fund 4M20). The latter fund							116678
shall be used pursuant to section 135.02 of the Revised Code to							116679
pay for any and all necessary expenses of the Board of Deposit or							116680
for banking charges and fees required for the operation of the							116681
State of Ohio Regular Account.							116682
Section 257.10. DEV DEVELOPMENT SERVICES AGENCY							116683
General Revenue Fund							116684
GRF 195402 Coal Research			\$	261,205	\$	261,405	116685
Operating							
GRF 195405 Minority Business			\$	1,693,691	\$	1,693,691	116686
Development							
GRF 195407 Travel and Tourism			\$	1,300,000	\$	0	116687
GRF 195415 Business Development			\$	2,413,387	\$	2,413,387	116688
Services							
GRF 195426 Redevelopment			\$	468,365	\$	468,365	116689
Assistance							
GRF 195497 CDBG Operating Match			\$	1,015,000	\$	1,015,000	116690
GRF 195501 Appalachian Local			\$	440,000	\$	440,000	116691
Development Districts							
GRF 195532 Technology Programs			\$	13,547,341	\$	13,547,341	116692
and Grants							
GRF 195533 Business Assistance			\$	4,205,774	\$	4,205,774	116693
GRF 195535 Appalachia Assistance			\$	3,846,482	\$	3,846,482	116694
GRF 195537 Ohio Israel			\$	150,000	\$	150,000	116695
Agricultural							
Initiative							

GRF	195901	Coal Research & Development General Obligation Debt Service	\$	2,858,900	\$	4,327,200	116696
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	66,511,600	\$	83,783,000	116697
GRF	195912	Job Ready Site Development General Obligation Debt Service	\$	15,498,400	\$	19,124,500	116698
TOTAL GRF	General Revenue Fund		\$	114,210,145	\$	135,276,145	116699
General Services Fund Group							116700
1350	195684	Development Services Operations	\$	10,800,000	\$	10,800,000	116701
4W10	195646	Minority Business Enterprise Loan	\$	2,500,000	\$	2,500,000	116702
5KN0	195640	Local Government Innovation	\$	20,130,986	\$	20,000,000	116703
5MB0	195623	Business Incentive Grants	\$	15,000,000	\$	0	116704
5MK0	195600	Vacant Facilities Grant	\$	1,000,000	\$	1,000,000	116705
5W50	195690	Travel and Tourism Cooperative Projects	\$	150,000	\$	150,000	116706
6850	195636	Development Services Reimbursable Expenditures	\$	700,000	\$	700,000	116707
TOTAL GSF	General Services Fund						116708
Group			\$	50,280,986	\$	35,150,000	116709
Federal Special Revenue Fund Group							116710

3080	195602	Appalachian Regional Commission	\$	475,000	\$	475,000	116711
3080	195603	Housing Assistance Programs	\$	10,000,000	\$	10,000,000	116712
3080	195609	Small Business Administration Grants	\$	5,271,381	\$	5,271,381	116713
3080	195618	Energy Grants	\$	9,307,779	\$	4,109,193	116714
3080	195670	Home Weatherization Program	\$	17,000,000	\$	17,000,000	116715
3080	195671	Brownfield Redevelopment	\$	5,000,000	\$	5,000,000	116716
3080	195672	Manufacturing Extension Partnership	\$	5,359,305	\$	5,359,305	116717
3080	195675	Procurement Technical Assistance	\$	600,000	\$	600,000	116718
3080	195681	SBDC Disability Consulting	\$	1,300,000	\$	1,300,000	116719
3350	195610	Energy Programs	\$	200,000	\$	200,000	116720
3AE0	195643	Workforce Development Initiatives	\$	1,800,000	\$	1,800,000	116721
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	\$	38,152	\$	0	116722
3FJ0	195626	Small Business Capital Access and Collateral Enhancement Program	\$	32,046,846	\$	5,655,326	116723
3FJ0	195661	Technology Targeted Investment Program	\$	12,750,410	\$	2,250,072	116724
3K80	195613	Community Development Block Grant	\$	65,000,000	\$	65,000,000	116725
3K90	195611	Home Energy	\$	172,000,000	\$	172,000,000	116726

		Assistance Block					
		Grant					
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000	116727
3L00	195612	Community Services	\$	27,240,217	\$	27,240,217	116728
		Block Grant					
3V10	195601	HOME Program	\$	30,000,000	\$	30,000,000	116729
TOTAL FED		Federal Special Revenue					116730
Fund Group			\$	417,389,090	\$	375,260,494	116731
State Special Revenue Fund Group							116732
4500	195624	Minority Business	\$	74,868	\$	74,905	116733
		Bonding Program					
		Administration					
4510	195649	Business Assistance	\$	6,300,800	\$	6,700,800	116734
		Programs					
4F20	195639	State Special Projects	\$	102,145	\$	102,104	116735
4F20	195699	Utility Community	\$	500,000	\$	500,000	116736
		Assistance					
5CG0	195679	Alternative Fuel	\$	750,000	\$	750,000	116737
		Transportation					
5HR0	195526	Incumbent Workforce	\$	30,000,000	\$	30,000,000	116738
		Training Vouchers					
5HR0	195622	Defense Development	\$	5,000,000	\$	5,000,000	116739
		Assistance					
5JR0	195635	Redevelopment Program	\$	100,000	\$	100,000	116740
		Support					
5KP0	195645	Historic Rehab	\$	650,000	\$	650,000	116741
		Operating					
5LU0	195673	Racetrack Facility	\$	12,000,000	\$	0	116742
		Community Economic					
		Redevelopment Fund					
5M40	195659	Low Income Energy	\$	350,000,000	\$	350,000,000	116743
		Assistance (USF)					
5M50	195660	Advanced Energy Loan	\$	8,000,000	\$	8,000,000	116744

		Programs				
5MH0	195644	SiteOhio	\$	100,000	\$	100,000 116745
		Administration				
5MJ0	195683	TourismOhio	\$	7,000,000	\$	8,000,000 116746
		Administration				
5W60	195691	International Trade	\$	18,000	\$	18,000 116747
		Cooperative Projects				
6170	195654	Volume Cap	\$	32,562	\$	32,562 116748
		Administration				
6460	195638	Low- and Moderate-	\$	53,000,000	\$	53,000,000 116749
		Income Housing Trust				
		Fund				
TOTAL SSR		State Special Revenue				116750
Fund Group			\$	473,628,375	\$	463,028,371 116751
		Facilities Establishment Fund Group				116752
5S90	195628	Capital Access Loan	\$	3,000,000	\$	3,000,000 116753
		Program				
7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000 116754
7010	195665	Research and	\$	22,000,000	\$	22,000,000 116755
		Development				
7037	195615	Facilities	\$	50,000,000	\$	50,000,000 116756
		Establishment				
TOTAL 037		Facilities				116757
Establishment		Fund Group	\$	90,000,000	\$	90,000,000 116758
		Clean Ohio Revitalization Fund				116759
7003	195663	Clean Ohio Program	\$	950,000	\$	950,000 116760
TOTAL 7003		Clean Ohio	\$	950,000	\$	950,000 116761
		Revitalization Fund				
		Third Frontier Research & Development Fund Group				116762
7011	195686	Third Frontier	\$	1,149,750	\$	1,149,750 116763
		Operating				
7011	195687	Third Frontier	\$	90,850,250	\$	90,850,250 116764

		Research & Development Projects				
7014	195620	Third Frontier	\$	1,700,000	\$	1,700,000 116765
		Operating - Tax				
7014	195692	Research & Development Taxable Bond Projects	\$	38,300,000	\$	38,300,000 116766
TOTAL	011	Third Frontier Research & Development Fund Group	\$	132,000,000	\$	132,000,000 116767
		Job Ready Site Development Fund Group				116768
7012	195688	Job Ready Site Development	\$	800,000	\$	800,000 116769
TOTAL	012	Job Ready Site Development Fund Group	\$	800,000	\$	800,000 116770
		Tobacco Master Settlement Agreement Fund Group				116771
M087	195435	Biomedical Research and Technology Transfer	\$	1,896,595	\$	1,906,025 116772
TOTAL	TSF	Tobacco Master Settlement Agreement Fund Group	\$	1,896,595	\$	1,906,025 116773
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,281,155,191	\$	1,234,371,035 116774

Section 257.20. COAL RESEARCH OPERATING 116776

The foregoing appropriation item 195402, Coal Research 116777
 Operating, shall be used for the operating expenses of the 116778
 Community Services Division in support of the Ohio Coal 116779
 Development Office. 116780

TRAVEL AND TOURISM 116781

The foregoing appropriation item 195407, Travel and Tourism, 116782
 shall be used for marketing the state of Ohio as a tourism 116783
 destination and to support administrative expenses and contracts 116784
 necessary to market Ohio. 116785

BUSINESS DEVELOPMENT SERVICES 116786

The foregoing appropriation item 195415, Business Development 116787
Services, shall be used for the operating expenses of the Business 116788
Services Division and the regional economic development offices 116789
and for grants for cooperative economic development ventures. 116790

REDEVELOPMENT ASSISTANCE 116791

The foregoing appropriation item 195426, Redevelopment 116792
Assistance, shall be used to fund the costs of administering the 116793
Clean Ohio Revitalization program and other urban revitalization 116794
programs that may be implemented by the Development Services 116795
Agency. 116796

CDBG OPERATING MATCH 116797

The foregoing appropriation item 195497, CDBG Operating 116798
Match, shall be used as matching funds for grants from the United 116799
States Department of Housing and Urban Development pursuant to the 116800
Housing and Community Development Act of 1974 and regulations and 116801
policy guidelines for the programs pursuant thereto. 116802

APPALACHIAN LOCAL DEVELOPMENT DISTRICTS 116803

The foregoing appropriation item 195501, Appalachian Local 116804
Development Districts, shall be used to support four local 116805
development districts. Of the foregoing appropriation amount in 116806
each fiscal year, up to \$135,000 shall be allocated to the Ohio 116807
Valley Regional Development Commission, up to \$135,000 shall be 116808
allocated to the Ohio Mid-Eastern Government Association, up to 116809
\$135,000 shall be allocated to the Buckeye Hills-Hocking Valley 116810
Regional Development District, and up to \$35,000 shall be 116811
allocated to the Eastgate Regional Council of Governments. Local 116812
development districts receiving funding under this section shall 116813
use the funds for the implementation and administration of 116814
programs and duties under section 107.21 of the Revised Code. 116815

TECHNOLOGY PROGRAMS AND GRANTS 116816

Of the foregoing appropriation item 195532, Technology 116817
Programs and Grants, up to \$547,341 in each fiscal year shall be 116818
used for operating expenses incurred in administering the Ohio 116819
Third Frontier pursuant to sections 184.10 to 184.20 of the 116820
Revised Code; and up to \$13,000,000 in each fiscal year shall be 116821
used for the Thomas Edison Program pursuant to sections 122.28 to 116822
122.38 of the Revised Code, of which not less than \$8,700,000 116823
shall be allocated for the Edison Center Network entities defined 116824
in division (C) of section 122.33 of the Revised Code, and not 116825
more than ten per cent shall be used for operating expenses 116826
incurred in administering the program. 116827

BUSINESS ASSISTANCE 116828

The foregoing appropriation item 195533, Business Assistance, 116829
may be used to provide a range of business assistance, including 116830
grants to local organizations to support economic development 116831
activities that promote minority business development, small 116832
business development, entrepreneurship, and exports of Ohio's 116833
goods and services. This appropriation item shall also be used as 116834
matching funds for grants from the United States Small Business 116835
Administration and other federal agencies, pursuant to Public Law 116836
No. 96-302 as amended by Public Law No. 98-395, and regulations 116837
and policy guidelines for the programs pursuant thereto. 116838

APPALACHIA ASSISTANCE 116839

The foregoing appropriation item 195535, Appalachia 116840
Assistance, may be used for the administrative costs of planning 116841
and liaison activities for the Governor's Office of Appalachia, to 116842
provide financial assistance to projects in Ohio's Appalachian 116843
counties, and to pay dues for the Appalachian Regional Commission. 116844
These funds may be used to match federal funds from the 116845
Appalachian Regional Commission. 116846

OHIO ISRAEL AGRICULTURE INITIATIVE	116847
The foregoing appropriation item 195537, Ohio Israel	116848
Agricultural Initiative, shall be used for the Ohio - Israel	116849
Agricultural Initiative.	116850
COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE	116851
The foregoing appropriation line item 195901, Coal Research	116852
and Development General Obligation Debt Service, shall be used to	116853
pay all debt service and related financing costs during the period	116854
July 1, 2013, through June 30, 2015 for obligations issued under	116855
sections 151.01 and 151.07 of the Revised Code.	116856
THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT	116857
SERVICE	116858
The foregoing appropriation item 195905, Third Frontier	116859
Research & Development General Obligation Debt Service, shall be	116860
used to pay all debt service and related financing costs during	116861
the period from July 1, 2013, through June 30, 2015, on	116862
obligations issued for research and development purposes under	116863
sections 151.01 and 151.10 of the Revised Code.	116864
JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE	116865
The foregoing appropriation item 195912, Job Ready Site	116866
Development General Obligation Debt Service, shall be used to pay	116867
all debt service and related financing costs during the period	116868
from July 1, 2013, through June 30, 2015, on obligations issued	116869
for job ready site development purposes under sections 151.01 and	116870
151.11 of the Revised Code.	116871
Section 257.30. DEVELOPMENT SERVICES OPERATIONS	116872
The Director of Development Services may assess offices of	116873
the agency for the cost of central service operations. An	116874
assessment shall contain the characteristics of administrative	116875
ease and uniform application. A division's payments shall be	116876

credited to the Supportive Services Fund (Fund 1350) using an 116877
intrastate transfer voucher. 116878

LOCAL GOVERNMENT INNOVATION FUND 116879

The Director of Budget and Management shall transfer 116880
\$4,000,000 in cash in each fiscal year from the General Revenue 116881
Fund to the Local Government Innovation Fund (Fund 5KN0). The 116882
foregoing appropriation item 195640, Local Government Innovation, 116883
shall be used for the purposes of making loans and grants to 116884
political subdivisions under the Local Government Innovation 116885
Program in accordance with sections 189.01 to 189.10 of the 116886
Revised Code. Notwithstanding section 189.04 of the Revised Code, 116887
of the foregoing appropriation item 195640, Local Government 116888
Innovation, up to \$4,000,000 in each fiscal year shall be used for 116889
grants under the Local Government Innovation Program established 116890
in section 189.02 of the Revised Code, and up to \$175,000 in each 116891
fiscal year shall be used for administrative costs incurred by the 116892
Development Services Agency. 116893

TRAVEL AND TOURISM COOPERATIVE PROJECTS 116894

The foregoing appropriation item 195690, Travel and Tourism 116895
Cooperative Projects, shall consist solely of leveraged private 116896
sector paid advertising dollars received in tourism marketing 116897
assistance and co-op programs. These funds are to be used for the 116898
marketing and promotion of travel and tourism in Ohio. 116899

DEVELOPMENT SERVICES REIMBURSABLE EXPENDITURES 116900

The foregoing appropriation item 195636, Development Services 116901
Reimbursable Expenditures, shall be used for reimbursable costs 116902
incurred by the agency. Revenues to the General Reimbursement Fund 116903
(Fund 6850) shall consist of moneys charged for administrative 116904
costs that are not central service costs. 116905

Section 257.40. HEAP WEATHERIZATION 116906

Not less than fifteen per cent of the federal funds deposited 116907
to the credit of the Home Energy Assistance Block Grant Fund (Fund 116908
3K90) shall be expended from appropriation item 195614, HEAP 116909
Weatherization, to provide home weatherization services in the 116910
state as determined by the Director of Development Services. Any 116911
transfers or increases in appropriation for the foregoing 116912
appropriation items 195614, HEAP Weatherization, or 195611, Home 116913
Energy Assistance Block Grant, shall be subject to approval by the 116914
Controlling Board. 116915

Section 257.50. BUSINESS ASSISTANCE PROGRAMS 116916

The foregoing appropriation item 195649, Business Assistance 116917
Programs, shall be used for administrative expenses associated 116918
with the operation of tax credit programs, loan servicing, the 116919
Ohio Film Office, workforce initiatives, and the Office of 116920
Strategic Business Investments, and for payments to the JobsOhio 116921
corporation established in Chapter 187. of the Revised Code for 116922
services provided for the administration of the 166 Direct Loan 116923
Program, Ohio Enterprise Bond Fund, Research and Development Loan 116924
Program, and Innovation Ohio Loan Program. 116925

STATE SPECIAL PROJECTS 116926

The State Special Projects Fund (Fund 4F20), may be used for 116927
the deposit of private-sector funds from utility companies and for 116928
the deposit of other miscellaneous state funds. State moneys so 116929
deposited may also be used to match federal housing grants for the 116930
homeless. 116931

MINORITY BUSINESS ENTERPRISE LOAN 116932

All repayments from the Minority Development Financing 116933
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 116934
Program shall be deposited in the State Treasury to the credit of 116935
the Minority Business Enterprise Loan Fund (Fund 4W10). 116936

MINORITY BUSINESS BONDING FUND 116937

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development Services may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the fiscal year 2014-fiscal year 2015 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code.

If needed for the payment of losses arising from the Minority Business Bonding Program, the Director of Budget and Management may, at the request of the Director of Development Services, request that the Director of Commerce transfer unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code to the Minority Bonding Fund (Fund 4490). The transfer of unclaimed funds shall only occur after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program have been used for that purpose. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195658, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

INCUMBENT WORKFORCE TRAINING VOUCHERS 116959

(A) The Director of Budget and Management may transfer up to \$30,000,000 cash in each fiscal year from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Development Services Agency.

(B) Of the foregoing appropriation item 195526, Incumbent Workforce Training Vouchers, up to \$30,000,000 in each fiscal year shall be used to support the Ohio Incumbent Workforce Training

Voucher Program. 116968

(C) The Ohio Incumbent Workforce Training Voucher Program 116969
shall conform to guidelines for the operation of the program, 116970
including, but not limited to, the following: 116971

(1) A requirement that a training voucher under the program 116972
shall not exceed \$6,000 per worker per year; 116973

(2) A provision for an employer of an eligible employee to 116974
apply for a voucher on behalf of the eligible employee; 116975

(3) A provision for an eligible employee to apply directly 116976
for a training voucher with the pre-approval of the employee's 116977
employer; and 116978

(4) A requirement that an employee participating in the 116979
program, or the employee's employer, shall pay for not less than 116980
thirty-three per cent of the training costs under the program. 116981

On July 1, 2014, or as soon as possible thereafter, the 116982
Director of Development Services may request that the Director of 116983
Budget and Management reappropriate any unexpended, unencumbered 116984
balance of the prior fiscal year's appropriation to the foregoing 116985
appropriation item 195526, Incumbent Workforce Training Vouchers, 116986
for fiscal year 2015. The Director of Budget and Management may 116987
request additional information necessary for evaluating the 116988
request, and the Director of Development Services shall provide 116989
the requested information to the Director of Budget and 116990
Management. Based on the information provided by the Director of 116991
Development Services, the Director of Budget and Management shall 116992
determine the amount to be reappropriated, and those amounts are 116993
hereby reappropriated for fiscal year 2015. 116994

DEFENSE DEVELOPMENT ASSISTANCE 116995

The Director of Budget and Management may transfer up to 116996
\$5,000,000 in cash in each fiscal year from the Economic 116997

Development Programs Fund (Fund 5JC0) used by the Board of Regents 116998
to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used 116999
by the Development Services Agency. The transferred funds shall be 117000
used for appropriation item 195622, Defense Development 117001
Assistance, for economic development programs and the creation of 117002
new jobs to leverage and support mission gains at Department of 117003
Defense facilities in Ohio by working with future base realignment 117004
and closure activities and ongoing Department of Defense 117005
efficiency initiatives, assisting efforts to secure Department of 117006
Defense support contracts for Ohio companies, assessing and 117007
supporting regional job training and workforce development needs 117008
generated by the Department of Defense and the Ohio aerospace 117009
industry, and for expanding job training and economic development 117010
programs in human performance related initiatives. A portion of 117011
these funds shall be matched by private industry partners or the 117012
Department of Defense. 117013

On July 1, 2014, or as soon as possible thereafter, the 117014
Director of Development Services may request that the Director of 117015
Budget and Management reappropriate any unexpended, unencumbered 117016
balance of the prior fiscal year's appropriation to the foregoing 117017
appropriation item 195622, Defense Development Assistance, for 117018
fiscal year 2015. The Director of Budget and Management may 117019
request additional information necessary for evaluating the 117020
request, and the Director of Development Services shall provide 117021
the requested information to the Director of Budget and 117022
Management. Based on the information provided by the Director of 117023
Development Services, the Director of Budget and Management shall 117024
determine the amount to be reappropriated, and those amounts are 117025
hereby reappropriated for fiscal year 2015. 117026

ADVANCED ENERGY LOAN PROGRAMS 117027

The foregoing appropriation item 195660, Advanced Energy Loan 117028
Programs, shall be used to provide financial assistance to 117029

customers for eligible advanced energy projects for residential, 117030
commercial, and industrial business, local government, educational 117031
institution, nonprofit, and agriculture customers, and to pay for 117032
the program's administrative costs as provided in sections 4928.61 117033
to 4928.63 of the Revised Code and rules adopted by the Director 117034
of Development Services. 117035

VOLUME CAP ADMINISTRATION 117036

The foregoing appropriation item 195654, Volume Cap 117037
Administration, shall be used for expenses related to the 117038
administration of the Volume Cap Program. Revenues received by the 117039
Volume Cap Administration Fund (Fund 6170) shall consist of 117040
application fees, forfeited deposits, and interest earned from the 117041
custodial account held by the Treasurer of State. 117042

Section 257.60. CAPITAL ACCESS LOAN PROGRAM 117043

The foregoing appropriation item 195628, Capital Access Loan 117044
Program, shall be used for operating, program, and administrative 117045
expenses of the program. Funds of the Capital Access Loan Program 117046
shall be used to assist participating financial institutions in 117047
making program loans to eligible businesses that face barriers in 117048
accessing working capital and obtaining fixed-asset financing. 117049

INNOVATION OHIO LOAN FUND 117050

The foregoing appropriation item 195664, Innovation Ohio, 117051
shall be used to provide for Innovation Ohio purposes, including 117052
loan guarantees and loans under Chapter 166. and particularly 117053
sections 166.12 to 166.16 of the Revised Code. 117054

RESEARCH AND DEVELOPMENT 117055

The foregoing appropriation item 195665, Research and 117056
Development, shall be used to provide for research and development 117057
purposes, including loans, under Chapter 166. and particularly 117058
sections 166.17 to 166.21 of the Revised Code. 117059

FACILITIES ESTABLISHMENT	117060
The foregoing appropriation item 195615, Facilities Establishment, shall be used for the purposes of the Facilities Establishment Fund (Fund 7037) under Chapter 166. of the Revised Code.	117061 117062 117063 117064
Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$3,000,000 in cash in each fiscal year may be transferred from the Facilities Establishment Fund (Fund 7037) to the Business Assistance Fund (Fund 4510). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.	117065 117066 117067 117068 117069 117070
Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed \$1,000,000 in cash in each fiscal year from the Facilities Establishment Fund (Fund 7037) to the Minority Business Enterprise Loan Fund (Fund 4W10).	117071 117072 117073 117074 117075
Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed \$2,000,000 in cash in each fiscal year from the Facilities Establishment Fund (Fund 7037) to the Capital Access Loan Fund (Fund 5S90).	117076 117077 117078 117079 117080
Section 257.70. CLEAN OHIO OPERATING EXPENSES	117081
The foregoing appropriation item 195663, Clean Ohio Program, shall be used by the Development Services Agency in administering Clean Ohio Revitalization Fund (Fund 7003) projects pursuant to sections 122.65 to 122.658 of the Revised Code.	117082 117083 117084 117085
Section 257.80. THIRD FRONTIER OPERATING	117086
The foregoing appropriation items 195686, Third Frontier Operating, and 195620, Third Frontier Operating - Tax, shall be	117087 117088

used for operating expenses incurred by the Development Services Agency in administering projects pursuant to sections 184.10 to 184.20 of the Revised Code. Operating expenses paid from item 195686 shall be limited to the administration of projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014).

THIRD FRONTIER RESEARCH AND DEVELOPMENT PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS

The foregoing appropriation items 195687, Third Frontier Research & Development Projects, 195692, Research & Development Taxable Bond Projects, and 195620, Third Frontier Operating - Tax, shall be used by the Development Services Agency to fund selected projects. Eligible costs are those costs of research and development projects to which the proceeds of the Third Frontier Research & Development Fund (Fund 7011) and the Research & Development Taxable Bond Project Fund (Fund 7014) are to be applied.

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS

The Director of Budget and Management may approve written requests from the Director of Development Services for the transfer of appropriations between appropriation items 195687, Third Frontier Research & Development Projects, and 195692, Research & Development Taxable Bond Projects, based upon awards recommended by the Third Frontier Commission. The transfers are subject to approval by the Controlling Board.

In fiscal year 2015, the Director of Development Services may request that the Director of Budget and Management reappropriate any unexpended, unencumbered balances of the prior fiscal year's appropriation to the foregoing appropriation items 195687, Third

Frontier Research & Development Projects, and 195692, Research & 117120
Development Taxable Bond Projects, for fiscal year 2015. The 117121
Director of Budget and Management may request additional 117122
information necessary for evaluating these requests, and the 117123
Director of Development Services shall provide the requested 117124
information to the Director of Budget and Management. Based on the 117125
information provided by the Director of Development Services, the 117126
Director of Budget and Management shall determine the amounts to 117127
be reappropriated, and those amounts are hereby reappropriated for 117128
fiscal year 2015. 117129

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS 117130

The Ohio Public Facilities Commission is hereby authorized to 117131
issue and sell, in accordance with Section 2p of Article VIII, 117132
Ohio Constitution, and particularly sections 151.01 and 151.10 of 117133
the Revised Code, original obligations of the State of Ohio in an 117134
aggregate amount not to exceed \$350,000,000 in addition to the 117135
original issuance of obligations authorized by prior acts of the 117136
General Assembly. The authorized obligations shall be issued and 117137
sold from time to time and in amounts necessary to ensure 117138
sufficient moneys to the credit of the Third Frontier Research and 117139
Development Fund (Fund 7011) and the Third Frontier Research and 117140
Development Taxable Bond Fund (Fund 7014) to pay costs of research 117141
and development projects. 117142

Section 257.90. JOB READY SITE PROGRAM 117143

The foregoing appropriation item 195688, Job Ready Site 117144
Development, shall be used for operating expenses incurred by the 117145
Development Services Agency in administering Job Ready Site 117146
Development Fund (Fund 7012) projects pursuant to sections 122.085 117147
to 122.0820 of the Revised Code. Operating expenses include, but 117148
are not limited to, certain qualified expenses of the District 117149
Public Works Integrating Committees, as applicable, engineering 117150

review of submitted applications by the State Architect or a 117151
third-party engineering firm, audit and accountability activities, 117152
and costs associated with formal certifications verifying that 117153
site infrastructure is in place and is functional. 117154

Section 257.110. (A) ASSORTED TRANSFERS FOR RESTRUCTURING 117155

On July 1, 2013, or as soon as possible thereafter, the 117156
Director of Budget and Management may transfer up to the cash 117157
balances in the Tax Incentive Program Operating Fund (Fund 4S00) 117158
and the Tax Credit Operating Fund (Fund 4S10) to the Business 117159
Assistance Fund (Fund 4510). 117160

On July 1, 2013, or as soon as possible thereafter, the 117161
Director of Budget and Management may transfer up to the cash 117162
balances in the Family Farm Loan Fund (Fund 5H10) and the First 117163
Frontier Fund (Fund 4H40) to the Facility Establishment Fund (Fund 117164
7037). 117165

On July 1, 2013, or as soon as possible thereafter, the 117166
Director of Budget and Management may transfer up to the cash 117167
balance in the Brownfield Stormwater Loan Fund (Fund 5KD0) to the 117168
New Markets Tax Credit Program Fund (Fund 5JR0). 117169

On July 1, 2013, or as soon as possible thereafter, the 117170
Director of Budget and Management may transfer up to the cash 117171
balances in the Water and Sewer Fund (Fund 4440) and the Water and 117172
Sewer Administrative Fund (Fund 6110) to the General 117173
Reimbursements Fund (Fund 6850). 117174

On July 1, 2013, or as soon as possible thereafter, the 117175
Director of Budget and Management may transfer up to the cash 117176
balance in the Local Government Services Collaboration Grant Fund 117177
(Fund 7088) to the Local Government Innovation Fund (Fund 5KN0). 117178

(B) ABOLISHMENT OF FUNDS 117179

On July 1, 2013, or as soon as possible thereafter, upon 117180

completion of a transfer of the cash balance in a fund as 117181
described in division (A) of this section by the Director of 117182
Budget and Management, notwithstanding the establishment authority 117183
of the fund, the fund is hereby abolished. 117184

On July 1, 2013, or as soon as possible thereafter, the 117185
Director of Budget and Management shall transfer the cash balance 117186
in the Motion Picture Tax Credit Program Operating Fund (Fund 117187
5HJ0) to the Business Assistance Fund (Fund 4510). After 117188
completion of the transfer and on the effective date of its repeal 117189
by this act, Fund 5HJ0 shall be abolished. 117190

On July 1, 2013, or as soon as possible thereafter, the 117191
Director of Budget and Management shall transfer the cash balance 117192
in the Exempt Facility Inspection Fund (Fund 5X10) to the Advanced 117193
Energy Fund (Fund 5M50). After completion of the transfer and on 117194
the effective date of its repeal by this act, Fund 5X10 shall be 117195
abolished. 117196

On July 1, 2013, or as soon as possible thereafter, the 117197
Director of Budget and Management shall transfer the cash balance 117198
in the Rapid Outreach Loan Fund (Fund 7022) to the Facilities 117199
Establishment Fund (Fund 7037). After completion of the transfer 117200
and on the effective date of its repeal by this act, Fund 7022 117201
shall be abolished. 117202

The following funds, which, like Funds 5HJ0, 5X10, and 7022, 117203
were created in the Revised Code, are determined to be dormant and 117204
shall be abolished on the effective date of their repeal by this 117205
act: Diesel Emissions Grant Fund (Fund 3BD0), Shovel Ready Sites 117206
Fund (Fund 5CA0), Energy Projects Fund (Fund 5DU0), Business 117207
Development and Assistance Fund (Fund 5LK0), Clean Ohio 117208
Revitalization Revolving Loan Fund (Fund 7007), and Logistics & 117209
Distribution Infrastructure Taxable Bond Fund (Fund 7048). 117210

(C) ELIMINATION OF DORMANT FUNDS 117211

On July 1, 2013, or as soon as possible thereafter, the
 Director of Budget and Management may determine whether the
 following funds are dormant. If the Director of Budget and
 Management determines a fund to be dormant, notwithstanding the
 establishment authority of the fund, the fund is hereby abolished.
 The funds are:

Fund Number	Fund Name	117218
1360	International Trade	117219
3800	Ohio Housing Agency	117220
3BJ0	TANF Heating Assistance	117221
3X30	TANF Housing	117222
4450	OHFA Administration	117223
4480	Ohio Coal Development	117224
4D00	Public & Private Assistance	117225
5CV0	Defense Conversion Assistance	117226
5D10	Port Authority Bond Reserves	117227
5D20	Urban Redevelopment Loan	117228
5F70	Local Government Y2K Loan Program	117229
5X50	Family Homelessness Prevention Pilot	117230
5Y60	Economic Development Contingency	117231
5Z30	Jobs	117232
QA70	Electric Revenue Development	117233

Section 259.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 117234

General Revenue Fund				117235
GRF	320412	Protective Services	\$ 1,918,196 \$ 1,918,196	117236
GRF	320415	Lease-Rental Payments	\$ 15,843,300 \$ 16,076,700	117237
GRF	322420	Screening and Early Intervention	\$ 300,000 \$ 300,000	117238
GRF	322451	Family Support Services	\$ 5,932,758 \$ 5,932,758	117239

GRF	322501	County Boards Subsidies	\$	44,449,280	\$	44,449,280	117240
GRF	322503	Tax Equity	\$	14,000,000	\$	14,000,000	117241
GRF	322507	County Board Case Management	\$	2,500,000	\$	2,500,000	117242
GRF	322508	Employment First Pilot Program	\$	1,000,000	\$	1,000,000	117243
GRF	653321	Medicaid Program Support - State	\$	6,186,694	\$	6,186,694	117244
GRF	653407	Medicaid Services	\$	428,056,111	\$	433,574,237	117245
TOTAL GRF		General Revenue Fund	\$	520,186,339	\$	525,937,865	117246
		General Services Fund Group					117247
1520	653609	DC and Residential Operating Services	\$	3,414,317	\$	3,414,317	117248
TOTAL GSF		General Services Fund Group	\$	3,414,317	\$	3,414,317	117249
		Federal Special Revenue Fund Group					117250
3A50	320613	DD Council	\$	3,297,656	\$	3,324,187	117251
3250	322612	Community Social Service Programs	\$	10,604,896	\$	10,604,896	117252
3A40	653604	DC & ICF/MR Program Support	\$	8,013,611	\$	8,013,611	117253
3A40	653605	DC and Residential Services and Support	\$	159,548,565		159,548,565	117254
3A40	653653	ICF/MR	\$	354,712,840	\$	353,895,717	117255
3G60	653639	Medicaid Waiver Services	\$	928,623,249	\$	1,019,035,423	117256
3G60	653640	Medicaid Waiver Program Support	\$	36,934,303	\$	36,170,872	117257
3M70	653650	CAFS Medicaid	\$	3,000,000	\$	3,000,000	117258
TOTAL FED		Federal Special Revenue Fund Group	\$	1,504,735,120	\$	1,593,593,271	117259

State Special Revenue Fund Group					117260
5GE0 320606	Operating and Services	\$ 7,407,297	\$ 7,407,297		117261
2210 322620	Supplement Service Trust	\$ 150,000	\$ 150,000		117262
5DJ0 322625	Targeted Case Management Match	\$ 33,750,000	\$ 37,260,000		117263
5DK0 322629	Capital Replacement Facilities	\$ 750,000	\$ 750,000		117264
5H00 322619	Medicaid Repayment	\$ 160,000	\$ 160,000		117265
5JX0 322651	Interagency Workgroup - Autism	\$ 45,000	\$ 45,000		117266
4890 653632	DC Direct Care Services	\$ 16,497,169	\$ 16,497,169		117267
5CT0 653607	Intensive Behavioral Needs	\$ 1,000,000	\$ 1,000,000		117268
5DJ0 653626	Targeted Case Management Services	\$ 91,740,000	\$ 100,910,000		117269
5EV0 653627	Medicaid Program Support	\$ 685,000	\$ 685,000		117270
5GE0 653606	ICF/MR and Waiver Match	\$ 40,353,139	\$ 39,106,638		117271
5S20 653622	Medicaid Admin and Oversight	\$ 17,341,201	\$ 19,032,154		117272
5Z10 653624	County Board Waiver Match	\$ 284,740,000	\$ 336,480,000		117273
TOTAL SSR State Special Revenue Fund Group		\$ 494,618,806	\$ 559,483,258		117274
TOTAL ALL BUDGET FUND GROUPS		\$ 2,522,954,582	\$ 2,682,428,711		117275

Section 259.20. LEASE-RENTAL PAYMENTS 117277

The foregoing appropriation item 320415, Lease-Rental 117278
 Payments, shall be used to meet all payments at the times they are 117279

required to be made during the period from July 1, 2013, through 117280
June 30, 2015, by the Department of Developmental Disabilities 117281
under leases and agreements made under section 154.20 of the 117282
Revised Code. These appropriations are the source of funds pledged 117283
for bond service charges on related obligations issued under 117284
Chapter 154. of the Revised Code. 117285

Section 259.30. SCREENING AND EARLY INTERVENTION 117286

The foregoing appropriation item 322420, Screening and Early 117287
Intervention, shall be used for screening and early intervention 117288
programs for children with autism selected by the Director of 117289
Developmental Disabilities. 117290

Section 259.40. FAMILY SUPPORT SERVICES SUBSIDY 117291

The foregoing appropriation item 322451, Family Support 117292
Services, may be used as follows in fiscal year 2014 and fiscal 117293
year 2015: 117294

(A) The appropriation item may be used to provide a subsidy 117295
to county boards of developmental disabilities for family support 117296
services provided under section 5126.11 of the Revised Code. The 117297
subsidy shall be paid in quarterly installments and allocated to 117298
county boards according to a formula the Director of Developmental 117299
Disabilities shall develop in consultation with representatives of 117300
county boards. A county board shall use not more than seven per 117301
cent of its subsidy for administrative costs. 117302

(B) The appropriation item may be used to distribute funds to 117303
county boards for the purpose of addressing economic hardships and 117304
to promote efficiency of operations. In consultation with 117305
representatives of county boards, the Director shall determine the 117306
amount of funds to distribute for these purposes and the criteria 117307
for distributing the funds. 117308

Section 259.50. STATE SUBSIDY TO COUNTY DD BOARDS 117309

(A) Except as provided in the section of this act titled 117310
"NONFEDERAL SHARE OF ICF/MR SERVICES," the foregoing appropriation 117311
item 322501, County Boards Subsidies, shall be used for the 117312
following purposes: 117313

(1) To provide a subsidy to county boards of developmental 117314
disabilities in quarterly installments and allocated according to 117315
a formula developed by the Director of Developmental Disabilities 117316
in consultation with representatives of county boards. Except as 117317
provided in section 5126.0511 of the Revised Code or in division 117318
(B) of this section, county boards shall use the subsidy for early 117319
childhood services and adult services provided under section 117320
5126.05 of the Revised Code, service and support administration 117321
provided under section 5126.15 of the Revised Code, or supported 117322
living as defined in section 5126.01 of the Revised Code. 117323

(2) To provide funding, as determined necessary by the 117324
Director, for residential services, including room and board, and 117325
support service programs that enable individuals with 117326
developmental disabilities to live in the community. 117327

(3) To distribute funds to county boards of developmental 117328
disabilities to address economic hardships and promote efficiency 117329
of operations. The Director shall determine, in consultation with 117330
representatives of county boards, the amount of funds to 117331
distribute for these purposes and the criteria for distributing 117332
the funds. 117333

(B) In collaboration with the county's family and children 117334
first council, a county board of developmental disabilities may 117335
transfer portions of funds received under this section, to a 117336
flexible funding pool in accordance with the section of this act 117337
titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL." 117338

Section 259.60. COUNTY BOARD SHARE OF WAIVER SERVICES 117339

As used in this section, "home and community-based services" 117340
has the same meaning as in section 5123.01 of the Revised Code. 117341

The Director of Developmental Disabilities shall establish a 117342
methodology to be used in fiscal year 2014 and fiscal year 2015 to 117343
estimate the quarterly amount each county board of developmental 117344
disabilities is to pay of the nonfederal share of home and 117345
community-based services that section 5126.0510 of the Revised 117346
Code requires county boards to pay. Each quarter, the Director 117347
shall submit to a county board written notice of the amount the 117348
county board is to pay for that quarter. The notice shall specify 117349
when the payment is due. 117350

Section 259.70. TAX EQUITY 117351

Notwithstanding section 5126.18 of the Revised Code, the 117352
foregoing appropriation item 322503, Tax Equity, may be used to 117353
distribute funds to county boards of developmental disabilities to 117354
address economic hardships and promote efficiency of operations. 117355
The Director of Developmental Disabilities shall determine, in 117356
consultation with representatives of county boards, the amount of 117357
funds to distribute for these purposes and the criteria for 117358
distributing the funds. 117359

Section 259.80. MEDICAID SERVICES 117360

Except as provided in section 5123.0416 of the Revised Code, 117361
the purposes for which the foregoing appropriation item 653407, 117362
Medicaid Services, shall be used include the following: 117363

(A) Home and community-based services, as defined in section 117364
5123.01 of the Revised Code; 117365

(B) Implementation of the requirements of the agreement 117366
settling the consent decree in *Sermak v. Manuel*, Case No. 117367

C-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division; 117368
117369

(C) Implementation of the requirements of the agreement settling the consent decree in the *Martin v. Strickland*, Case No. 89-CV-00362, United States District Court for the Southern District of Ohio, Eastern Division; 117370
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117373

(D) ICF/MR services, as defined in section 5124.01 of the Revised Code; 117374
117375

(E) Other programs as identified by the Director of Developmental Disabilities. 117376
117377

Section 259.90. EMPLOYMENT FIRST PILOT PROGRAM 117378

The foregoing appropriation item 322508, Employment First Pilot Program, shall be used to increase employment opportunities for individuals with developmental disabilities through the Employment First Initiative in accordance with section 5123.022 of the Revised Code. 117379
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Of the foregoing appropriation item, 322508, Employment First Pilot Program, the Director of Developmental Disabilities shall transfer, in each fiscal year, to the Rehabilitation Services Commission an amount agreed upon by the Director of Developmental Disabilities and the Administrator of the Rehabilitation Services Commission. The transfer shall be made via an intrastate transfer voucher. The transferred funds shall be used to support the Employment First Pilot Program. The Rehabilitation Services Commission shall use the funds transferred as state matching funds to obtain available federal grant dollars for vocational rehabilitation services. Any federal match dollars received by the Rehabilitation Services Commission shall be used for the pilot program. The Director of Developmental Disabilities and the Administrator of the Rehabilitation Services Commission shall 117384
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enter into an interagency agreement in accordance with section 117398
3304.181 of the Revised Code that will specify the 117399
responsibilities of each agency under the pilot program. Under the 117400
interagency agreement, the Rehabilitation Services Commission 117401
shall retain responsibility for eligibility determination, order 117402
of selection, plan approval, plan amendment, and release of vendor 117403
payments. 117404

The remainder of appropriation item 322508, Employment First 117405
Pilot Program, shall be used to develop a long term, sustainable 117406
system that places individuals with developmental disabilities in 117407
community employment, as defined in section 5126.01 of the Revised 117408
Code. 117409

Section 259.100. EMPLOYMENT FIRST TASKFORCE FUND 117410

If an employment first task force is established by the 117411
Director of Developmental Disabilities in accordance with section 117412
5123.023 of the Revised Code, the Director of Budget and 117413
Management shall establish an appropriation item from the 117414
Employment First Taskforce Fund for use by the Department of 117415
Developmental Disabilities to support the work of the task force. 117416
In fiscal year 2014 and fiscal year 2015, if an employment first 117417
task force is established, the Director of Developmental 117418
Disabilities shall certify to the Director of Budget and 117419
Management the appropriation amounts necessary for the Department 117420
of Developmental Disabilities to fulfill its obligation to support 117421
the work of the task force. Once the certification required under 117422
this section has been submitted and approved by the Director of 117423
Budget and Management, the appropriations established under this 117424
section are hereby appropriated in the amounts approved by the 117425
Director of Budget and Management. 117426

Section 259.110. TRANSFER TO OPERATING AND SERVICES FUND 117427

On July 1, 2013, or as soon as possible thereafter, the 117428
Director of Developmental Disabilities shall request the Director 117429
of Budget and Management to transfer the cash balance in the Home 117430
and Community-Based Services Fund (Fund 4K80) to the Operating and 117431
Services Fund (Fund 5GE0). Upon completion of the transfer, Fund 117432
4K80 is hereby abolished. The Director of Budget and Management 117433
shall cancel any existing encumbrances against appropriation item 117434
322604, Medicaid Waiver - State Match, and reestablish them 117435
against appropriation item 653606, ICF/MR and Waiver Match. The 117436
reestablished encumbrance amounts are hereby appropriated. 117437

Section 259.120. OPERATING AND SERVICES 117438

Of the foregoing appropriation item 320606, Operating and 117439
Services, \$100,000 in each fiscal year shall be provided to the 117440
Ohio Center for Autism and Low Incidence to establish a lifespan 117441
autism hub to support families and professionals. 117442

Section 259.130. TARGETED CASE MANAGEMENT SERVICES 117443

County boards of developmental disabilities shall pay the 117444
nonfederal portion of targeted case management costs to the 117445
Department of Developmental Disabilities. 117446

The Director of Developmental Disabilities and the Medicaid 117447
Director may enter into an interagency agreement under which the 117448
Department of Developmental Disabilities shall transfer cash from 117449
the Targeted Case Management Fund (Fund 5DJ0) to the Health 117450
Care/Medicaid Support and Recoveries Fund (Fund 5DL0) used by the 117451
Department of Medicaid in an amount equal to the nonfederal 117452
portion of the cost of targeted case management services paid by 117453
county boards. Under the agreement, the Department of Medicaid 117454
shall pay the total cost of targeted case management claims. The 117455
transfer shall be made using an intrastate transfer voucher. 117456

Section 259.140. WITHHOLDING OF FUNDS OWED THE DEPARTMENT	117457
If a county board of developmental disabilities does not	117458
fully pay any amount owed to the Department of Developmental	117459
Disabilities by the due date established by the Department, the	117460
Director of Developmental Disabilities may withhold the amount the	117461
county board did not pay from any amounts due to the county board.	117462
The Director may use any appropriation item or fund used by the	117463
Department to transfer cash to any other fund used by the	117464
Department in an amount equal to the amount owed the Department	117465
that the county board did not pay. Transfers under this section	117466
shall be made using an intrastate transfer voucher.	117467
Section 259.150. DEVELOPMENTAL CENTER BILLING FOR SERVICES	117468
Developmental centers of the Department of Developmental	117469
Disabilities may provide services to persons with mental	117470
retardation or developmental disabilities living in the community	117471
or to providers of services to these persons. The Department may	117472
develop a method for recovery of all costs associated with the	117473
provision of these services.	117474
Section 259.160. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER	117475
PHARMACY PROGRAMS	117476
The Director of Developmental Disabilities shall quarterly	117477
transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the	117478
Health Care/Medicaid Support and Recoveries Fund (Fund 5DL0) used	117479
by the Department of Medicaid, in an amount equal to the	117480
nonfederal share of Medicaid prescription drug claim costs for all	117481
developmental centers paid by the Department of Medicaid. The	117482
quarterly transfer shall be made using an intrastate transfer	117483
voucher.	117484
Section 259.170. NONFEDERAL MATCH FOR ACTIVE TREATMENT	117485

SERVICES 117486

Any county funds received by the Department of Developmental 117487
Disabilities from county boards of developmental disabilities for 117488
active treatment shall be deposited in the Developmental 117489
Disabilities Operating Fund (Fund 4890). 117490

Section 259.180. ODODD INNOVATIVE PILOT PROJECTS 117491

(A) In fiscal year 2014 and fiscal year 2015, the Director of 117492
Developmental Disabilities may authorize the continuation or 117493
implementation of one or more innovative pilot projects that, in 117494
the judgment of the Director, are likely to assist in promoting 117495
the objectives of Chapter 5123. or 5126. of the Revised Code. 117496
Subject to division (B) of this section and notwithstanding any 117497
provision of Chapters 5123. and 5126. of the Revised Code and any 117498
rule adopted under either chapter, a pilot project authorized by 117499
the Director may be continued or implemented in a manner 117500
inconsistent with one or more provisions of either chapter or one 117501
or more rules adopted under either chapter. Before authorizing a 117502
pilot program, the Director shall consult with entities interested 117503
in the issue of developmental disabilities, including the Ohio 117504
Provider Resource Association, Ohio Association of County Boards 117505
of Developmental Disabilities, Ohio Health Care Association/Ohio 117506
Centers for Intellectual Disabilities, and ARC of Ohio. 117507

(B) The Director may not authorize a pilot project to be 117508
implemented in a manner that would cause the state to be out of 117509
compliance with any requirements for a program funded in whole or 117510
in part with federal funds. 117511

Section 259.190. DEPARTMENT OF DEVELOPMENTAL DISABILITIES' 117512
APPROPRIATION ITEM STRUCTURE 117513

Upon request from the Director of Developmental Disabilities, 117514
the Director of Budget and Management may establish new funds, new 117515

appropriation items, and appropriations in order to support the 117516
transition to a new appropriation item structure in the Department 117517
of Developmental Disabilities' budget. Also, upon request of the 117518
Director of Developmental Disabilities, the Director of Budget and 117519
Management may transfer appropriations between GRF appropriation 117520
items, transfer cash between any funds used by the Department of 117521
Developmental Disabilities, abolish existing funds used by the 117522
Department of Developmental Disabilities, and cancel and 117523
reestablish encumbrances. Any establishment of new funds or 117524
appropriation items, any transfers of appropriations or cash, and 117525
any increases in appropriation under this section are subject to 117526
Controlling Board approval. 117527

Section 259.200. FISCAL YEAR 2014 MEDICAID PAYMENT RATES FOR 117528
ICFs/MR 117529

(A) As used in this section: 117530

"Capped per diem rate" means the per Medicaid day payment 117531
rate calculated for an ICF/MR under division (D) of this section. 117532

"Change of operator," "entering operator," "exiting 117533
operator," "ICF/MR," "ICF/MR services," "Medicaid days," 117534
"provider," and "provider agreement" have the same meanings as in 117535
section 5124.01 of the Revised Code. 117536

"Franchise permit fee" means the fee imposed by sections 117537
5168.60 to 5168.71 of the Revised Code. 117538

"Modified per diem rate" means the per Medicaid day payment 117539
rate calculated for an ICF/MR under division (C) of this section. 117540

"Unmodified per diem rate" means the per Medicaid day payment 117541
rate calculated for an ICF/MR under Chapter 5124. of the Revised 117542
Code. 117543

(B) This section applies to each ICF/MR provider to which 117544
either of the following applies: 117545

(1) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2013, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2014.

(2) The ICF/MR undergoes a change of operator that takes effect during fiscal year 2014, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on the day immediately preceding the effective date of the change of operator, and the entering operator has a valid Medicaid provider agreement for the ICF/MR during fiscal year 2014.

(C) An ICF/MR's total modified per diem rate for fiscal year 2014 shall be the ICF/MR's total unmodified per diem rate for that fiscal year with the following modifications:

(1) In place of the inflation adjustment otherwise made under section 5124.23 of the Revised Code, the ICF/MR's desk-reviewed, actual, allowable, per diem other protected costs, excluding the franchise permit fee, from calendar year 2012 shall be multiplied by 1.0123.

(2) In place of the maximum cost per case-mix unit established for the ICF/MR's peer group under division (C) of section 5124.23 of the Revised Code, the ICF/MR's maximum costs per case-mix unit shall be the following:

(a) In the case of an ICF/MR with more than eight beds, \$108.21;

(b) In the case of an ICF/MR with eight or fewer beds, \$102.21.

(3) In place of the inflation adjustment otherwise calculated under division (D) of section 5124.19 of the Revised Code for the purpose of division (A)(1)(b) of that section, an inflation adjustment of 1.0123 shall be used.

(4) In place of the maximum rate for indirect care costs

established for the ICF/MR's peer group under division (C) of 117576
section 5124.21 of the Revised Code, the maximum rate for indirect 117577
care costs for the ICF/MR's peer group shall be the following: 117578

(a) In the case of an ICF/MR with more than eight beds, 117579
\$68.98; 117580

(b) In the case of an ICF/MR with eight or fewer beds, 117581
\$59.60. 117582

(5) In place of the inflation adjustment otherwise calculated 117583
under division (D)(1) of section 5124.21 of the Revised Code for 117584
the purpose of division (B)(1) of that section only, an inflation 117585
adjustment of 1.0123 shall be used. 117586

(6) In place of the efficiency incentive otherwise calculated 117587
under division (B)(2) of section 5124.21 of the Revised Code, the 117588
ICF/MR's efficiency incentive for indirect care costs shall be the 117589
following: 117590

(a) In the case of an ICF/MR with more than eight beds, 117591
\$3.69; 117592

(b) In the case of an ICF/MR with eight or fewer beds, \$3.19. 117593

(7) The ICF/MR's efficiency incentive for capital costs, as 117594
determined under division (E) of section 5124.17 of the Revised 117595
Code, shall be reduced by 50%. 117596

(D) An ICF/MR's total capped per diem rate for fiscal year 117597
2014 shall be the ICF/MR's total unmodified per diem rate for that 117598
fiscal year reduced by the percentage by which the mean total 117599
unmodified per diem rates for all ICFs/MR in this state for fiscal 117600
year 2014, weighted by May 2013 Medicaid days and calculated as of 117601
July 1, 2013, exceeds \$282.84. 117602

(E) Except as otherwise provided by this section, an ICF/MR 117603
provider to which this section applies shall be paid, for ICF/MR 117604
services the ICF/MR provides during fiscal year 2014, a total per 117605

diem rate determined as follows: 117606

(1) Add the ICF/MR's total modified per diem rate to the 117607
ICF/MR's total capped per diem rate; 117608

(2) Divide the amount determined under division (E)(1) of 117609
this section by two. 117610

(F) If the mean total per diem rate for all ICFs/MR to which 117611
this section applies, weighted by May 2013 Medicaid days and 117612
determined under division (E) of this section as of July 1, 2013, 117613
is other than \$282.84, the Department of Developmental 117614
Disabilities shall adjust, for fiscal year 2014, the total per 117615
diem rate for each ICF/MR to which this section applies by a 117616
percentage that is equal to the percentage by which the mean total 117617
per diem rate is greater or less than \$282.84. 117618

(G) If the United States Centers for Medicare and Medicaid 117619
Services requires that the franchise permit fee be reduced or 117620
eliminated, the Department of Developmental Disabilities shall 117621
reduce the amount it pays ICF/MR providers under this section as 117622
necessary to reflect the loss to the state of the revenue and 117623
federal financial participation generated from the franchise 117624
permit fee. 117625

(H) The Department of Developmental Disabilities shall follow 117626
this section in determining the rate to be paid ICF/MR providers 117627
subject to this section notwithstanding anything to the contrary 117628
in Chapter 5124. of the Revised Code. 117629

Of the foregoing appropriation items 653407, Medicaid 117630
Services, 653606, ICF/MR and Waiver Match, and 653653, ICF/MR, 117631
portions shall be used to pay the Medicaid payment rates 117632
determined in accordance with this section for ICF/MR services 117633
provided during fiscal year 2014. 117634

Section 259.210. FISCAL YEAR 2015 MEDICAID PAYMENT RATES FOR 117635

ICFs/MR 117636

(A) As used in this section: 117637

"Capped per diem rate" means the per Medicaid day payment 117638
rate calculated for an ICF/MR under division (D) of this section. 117639

"Change of operator," "entering operator," "exiting 117640
operator," "ICF/MR," "ICF/MR services," "Medicaid days," 117641
"provider," and "provider agreement" have the same meanings as in 117642
section 5124.01 of the Revised Code. 117643

"Franchise permit fee" means the fee imposed by sections 117644
5168.60 to 5168.71 of the Revised Code. 117645

"Modified per diem rate" means the per Medicaid day payment 117646
rate calculated for an ICF/MR under division (C) of this section. 117647

"Unmodified per diem rate" means the per Medicaid day payment 117648
rate calculated for an ICF/MR under Chapter 5124. of the Revised 117649
Code. 117650

(B) This section applies to each ICF/MR provider to which 117651
either of the following applies: 117652

(1) The provider has a valid Medicaid provider agreement for 117653
the ICF/MR on June 30, 2014, and a valid Medicaid provider 117654
agreement for the ICF/MR during fiscal year 2015. 117655

(2) The ICF/MR undergoes a change of operator that takes 117656
effect during fiscal year 2015, the exiting operator has a valid 117657
Medicaid provider agreement for the ICF/MR on the day immediately 117658
preceding the effective date of the change of operator, and the 117659
entering operator has a valid Medicaid provider agreement for the 117660
ICF/MR during fiscal year 2015. 117661

(C) An ICF/MR's total modified per diem rate for fiscal year 117662
2015 shall be the ICF/MR's total unmodified per diem rate for that 117663
fiscal year with the following modifications: 117664

(1) In place of the inflation adjustment otherwise made under section 5124.23 of the Revised Code, the ICF/MR's desk-reviewed, actual, allowable, per diem other protected costs, excluding the franchise permit fee, from calendar year 2013 shall be multiplied by 1.0123.

(2) In place of the maximum cost per case-mix unit established for the ICF/MR's peer group under division (C) of section 5124.19 of the Revised Code, the ICF/MR's maximum costs per case-mix unit shall be the following:

(a) In the case of an ICF/MR with more than eight beds, \$108.21;

(b) In the case of an ICF/MR with eight or fewer beds, \$102.21.

(3) In place of the inflation adjustment otherwise calculated under division (D) of section 5124.19 of the Revised Code for the purpose of division (A)(1)(b) of that section, an inflation adjustment of 1.0123 shall be used.

(4) In place of the maximum rate for indirect care costs established for the ICF/MR's peer group under division (C) of section 5124.21 of the Revised Code, the maximum rate for indirect care costs for the ICF/MR's peer group shall be the following:

(a) In the case of an ICF/MR with more than eight beds, \$68.98;

(b) In the case of an ICF/MR with eight or fewer beds, \$59.60.

(5) In place of the inflation adjustment otherwise calculated under divisions (D)(1) and (2) of section 5124.21 of the Revised Code for the purpose of division (B)(1) of that section only, an inflation adjustment of 1.0123 shall be used.

(6) In place of the efficiency incentive otherwise calculated

under division (B)(2) of section 5124.21 of the Revised Code, the 117695
ICF/MR's efficiency incentive for indirect care costs shall be the 117696
following: 117697

(a) In the case of an ICF/MR with more than eight beds, 117698
\$3.69; 117699

(b) In the case of an ICF/MR with eight or fewer beds, \$3.19. 117700

(7) The ICF/MR's efficiency incentive for capital costs, as 117701
determined under division (E) of section 5124.17 of the Revised 117702
Code, shall be reduced by 50%. 117703

(D) An ICF/MR's total capped per diem rate for fiscal year 117704
2015 shall be the ICF/MR's total unmodified per diem rate for that 117705
fiscal year reduced by the percentage by which the mean total 117706
unmodified per diem rates for all ICFs/MR in this state for fiscal 117707
year 2015, weighted by May 2014 Medicaid days and calculated as of 117708
July 1, 2014, exceeds \$282.77. 117709

(E) Except as otherwise provided by this section, an ICF/MR 117710
provider to which this section applies shall be paid, for ICF/MR 117711
services the ICF/MR provides during fiscal year 2015, a total per 117712
diem rate determined as follows: 117713

(1) Add the ICF/MR's total modified per diem rate to the 117714
ICF/MR's total capped per diem rate; 117715

(2) Divide the amount determined under division (E)(1) of 117716
this section by two. 117717

(F) If the mean total per diem rate for all ICFs/MR to which 117718
this section applies, weighted by May 2014 Medicaid days and 117719
determined under division (E) of this section as of July 1, 2014, 117720
is other than \$282.77, the Department of Developmental 117721
Disabilities shall adjust, for fiscal year 2015, the total per 117722
diem rate for each ICF/MR to which this section applies by a 117723
percentage that is equal to the percentage by which the mean total 117724

per diem rate is greater or less than \$282.77. 117725

(G) If the United States Centers for Medicare and Medicaid 117726
Services requires that the franchise permit fee be reduced or 117727
eliminated, the Department of Developmental Disabilities shall 117728
reduce the amount it pays ICF/MR providers under this section as 117729
necessary to reflect the loss to the state of the revenue and 117730
federal financial participation generated from the franchise 117731
permit fee. 117732

(H) The Department of Developmental Disabilities shall follow 117733
this section in determining the rate to be paid ICF/MR providers 117734
subject to this section notwithstanding anything to the contrary 117735
in Chapter 5124. of the Revised Code. 117736

Of the foregoing appropriation items 653407, Medicaid 117737
Services, 653606, ICF/MR and Waiver Match, and 653653, ICF/MR, 117738
portions shall be used to pay the Medicaid payment rates 117739
determined in accordance with this section for ICF/MR services 117740
provided during fiscal year 2015. 117741

Section 259.220. TRANSFER OF FUNDS FOR OUTLIER SERVICES 117742
PROVIDED TO PEDIATRIC VENTILATOR-DEPENDENT ICF/MR RESIDENTS 117743

As used in this section, "ICF/MR" and "ICF/MR services" have 117744
the same meanings as in section 5124.01 of the Revised Code. 117745

Each quarter during fiscal year 2015, the Director of 117746
Developmental Disabilities shall certify to the Director of Budget 117747
and Management the amount needed to pay the nonfederal share of 117748
the costs of the Medicaid rate add-on paid to ICFs/MR pursuant to 117749
section 5124.25 of the Revised Code for providing outlier ICF/MR 117750
services to residents who qualify for the services and are 117751
transferred to ICFs/MR from hospitals at which they receive 117752
ventilator services at the time of their transfer to the ICFs/MR. 117753

On receipt of a certification, the Director of Budget and 117754

Management shall transfer appropriations equaling the certified 117755
amount from appropriation item 651525, Medicaid/Health Care 117756
Services, to appropriation item 653407, Medicaid Services, and, in 117757
addition, shall reduce the appropriation in 651525, 117758
Medicaid/Health Care Services, by the corresponding federal share. 117759

If receipts credited to the Developmental Center and 117760
Residential Facility Services and Support Fund (Fund 3A40), used 117761
by the Department of Developmental Disabilities, exceed the 117762
amounts appropriated in appropriation item 653653, ICF/MR, the 117763
Director of Developmental Disabilities may request the Director of 117764
Budget and Management to authorize expenditures from the fund in 117765
excess of the amounts appropriated. Upon approval of the Director 117766
of Budget and Management, the additional amounts are hereby 117767
appropriated. 117768

Section 259.230. ICF/MR MEDICAID RATE WORKGROUP 117769

As used in this section, "ICF/MR," "ICF/MR services," and 117770
"Medicaid-certified capacity" have the same meanings as in section 117771
5124.01 of the Revised Code. 117772

For the purpose of assisting the Department of Developmental 117773
Disabilities during fiscal year 2014 and fiscal year 2015 with an 117774
evaluation of revisions to the formula used to determine Medicaid 117775
payment rates for ICF/MR services, the Department shall retain the 117776
workgroup that was created to assist with the study required by 117777
Section 309.30.80 of Am. Sub. H.B. 153 of the 129th General 117778
Assembly. In conducting the evaluation, the Department and 117779
workgroup shall do both of the following: 117780

(A) Focus primarily on the service needs of individuals with 117781
complex challenges that ICFs/MR are able to meet; 117782

(B) Pursue the goal of reducing the Medicaid-certified 117783
capacity of individual ICFs/MR and the total number of ICF/MR beds 117784

in the state for the purpose of increasing the service choices and 117785
community integration of individuals eligible for ICF/MR services. 117786

Section 259.240. NONFEDERAL SHARE OF ICF/MR SERVICES 117787

(A) As used in this section, "ICF/MR," "ICF/MR services," and 117788
"Medicaid-certified capacity" have the same meanings as in section 117789
5124.01 of the Revised Code. 117790

(B) The Director of Developmental Disabilities shall pay the 117791
nonfederal share of a claim for ICF/MR services using funds 117792
specified in division (C) of this section if all of the following 117793
apply: 117794

(1) Medicaid covers the ICF/MR services. 117795

(2) The ICF/MR services are provided to a Medicaid recipient 117796
to whom both of the following apply: 117797

(a) The Medicaid recipient is eligible for the ICF/MR 117798
services; 117799

(b) The Medicaid recipient does not occupy a bed in the 117800
ICF/MR that used to be included in the Medicaid-certified capacity 117801
of another ICF/MR certified by the Director of Health before June 117802
1, 2003. 117803

(3) The ICF/MR services are provided by an ICF/MR whose 117804
Medicaid certification by the Director of Health was initiated or 117805
supported by a county board of developmental disabilities. 117806

(4) The provider of the ICF/MR services has a valid Medicaid 117807
provider agreement for the services for the time that the services 117808
are provided. 117809

(C) When required by division (B) of this section to pay the 117810
nonfederal share of a claim, the Director of Developmental 117811
Disabilities shall use the following funds to pay the claim: 117812

(1) Funds available from appropriation item 322501, County 117813

Boards Subsidies, that the Director allocates to the county board 117814
that initiated or supported the Medicaid certification of the 117815
ICF/MR that provided the ICF/MR services for which the claim is 117816
made; 117817

(2) If the amount of funds used pursuant to division (C)(1) 117818
of this section is insufficient to pay the claim in full, an 117819
amount of funds that are needed to make up the difference and 117820
available from amounts the Director allocates to other county 117821
boards from appropriation item 322501, County Boards Subsidies. 117822

Section 259.250. FY 2014 AND FY 2015 RATES FOR CERTAIN 117823
HOMEMAKER/PERSONAL CARE SERVICES UNDER IO WAIVER 117824

(A) As used in this section: 117825

"Converted facility" means an ICF/MR, or former ICF/MR, that 117826
converted some or all of its beds to providing home and 117827
community-based services under the IO Waiver pursuant to section 117828
5124.60 of the Revised Code. 117829

"Developmental center" and "ICF/MR" have the same meanings as 117830
in section 5124.01 of the Revised Code. 117831

"H.B. 153 increased Medicaid payment rate" means the total 117832
Medicaid payment rate for each fifteen minutes of routine 117833
homemaker/personal care services that was set by Section 263.20.70 117834
of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 117835
Am. Sub. H.B. 487 of the 129th General Assembly. 117836

"IO Waiver" means the Medicaid waiver component, as defined 117837
in section 5166.01 of the Revised Code, known as Individual 117838
Options. 117839

"Public hospital" has the same meaning as in section 5122.01 117840
of the Revised Code. 117841

"Regular Medicaid payment rate" means the total Medicaid 117842
payment rate for each fifteen minutes of routine 117843

homemaker/personal care services that are available under the IO 117844
Waiver and to which this section does not apply. 117845

(B) This section applies to routine homemaker/personal care 117846
services to which both of the following apply: 117847

(1) The services are provided to an IO Waiver enrollee to 117848
whom all of the following apply: 117849

(a) The enrollee began to receive the services from the 117850
provider on or after July 1, 2011. 117851

(b) The enrollee resided in a developmental center, converted 117852
facility, or public hospital immediately before enrolling in the 117853
IO Wavier. 117854

(c) The Director of Developmental Disabilities has determined 117855
that the enrollee's special circumstances (including the 117856
enrollee's diagnosis, service needs, or length of stay at the 117857
developmental center, converted facility, or public hospital) 117858
warrants paying the Medicaid payment rate authorized by this 117859
section. 117860

(2) The provider of the services has a valid Medicaid 117861
provider agreement for the services for the period during which 117862
the enrollee receives the services from the provider. 117863

(C) The total Medicaid payment rate for each fifteen minutes 117864
of routine homemaker/personal care services to which this section 117865
applies and that are provided during the period beginning July 1, 117866
2013, and ending June 30, 2015, shall be the greater of the 117867
following: 117868

(1) The H.B. 153 increased Medicaid payment rate; 117869

(2) The regular Medicaid payment rate in effect at the time 117870
the services are provided. 117871

(D) Of the foregoing appropriation items 653407, Medicaid 117872
Services, and 653639, Medicaid Waiver Services, portions shall be 117873

used to pay the Medicaid payment rates determined in accordance 117874
with this section for certain homemaker/personal care services 117875
under the IO Waiver. 117876

Section 259.260. UPDATING AUTHORIZING STATUTE CITATIONS 117877

As used in this section, "authorizing statute" means a 117878
Revised Code section or provision of a Revised Code section that 117879
is cited in the Ohio Administrative Code as the statute that 117880
authorizes the adoption of a rule. 117881

The Director of Developmental Disabilities is not required to 117882
amend any rule for the sole purpose of updating the citation in 117883
the Ohio Administrative Code to the rule's authorizing statute to 117884
reflect that this act renumbers the authorizing statute or 117885
relocates it to another Revised Code section. Such citations shall 117886
be updated as the Director amends the rules for other purposes. 117887

Section 259.270. REASON FOR THE REPEAL OF R.C. 5111.236 117888

This act repeals section 5111.236 of the Revised Code to 117889
carry out the intent of the Governor as indicated in the veto 117890
message regarding Am. Sub. H.B. 1 of the 128th General Assembly 117891
transmitted to the Clerk of the House of Representatives on July 117892
17, 2009. The actual veto removed the section from the title and 117893
enacting clause of H.B. 1 and an earmark related to the section. 117894
However, the actual veto inadvertently showed only division (C) of 117895
the section, rather than the entire section, as being vetoed. 117896

Section 261.10. OBD OHIO BOARD OF DIETETICS 117897

General Services Fund Group				117898
4K90 860609 Operating Expenses	\$	330,592	\$ 342,592	117899
TOTAL GSF General Services Fund				117900
Group	\$	330,592	\$ 342,592	117901
TOTAL ALL BUDGET FUND GROUPS	\$	330,592	\$ 342,592	117902

Section 263.10. EDU DEPARTMENT OF EDUCATION				117904
General Revenue Fund				117905
GRF 200321	Operating Expenses	\$ 13,142,780	\$ 13,142,780	117906
GRF 200408	Early Childhood Education	\$ 23,268,341	\$ 25,268,341	117907
GRF 200420	Information Technology Development and Support	\$ 4,241,296	\$ 4,241,296	117908
GRF 200421	Alternative Education Programs	\$ 7,403,998	\$ 7,403,998	117909
GRF 200422	School Management Assistance	\$ 3,000,000	\$ 3,000,000	117910
GRF 200424	Policy Analysis	\$ 328,558	\$ 328,558	117911
GRF 200425	Tech Prep Consortia Support	\$ 260,542	\$ 260,542	117912
GRF 200426	Ohio Educational Computer Network	\$ 29,625,569	\$ 19,625,569	117913
GRF 200427	Academic Standards	\$ 3,800,000	\$ 3,800,000	117914
GRF 200437	Student Assessment	\$ 55,895,000	\$ 75,895,000	117915
GRF 200439	Accountability/Report Cards	\$ 3,500,000	\$ 3,750,000	117916
GRF 200442	Child Care Licensing	\$ 827,140	\$ 827,140	117917
GRF 200446	Education Management Information System	\$ 6,833,070	\$ 6,833,070	117918
GRF 200447	GED Testing	\$ 879,551	\$ 879,551	117919
GRF 200448	Educator Preparation	\$ 850,000	\$ 850,000	117920
GRF 200455	Community Schools and Choice Programs	\$ 2,438,685	\$ 2,491,395	117921
GRF 200464	General Technology Operations	\$ 192,097	\$ 192,097	117922
GRF 200465	Technology Integration and Professional	\$ 1,778,879	\$ 1,778,879	117923

		Development				
GRF	200502	Pupil Transportation	\$	505,013,527	\$	518,513,527 117924
GRF	200505	School Lunch Match	\$	9,100,000	\$	9,100,000 117925
GRF	200511	Auxiliary Services	\$	130,547,795	\$	134,881,982 117926
GRF	200532	Nonpublic	\$	58,973,586	\$	60,931,509 117927
		Administrative Cost				
		Reimbursement				
GRF	200540	Special Education	\$	156,871,292	\$	157,871,292 117928
		Enhancements				
GRF	200545	Career-Technical	\$	9,067,999	\$	9,067,999 117929
		Education Enhancements				
GRF	200550	Foundation Funding	\$	5,810,107,929	\$	6,003,192,692 117930
GRF	200901	Property Tax	\$	1,138,800,000	\$	1,184,352,000 117931
		Allocation - Education				
TOTAL GRF		General Revenue Fund	\$	7,976,747,634	\$	8,248,479,217 117932
		General Services Fund Group				117933
1380	200606	Information	\$	6,850,090	\$	6,850,090 117934
		Technology				
		Development and				
		Support				
4520	200638	Fees and Refunds	\$	500,000	\$	500,000 117935
4L20	200681	Teacher Certification	\$	8,313,762	\$	13,658,274 117936
		and Licensure				
5960	200656	Ohio Career	\$	529,761	\$	529,761 117937
		Information System				
5H30	200687	School District	\$	25,000,000	\$	25,000,000 117938
		Solvency Assistance				
5KX0	200691	Ohio School	\$	487,419	\$	487,419 117939
		Sponsorship Program				
5KY0	200693	Community Schools	\$	83,000	\$	83,000 117940
		Temporary Sponsorship				
TOTAL GSF		General Services				117941
Fund Group			\$	41,764,032	\$	47,108,544 117942

Federal Special Revenue Fund Group					117943	
3090 200601	Neglected and	\$	2,168,642	\$	2,168,642	117944
	Delinquent Education					
3670 200607	School Food Services	\$	8,200,664	\$	8,700,149	117945
3700 200624	Education of	\$	1,530,000	\$	1,530,000	117946
	Exceptional Children					
3AF0 200603	Schools Medicaid	\$	750,000	\$	750,000	117947
	Administrative Claims					
3AN0 200671	School Improvement	\$	20,400,000	\$	20,400,000	117948
	Grants					
3BK0 200628	Longitudinal Data	\$	1,250,000	\$	0	117949
	Systems					
3C50 200661	Early Childhood	\$	14,554,749	\$	14,554,749	117950
	Education					
3CG0 200646	Teacher Incentive	\$	15,125,588	\$	15,183,285	117951
3D20 200667	Math Science	\$	6,000,000	\$	6,000,000	117952
	Partnerships					
3EC0 200653	Teacher Incentive -	\$	1,300,000	\$	0	117953
	Federal Stimulus					
3EH0 200620	Migrant Education	\$	2,900,000	\$	2,900,000	117954
3EJ0 200622	Homeless Children	\$	2,600,000	\$	2,600,000	117955
	Education					
3EK0 200637	Advanced Placement	\$	450,000	\$	450,000	117956
3EN0 200655	State Data Systems -	\$	1,250,000	\$	0	117957
	Federal Stimulus					
3FD0 200665	Race to the Top	\$	136,000,000	\$	58,074,046	117958
3FN0 200672	Early Learning	\$	7,040,000	\$	7,040,000	117959
	Challenge - Race to					
	the Top					
3GE0 200674	Summer Food Service	\$	13,596,000	\$	14,003,800	117960
	Program					
3GF0 200675	Miscellaneous	\$	700,000	\$	700,000	117961
	Nutrition Grants					

3GG0	200676	Fresh Fruit and Vegetable Program	\$	4,738,000	\$	4,880,140	117962
3H90	200605	Head Start Collaboration Project	\$	225,000	\$	225,000	117963
3L60	200617	Federal School Lunch	\$	350,608,075	\$	361,126,273	117964
3L70	200618	Federal School Breakfast	\$	108,480,590	\$	112,819,813	117965
3L80	200619	Child/Adult Food Programs	\$	106,992,650	\$	110,202,428	117966
3L90	200621	Career-Technical Education Basic Grant	\$	44,663,900	\$	44,663,900	117967
3M00	200623	ESEA Title 1A	\$	560,000,000	\$	560,000,000	117968
3M20	200680	Individuals with Disabilities Education Act	\$	443,170,050	\$	443,170,050	117969
3T40	200613	Public Charter Schools	\$	500,000	\$	0	117970
3Y20	200688	21st Century Community Learning Centers	\$	48,201,810	\$	50,611,900	117971
3Y60	200635	Improving Teacher Quality	\$	101,900,000	\$	101,900,000	117972
3Y70	200689	English Language Acquisition	\$	9,700,000	\$	9,700,000	117973
3Y80	200639	Rural and Low Income Technical Assistance	\$	3,300,000	\$	3,300,000	117974
3Z20	200690	State Assessments	\$	11,800,000	\$	11,800,000	117975
3Z30	200645	Consolidated Federal Grant Administration	\$	7,949,280	\$	7,949,280	117976
TOTAL FED Federal Special							117977
Revenue Fund Group			\$	2,038,044,998	\$	1,977,403,455	117978
State Special Revenue Fund Group							117979
4540	200610	GED Testing	\$	1,050,000	\$	250,000	117980

4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000	117981
4R70	200695	Indirect Operational Support	\$	6,600,000	\$	6,600,000	117982
4V70	200633	Interagency Program Support	\$	717,725	\$	717,725	117983
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910	117984
5BJ0	200626	Half-Mill Maintenance Equalization	\$	19,000,000	\$	20,000,000	117985
5MM0	200677	Child Nutrition Refunds	\$	500,000	\$	500,000	117986
5T30	200668	Gates Foundation Grants	\$	200,000	\$	153,000	117987
5U20	200685	National Education Statistics	\$	300,000	\$	300,000	117988
6200	200615	Educational Improvement Grants	\$	300,000	\$	300,000	117989
TOTAL SSR State Special Revenue							117990
Fund Group			\$	53,996,635	\$	54,149,635	117991
Lottery Profits Education Fund Group							117992
7017	200612	Foundation Funding	\$	775,000,000	\$	850,000,000	117993
7017	200648	Straight A Fund	\$	50,000,000	\$	100,000,000	117994
7017	200666	EdChoice Expansion	\$	8,500,000	\$	17,000,000	117995
7017	200684	Community School Facilities	\$	7,500,000	\$	7,500,000	117996
TOTAL LPE Lottery Profits							117997
Education Fund Group			\$	841,000,000	\$	974,500,000	117998
Revenue Distribution Fund Group							117999
7047	200909	School District Property Tax Replacement-Business	\$	482,000,000	\$	482,000,000	118000
7053	200900	School District	\$	28,000,000	\$	28,000,000	118001

Property Tax			
Replacement-Utility			
TOTAL RDF Revenue Distribution			118002
Fund Group	\$ 510,000,000	\$ 510,000,000	118003
TOTAL ALL BUDGET FUND GROUPS	\$11,461,553,299	\$11,811,640,851	118004

Section 263.20. OPERATING EXPENSES 118006

A portion of the foregoing appropriation item 200321, 118007
Operating Expenses, shall be used by the Department of Education 118008
to provide matching funds under 20 U.S.C. 2321. 118009

EARLY CHILDHOOD EDUCATION 118010

The Department of Education shall distribute the foregoing 118011
appropriation item 200408, Early Childhood Education, to pay the 118012
costs of early childhood education programs. 118013

(A) As used in this section: 118014

(1) "Provider" means a city, local, exempted village, or 118015
joint vocational school district, or an educational service 118016
center. 118017

(2) In the case of a city, local, or exempted village school 118018
district, "new eligible provider" means a district that did not 118019
receive state funding for Early Childhood Education in the 118020
previous fiscal year or demonstrates a need for early childhood 118021
programs as defined in division (D) of this section. 118022

(3) "Eligible child" means a child who is at least three 118023
years of age as of the district entry date for kindergarten, is 118024
not of the age to be eligible for kindergarten, and whose family 118025
earns not more than two hundred per cent of the federal poverty 118026
guidelines as defined in division (A)(3) of section 5101.46 of the 118027
Revised Code. Children with an Individualized Education Program 118028
and where the Early Childhood Education program is the least 118029
restrictive environment may be enrolled on their third birthday. 118030

(4) "Early learning program standards" means early learning program standards for school readiness developed by the Department to assess the operation of early learning programs.

(B) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve eligible children.

(C) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program standards.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2014, the Department shall distribute funds first to recipients of funds for early childhood education programs under Section 267.10.10 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly, in the previous fiscal year and the balance to new eligible providers of early childhood education programs under this section or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2015, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the balance to new eligible providers or to existing providers to serve more eligible children as outlined under division (E) of this section or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

(E) The Department shall distribute any new or remaining funding to existing providers of early childhood education programs or any new eligible providers in an effort to invest in high quality early childhood programs where there is a need as determined by the Department. The Department shall distribute the new or remaining funds to existing providers of early childhood education programs or any new eligible providers to serve additional eligible children based on community economic disadvantage, limited access to high quality preschool or childcare services, and demonstration of high quality preschool services as determined by the Department using new metrics developed pursuant to Ohio's Race to the Top—Early Learning Challenge Grant, awarded to the Department in December 2011.

Awards under divisions (D) and (E) of this section shall be distributed on a per-pupil basis, and in accordance with division (I) of this section. The Department may adjust the per-pupil amount so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services on the first day of December or the business day closest to that date equals the amount allocated under this section.

(F) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (K) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program standards. The approved

provider shall administer and use such property and funds for the 118095
purposes specified. 118096

(G) The Department may examine a provider's financial and 118097
program records. If the financial practices of the program are not 118098
in accordance with standard accounting principles or do not meet 118099
financial standards outlined under division (F) of this section, 118100
or if the program fails to substantially meet the early learning 118101
program standards, meet a quality rating level in the tiered 118102
quality rating and improvement system developed under section 118103
5104.30 of the Revised Code as prescribed by the Department, or 118104
exhibits below average performance as measured against the 118105
standards, the early childhood education program shall propose and 118106
implement a corrective action plan that has been approved by the 118107
Department. The approved corrective action plan shall be signed by 118108
the chief executive officer and the executive of the official 118109
governing body of the provider. The corrective action plan shall 118110
include a schedule for monitoring by the Department. Such 118111
monitoring may include monthly reports, inspections, a timeline 118112
for correction of deficiencies, and technical assistance to be 118113
provided by the Department or obtained by the early childhood 118114
education program. The Department may withhold funding pending 118115
corrective action. If an early childhood education program fails 118116
to satisfactorily complete a corrective action plan, the 118117
Department may deny expansion funding to the program or withdraw 118118
all or part of the funding to the program and establish a new 118119
eligible provider through a selection process established by the 118120
Department. 118121

(H) Each early childhood education program shall do all of 118122
the following: 118123

(1) Meet teacher qualification requirements prescribed by 118124
section 3301.311 of the Revised Code; 118125

(2) Align curriculum to the early learning content standards 118126

developed by the Department; 118127

(3) Meet any child or program assessment requirements 118128
prescribed by the Department; 118129

(4) Require teachers, except teachers enrolled and working to 118130
obtain a degree pursuant to section 3301.311 of the Revised Code, 118131
to attend a minimum of twenty hours every two years of 118132
professional development as prescribed by the Department; 118133

(5) Document and report child progress as prescribed by the 118134
Department; 118135

(6) Meet and report compliance with the early learning 118136
program standards as prescribed by the Department; 118137

(7) Participate in the tiered quality rating and improvement 118138
system developed under section 5104.30 of the Revised Code. 118139
Effective July 1, 2016, all programs shall be rated through the 118140
system. 118141

(I) Per-pupil funding for programs subject to this section 118142
shall be sufficient to provide eligible children with services for 118143
a standard early childhood schedule which shall be defined in this 118144
section as a minimum of twelve and one-half hours per school week 118145
as defined in section 3313.62 of the Revised Code for the minimum 118146
school year as defined in sections 3313.48, 3313.481, and 3313.482 118147
of the Revised Code. Nothing in this section shall be construed to 118148
prohibit program providers from utilizing other funds to serve 118149
eligible children in programs that exceed the twelve and one-half 118150
hours per week or that exceed the minimum school year. For any 118151
provider for which a standard early childhood education schedule 118152
creates a hardship or for which the provider shows evidence that 118153
the provider is working in collaboration with a preschool special 118154
education program, the provider may submit a waiver to the 118155
Department requesting an alternate schedule. If the Department 118156
approves a waiver for an alternate schedule that provides services 118157

for less time than the standard early childhood education 118158
schedule, the Department may reduce the provider's annual 118159
allocation proportionately. Under no circumstances shall an annual 118160
allocation be increased because of the approval of an alternate 118161
schedule. 118162

(J) Each provider shall develop a sliding fee scale based on 118163
family incomes and shall charge families who earn more than two 118164
hundred per cent of the federal poverty guidelines, as defined in 118165
division (A)(3) of section 5101.46 of the Revised Code, for the 118166
early childhood education program. 118167

The Department shall conduct an annual survey of each 118168
provider to determine whether the provider charges families 118169
tuition or fees, the amount families are charged relative to 118170
family income levels, and the number of families and students 118171
charged tuition and fees for the early childhood program. 118172

(K) If an early childhood education program voluntarily 118173
waives its right for funding, or has its funding eliminated for 118174
not meeting financial standards or the early learning program 118175
standards, the provider shall transfer control of title to 118176
property, equipment, and remaining supplies obtained through the 118177
program to providers designated by the Department and return any 118178
unexpended funds to the Department along with any reports 118179
prescribed by the Department. The funding made available from a 118180
program that waives its right for funding or has its funding 118181
eliminated or reduced may be used by the Department for new grant 118182
awards or expansion grants. The Department may award new grants or 118183
expansion grants to eligible providers who apply. The eligible 118184
providers who apply must do so in accordance with the selection 118185
process established by the Department. 118186

(L) Eligible expenditures for the Early Childhood Education 118187
Program shall be claimed each fiscal year to help meet the state's 118188
TANF maintenance of effort requirement. The Superintendent of 118189

Public Instruction and the Director of Job and Family Services 118190
shall enter into an interagency agreement to carry out the 118191
requirements under this division, which shall include developing 118192
reporting guidelines for these expenditures. 118193

Section 263.30. INFORMATION TECHNOLOGY DEVELOPMENT AND 118194
SUPPORT 118195

The foregoing appropriation item 200420, Information 118196
Technology Development and Support, shall be used to support the 118197
development and implementation of information technology solutions 118198
designed to improve the performance and services of the Department 118199
of Education. Funds may be used for personnel, maintenance, and 118200
equipment costs related to the development and implementation of 118201
these technical system projects. Implementation of these systems 118202
shall allow the Department to provide greater levels of assistance 118203
to school districts and to provide more timely information to the 118204
public, including school districts, administrators, and 118205
legislators. Funds may also be used to support data-driven 118206
decision-making and differentiated instruction, as well as to 118207
communicate academic content standards and curriculum models to 118208
schools through web-based applications. 118209

Section 263.40. ALTERNATIVE EDUCATION PROGRAMS 118210

The foregoing appropriation item 200421, Alternative 118211
Education Programs, shall be used for the renewal of successful 118212
implementation grants and for competitive matching grants to 118213
school districts for alternative educational programs for existing 118214
and new at-risk and delinquent youth. Programs shall be focused on 118215
youth in one or more of the following categories: those who have 118216
been expelled or suspended, those who have dropped out of school 118217
or who are at risk of dropping out of school, those who are 118218
habitually truant or disruptive, or those on probation or on 118219

parole from a Department of Youth Services facility. Grants shall 118220
be awarded only to programs in which the grant will not serve as 118221
the program's primary source of funding. These grants shall be 118222
administered by the Department of Education. 118223

The Department of Education may waive compliance with any 118224
minimum education standard established under section 3301.07 of 118225
the Revised Code for any alternative school that receives a grant 118226
under this section on the grounds that the waiver will enable the 118227
program to more effectively educate students enrolled in the 118228
alternative school. 118229

Of the foregoing appropriation item 200421, Alternative 118230
Education Programs, a portion may be used for program 118231
administration, monitoring, technical assistance, support, 118232
research, and evaluation. 118233

Section 263.50. SCHOOL MANAGEMENT ASSISTANCE 118234

Of the foregoing appropriation item 200422, School Management 118235
Assistance, \$1,000,000 in each fiscal year shall be used by the 118236
Auditor of State in consultation with the Department of Education 118237
for expenses incurred in the Auditor of State's role relating to 118238
fiscal caution, fiscal watch, and fiscal emergency activities as 118239
defined in Chapter 3316. of the Revised Code, unless an amount 118240
less than \$1,000,000 is needed and mutually agreed to by the 118241
Department and the Auditor of State. This set-aside may also be 118242
used by the Auditor of State to conduct performance audits of 118243
other school districts with priority given to districts in fiscal 118244
distress. Districts in fiscal distress shall be determined by the 118245
Auditor of State and shall include districts that the Auditor of 118246
State, in consultation with the Department of Education, 118247
determines are employing fiscal practices or experiencing 118248
budgetary conditions that could produce a state of fiscal watch or 118249
fiscal emergency. 118250

The remainder of appropriation item 200422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal caution, fiscal watch, and fiscal emergency provisions under Chapter 3316. of the Revised Code.

Section 263.60. POLICY ANALYSIS

The foregoing appropriation item 200424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers, including the Office of Budget and Management, the Governor's Office of 21st Century Education, and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200425, Tech Prep Consortia

Support, shall be used by the Department of Education to support 118282
state-level activities designed to support, promote, and expand 118283
tech prep programs. Use of these funds shall include, but not be 118284
limited to, administration of grants, program evaluation, 118285
professional development, curriculum development, assessment 118286
development, program promotion, communications, and statewide 118287
coordination of tech prep consortia. 118288

Section 263.70. OHIO EDUCATIONAL COMPUTER NETWORK 118289

The foregoing appropriation item 200426, Ohio Educational 118290
Computer Network, shall be used by the Department of Education to 118291
maintain a system of information technology throughout Ohio and to 118292
provide technical assistance for such a system in support of the 118293
P-16 State Education Technology Plan developed under section 118294
3353.09 of the Revised Code. 118295

Of the foregoing appropriation item 200426, Ohio Educational 118296
Computer Network, up to \$10,705,569 in each fiscal year shall be 118297
used by the Department of Education to support connection of all 118298
public school buildings and participating chartered nonpublic 118299
schools to the state's education network, to each other, and to 118300
the Internet. In each fiscal year the Department of Education 118301
shall use these funds to assist information technology centers or 118302
school districts with the operational costs associated with this 118303
connectivity. The Department of Education shall develop a formula 118304
and guidelines for the distribution of these funds to information 118305
technology centers or individual school districts. As used in this 118306
section, "public school building" means a school building of any 118307
city, local, exempted village, or joint vocational school 118308
district, any community school established under Chapter 3314. of 118309
the Revised Code, any college preparatory boarding school 118310
established under Chapter 3328. of the Revised Code, any STEM 118311
school established under Chapter 3326. of the Revised Code, any 118312

educational service center building used for instructional 118313
purposes, the Ohio School for the Deaf and the Ohio School for the 118314
Blind, high schools chartered by the Ohio Department of Youth 118315
Services, or high schools operated by Ohio Department of 118316
Rehabilitation and Corrections' Ohio Central School System. 118317

Of the foregoing appropriation item 200426, Ohio Educational 118318
Computer Network, up to \$2,500,000 in each fiscal year shall be 118319
used for the Union Catalog and InfOhio Network and to support the 118320
provision of electronic resources with priority given to resources 118321
that support the teaching of state academic content standards in 118322
all public schools. Consideration shall be given by the Department 118323
of Education to coordinating the allocation of these moneys with 118324
the efforts of Libraries Connect Ohio, whose members include 118325
OhioLINK, the Ohio Public Information Network, and the State 118326
Library of Ohio. 118327

Of the foregoing appropriation item 200426, Ohio Educational 118328
Computer Network, up to \$5,220,000 in each fiscal year shall be 118329
used, through a formula and guidelines devised by the Department, 118330
to subsidize the activities of designated information technology 118331
centers, as defined by State Board of Education rules, to provide 118332
school districts and chartered nonpublic schools with 118333
computer-based student and teacher instructional and 118334
administrative information services, including approved 118335
computerized financial accounting, and to ensure the effective 118336
operation of local automated administrative and instructional 118337
systems. 118338

Of the foregoing appropriation item 200426, Ohio Educational 118339
Computer Network, up to \$10,000,000 in fiscal year 2014 shall be 118340
used for middle mile connections for the information technology 118341
centers established under section 3301.075 of the Revised Code and 118342
select large urban districts to connect to the state broadband 118343
backbone managed by the Ohio Technology Consortium and for other 118344

connectivity upgrades necessary for K-12 school buildings with 118345
severely restricted broadband connections. The Department of 118346
Education shall develop an expenditure plan aligned with the 118347
capacity and timeline requirements of the achievement assessments 118348
developed by the Partnership for Assessment of Readiness for 118349
College and Careers and other instructional technology/blended 118350
learning initiatives. The State Chief Information Officer and the 118351
Education Technology Division of the Ohio Board of Regents shall 118352
review the plan to ensure it coincides with State of Ohio and 118353
higher education network strategies and shall either approve or 118354
reject the plan. If the plan is rejected, the State Chief 118355
Information Officer and the Education Technology Division of the 118356
Ohio Board of Regents shall identify deficiencies in the plan and 118357
work with the Department to complete an acceptable plan. "Select 118358
large urban districts" are those districts that connect to the 118359
state broadband backbone directly rather than through an 118360
information technology center. At the request of the 118361
Superintendent of Public Instruction, the Director of Budget and 118362
Management may authorize the expenditure in fiscal year 2015 of 118363
any unexpended and unencumbered portion of this set-aside at the 118364
end of fiscal year 2014. The authorized expenditure is hereby 118365
reappropriated to the Department for the same purpose for fiscal 118366
year 2015. 118367

The remainder of appropriation item 200426, Ohio Educational 118368
Computer Network, shall be used to support the work of the 118369
development, maintenance, and operation of a network of uniform 118370
and compatible computer-based information and instructional 118371
systems as well as the teacher student linkage/roster verification 118372
process and the eTranscript/student records exchange initiative. 118373
This technical assistance shall include, but not be restricted to, 118374
development and maintenance of adequate computer software systems 118375
to support network activities. In order to improve the efficiency 118376
of network activities, the Department and information technology 118377

centers may jointly purchase equipment, materials, and services 118378
from funds provided under this appropriation for use by the 118379
network and, when considered practical by the Department, may 118380
utilize the services of appropriate state purchasing agencies. 118381

Section 263.80. ACADEMIC STANDARDS 118382

The foregoing appropriation item 200427, Academic Standards, 118383
shall be used by the Department of Education to develop, revise, 118384
and communicate to school districts academic content standards and 118385
curriculum models and to develop professional development programs 118386
and other tools on the new content standards and model curriculum. 118387

Section 263.90. STUDENT ASSESSMENT 118388

Of the foregoing appropriation item 200437, Student 118389
Assessment, up to \$95,000 in each fiscal year may be used to 118390
support the assessments required under section 3301.0715 of the 118391
Revised Code. 118392

The remainder of appropriation item 200437, Student 118393
Assessment, shall be used to develop, field test, print, 118394
distribute, score, report results, and support other associated 118395
costs for the tests required under sections 3301.0710, 3301.0711, 118396
and 3301.0712 of the Revised Code and for similar purposes as 118397
required by section 3301.27 of the Revised Code. The funds may 118398
also be used to update and develop diagnostic assessments required 118399
under sections 3301.079, 3301.0715, and 3313.608 of the Revised 118400
Code. 118401

DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT 118402
ASSESSMENT 118403

In fiscal year 2014 and fiscal year 2015, if the 118404
Superintendent of Public Instruction determines that additional 118405
funds are needed to fully fund the requirements of sections 118406
3301.0710, 3301.0711, 3301.0712, and 3301.27 of the Revised Code 118407

and this act for assessments of student performance, the 118408
Superintendent of Public Instruction may recommend the 118409
reallocation of unexpended and unencumbered General Revenue Fund 118410
appropriations within the Department of Education to appropriation 118411
item 200437, Student Assessment, to the Director of Budget and 118412
Management. If the Director of Budget and Management determines 118413
that such a reallocation is required, the Director of Budget and 118414
Management may transfer unexpended and unencumbered appropriations 118415
within the Department of Education as necessary to appropriation 118416
item 200437, Student Assessment. If these transferred 118417
appropriations are not sufficient to fully fund the assessment 118418
requirements in fiscal year 2014 or fiscal year 2015, the 118419
Superintendent of Public Instruction may request that the 118420
Controlling Board transfer up to \$9,000,000 cash from the Lottery 118421
Profits Education Reserve Fund (Fund 7018) to the General Revenue 118422
Fund. Upon approval of the Controlling Board, the Director of 118423
Budget and Management shall transfer the cash. These transferred 118424
funds are hereby appropriated for the same purpose as 118425
appropriation item 200437, Student Assessment. 118426

Section 263.100. Notwithstanding anything to the contrary in 118427
sections 3301.0710 and 3301.0711 of the Revised Code, in the 118428
2013-2014 school year, the Department of Education shall not 118429
furnish, and school districts and schools shall not administer, 118430
the elementary writing and social studies achievement assessments 118431
prescribed by section 3301.0710 of the Revised Code, unless the 118432
Superintendent of Public Instruction determines the Department has 118433
sufficient funds to pay the costs of furnishing and scoring those 118434
assessments. 118435

Section 263.110. ACCOUNTABILITY/REPORT CARDS 118436

Of the foregoing appropriation item 200439, 118437
Accountability/Report Cards, a portion in each fiscal year may be 118438

used to train district and regional specialists and district 118439
educators in the use of the value-added progress dimension and in 118440
the use of data as it relates to improving student achievement. 118441
This training may include teacher and administrator professional 118442
development in the use of data to improve instruction and student 118443
learning, and teacher and administrator training in understanding 118444
teacher value-added reports and how they can be used as a 118445
component in measuring teacher and administrator effectiveness. A 118446
portion of this funding may be provided to a credible nonprofit 118447
organization with expertise in value-added progress dimensions. 118448

The remainder of appropriation item 200439, 118449
Accountability/Report Cards, shall be used by the Department to 118450
incorporate a statewide value-added progress dimension into 118451
performance ratings for school districts and for the development 118452
of an accountability system that includes the preparation and 118453
distribution of school report cards, funding and expenditure 118454
accountability reports under sections 3302.03 and 3302.031 of the 118455
Revised Code, and the development and maintenance of teacher 118456
value-added reports. 118457

CHILD CARE LICENSING 118458

The foregoing appropriation item 200442, Child Care 118459
Licensing, shall be used by the Department of Education to license 118460
and to inspect preschool and school-age child care programs under 118461
sections 3301.52 to 3301.59 of the Revised Code. 118462

Section 263.120. EDUCATION MANAGEMENT INFORMATION SYSTEM 118463

The foregoing appropriation item 200446, Education Management 118464
Information System, shall be used by the Department of Education 118465
to improve the Education Management Information System (EMIS). 118466

Of the foregoing appropriation item 200446, Education 118467
Management Information System, up to \$729,000 in each fiscal year 118468

shall be distributed to designated information technology centers 118469
for costs relating to processing, storing, and transferring data 118470
for the effective operation of the EMIS. These costs may include, 118471
but are not limited to, personnel, hardware, software development, 118472
communications connectivity, professional development, and support 118473
services, and to provide services to participate in the State 118474
Education Technology Plan developed under section 3353.09 of the 118475
Revised Code. 118476

The remainder of appropriation item 200446, Education 118477
Management Information System, shall be used to develop and 118478
support a common core of data definitions and standards as adopted 118479
by the Education Management Information System Advisory Board, 118480
including the ongoing development and maintenance of the data 118481
dictionary and data warehouse. In addition, such funds shall be 118482
used to support the development and implementation of data 118483
standards; the design, development, and implementation of a new 118484
data exchange system; and responsibilities related to the school 118485
report cards prescribed by section 3302.03 of the Revised Code and 118486
value-added progress dimension calculations. 118487

Any provider of software meeting the standards approved by 118488
the Education Management Information System Advisory Board shall 118489
be designated as an approved vendor and may enter into contracts 118490
with local school districts, community schools, STEMS schools, 118491
information technology centers, or other educational entities for 118492
the purpose of collecting and managing data required under Ohio's 118493
education management information system (EMIS) laws. On an annual 118494
basis, the Department of Education shall convene an advisory group 118495
of school districts, community schools, and other 118496
education-related entities to review the Education Management 118497
Information System data definitions and data format standards. The 118498
advisory group shall recommend changes and enhancements based upon 118499
surveys of its members, education agencies in other states, and 118500

current industry practices, to reflect best practices, align with 118501
federal initiatives, and meet the needs of school districts. 118502

School districts, STEM schools, and community schools not 118503
implementing a common and uniform set of data definitions and data 118504
format standards for Education Management Information System 118505
purposes shall have all EMIS funding withheld until they are in 118506
compliance. 118507

Section 263.130. GED TESTING 118508

The foregoing appropriation item 200447, GED Testing, shall 118509
be used to provide General Educational Development (GED) testing 118510
under rules adopted by the State Board of Education. 118511

Section 263.140. EDUCATOR PREPARATION 118512

Of the foregoing appropriation item 200448, Educator 118513
Preparation, up to \$500,000 in each fiscal year may be used by the 118514
Department of Education to monitor and support Ohio's State System 118515
of Support in accordance with the "No Child Left Behind Act of 118516
2011," 20 U.S.C. 6317, as administered pursuant to the Elementary 118517
and Secondary Education Act flexibility waivers approved for Ohio 118518
by the United States Department of Education. 118519

Of the foregoing appropriation item 200448, Educator 118520
Preparation, up to \$100,000 in each fiscal year may be used by the 118521
Department to support the Educator Standards Board under section 118522
3319.61 of the Revised Code and reforms under sections 3302.042, 118523
3302.06 through 3302.068, 3302.12, 3302.20 through 3302.22, and 118524
3319.58 of the Revised Code. 118525

The remainder of the foregoing appropriation item 200448, 118526
Educator Preparation, in fiscal year 2015 may be used for 118527
implementation of teacher and principal evaluation systems, 118528
including incorporation of student growth as a metric in those 118529
systems, and teacher value-added reports. 118530

Section 263.150. COMMUNITY SCHOOLS AND CHOICE PROGRAMS 118531

The foregoing appropriation item 200455, Community Schools 118532
and Choice Programs, may be used by the Department of Education 118533
for additional services and responsibilities under section 3314.11 118534
of the Revised Code and for operation of the school choice 118535
programs. 118536

Of the foregoing appropriation item 200455, Community Schools 118537
and Choice Programs, a portion in each fiscal year may be used by 118538
the Department of Education for developing and conducting training 118539
sessions for community schools and sponsors and prospective 118540
sponsors of community schools as prescribed in division (A)(1) of 118541
section 3314.015 of the Revised Code, and other schools 118542
participating in school choice programs. 118543

Section 263.160. TECHNOLOGY INTEGRATION AND PROFESSIONAL 118544
DEVELOPMENT 118545

The foregoing appropriation item 200465, Technology 118546
Integration and Professional Development, shall be used by the 118547
Department of Education to contract with educational television 118548
stations and education technology centers to provide Ohio public 118549
schools with instructional resources and services, with priority 118550
given to resources and services aligned with state academic 118551
content standards. Such resources and services shall be based upon 118552
the advice and approval of the Department, based on a formula used 118553
by the former eTech Ohio Commission unless and until a substitute 118554
formula is developed in consultation with the Ohio Board of 118555
Regents. 118556

Section 263.170. PUPIL TRANSPORTATION 118557

Of the foregoing appropriation item 200502, Pupil 118558
Transportation, up to \$838,930 in each fiscal year may be used by 118559

the Department of Education for training prospective and 118560
experienced school bus drivers in accordance with training 118561
programs prescribed by the Department. Up to \$60,469,220 in each 118562
fiscal year may be used by the Department of Education for special 118563
education transportation reimbursements to school districts and 118564
county DD boards for transportation operating costs as provided in 118565
divisions (C) and (F) of section 3317.024 of the Revised Code. Up 118566
to \$5,000,000 in fiscal year 2014 may be used by the Department of 118567
Education to reimburse school districts that make payments to 118568
parents in lieu of transportation under section 3327.02 of the 118569
Revised Code and whose transportation is not funded under division 118570
(C) of section 3317.024 of the Revised Code. 118571

Of the foregoing appropriation item 200502, Pupil 118572
Transportation, up to \$25,300,000 in fiscal year 2014 and up to 118573
\$23,100,000 in fiscal year 2015 shall be used for additional 118574
transportation aid for school districts as provided by division 118575
(G)(2) of section 3317.0212 of the Revised Code, as amended by 118576
this act. The Department shall pay each school district a pro rata 118577
portion of the amounts calculated so that the amount appropriated 118578
is not exceeded. 118579

The remainder of appropriation item 200502, Pupil 118580
Transportation, shall be used to distribute the amounts calculated 118581
for transportation aid under division (G)(1) of section 3317.0212 118582
of the Revised Code, as amended by this act. 118583

Section 263.180. SCHOOL LUNCH MATCH 118584

The foregoing appropriation item 200505, School Lunch Match, 118585
shall be used to provide matching funds to obtain federal funds 118586
for the school lunch program. 118587

Any remaining appropriation after providing matching funds 118588
for the school lunch program may be used to partially reimburse 118589
school buildings within school districts that are required to have 118590

a school breakfast program under section 3313.813 of the Revised Code, at a rate decided by the Department. 118591
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Section 263.190. AUXILIARY SERVICES 118593

The foregoing appropriation item 200511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$1,888,106 in fiscal year 2014 and up to \$1,944,949 in fiscal year 2015 may be used for payment of the Post-Secondary Enrollment Program for nonpublic students, except that in fiscal year 2014 the Department may spend above the set-aside to pay for outstanding obligations for the Post-Secondary Enrollment Options Program in fiscal year 2013. 118594
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Section 263.200. NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT 118603

The foregoing appropriation item 200532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code. 118604
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Section 263.210. SPECIAL EDUCATION ENHANCEMENTS 118608

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$50,000,000 in each fiscal year shall be used to fund special education and related services at county boards of developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code. If necessary, the Department shall proportionately reduce the amount calculated for each county board of developmental disabilities and institution so as not to exceed the amount appropriated in each fiscal year. 118609
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Of the foregoing appropriation item 200540, Special Education 118619

Enhancements, up to \$1,333,468 in each fiscal year shall be used 118620
for parent mentoring programs. 118621

Of the foregoing appropriation item 200540, Special Education 118622
Enhancements, up to \$2,537,824 in each fiscal year may be used for 118623
school psychology interns. 118624

The remainder of appropriation item 200540, Special Education 118625
Enhancements, shall be distributed by the Department of Education 118626
to school districts and institutions, as defined in section 118627
3323.091 of the Revised Code, for preschool special education 118628
funding under section 3317.0213 of the Revised Code. If necessary, 118629
the Department shall proportionately reduce the amount calculated 118630
for each school district and institution so as not to exceed the 118631
amount appropriated in each fiscal year. 118632

The Department may reimburse school districts and 118633
institutions for services provided by instructional assistants, 118634
related services as defined in rule 3301-51-11 of the 118635
Administrative Code, physical therapy services provided by a 118636
licensed physical therapist or physical therapist assistant under 118637
the supervision of a licensed physical therapist as required under 118638
Chapter 4755. of the Revised Code and Chapter 4755-27 of the 118639
Administrative Code and occupational therapy services provided by 118640
a licensed occupational therapist or occupational therapy 118641
assistant under the supervision of a licensed occupational 118642
therapist as required under Chapter 4755. of the Revised Code and 118643
Chapter 4755-7 of the Administrative Code. Nothing in this section 118644
authorizes occupational therapy assistants or physical therapist 118645
assistants to generate or manage their own caseloads. 118646

The Department of Education shall require school districts, 118647
educational service centers, county DD boards, and institutions 118648
serving preschool children with disabilities to adhere to Ohio's 118649
early learning program standards, participate in the tiered 118650
quality rating and improvement system developed under section 118651

5104.30 of the Revised Code, and document child progress using 118652
research-based indicators prescribed by the Department and report 118653
results annually. The reporting dates and method shall be 118654
determined by the Department. Effective July 1, 2018, all programs 118655
shall be rated through the tiered quality rating and improvement 118656
system. 118657

Section 263.220. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 118658

Of the foregoing appropriation item 200545, Career-Technical 118659
Education Enhancements, up to \$2,563,568 in each fiscal year shall 118660
be used to fund secondary career-technical education at 118661
institutions using a grant-based methodology, notwithstanding 118662
section 3317.05 of the Revised Code. 118663

Of the foregoing appropriation item 200545, Career-Technical 118664
Education Enhancements, up to \$2,838,281 in each fiscal year shall 118665
be used by the Department of Education to fund competitive grants 118666
to tech prep consortia that expand the number of students enrolled 118667
in tech prep programs. These grant funds shall be used to directly 118668
support expanded tech prep programs provided to students enrolled 118669
in school districts, including joint vocational school districts, 118670
and affiliated higher education institutions. This support may 118671
include the purchase of equipment. 118672

Of the foregoing appropriation item 200545, Career-Technical 118673
Education Enhancements, up to \$3,100,850 in each fiscal year shall 118674
be used by the Department of Education to support existing High 118675
Schools That Work (HSTW) sites, develop and support new sites, 118676
fund technical assistance, and support regional centers and middle 118677
school programs. The purpose of HSTW is to combine challenging 118678
academic courses and modern career-technical studies to raise the 118679
academic achievement of students. HSTW provides intensive 118680
technical assistance, focused staff development, targeted 118681
assessment services, and ongoing communications and networking 118682

opportunities. 118683

Of the foregoing appropriation item 200545, Career-Technical 118684
Education Enhancements, up to \$300,000 in each fiscal year shall 118685
be used by the Department of Education to enable students in 118686
agricultural programs to enroll in a fifth quarter of instruction 118687
based on the agricultural education model of delivering work-based 118688
learning through supervised agricultural experience. The 118689
Department of Education shall determine eligibility criteria and 118690
the reporting process for the Agriculture 5th Quarter Project and 118691
shall fund as many programs as possible given the set aside. 118692

Of the foregoing appropriation item, 200545, Career-Technical 118693
Education Enhancements, up to \$157,200 in each fiscal year shall 118694
be distributed to the Cleveland Municipal School District and the 118695
Cincinnati City School District to be used for a VoAg Program in 118696
one at-risk nonvocational school in each district. The amount 118697
distributed to each district shall be equal to \$78,600 minus the 118698
funding allocated to the district under division (A)(8) of section 118699
3317.022 of the Revised Code for the students participating in the 118700
program. 118701

Of the foregoing appropriation item 200545, Career-Technical 118702
Education Enhancements, \$108,100 in each fiscal year shall be used 118703
to prepare students for careers in culinary arts and restaurant 118704
management under the Ohio ProStart school restaurant program. 118705

Section 263.230. FOUNDATION FUNDING 118706

Of the foregoing appropriation item 200550, Foundation 118707
Funding, up to \$675,000 in each fiscal year shall be used to 118708
support the work of the College of Education and Human Ecology at 118709
the Ohio State University in reviewing and assessing the alignment 118710
of courses offered through the distance learning clearinghouse 118711
established in sections 3333.81 to 3333.88 of the Revised Code 118712
with the academic content standards adopted under division (A) of 118713

section 3301.079 of the Revised Code. 118714

Of the foregoing appropriation item 200550, Foundation 118715
Funding, up to \$40,000,000 in each fiscal year shall be used to 118716
provide additional state aid to school districts, joint vocational 118717
school districts, community schools, and STEM schools for special 118718
education students under division (C)(3) of section 3314.08, 118719
section 3317.0214, division (B) of section 3317.16, and section 118720
3326.34 of the Revised Code, except that the Controlling Board may 118721
increase these amounts if presented with such a request from the 118722
Department of Education at the final meeting of the fiscal year. 118723

Of the foregoing appropriation item 200550, Foundation 118724
Funding, up to \$2,000,000 in each fiscal year shall be reserved 118725
for Youth Services tuition payments under section 3317.024 of the 118726
Revised Code. 118727

Of the foregoing appropriation item 200550, Foundation 118728
Funding, up to \$3,800,000 in each fiscal year shall be used to 118729
fund gifted education at educational service centers. The 118730
Department shall distribute the funding through the unit-based 118731
funding methodology in place under division (L) of section 118732
3317.024, division (E) of section 3317.05, and divisions (A), (B), 118733
and (C) of section 3317.053 of the Revised Code as they existed 118734
prior to fiscal year 2010. 118735

Of the foregoing appropriation item 200550, Foundation 118736
Funding, up to \$43,500,000 in fiscal year 2014 and up to 118737
\$40,000,000 in fiscal year 2015 shall be reserved to fund the 118738
state reimbursement of educational service centers under the 118739
section of this act entitled "EDUCATIONAL SERVICE CENTERS 118740
FUNDING"; and up to \$3,500,000 in each fiscal year shall be 118741
distributed to educational service centers for School Improvement 118742
Initiatives and, in consultation with the Governor's Director of 118743
21st Century Education, for the provision of technical assistance 118744
as required by the Elementary and Secondary Education Act 118745

Flexibility waivers approved for Ohio by the United States 118746
Department of Education. Educational service centers shall be 118747
required to support districts in the development and 118748
implementation of their continuous improvement plans as required 118749
in section 3302.04 of the Revised Code and to provide technical 118750
assistance and support in accordance with Title I of the "No Child 118751
Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317, as 118752
administered pursuant to the Elementary and Secondary Education 118753
Act Flexibility waivers approved for Ohio by the United States 118754
Department of Education. 118755

Of the foregoing appropriation item 200550, Foundation 118756
Funding, up to \$20,000,000 in each fiscal year shall be reserved 118757
for payments under sections 3317.026, 3317.027, and 3317.028 of 118758
the Revised Code. If this amount is not sufficient, the Department 118759
of Education shall prorate the payment amounts so that the 118760
aggregate amount allocated in this paragraph is not exceeded. 118761

Of the foregoing appropriation item 200550, Foundation 118762
Funding, up to \$2,000,000 in each fiscal year shall be used to pay 118763
career-technical planning districts for the amounts reimbursed to 118764
students, as prescribed in this paragraph. Each career-technical 118765
planning district shall reimburse individuals taking the online 118766
General Educational Development (GED) test for the first time for 118767
application/test fees in excess of \$40. Each career-technical 118768
planning district shall designate a site or sites where 118769
individuals may register and take the exam. For each individual 118770
that registers for the exam, the career-technical planning 118771
district shall make available and offer career counseling 118772
services, including information on adult education programs that 118773
are available. 118774

Of the foregoing appropriation item 200550, Foundation 118775
Funding, up to \$410,000 in each fiscal year shall be used to pay 118776
career-technical planning districts \$500 for each student that 118777

receives a journeyman certification, as recognized by the United States Department of Labor. 118778
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Of the foregoing appropriation item 200550, Foundation Funding, up to \$18,713,327 in each fiscal year shall be used to support school choice programs. 118780
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Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District under sections 3313.974 to 3313.979 of the Revised Code. Notwithstanding divisions (B) and (C) of section 3313.978 and division (C) of section 3313.979 of the Revised Code, up to \$1,000,000 in each fiscal year of this amount shall be used by the Cleveland Municipal School District to provide tutorial assistance as provided in division (H) of section 3313.974 of the Revised Code. The Cleveland Municipal School District shall report the use of these funds in the district's three-year continuous improvement plan as described in section 3302.04 of the Revised Code in a manner approved by the Department of Education. 118783
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Of the foregoing appropriation item 200550, Foundation Funding, up to \$2,000,000 in each fiscal year shall be used to pay college-preparatory boarding schools the per pupil boarding amount pursuant to section 3328.34 of the Revised Code. 118797
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Of the foregoing appropriation item 200550, Foundation Funding, up to \$500,000 in each fiscal year shall be used to support Jobs for Ohio's Graduates. 118801
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Of the foregoing appropriation item 200550, Foundation Funding, an amount shall be available in each fiscal year to be paid to joint vocational school districts in accordance with division (A) of section 3317.16 of the Revised Code and the section of this act entitled "TEMPORARY TRANSITIONAL AID FOR JOINT 118804
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VOCATIONAL SCHOOL DISTRICTS." 118809

The remainder of appropriation item 200550, Foundation 118810
Funding, shall be used to distribute the amounts calculated for 118811
formula aid under section 3317.022 of the Revised Code and the 118812
section of this act entitled "TEMPORARY TRANSITIONAL AID FOR CITY, 118813
LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS." 118814

Appropriation items 200502, Pupil Transportation, 200540, 118815
Special Education Enhancements, and 200550, Foundation Funding, 118816
other than specific set-asides, are collectively used in each 118817
fiscal year to pay state formula aid obligations for school 118818
districts, community schools, STEM schools, college preparatory 118819
boarding schools, and joint vocational school districts under this 118820
act. The first priority of these appropriation items, with the 118821
exception of specific set-asides, is to fund state formula aid 118822
obligations. It may be necessary to reallocate funds among these 118823
appropriation items or use excess funds from other general revenue 118824
fund appropriation items in the Department of Education's budget 118825
in each fiscal year, in order to meet state formula aid 118826
obligations. If it is determined that it is necessary to transfer 118827
funds among these appropriation items or to transfer funds from 118828
other General Revenue Fund appropriations in the Department of 118829
Education's budget to meet state formula aid obligations, the 118830
Department of Education shall seek approval from the Controlling 118831
Board to transfer funds as needed. 118832

The Superintendent of Public Instruction shall make payments, 118833
transfers, and deductions, as authorized by Title XXXVIII of the 118834
Revised Code and Sections 267.30.50, 267.30.53, 267.30.56, and 118835
267.30.60 of Am. Sub. H.B. 153 of the 129th General Assembly, in 118836
amounts substantially equal to those made in the prior year, or 118837
otherwise, at the discretion of the Superintendent, until at least 118838
the effective date of the amendments and enactments made to Title 118839
XXXVIII by this act. If a new school district, community school, or 118840

STEM school opens prior to the effective date of this act, the 118841
Department of Education shall pay to the district or school an 118842
amount of \$5,000 per pupil, based upon the estimated number of 118843
students that the district or school is expected to serve. Any 118844
funds paid to districts or schools under this section shall be 118845
credited toward the annual funds calculated for the district or 118846
school after the changes made to Title XXXIII in this act are 118847
effective. Upon the effective date of changes made to Title XXXIII 118848
in this act, funds shall be calculated as an annual amount. 118849

Section 263.240. TEMPORARY TRANSITIONAL AID FOR CITY, LOCAL, 118850
AND EXEMPTED VILLAGE SCHOOL DISTRICTS 118851

The Department of Education shall distribute funds within 118852
appropriation item 200550, Foundation Funding, for temporary 118853
transitional aid in each fiscal year to each qualifying city, 118854
local, and exempted village school district. 118855

(A) For fiscal years 2014 and 2015, the Department shall pay 118856
temporary transitional aid to each city, local, or exempted 118857
village school district that experiences any decrease in its state 118858
foundation funding for the current fiscal year from its 118859
transitional aid guarantee base. The amount of the temporary 118860
transitional aid payment shall equal the difference between its 118861
foundation funding for the current fiscal year and its 118862
transitional aid guarantee base. If the computation made under 118863
this division results in a negative number, the district's funding 118864
under this division shall be zero. 118865

(1) As used in this section, foundation funding for each 118866
city, local, and exempted village school district for a given 118867
fiscal year equals the sum of the amount calculated for the 118868
district under section 3317.022 of the Revised Code, as re-enacted 118869
by this act, and the amounts calculated for the district under 118870
divisions (G)(1) and (2) of section 3317.0212 of the Revised Code, 118871

for that fiscal year. 118872

(2) The transitional aid guarantee base for each city, local, 118873
and exempted village school district equals the sum of the amounts 118874
computed for the district for fiscal year 2013, under Sections 118875
267.30.50, 267.30.53, and 267.30.56 of Am. Sub. H.B. 153 of the 118876
129th General Assembly. 118877

(B)(1) Notwithstanding section 3317.022 of the Revised Code, 118878
as re-enacted by this act, in fiscal year 2014, no city, local, or 118879
exempted village school district shall be allocated foundation 118880
funding that is greater than 1.06 times the district's 118881
transitional aid guarantee base. 118882

(2) Notwithstanding section 3317.022 of the Revised Code, as 118883
re-enacted by this act, in fiscal year 2015, no city, local, or 118884
exempted village school district shall be allocated foundation 118885
funding that is greater than 1.06 times the amount computed for 118886
foundation funding for the district for fiscal year 2014 plus any 118887
amount calculated for temporary transitional aid for fiscal year 118888
2014 under division (A) of this section and after any reductions 118889
made for fiscal year 2014 under division (B)(1) of this section. 118890

(3) The Department shall reduce a district's payments under 118891
divisions (A)(1), (2), (4), (5), (6), and (7) of section 3317.022 118892
of the Revised Code, as re-enacted by this act, proportionately as 118893
necessary in order to comply with this division. If those amounts 118894
are insufficient, the Department shall proportionately reduce a 118895
district's payments under divisions (A)(3), (8), and (9) of 118896
section 3317.022 of the Revised Code, as re-enacted by this act. 118897

Section 263.250. TEMPORARY TRANSITIONAL AID FOR JOINT 118898
VOCATIONAL SCHOOL DISTRICTS 118899

The Department of Education shall distribute funds within 118900
appropriation item 200550, Foundation Funding, for temporary 118901

transitional aid in each fiscal year to each qualifying joint vocational school district. 118902
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(A) For fiscal years 2014 and 2015, the Department shall pay temporary transitional aid to each joint vocational school district that experiences any decrease in its state core foundation funding under division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, for the current fiscal year from its transitional aid guarantee base. The amount of the temporary transitional aid payment shall equal the difference between the district's funding under division (A) of section 3317.16 of the Revised Code for the current fiscal year and its transitional aid guarantee base. If the computation made under this division results in a negative number, the district's funding under this division shall be zero. 118904
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The transitional aid guarantee base for each joint vocational school district equals the amount computed for the district for fiscal year 2013, under Section 267.30.60 of Am. Sub. H.B. 153 of the 129th General Assembly. 118916
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(B)(1) Notwithstanding division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, in fiscal year 2014, no joint vocational school district shall be allocated state core foundation funding, as computed under division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, that is greater than 1.06 times the district's transitional aid guarantee base. 118920
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(2) Notwithstanding division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, in fiscal year 2015, no joint vocational school district shall be allocated state core foundation funding, under division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, that is greater than 1.06 times the amount computed for state core foundation funding for the district for fiscal year 2014 under division (A) of section 118927
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3317.16 of the Revised Code, as re-enacted by this act, plus any 118934
amount calculated for temporary transitional aid for fiscal year 118935
2014 under division (A) of this section and after any reductions 118936
made for fiscal year 2014 under division (B)(1) of this section. 118937

(3) The Department shall reduce a district's payments under 118938
divisions (A)(1), (3), and (4) of section 3317.16 of the Revised 118939
Code, as re-enacted by this act, proportionately as necessary in 118940
order to comply with this division. If those amounts are 118941
insufficient, the Department shall proportionately reduce a 118942
district's payments under divisions (A)(2), (5), and (6) of 118943
section 3317.16 of the Revised Code, as re-enacted by this act. 118944

Section 263.260. PROPERTY TAX ALLOCATION - EDUCATION 118945

The Superintendent of Public Instruction shall not request, 118946
and the Controlling Board shall not approve, the transfer of 118947
appropriation from appropriation item 200901, Property Tax 118948
Allocation - Education, to any other appropriation item. 118949

The appropriation item 200901, Property Tax Allocation - 118950
Education, is appropriated to pay for the state's costs incurred 118951
because of the homestead exemption, the property tax rollback, and 118952
payments required under division (C) of section 5705.2110 of the 118953
Revised Code. In cooperation with the Department of Taxation, the 118954
Department of Education shall distribute these funds directly to 118955
the appropriate school districts of the state, notwithstanding 118956
sections 321.24 and 323.156 of the Revised Code, which provide for 118957
payment of the homestead exemption and property tax rollback by 118958
the Tax Commissioner to the appropriate county treasurer and the 118959
subsequent redistribution of these funds to the appropriate local 118960
taxing districts by the county auditor. 118961

Upon receipt of these amounts, each school district shall 118962
distribute the amount among the proper funds as if it had been 118963
paid as real or tangible personal property taxes. Payments for the 118964

costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amount specifically appropriated in appropriation items 200901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and payments required under division (C) of section 5705.2110 of the Revised Code, which are determined to be necessary for these purposes, are hereby appropriated.

Section 263.270. TEACHER CERTIFICATION AND LICENSURE

The foregoing appropriation item 200681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer and support teacher certification and licensure activities.

SCHOOL DISTRICT SOLVENCY ASSISTANCE

(A) Of the foregoing appropriation item 200687, School District Solvency Assistance, \$20,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and \$5,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent under section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Except as provided under division (C) of this section, any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H30).

(B) Notwithstanding any provision of law to the contrary, upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may make transfers to the School

District Solvency Assistance Fund (Fund 5H30) from any fund used 118995
by the Department of Education or the General Revenue Fund to 118996
maintain sufficient cash balances in Fund 5H30 in fiscal years 118997
2014 and 2015. Any cash transferred is hereby appropriated. The 118998
transferred cash may be used by the Department of Education to 118999
provide assistance and grants to school districts to enable them 119000
to remain solvent and to pay unforeseeable expenses of a temporary 119001
or emergency nature that the school district is unable to pay from 119002
existing resources. The Director of Budget and Management shall 119003
notify the members of the Controlling Board of any such transfers. 119004

(C) If the cash balance of the School District Solvency 119005
Assistance Fund (Fund 5H30) is insufficient to pay solvency 119006
assistance in fiscal years 2014 and 2015, at the request of the 119007
Superintendent of Public Instruction, and with the approval of the 119008
Controlling Board, the Director of Budget and Management may 119009
transfer cash from the Lottery Profits Education Reserve Fund 119010
(Fund 7018) to Fund 5H30 to provide assistance and grants to 119011
school districts to enable them to remain solvent and to pay 119012
unforeseeable expenses of a temporary nature that they are unable 119013
to pay from existing resources under section 3316.20 of the 119014
Revised Code. Such transfers are hereby appropriated to 119015
appropriation item 200670, School District Solvency Assistance - 119016
Lottery. Any required reimbursements from school districts for 119017
solvency assistance granted from appropriation item 200670, School 119018
District Solvency Assistance - Lottery, shall be made to Fund 119019
7018. 119020

Section 263.280. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS 119021

Upon the request of the Superintendent of Public Instruction, 119022
the Director of Budget and Management may transfer up to \$750,000 119023
cash in each fiscal year from the General Revenue Fund to the 119024
Schools Medicaid Administrative Claims Fund (Fund 3AF0). The 119025

transferred cash is to be used by the Department of Education to 119026
pay the expenses the Department incurs in administering the 119027
Medicaid School Component of the Medicaid program established 119028
under sections 5162.36 to 5162.364 of the Revised Code. On June 1 119029
of each fiscal year, or as soon as possible thereafter, the 119030
Director of Budget and Management shall transfer cash from Fund 119031
3AF0 back to the General Revenue Fund in an amount equal to the 119032
total amount transferred to Fund 3AF0 in that fiscal year. 119033

The money deposited into Fund 3AF0 under division (B) of 119034
section 5162.64 of the Revised Code is hereby appropriated for 119035
fiscal years 2014 and 2015 and shall be used in accordance with 119036
division (C) of section 5162.64 of the Revised Code. 119037

Section 263.290. HALF-MILL MAINTENANCE EQUALIZATION 119038

The foregoing appropriation item 200626, Half-Mill 119039
Maintenance Equalization, shall be used to make payments pursuant 119040
to section 3318.18 of the Revised Code. 119041

Section 263.300. GATES FOUNDATION GRANTS 119042

The foregoing appropriation item 200668, Gates Foundation 119043
Grants, shall be used by the Department of Education to provide 119044
professional development to school district principals, 119045
superintendents, and other administrative staff on the use of 119046
education technology. 119047

Section 263.310. AUXILIARY SERVICES REIMBURSEMENT 119048

Notwithstanding section 3317.064 of the Revised Code, if the 119049
unexpended, unencumbered cash balance is sufficient, the Treasurer 119050
of State shall transfer \$1,500,000 in fiscal year 2014 within 119051
thirty days after the effective date of this section, and 119052
\$1,500,000 in fiscal year 2015 by August 1, 2014, from the 119053
Auxiliary Services Personnel Unemployment Compensation Fund to the 119054

Auxiliary Services Reimbursement Fund (Fund 5980) used by the Department of Education. 119055
119056

Section 263.320. LOTTERY PROFITS EDUCATION FUND 119057

Appropriation item 200612, Foundation Funding (Fund 7017), shall be used in conjunction with appropriation item 200550, Foundation Funding (GRF), to provide state foundation payments to school districts. 119058
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The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200550, Foundation Funding (GRF), and appropriation item 200612, Foundation Funding (Fund 7017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management. 119062
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STRAIGHT A FUND 119070

Of the foregoing appropriation item, 200648, Straight A Fund, up to \$375,000 in each fiscal year shall be used to provide scholarships to parents of high needs children enrolled in the Get Ready for Kindergarten pilot program. These scholarships shall be administered as provided under the section of this act entitled "GET READY FOR KINDERGARTEN." 119071
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Of the foregoing appropriation item 200648, Straight A Fund, up to \$500,000 in fiscal year 2014 and up to \$3,000,000 in fiscal year 2015 shall be used for the New Leaders for Ohio Schools Pilot Project in accordance with Section 733.40 of this act. 119077
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The remainder of appropriation item 200648, Straight A Fund, shall be used to make competitive grants in accordance with Section 263.325 of this act. 119081
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EDCHOICE EXPANSION 119084

The foregoing appropriation item 200666, EdChoice Expansion, 119085
shall be used as follows: 119086

(A) In fiscal year 2014, notwithstanding section 3310.032 of 119087
the Revised Code, the Department of Education shall administer an 119088
expansion of the Educational Choice Scholarship program as 119089
follows: 119090

(1) A student is an "eligible student" for purposes of the 119091
expansion of the Educational Choice Scholarship Pilot Program 119092
under division (A) of this section if the student's resident 119093
district is not a school district in which the pilot project 119094
scholarship program is operating under sections 3313.974 to 119095
3313.979 of the Revised Code and the student's family income is at 119096
or below two hundred per cent of the federal poverty guidelines, 119097
as defined in section 5101.46 of the Revised Code. 119098

(2) The Department shall pay scholarships to attend chartered 119099
nonpublic schools in accordance with section 3310.08 of the 119100
Revised Code. The number of scholarships awarded under division 119101
(A) of this section shall not exceed the number that can be funded 119102
with appropriations made by the general assembly for this purpose. 119103

(3) Scholarships under division (A) of this section shall be 119104
awarded for the 2013-2014 school year, to eligible students who 119105
are entering kindergarten in that school year for the first time. 119106

(4) If the number of eligible students who apply for a 119107
scholarship exceeds the scholarships available based on the 119108
appropriation for division (A) of this section, the department 119109
shall award scholarships in the following order of priority: 119110

(a) First, to eligible students with family incomes at or 119111
below one hundred per cent of the federal poverty guidelines. 119112

(b) Second, to other eligible students who qualify under 119113
division (A) of this section. If the number of students described 119114
in division (A)(4)(b) of this section exceeds the number of 119115

available scholarships after awards are made under division 119116
(A)(4)(a) of this section, the department shall select students 119117
described in division (A)(4)(b) of this section by lot to receive 119118
any remaining scholarships. 119119

(5) A student who receives a scholarship under division (A) 119120
of this section remains an eligible student and may continue to 119121
receive scholarships under section 3310.032 of the Revised Code in 119122
subsequent school years until the student completes grade twelve, 119123
so long as the student satisfies the conditions specified in 119124
divisions (E)(2) and (3) of section 3310.03 of the Revised Code. 119125

Once a scholarship is awarded under this section, the student 119126
shall remain eligible for that scholarship for the current and 119127
subsequent school years, even if the student's family income rises 119128
above the amount specified in division (A) of section 3310.032 of 119129
the Revised Code, provided the student remains enrolled in a 119130
chartered nonpublic school. 119131

(B) In fiscal year 2015, to provide for the scholarships 119132
awarded under the expansion of the educational choice program 119133
established under section 3310.032 of the Revised Code. The number 119134
of scholarships awarded under the expansion of the educational 119135
choice program shall not exceed the number that can be funded with 119136
the appropriations made by the General Assembly for this purpose. 119137

COMMUNITY SCHOOL FACILITIES 119138

The foregoing appropriation item 200684, Community School 119139
Facilities, shall be used to pay each community school established 119140
under Chapter 3314. of the Revised Code that is not an internet- 119141
or computer-based community school an amount equal to \$100 for 119142
each full-time equivalent pupil for assistance with the cost 119143
associated with facilities. If the amount appropriated is not 119144
sufficient, the Department of Education shall prorate the amounts 119145
so that the aggregate amount appropriated is not exceeded. 119146

Section 263.323. GET READY FOR KINDERGARTEN 119147

(A) A preschool is an "eligible preschool" for the purposes 119148
of this section if the preschool has a quality rating in the top 119149
two tiers of the tiered rating improvement system developed under 119150
division (C)(3)(d) of section 5104.30 of the Revised Code. 119151

(B) The Department of Education shall provide scholarships to 119152
parents of high needs children to enroll in eligible preschools as 119153
defined in division (A) of this section. 119154

(C) Scholarships under this section shall be awarded to 119155
students who are at least age three but are not of compulsory 119156
school age, as defined in section 3321.01 of the Revised Code, and 119157
who are not currently enrolled in kindergarten. Students who 119158
receive scholarships under this section shall enroll in eligible 119159
preschools between July 1, 2013, and December 31, 2013. 119160

Section 263.325. (A) The Straight A Program is hereby created 119161
for fiscal years 2014 and 2015 to provide grants to city, local, 119162
exempted village, and joint vocational school districts, 119163
educational service centers, community schools established under 119164
Chapter 3314., STEM schools established under Chapter 3326., 119165
college-preparatory boarding schools established under Chapter 119166
3328. of the Revised Code, individual school buildings, and 119167
education consortia (which may represent a partnership among 119168
school districts, school buildings, community schools, or STEM 119169
schools to partner with institutions of higher education and 119170
private entities) for projects that aim to achieve at least the 119171
following goals: 119172

(1) Increased student achievement and progress; 119173

(2) Improved productivity; 119174

(3) Sustainable cost reduction of operations. 119175

(B)(1) Grants shall be awarded by an eight-member governing board consisting of the Superintendent of Public Instruction, or the Superintendent's designee, three members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President of the Senate. The Department of Education shall provide administrative support to the board. No member shall be compensated for the member's service on the board.

(2) The board may establish an advisory council consisting of grant advisors with fiscal expertise and education expertise. These advisors shall evaluate proposals from grant applicants, consult with the governing board regarding strategic planning, and advise the staff administering the program. No advisor shall be compensated for this service.

(3) The board shall issue an annual report to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the chairpersons of the House and Senate committees that primarily deal with education regarding the types of grants awarded, the grant recipients, and the effectiveness of the grant program.

(4) The board shall create a grant application and publish on the Department's web site the application and timeline for the submission, review, notification, and awarding of grant proposals.

(5) With the approval of the board, the Department shall establish a system for evaluating and scoring the grant applications received under this section. The system shall give priority to applicants whose goals demonstrate particular attempts in achieving the following:

(a) Cost reduction in the delivery of services;

(b) Progress in improving literacy in grades kindergarten to three;

(c) Achievement and progress for each subgroup of students specified under division (A) of section 3317.40 of the Revised Code; 119207
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(d) Improving the performance measures included in the Prepared for Success components specified under division (B)(2) of section 3302.03 of the Revised Code; 119210
119211
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(e) Utilizing programs recognized as innovative under the federal Race to the Top program. 119213
119214

(C) Each grant applicant shall submit a proposal that includes all of the following: 119215
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(1) A description of the project for which the applicant is seeking a grant, including a description of how the project will have substantial value and lasting impact; 119217
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119219

(2) An explanation of how the project will be self-sustaining. If the project will result in increased ongoing spending, the applicant shall show how the spending will be offset by verifiable, credible, permanent spending reductions. 119220
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(3) A description of quantifiable results of the project that can be benchmarked. 119224
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If an education consortia described in division (A) of this section applies for a grant, the lead applicant shall be the school district, school building, community school, or STEM school that is a member of the consortia and shall so indicate on the grant application. 119226
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(D)(1) Within seventy-five days after receiving a grant application, the board shall issue a decision on the application of "yes," "no," "hold," or "edit." In making its decision, the board shall consider whether the project has the capability of being replicated in other school districts and schools or creates something that can be used in other districts and schools. A grant 119231
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awarded under this section to a school district, educational 119237
service center, community school, STEM school, college-preparatory 119238
boarding school, or individual school building shall not exceed 119239
\$500,000. A grant awarded to an education consortia shall not 119240
exceed \$1,000,000. 119241

(2) If the board issues a "hold" or "edit" decision for an 119242
application, it shall, upon returning the application to the 119243
applicant, specify the process for reconsideration of the 119244
application. An applicant may work with the grant advisors and 119245
staff to modify or improve a grant application. 119246

(E) Upon deciding to award a grant to an applicant, the board 119247
shall enter into a grant agreement with the applicant that 119248
includes all of the following: 119249

(1) The content of the applicant's proposal as outlined under 119250
division (C) of this section; 119251

(2) The project's deliverables and a timetable for their 119252
completion; 119253

(3) Conditions for receiving grant funding; 119254

(4) Conditions for receiving funding in future years if the 119255
contract is a multi-year contract; 119256

(5) A provision specifying that funding will be returned to 119257
the board if the applicant fails to implement the agreement, as 119258
determined by the Auditor of State. 119259

(6) A provision specifying that the agreement may be amended 119260
by mutual agreement between the board and the applicant. 119261

(F) Each grant awarded under this section shall be subject to 119262
approval by the Controlling Board prior to execution of the grant 119263
agreement. 119264

Section 263.330. LOTTERY PROFITS EDUCATION RESERVE FUND 119265

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 7018) in the State Treasury. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund.

(B) Notwithstanding any other provision of law to the contrary, the Director of Budget and Management may transfer cash from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) in fiscal year 2014 and fiscal year 2015.

(C) On July 15, 2013, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded \$680,500,000 in fiscal year 2013.

(D) On July 15, 2014, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded \$841,000,000 in fiscal year 2014.

(E) Notwithstanding any provision of law to the contrary, in fiscal year 2014 and fiscal year 2015, the Director of Budget and Management may transfer cash in excess of the amounts necessary to support appropriations in Fund 7017 from that fund to Fund 7018.

Section 263.340. GENERAL REVENUE FUND TRANSFERS TO SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047)

Notwithstanding any provision of law to the contrary, in fiscal year 2014 and fiscal year 2015 the Director of Budget and Management may make temporary transfers between the General Revenue Fund and the School District Property Tax Replacement - Business Fund (Fund 7047), used by the Department of Education, to ensure sufficient balances in Fund 7047 and to replenish the

General Revenue Fund for such transfers. 119296

Section 263.350. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 119297
BUSINESS 119298

The foregoing appropriation item 200909, School District 119299
Property Tax Replacement - Business, shall be used by the 119300
Department of Education, in consultation with the Department of 119301
Taxation, to make payments to school districts and joint 119302
vocational school districts under section 5751.21 of the Revised 119303
Code. If it is determined by the Director of Budget and Management 119304
that additional appropriations are necessary for this purpose, 119305
such amounts are hereby appropriated. 119306

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 119307

The foregoing appropriation item 200900, School District 119308
Property Tax Replacement-Utility, shall be used by the Department 119309
of Education, in consultation with the Department of Taxation, to 119310
make payments to school districts and joint vocational school 119311
districts under section 5727.85 of the Revised Code. If it is 119312
determined by the Director of Budget and Management that 119313
additional appropriations are necessary for this purpose, such 119314
amounts are hereby appropriated. 119315

DISTRIBUTION FORMULAS 119316

The Department of Education shall report the following to the 119317
Director of Budget and Management and the Legislative Service 119318
Commission: 119319

(A) Changes in formulas for distributing state 119320
appropriations, including administratively defined formula 119321
factors; 119322

(B) Discretionary changes in formulas for distributing 119323
federal appropriations; 119324

(C) Federally mandated changes in formulas for distributing 119325

federal appropriations. 119326

Any such changes shall be reported two weeks prior to the 119327

effective date of the change. 119328

Section 263.360. EDUCATIONAL SERVICE CENTERS FUNDING 119329

In fiscal year 2014, the Department of Education shall pay 119330

the governing board of each primary educational service center 119331

state funds equal to thirty-seven dollars times its student count, 119332

as calculated under division (G)(2) of section 3313.843 of the 119333

Revised Code. 119334

In fiscal year 2015, the Department of Education shall pay 119335

the governing board of each primary educational service center 119336

state funds equal to thirty-five dollars times its student count, 119337

as calculated under division (G)(2) of section 3313.843 of the 119338

Revised Code. 119339

If the amount earmarked for the state reimbursement of 119340

educational service centers in appropriation item 200550, 119341

Foundation Funding, is not sufficient, the Department of Education 119342

shall prorate the payment amounts so that the appropriation is not 119343

exceeded. 119344

Notwithstanding any provision of law to the contrary, the 119345

Department of Education shall modify the payments under this 119346

section as follows: 119347

(A) If an educational service center ceases operation, the 119348

Department shall redistribute that center's funding, as calculated 119349

under this section, to the remaining centers in proportion to each 119350

center's service center ADM as defined in former section 3317.11 119351

of the Revised Code, as that section existed prior to the date of 119352

its repeal. 119353

(B) If two or more educational service centers merge 119354

operations to create a single service center, the Department shall 119355

distribute the sum of the original service centers' funding, as 119356
calculated under this section, to the new service center. 119357

Section 263.370. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 119358
ASSESSMENT OF EDUCATION PROGRESS 119359

The General Assembly intends for the Superintendent of Public 119360
Instruction to provide for school district participation in the 119361
administration of the National Assessment of Education Progress in 119362
accordance with section 3301.27 of the Revised Code. Each school 119363
and school district selected for participation by the 119364
Superintendent of Public Instruction shall participate. 119365

Section 263.380. EARMARK ACCOUNTABILITY 119366

At the request of the Superintendent of Public Instruction, 119367
any entity that receives a budget earmark under the Department of 119368
Education shall submit annually to the chairpersons of the 119369
committees of the House of Representatives and the Senate 119370
primarily concerned with education and to the Department of 119371
Education a report that includes a description of the services 119372
supported by the funds, a description of the results achieved by 119373
those services, an analysis of the effectiveness of the program, 119374
and an opinion as to the program's applicability to other school 119375
districts. For an earmarked entity that received state funds from 119376
an earmark in the prior fiscal year, no funds shall be provided by 119377
the Department of Education to an earmarked entity for a fiscal 119378
year until its report for the prior fiscal year has been 119379
submitted. 119380

Section 263.390. COMMUNITY SCHOOL OPERATING FROM HOME 119381

A community school established under Chapter 3314. of the 119382
Revised Code that was open for operation as a community school as 119383
of May 1, 2005, may operate from or in any home, as defined in 119384

section 3313.64 of the Revised Code, located in the state, 119385
regardless of when the community school's operations from or in a 119386
particular home began. 119387

Section 263.400. USE OF VOLUNTEERS 119388

The Department of Education may utilize the services of 119389
volunteers to accomplish any of the purposes of the Department. 119390
The Superintendent of Public Instruction shall approve for what 119391
purposes volunteers may be used and for these purposes may 119392
recruit, train, and oversee the services of volunteers. The 119393
Superintendent may reimburse volunteers for necessary and 119394
appropriate expenses in accordance with state guidelines and may 119395
designate volunteers as state employees for the purpose of motor 119396
vehicle accident liability insurance under section 9.83 of the 119397
Revised Code, for immunity under section 9.86 of the Revised Code, 119398
and for indemnification from liability incurred in the performance 119399
of their duties under section 9.87 of the Revised Code. 119400

Section 263.410. RESTRICTION OF LIABILITY FOR CERTAIN 119401
REIMBURSEMENTS 119402

(A) Except as expressly required under a court judgment not 119403
subject to further appeals, or a settlement agreement with a 119404
school district executed on or before June 1, 2009, in the case of 119405
a school district for which the formula ADM for fiscal year 2005, 119406
as reported for that fiscal year under division (A) of section 119407
3317.03 of the Revised Code, was reduced based on enrollment 119408
reports for community schools, made under section 3314.08 of the 119409
Revised Code, regarding students entitled to attend school in the 119410
district, which reduction of formula ADM resulted in a reduction 119411
of foundation funding or transitional aid funding for fiscal year 119412
2005, 2006, or 2007, no school district, except a district named 119413
in the court's judgment or the settlement agreement, shall have a 119414

legal claim for reimbursement of the amount of such reduction in 119415
foundation funding or transitional aid funding, and the state 119416
shall not have liability for reimbursement of the amount of such 119417
reduction in foundation funding or transitional aid funding. 119418

(B) As used in this section: 119419

(1) "Community school" means a community school established 119420
under Chapter 3314. of the Revised Code. 119421

(2) "Entitled to attend school" means entitled to attend 119422
school in a school district under section 3313.64 or 3313.65 of 119423
the Revised Code. 119424

(3) "Foundation funding" means payments calculated for the 119425
respective fiscal year under Chapter 3317. of the Revised Code. 119426

(4) "Transitional aid funding" means payments calculated for 119427
the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95 119428
of the 125th General Assembly, as subsequently amended; Section 119429
206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as 119430
subsequently amended; and Section 269.30.80 of Am. Sub. H.B. 119 119431
of the 127th General Assembly. 119432

Section 263.420. UNAUDITABLE COMMUNITY SCHOOL 119433

(A) If the Auditor of State or a public accountant, pursuant 119434
to section 117.41 of the Revised Code, declares a community school 119435
established under Chapter 3314. of the Revised Code to be 119436
unauditable, the Auditor of State shall provide written 119437
notification of that declaration to the school, the school's 119438
sponsor, and the Department of Education. The Auditor of State 119439
also shall post the notification on the Auditor of State's web 119440
site. 119441

(B) Notwithstanding any provision to the contrary in Chapter 119442
3314. of the Revised Code or any other provision of law, a sponsor 119443
of a community school that is notified by the Auditor of State 119444

under division (A) of this section that a community school it 119445
sponsors is unauditabile shall not enter into contracts with any 119446
additional community schools under section 3314.03 of the Revised 119447
Code until the Auditor of State or a public accountant has 119448
completed a financial audit of that school. 119449

(C) Not later than forty-five days after receiving 119450
notification by the Auditor of State under division (A) of this 119451
section that a community school is unauditabile, the sponsor of the 119452
school shall provide a written response to the Auditor of State. 119453
The response shall include the following: 119454

(1) An overview of the process the sponsor will use to review 119455
and understand the circumstances that led to the community school 119456
becoming unauditabile; 119457

(2) A plan for providing the Auditor of State with the 119458
documentation necessary to complete an audit of the community 119459
school and for ensuring that all financial documents are available 119460
in the future; 119461

(3) The actions the sponsor will take to ensure that the plan 119462
described in division (C)(2) of this section is implemented. 119463

(D) If a community school fails to make reasonable efforts 119464
and continuing progress to bring its accounts, records, files, or 119465
reports into an auditabile condition within ninety days after being 119466
declared unauditabile, the Auditor of State, in addition to 119467
requesting legal action under sections 117.41 and 117.42 of the 119468
Revised Code, shall notify the Department of the school's failure. 119469
If the Auditor of State or a public accountant subsequently is 119470
able to complete a financial audit of the school, the Auditor of 119471
State shall notify the Department that the audit has been 119472
completed. 119473

(E) Notwithstanding any provision to the contrary in Chapter 119474
3314. of the Revised Code or any other provision of law, upon 119475

notification by the Auditor of State under division (D) of this 119476
section that a community school has failed to make reasonable 119477
efforts and continuing progress to bring its accounts, records, 119478
files, or reports into an auditable condition following a 119479
declaration that the school is unauditabile, the Department shall 119480
immediately cease all payments to the school under Chapter 3314. 119481
of the Revised Code and any other provision of law. Upon 119482
subsequent notification from the Auditor of State under that 119483
division that the Auditor of State or a public accountant was able 119484
to complete a financial audit of the community school, the 119485
Department shall release all funds withheld from the school under 119486
this section. 119487

Section 263.430. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 119488

In collaboration with the County Family and Children First 119489
Council, a city, local, or exempted village school district, 119490
community school, STEM school, joint vocational school district, 119491
educational service center, or county board of developmental 119492
disabilities that receives allocations from the Department of 119493
Education from appropriation item 200550, Foundation Funding, or 119494
appropriation item 200540, Special Education Enhancements, may 119495
transfer portions of those allocations to a flexible funding pool 119496
authorized by the Section of this act entitled "FAMILY AND 119497
CHILDREN FIRST FLEXIBLE FUNDING POOL." Allocations used for 119498
maintenance of effort or for federal or state funding matching 119499
requirements shall not be transferred unless the allocation may 119500
still be used to meet such requirements. 119501

Section 263.440. The Department of Education shall conduct a 119502
formative evaluation of the Jon Peterson Special Needs Scholarship 119503
Program established under sections 3310.51 to 3310.64 of the 119504
Revised Code and shall report its findings to the General 119505
Assembly, in accordance with section 101.68 of the Revised Code, 119506

not later than December 31, 2014. 119507

In conducting the evaluation, the Department shall to the 119508
extent possible gather comments from parents who have been awarded 119509
scholarships under the program, school district officials, 119510
representatives of registered private providers, educators, and 119511
representatives of educational organizations for inclusion in the 119512
report required under this section. 119513

Section 263.450. (A) The Ohio Open Enrollment Task Force is 119514
hereby established to review and make recommendations on open 119515
enrollment. The Superintendent of Public Instruction shall consult 119516
with the Governor's Office of 21st Century Education to convene a 119517
taskforce that consists of representatives from school districts 119518
that represent all sectors of Ohio's educational community. 119519

(B) The Superintendent shall designate the chairperson of the 119520
Task Force. All meetings of the Task Force shall be held at the 119521
call of the chairperson. 119522

(C) The Task Force shall review and make recommendations 119523
regarding the process by which students may enroll in other school 119524
districts under open enrollment and the funding mechanisms 119525
associated with open enrollment deductions and credits. 119526

(D) Not later than December 31, 2013, the Task Force shall 119527
issue a report of its findings and recommendations to the 119528
Governor, the President of the Senate, and the Speaker of the 119529
House of Representatives. Upon issuance of the report, the Task 119530
Force shall cease to exist. 119531

Section 263.460. Not later than December 31, 2013, the State 119532
Board of Education shall review and revise the operating standards 119533
adopted in accordance with division (D) of section 3301.07 of the 119534
Revised Code. The operating standards adopted in accordance with 119535
division (D) of section 3301.07 of the Revised Code shall be 119536

limited to the requirements necessary to ensure the health and 119537
safety of students and the requirements necessary to ensure that 119538
the individual learning needs are met for each student, including 119539
students with disabilities, economically disadvantaged students, 119540
limited English proficient students, and students identified as 119541
gifted. As much as possible, the state board shall provide schools 119542
with flexibility in meeting the standards adopted without 119543
sacrificing the quality of education delivered to students. 119544

Section 263.463. (A) In order to implement the transportation 119545
subsidy prescribed by new section 3327.02 of the Revised Code, as 119546
enacted by this act, the Department of Education shall prescribe 119547
procedures and deadlines for parents or students to apply for that 119548
subsidy for the 2014-2015 school year. The application and notice 119549
procedures and deadlines prescribed by the Department shall allow 119550
sufficient time for school district boards of education to take 119551
the exercise of the parent's or student's option to receive the 119552
subsidy, in lieu of transportation, into account when planning 119553
transportation routes and schedules for the 2014-2015 school year. 119554

(B) The State Board of Education shall adopt rules under 119555
Chapter 119. of the Revised Code prescribing procedures necessary 119556
to implement this section and new section 3327.02 of the Revised 119557
Code, as enacted by this act. 119558

Section 263.470. (A) On July 1, 2013, or as soon as possible 119559
thereafter, notwithstanding any provision of law to the contrary, 119560
and if requested by the Department of Education, the Director of 119561
Budget and Management shall make budget changes made necessary by 119562
the transfer of the operations and related management functions of 119563
the eTech Ohio Commission to the Department of Education, if any, 119564
including administrative organization, program transfers, the 119565
creation of new funds, the transfer of state funds, and the 119566

consolidation of funds, as authorized by this section. The 119567
Director of Budget and Management may, if necessary, establish 119568
encumbrances or parts of encumbrances in the fiscal year 2014-2015 119569
biennium in the appropriate fund and appropriation item for the 119570
same purpose and for payment to the same vendor. The established 119571
encumbrances plus any additional amounts determined to be 119572
necessary for the Ohio Department of Education to perform the 119573
operations and related management functions of the eTech Ohio 119574
Commission are hereby appropriated. 119575

(B) Not later than 30 days after the transfer and 119576
consolidation of the operations and related management functions 119577
of the eTech Ohio Commission to the Department of Education, an 119578
authorized officer of the eTech Ohio Commission shall certify to 119579
the Department of Education the unexpended balance and location of 119580
any funds and accounts designated for building and facility 119581
operation and management functions, and the custody of such funds 119582
and accounts shall be transferred to the Department of Education. 119583

(C) Effective July 1, 2013, the Director of Budget and 119584
Management shall cancel any existing encumbrances against 119585
appropriation item 935607, Gates Foundation Grants, and 119586
re-establish them against appropriation item 200668, Gates 119587
Foundation Grants. The re-established encumbrance amounts are 119588
hereby appropriated. Any business commenced but not completed 119589
under appropriation item 935607 by July 1, 2013, shall be 119590
completed under appropriation item 200668 in the same manner and 119591
with the same effect as if it were completed with regard to 119592
appropriation item 935607. 119593

(D) Effective July 1, 2013, the Director of Budget and 119594
Management shall cancel existing encumbrances against 119595
appropriation item 935408, General Operations, and re-establish 119596
them, as determined to be appropriate by the Director of Budget 119597

and Management, against appropriation item 200464, General 119598
Technology Operations. The re-established encumbrance amounts are 119599
hereby appropriated. Any business commenced but not completed 119600
under appropriation item 935408 by July 1, 2013, shall be 119601
completed, as determined to be appropriate by the Director of 119602
Budget and Management, under appropriation item 200464 in the same 119603
manner and with the same effect as if it were completed with 119604
regard to appropriation item 935408. 119605

(E) Effective July 1, 2013, the Director of Budget and 119606
Management shall cancel existing encumbrances against 119607
appropriation item 935411, Technology Integration and Professional 119608
Development, and re-establish them, as determined to be 119609
appropriate by the Director of Budget and Management, against 119610
appropriation item 200465, Technology Integration and Professional 119611
Development. The re-established encumbrance amounts are hereby 119612
appropriated. Any business commenced but not completed under 119613
appropriation item 935411 by July 1, 2013, shall be completed, as 119614
determined to be appropriate by the Director of Budget and 119615
Management, under appropriation item 200465 in the same manner and 119616
with the same effect as if it were completed with regard to 119617
appropriation item 935411. 119618

(F) There is hereby created the Educational Technology 119619
Practice Office as a cross-functional office comprised of 119620
employees of the Ohio Board of Regents and the Department of 119621
Education, including former employees of the eTech Ohio Commission 119622
transferred to the Ohio Board of Regents and the Department of 119623
Education. The Office shall work with educational service centers 119624
and information technology centers to develop digital learning, 119625
blended learning, and professional development materials using 119626
shared infrastructure. The Office shall also evaluate new 119627
educational technology and methodologies of teaching and learning 119628
and work with educators to increase awareness of such new 119629

technology and methodologies shown to be helpful to Ohio students. 119630

(G) TRANSFER OF EMPLOYEES 119631

As of July 1, 2013, all employees of the former eTech Ohio 119632
 Commission who transferred to the Department of Education upon the 119633
 abolishment of the Commission as prescribed by this section and 119634
 who when employed by that Commission or a predecessor agency were 119635
 included in a bargaining unit established under Chapter 4117. of 119636
 the Revised Code, shall continue to be included in that bargaining 119637
 unit, are public employees as defined in section 4117.01 of the 119638
 Revised Code, and may collectively bargain with the Department in 119639
 accordance with that chapter. Otherwise, any employee hired by the 119640
 Department on or after the effective date of this section, either 119641
 to fill vacancies or to fill new positions related to the 119642
 transferred employees' duties, shall be exempt from Chapter 4117. 119643
 of the Revised Code and shall not be public employees as defined 119644
 in section 4117.01 of the Revised Code. 119645

Section 263.473. Notwithstanding section 3321.01 of the 119646
 Revised Code, no student who has been admitted to and has 119647
 successfully completed kindergarten in the 2012-2013 school year 119648
 shall be required to repeat kindergarten based solely on the age 119649
 of the student. 119650

Section 265.10. ELC OHIO ELECTIONS COMMISSION 119651

General Revenue Fund 119652

GRF 051321	Operating Expenses	\$	333,117	\$	333,117	119653
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TOTAL GRF	General Revenue Fund	\$	333,117	\$	333,117	119654
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General Services Fund Group 119655

4P20 051601	Ohio Elections	\$	225,000	\$	225,000	119656
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Commission Fund

TOTAL GSF	General Services Fund	\$	225,000	\$	225,000	119657
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	558,117	\$	558,117	119658
Section 267.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL					119660
DIRECTORS					119661
General Services Fund Group					119662
4K90 881609 Operating Expenses	\$	737,000	\$	741,000	119663
TOTAL GSF General Services					119664
Fund Group	\$	737,000	\$	741,000	119665
TOTAL ALL BUDGET FUND GROUPS	\$	737,000	\$	741,000	119666
Section 269.10. PAY EMPLOYEE BENEFITS FUNDS					119668
Accrued Leave Liability Fund Group					119669
8060 995666 Accrued Leave Fund	\$	73,494,242	\$	74,964,127	119670
8070 995667 Disability Fund	\$	26,593,747	\$	27,345,147	119671
TOTAL ALF Accrued Leave Liability					119672
Fund Group	\$	100,087,989	\$	102,309,274	119673
Agency Fund Group					119674
1240 995673 Payroll Deductions	\$	775,712,468	\$	814,498,091	119675
8080 995668 State Employee Health	\$	689,654,314	\$	758,608,963	119676
Benefit Fund					
8090 995669 Dependent Care	\$	2,967,711	\$	3,116,097	119677
Spending Account					
8100 995670 Life Insurance	\$	2,143,053	\$	2,143,053	119678
Investment Fund					
8110 995671 Parental Leave	\$	3,668,471	\$	3,741,840	119679
Benefit Fund					
8130 995672 Health Care Spending	\$	8,033,020	\$	8,434,671	119680
Account					
TOTAL AGY Agency Fund Group	\$	1,482,179,037	\$	1,590,542,715	119681
					119682
TOTAL ALL BUDGET FUND GROUPS	\$	1,582,267,026	\$	1,692,851,989	119683
ACCRUED LEAVE LIABILITY FUND					119684

The foregoing appropriation item 995666, Accrued Leave Fund, 119685
shall be used to make payments from the Accrued Leave Liability 119686
Fund (Fund 8060) pursuant to section 125.211 of the Revised Code. 119687
If it is determined by the Director of Budget and Management that 119688
additional amounts are necessary, the amounts are hereby 119689
appropriated. 119690

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 119691

The foregoing appropriation item 995667, Disability Fund, 119692
shall be used to make payments from the State Employee Disability 119693
Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the 119694
Revised Code. If it is determined by the Director of Budget and 119695
Management that additional amounts are necessary, the amounts are 119696
hereby appropriated. 119697

PAYROLL DEDUCTION FUND 119698

The foregoing appropriation item 995673, Payroll Deductions, 119699
shall be used to make payments from the Payroll Deduction Fund 119700
(Fund 1240) pursuant to section 125.21 of the Revised Code. If it 119701
is determined by the Director of Budget and Management that 119702
additional appropriation amounts are necessary, the amounts are 119703
hereby appropriated. 119704

STATE EMPLOYEE HEALTH BENEFIT FUND 119705

The foregoing appropriation item 995668, State Employee 119706
Health Benefit Fund, shall be used to make payments from the State 119707
Employee Health Benefit Fund (Fund 8080) pursuant to section 119708
124.87 of the Revised Code. If it is determined by the Director of 119709
Budget and Management that additional amounts are necessary, the 119710
amounts are hereby appropriated. 119711

DEPENDENT CARE SPENDING FUND 119712

The foregoing appropriation item 995669, Dependent Care 119713
Spending Account, shall be used to make payments from the 119714

Dependent Care Spending Fund (Fund 8090) to employees eligible for 119715
dependent care expenses pursuant to section 124.822 of the Revised 119716
Code. If it is determined by the Director of Budget and Management 119717
that additional amounts are necessary, the amounts are hereby 119718
appropriated. 119719

LIFE INSURANCE INVESTMENT FUND 119720

The foregoing appropriation item 995670, Life Insurance 119721
Investment Fund, shall be used to make payments from the Life 119722
Insurance Investment Fund (Fund 8100) for the costs and expenses 119723
of the state's life insurance benefit program pursuant to section 119724
125.212 of the Revised Code. If it is determined by the Director 119725
of Budget and Management that additional amounts are necessary, 119726
the amounts are hereby appropriated. 119727

PARENTAL LEAVE BENEFIT FUND 119728

The foregoing appropriation item 995671, Parental Leave 119729
Benefit Fund, shall be used to make payments from the Parental 119730
Leave Benefit Fund (Fund 8110) to employees eligible for parental 119731
leave benefits pursuant to section 124.137 of the Revised Code. If 119732
it is determined by the Director of Budget and Management that 119733
additional amounts are necessary, the amounts are hereby 119734
appropriated. 119735

HEALTH CARE SPENDING ACCOUNT FUND 119736

The foregoing appropriation item 995672, Health Care Spending 119737
Account, shall be used to make payments from the Health Care 119738
Spending Account Fund (Fund 8130) for payments pursuant to state 119739
employees' participation in a flexible spending account for 119740
non-reimbursed health care expenses and section 124.821 of the 119741
Revised Code. If it is determined by the Director of 119742
Administrative Services that additional appropriation amounts are 119743
necessary, the Director of Administrative Services may request 119744
that the Director of Budget and Management increase such amounts. 119745

Such amounts are hereby appropriated. 119746

Section 269.20. CASH TRANSFERS FROM THE COST SAVINGS FUND 119747

On July 1, 2013, or as soon as possible thereafter, the 119748
 Director of Budget and Management shall transfer \$735,000 cash 119749
 from the Cost Savings Fund (Fund 8140) to the Investment Recovery 119750
 Fund (Fund 4270) used by the Department of Administrative 119751
 Services, and up to \$5,200,000 cash from the Cost Savings Fund 119752
 (Fund 8140) to the Accrued Leave Fund (Fund 8060) in order to 119753
 support accrued leave payouts to state employees who are 119754
 participating in an annual leave conversion or who are separating 119755
 from state service. 119756

Section 271.10. ERB STATE EMPLOYMENT RELATIONS BOARD 119757

General Revenue Fund				119758
GRF 125321 Operating Expenses	\$	3,761,457	\$ 3,761,457	119759
TOTAL GRF General Revenue Fund	\$	3,761,457	\$ 3,761,457	119760
General Services Fund Group				119761
5720 125603 Training and Publications	\$	85,000	\$ 85,000	119762
TOTAL GSF General Services Fund Group	\$	85,000	\$ 85,000	119763
TOTAL ALL BUDGET FUND GROUPS	\$	3,846,457	\$ 3,846,457	119765

Section 273.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS 119767

General Services Fund Group				119768
4K90 892609 Operating	\$	996,938	\$ 993,889	119769
TOTAL GSF General Services Fund Group	\$	996,938	\$ 993,889	119771
TOTAL ALL BUDGET FUND GROUPS	\$	996,938	\$ 993,889	119772

Section 275.10. EPA ENVIRONMENTAL PROTECTION AGENCY 119774

General Revenue Fund				119775
GRF	715502	Auto Emissions	\$ 10,923,093 \$	10,923,093 119776
e-Check Program				
TOTAL GRF	General Revenue Fund		\$ 10,923,093 \$	10,923,093 119777
General Services Fund Group				119778
1990	715602	Laboratory Services	\$ 252,153 \$	326,029 119779
2190	715604	Central Support	\$ 10,255,680 \$	10,255,680 119780
Indirect				
4A10	715640	Operating Expenses	\$ 2,600,000 \$	2,602,000 119781
4D50	715618	Recycled State	\$ 50,000 \$	50,000 119782
Materials				
TOTAL GSF	General Services			119783
Fund Group			\$ 13,157,833 \$	13,233,709 119784
Federal Special Revenue Fund Group				119785
3530	715612	Public Water Supply	\$ 2,562,578 \$	2,474,605 119786
3540	715614	Hazardous Waste	\$ 4,088,383 \$	4,088,383 119787
Management - Federal				
3570	715619	Air Pollution Control	\$ 6,310,203 \$	6,310,203 119788
- Federal				
3620	715605	Underground Injection	\$ 111,874 \$	111,874 119789
Control - Federal				
3BU0	715684	Water Quality	\$ 16,205,000 \$	15,280,000 119790
Protection				
3CS0	715688	Federal NRD	\$ 200,000 \$	200,000 119791
Settlements				
3F20	715630	Revolving Loan Fund -	\$ 832,543 \$	1,114,543 119792
Operating				
3F30	715632	Federally Supported	\$ 3,012,021 \$	3,012,991 119793
Cleanup and Response				
3FH0	715693	Diesel Emission	\$ 10,000,000 \$	10,000,000 119794
Reduction Grants				
3T30	715669	Drinking Water State	\$ 2,609,198 \$	2,824,076 119795

Revolving Fund				
3V70	715606	Agencywide Grants	\$ 600,000	\$ 600,000 119796
TOTAL FED		Federal Special Revenue		119797
Fund Group			\$ 46,531,800	\$ 46,016,675 119798
State Special Revenue Fund Group				119799
4J00	715638	Underground Injection Control	\$ 389,126	\$ 402,697 119800
4K20	715648	Clean Air - Non Title V	\$ 3,165,400	\$ 3,237,450 119801
4K30	715649	Solid Waste	\$ 15,685,342	\$ 16,330,873 119802
4K40	715650	Surface Water Protection	\$ 6,993,800	\$ 7,688,800 119803
4K40	715686	Environmental Laboratory Services	\$ 2,096,007	\$ 2,096,007 119804
4K50	715651	Drinking Water Protection	\$ 6,316,772	\$ 6,476,011 119805
4P50	715654	Cozart Landfill	\$ 100,000	\$ 100,000 119806
4R50	715656	Scrap Tire Management	\$ 1,059,378	\$ 1,070,532 119807
4R90	715658	Voluntary Action Program	\$ 916,690	\$ 945,195 119808
4T30	715659	Clean Air - Title V Permit Program	\$ 14,528,885	\$ 15,080,366 119809
4U70	715660	Construction and Demolition Debris	\$ 335,000	\$ 335,000 119810
5000	715608	Immediate Removal Special Account	\$ 660,033	\$ 660,293 119811
5030	715621	Hazardous Waste Facility Management	\$ 7,615,403	\$ 8,224,041 119812
5050	715623	Hazardous Waste Cleanup	\$ 14,528,609	\$ 14,933,345 119813
5050	715674	Clean Ohio Environmental Review	\$ 108,104	\$ 108,104 119814
5320	715646	Recycling and Litter	\$ 4,514,500	\$ 4,535,500 119815

		Control				
5410	715670	Site Specific Cleanup	\$	1,548,101	\$	1,548,101 119816
5420	715671	Risk Management	\$	208,936	\$	214,826 119817
		Reporting				
5860	715637	Scrap Tire Market	\$	1,497,645	\$	1,497,645 119818
		Development				
5BC0	715617	Clean Ohio	\$	611,455	\$	611,455 119819
5BC0	715622	Local Air Pollution	\$	2,297,980	\$	2,297,980 119820
		Control				
5BC0	715624	Surface Water	\$	9,614,974	\$	9,614,974 119821
5BC0	715672	Air Pollution Control	\$	5,684,758	\$	5,684,758 119822
5BC0	715673	Drinking and Ground	\$	4,863,521	\$	4,863,521 119823
		Water				
5BC0	715676	Assistance and	\$	695,069	\$	695,069 119824
		Prevention				
5BC0	715677	Laboratory	\$	1,358,586	\$	1,558,586 119825
5BC0	715678	Corrective Actions	\$	705,423	\$	705,423 119826
5BC0	715687	Areawide Planning	\$	450,000	\$	450,000 119827
		Agencies				
5BC0	715692	Administration	\$	10,582,627	\$	10,582,627 119828
5BC0	715694	Environmental Resource	\$	170,000	\$	170,000 119829
		Coordination				
5BT0	715679	C&DD Groundwater	\$	203,800	\$	203,800 119830
		Monitoring				
5CD0	715682	Clean Diesel School	\$	475,000	\$	475,000 119831
		Buses				
5H40	715664	Groundwater Support	\$	128,212	\$	223,212 119832
5Y30	715685	Surface Water	\$	1,800,000	\$	1,800,000 119833
		Improvement				
6440	715631	Emergency Response	\$	284,266	\$	290,674 119834
		Radiological Safety				
6600	715629	Infectious Waste	\$	88,764	\$	88,764 119835
		Management				

6760	715642	Water Pollution Control Loan Administration	\$	3,921,605	\$	3,921,605	119836
6780	715635	Air Toxic Release	\$	133,636	\$	133,636	119837
6790	715636	Emergency Planning	\$	2,623,252	\$	2,623,252	119838
6960	715643	Air Pollution Control Administration	\$	1,100,000	\$	1,125,000	119839
6990	715644	Water Pollution Control Administration	\$	345,000	\$	345,000	119840
6A10	715645	Environmental Education	\$	1,350,000	\$	1,350,000	119841
TOTAL SSR State Special Revenue			\$	131,755,659	\$	135,299,122	119842
Fund Group							
Clean Ohio Conservation Fund Group							119843
5S10	715607	Clean Ohio - Operating	\$	284,124	\$	284,124	119844
TOTAL CLF Clean Ohio Conservation			\$	284,124	\$	284,124	119845
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	202,652,509	\$	205,756,723	119846
AREAWIDE PLANNING AGENCIES							119847
The Director of Environmental Protection Agency may award							119848
grants from appropriation item 715687, Areawide Planning Agencies,							119849
to areawide planning agencies engaged in areawide water quality							119850
management and planning activities in accordance with Section 208							119851
of the "Federal Clean Water Act," 33 U.S.C. 1288.							119852
CASH TRANSFERS							119853
On July 1, 2013, or as soon as possible thereafter, the							119854
Director of Budget and Management may transfer up to \$11,400,000							119855
cash from the Hazardous Waste Management Fund (Fund 5030) to the							119856
Hazardous Waste Cleanup Fund (Fund 5050) to support closure and							119857
corrective action programs that were transferred to the Division							119858
of Environmental Response and Revitalization.							119859

On July 1, 2013, or as soon as possible thereafter, the 119860
 Director of Environmental Protection shall certify to the Director 119861
 of Budget and Management the cash balance in the Dredge and Fill 119862
 Fund (Fund 5N20). The Director of Budget and Management shall 119863
 transfer the certified amount from Fund 5N20 to the Surface Water 119864
 Protection Fund (Fund 4K40). Any existing encumbrances against 119865
 appropriation item 715613, Dredge and Fill, shall be canceled and 119866
 reestablished against appropriation item 715650, Surface Water 119867
 Protection. The reestablished encumbrance amounts are hereby 119868
 appropriated and Fund 5N20 is abolished. 119869

Section 277.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 119870

General Revenue Fund 119871
 GRF 172321 Operating Expenses \$ 545,530 \$ 545,530 119872
 TOTAL GRF General Revenue Fund \$ 545,530 \$ 545,530 119873
 TOTAL ALL BUDGET FUND GROUPS \$ 545,530 \$ 545,530 119874

Section 279.10. ETH OHIO ETHICS COMMISSION 119876

General Revenue Fund 119877
 GRF 146321 Operating Expenses \$ 1,409,751 \$ 1,381,556 119878
 TOTAL GRF General Revenue Fund \$ 1,409,751 \$ 1,381,556 119879
 General Services Fund Group 119880
 4M60 146601 Operating Expenses \$ 636,388 \$ 641,000 119881
 TOTAL GSF General Services 119882
 Fund Group \$ 636,388 \$ 641,000 119883
 TOTAL ALL BUDGET FUND GROUPS \$ 2,046,139 \$ 2,022,556 119884

Section 281.10. EXP OHIO EXPOSITIONS COMMISSION 119886

General Revenue Fund 119887
 GRF 723403 Junior Fair Subsidy \$ 250,000 \$ 250,000 119888
 TOTAL GRF General Revenue Fund \$ 250,000 \$ 250,000 119889
 State Special Revenue Fund Group 119890

4N20	723602	Ohio State Fair	\$	235,000	\$	235,000	119891
		Harness Racing					
5060	723601	Operating Expenses	\$	12,894,000	\$	12,894,000	119892
TOTAL SSR State Special Revenue							119893
Fund Group			\$	13,129,000	\$	13,129,000	119894
TOTAL ALL BUDGET FUND GROUPS			\$	13,379,000	\$	13,379,000	119895
STATE FAIR RESERVE							119896
The General Manager of the Expositions Commission, in							119897
consultation with the Director of Budget and Management, may							119898
submit a request to the Controlling Board to use available amounts							119899
in the State Fair Reserve Fund (Fund 6400) if revenues for the							119900
Ohio State Fair for the 2013 or 2014 Ohio State Fair are							119901
unexpectedly low.							119902
Section 282.10. FCC OHIO FACILITIES CONSTRUCTION COMMISSION							119903
General Revenue Fund							119904
GRF	230401	Lease Rental Payments	\$	33,106,400	\$	29,854,500	119905
		- Cultural Facilities					
GRF	230458	State Construction	\$	2,495,751	\$	2,245,751	119906
		Management Services					
GRF	230908	Common Schools	\$	351,806,100	\$	377,364,700	119907
		General Obligation					
		Debt Service					
TOTAL GRF General Revenue Fund			\$	387,408,251	\$	409,464,951	119908
General Services Fund Group							119909
1310	230639	State Construction	\$	9,463,342	\$	9,463,342	119910
		Management Operations					
TOTAL GSF General Services Fund			\$	9,463,342	\$	9,463,342	119911
Group							
State Special Revenue Fund Group							119912
4T80	230603	Community Project	\$	200,000	\$	200,000	119913

Administration

5E30 230644	Operating Expenses	\$	8,550,000	\$	8,550,000	119914
TOTAL SSR State Special Revenue						119915
Fund Group		\$	8,750,000	\$	8,750,000	119916
TOTAL ALL BUDGET FUND GROUPS						119917

Section 282.20. LEASE RENTAL PAYMENTS 119919

The foregoing appropriation item 230401, Lease Rental 119920
 Payments - Cultural Facilities, shall be used to meet all payments 119921
 at the times they are required to be made during the period from 119922
 July 1, 2013 through June 30, 2015, from the Ohio Facilities 119923
 Construction Commission under the primary leases and agreements 119924
 for those arts and sports facilities made under Chapters 152. and 119925
 154. of the Revised Code. These appropriations are the source of 119926
 funds pledged for bond service charges on related obligations 119927
 issued under Chapters 152. and 154. of the Revised Code. 119928

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 119929

The foregoing appropriation item 230908, Common Schools 119930
 General Obligation Debt Service, shall be used to pay all debt 119931
 service and related financing costs at the times they are required 119932
 to be made during the period from July 1, 2013, through June 30, 119933
 2015, for obligations issued under sections 151.01 and 151.03 of 119934
 the Revised Code. 119935

Section 282.30. COMMUNITY PROJECT ADMINISTRATION 119936

The foregoing appropriation item 230603, Community Project 119937
 Administration, shall be used by the Ohio Facilities Construction 119938
 Commission in administering Cultural and Sports Facilities 119939
 Building Fund (Fund 7030) projects pursuant to section 123.201 of 119940
 the Revised Code. 119941

Section 282.40. OPERATING EXPENSES 119942

The foregoing appropriation item 230644, Operating Expenses, 119943
shall be used by the Ohio School Facilities Commission to carry 119944
out its responsibilities under this section and Chapter 3318. of 119945
the Revised Code. 119946

In both fiscal years 2014 and 2015, the Executive Director of 119947
the Ohio School Facilities Commission shall certify on a quarterly 119948
basis to the Director of Budget and Management the amount of cash 119949
from interest earnings to be transferred from the School Building 119950
Assistance Fund (Fund 7032), the Public School Building Fund (Fund 119951
7021), and the Educational Facilities Trust Fund (Fund N087) to 119952
the Ohio School Facilities Commission Fund (Fund 5E30). The amount 119953
transferred from the School Building Assistance Fund (Fund 7032) 119954
may not exceed investment earnings credited to the fund, less any 119955
amount required to be paid for federal arbitrage rebate purposes. 119956

If the Executive Director of the Ohio Facilities Construction 119957
Commission determines that transferring cash from interest 119958
earnings is insufficient to support operations and carry out its 119959
responsibilities under this section and Chapter 3318. of the 119960
Revised Code, the Commission may, with the approval of the 119961
Controlling Board, transfer cash not generated from interest from 119962
the Public School Building Fund (Fund 7021) and the Educational 119963
Trust Fund (Fund N087) to the Ohio School Facilities Commission 119964
Fund (Fund 5E30). 119965

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 119966

At the request of the Executive Director of the Ohio School 119967
Facilities Commission, the Director of Budget and Management may 119968
cancel encumbrances for school district projects from a previous 119969
biennium if the district has not raised its local share of project 119970
costs within thirteen months of receiving Controlling Board 119971
approval under section 3318.05 or 3318.41 of the Revised Code. The 119972
Executive Director of the Ohio School Facilities Commission shall 119973
certify the amounts of the canceled encumbrances to the Director 119974

of Budget and Management on a quarterly basis. The amounts of the 119975
canceled encumbrances are hereby appropriated. 119976

Section 282.50. CAPITAL DONATIONS FUND CERTIFICATIONS AND 119977
APPROPRIATIONS 119978

The Executive Director of the Facilities Construction 119979
Commission shall certify to the Director of Budget and Management 119980
the amount of cash receipts and related investment income, 119981
irrevocable letters of credit from a bank, or certification of the 119982
availability of funds that have been received from a county or a 119983
municipal corporation for deposit into the Capital Donations Fund 119984
(Fund 5A10) and that are related to an anticipated project. These 119985
amounts are hereby appropriated to appropriation item C37146, 119986
Capital Donations. Prior to certifying these amounts to the 119987
Director, the Executive Director shall make a written agreement 119988
with the participating entity on the necessary cash flows required 119989
for the anticipated construction or equipment acquisition project. 119990

Section 282.60. AMENDMENT TO PROJECT AGREEMENT FOR 119991
MAINTENANCE LEVY 119992

The Ohio School Facilities Commission shall amend the project 119993
agreement between the Commission and a school district that is 119994
participating in the Accelerated Urban School Building Assistance 119995
Program on the effective date of this section, if the Commission 119996
determines that it is necessary to do so in order to comply with 119997
division (B)(3)(c) of section 3318.38 of the Revised Code. 119998

Section 282.70. Notwithstanding any other provision of law to 119999
the contrary, the Ohio School Facilities Commission may determine 120000
the amount of funding available for disbursement in a given fiscal 120001
year for any project approved under sections 3318.01 to 3318.20 of 120002
the Revised Code in order to keep aggregate state capital spending 120003
within approved limits and may take actions including, but not 120004

limited to, determining the schedule for design or bidding of 120005
approved projects, to ensure appropriate and supportable cash 120006
flow. 120007

Section 282.80. Notwithstanding division (B) of section 120008
3318.40 of the Revised Code, the Ohio School Facilities Commission 120009
may provide assistance to at least one joint vocational school 120010
district each fiscal year for the acquisition of classroom 120011
facilities in accordance with sections 3318.40 to 3318.45 of the 120012
Revised Code. 120013

Section 282.90. The Ohio Cultural Facilities Commission is 120014
abolished. Except as otherwise provided in this section, all 120015
obligations of the Ohio Cultural Facilities Commission under 120016
agreements to which the Ohio Cultural Facilities Commission is a 120017
party, and all records and assets of the Ohio Cultural Facilities 120018
Commission, including, without limitation, equipment, inventory, 120019
contract rights, accounts, and general intangibles, are 120020
transferred to the Ohio Facilities Construction Commission. 120021

The Ohio Facilities Construction Commission shall designate 120022
the positions, if any, to be transferred to the Ohio Facilities 120023
Construction Commission, along with any equipment assigned to 120024
those positions. Any employee transferred to the Ohio Facilities 120025
Construction Commission retains the employee's respective 120026
classification, but the Ohio Facilities Construction Commission 120027
may reassign and reclassify the employee's position and 120028
compensation as the Ohio Facilities Construction Commission 120029
determines to be in the best interest of office administration. 120030

The Ohio Facilities Construction Commission shall complete 120031
any activities related to the design, planning, construction, and 120032
related management functions commenced but not completed by the 120033
Ohio Cultural Facilities Commission in the same manner and with 120034

the same effect as if the Ohio Cultural Facilities Commission had 120035
completed them. The consolidation of the commissions shall not 120036
cause the loss or impairment of any validation, cure, right, 120037
privilege, remedy, obligation, or liability, which the Ohio 120038
Facilities Construction Commission shall administer. 120039

All rules, orders, and determinations related to the design, 120040
planning, and construction and related management functions of the 120041
Ohio Cultural Facilities Commission continue in effect as rules, 120042
orders, and determinations of the Ohio Facilities Construction 120043
Commission until the Ohio Facilities Construction Commission 120044
modifies or rescinds them. The Director of the Legislative Service 120045
Commission shall renumber the rules of the Ohio Cultural 120046
Facilities Commission related to that commission's design, 120047
planning, and construction and related management functions to 120048
reflect their transfer to the Ohio Facilities Construction 120049
Commission. 120050

The transfer of functions from the Ohio Cultural Facilities 120051
Commission to the Ohio Facilities Construction Commission does not 120052
affect any pending judicial or administrative action or proceeding 120053
to which the Ohio Cultural Facilities Commission is a party and 120054
that is related to that commission's design, planning, 120055
construction, capital funding, or related management functions. 120056
Any such action or proceeding shall be prosecuted or defended in 120057
the name of the Ohio Facilities Construction Commission. On 120058
application to the court or agency, the Ohio Facilities 120059
Construction Commission shall be substituted for the Ohio Cultural 120060
Facilities Commission as a party to the action or proceeding. 120061

Effective July 1, 2013, the Director of Budget and Management 120062
shall cancel any existing encumbrances against appropriation item 120063
371603, Project Administration, and re-establish them against 120064
appropriation item 230603, Community Project Administration. The 120065
re-established encumbrance amounts are hereby appropriated. Any 120066

business commenced but not completed under appropriation item 120067
371603 by July 1, 2013, shall be completed under appropriation 120068
item 230603 in the same manner and with the same effect as if it 120069
were completed with regard to appropriation item 371603. 120070

Funds collected as part of a management contract for the 120071
Riffe Theatres, which previously were deposited in the Ohio 120072
Cultural Facilities Commission Administration Fund (Fund 4T80), 120073
shall be credited to the Theater Equipment Maintenance Fund (Fund 120074
5MV0), which is hereby created in the State Treasury. The Director 120075
of Budget and Management shall transfer from the Ohio Cultural 120076
Facilities Commission Administration Fund to the Theater Equipment 120077
Maintenance Fund any remaining cash balances from funds collected 120078
as part of a management contract for the Riffe Theatres. In order 120079
to facilitate this transfer, the Executive Director of the Ohio 120080
Facilities Construction Commission, by July 1, 2013, or as soon as 120081
possible thereafter, shall certify to the Director of Budget and 120082
Management an estimate of the amount to be transferred. The 120083
Department of Administrative Services shall use appropriation item 120084
100662, Theatre Equipment Maintenance, to spend cash in the 120085
Theatre Equipment Maintenance Fund (Fund 5MV0). 120086

The Ohio Facilities Construction Commission may enter into an 120087
interagency agreement with the Department of Administrative 120088
Services for the Department to perform any of the functions 120089
transferred to the Ohio Facilities Construction Commission under 120090
this section. 120091

Any reference to the Ohio Cultural Facilities Commission in 120092
any statute, rule, contract, grant, or other document is deemed to 120093
refer to the Ohio Facilities Construction Commission. 120094

The Ohio Facilities Construction Commission, the Ohio Public 120095
Facilities Commission, and the issuing authority of any 120096
obligations issued for the financing of capital facilities for 120097
Ohio cultural facilities and Ohio sports facilities may execute 120098

instruments, documents, and agreements and may take necessary or 120099
appropriate actions to effect the orderly transfer of those 120100
obligations from the Ohio Cultural Facilities Commission to the 120101
Ohio Facilities Construction Commission. 120102

This section takes effect July 1, 2013. 120103

Section 283.10. GOV OFFICE OF THE GOVERNOR 120104

General Revenue Fund 120105

GRF 040321 Operating Expenses \$ 2,851,552 \$ 2,851,552 120106

TOTAL GRF General Revenue Fund \$ 2,851,552 \$ 2,851,552 120107

General Services Fund Group 120108

5AK0 040607 Government Relations \$ 365,149 \$ 365,149 120109

TOTAL GSF General Services Fund \$ 365,149 \$ 365,149 120110

Group

TOTAL ALL BUDGET FUND GROUPS \$ 3,216,701 \$ 3,216,701 120111

GOVERNMENT RELATIONS 120112

A portion of the foregoing appropriation item 040607, 120113

Government Relations, may be used to support Ohio's membership in 120114

national or regional associations. 120115

The Office of the Governor may charge any state agency of the 120116

executive branch using an intrastate transfer voucher such amounts 120117

necessary to defray the costs incurred for the conduct of 120118

governmental relations associated with issues that can be 120119

attributed to the agency. Amounts collected shall be deposited in 120120

the Government Relations Fund (Fund 5AK0). 120121

Section 285.10. DOH DEPARTMENT OF HEALTH 120122

General Revenue Fund 120123

GRF 440412 Cancer Incidence \$ 600,000 \$ 600,000 120124

Surveillance System

GRF 440413 Local Health \$ 823,061 \$ 823,061 120125

Departments					
GRF 440416	Mothers and Children	\$	4,228,015	\$	4,228,015 120126
	Safety Net Services				
GRF 440418	Immunizations	\$	8,825,829	\$	8,825,829 120127
GRF 440431	Free Clinics Safety	\$	437,326	\$	437,326 120128
	Net Services				
GRF 440438	Breast and Cervical	\$	823,217	\$	823,217 120129
	Cancer Screening				
GRF 440444	AIDS Prevention and	\$	5,842,315	\$	5,842,315 120130
	Treatment				
GRF 440451	Public Health	\$	3,655,449	\$	3,655,449 120131
	Laboratory				
GRF 440452	Child and Family	\$	630,444	\$	630,444 120132
	Health Services Match				
GRF 440453	Health Care Quality	\$	4,874,361	\$	4,874,361 120133
	Assurance				
GRF 440454	Environmental Health	\$	1,194,634	\$	1,194,634 120134
GRF 440459	Help Me Grow	\$	33,673,987	\$	33,673,987 120135
GRF 440467	Access to Dental Care	\$	540,484	\$	540,484 120136
GRF 440468	Chronic Disease and	\$	2,447,251	\$	2,447,251 120137
	Injury Prevention				
GRF 440472	Alcohol Testing	\$	1,100,000	\$	1,100,000 120138
GRF 440473	Tobacco Prevention and	\$	1,050,000	\$	1,050,000 120139
	Cessation				
GRF 440474	Infant Vitality	\$	3,116,688	\$	3,116,688 120140
GRF 440505	Medically Handicapped	\$	7,512,451	\$	7,512,451 120141
	Children				
GRF 440507	Targeted Health Care	\$	1,045,414	\$	1,045,414 120142
	Services Over 21				
GRF 654453	Medicaid - Health Care	\$	3,300,000	\$	3,300,000 120143
	Quality Assurance				
TOTAL GRF	General Revenue Fund	\$	85,720,926	\$	85,720,926 120144
	State Highway Safety Fund Group				120145

4T40	440603	Child Highway Safety	\$	233,894	\$	233,894	120146
TOTAL HSF State Highway Safety							120147
Fund Group			\$	233,894	\$	233,894	120148
General Services Fund Group							120149
1420	440646	Agency Health Services	\$	820,998	\$	820,998	120150
2110	440613	Central Support Indirect Costs	\$	30,615,591	\$	31,052,469	120151
4730	440622	Lab Operating Expenses	\$	5,000,000	\$	5,000,000	120152
6830	440633	Employee Assistance Program	\$	1,100,000	\$	1,100,000	120153
6980	440634	Nurse Aide Training	\$	99,265	\$	99,265	120154
TOTAL GSF General Services							120155
Fund Group			\$	37,635,854	\$	38,072,732	120156
Federal Special Revenue Fund Group							120157
3200	440601	Maternal Child Health Block Grant	\$	23,889,057	\$	23,889,057	120158
3870	440602	Preventive Health Block Grant	\$	6,000,000	\$	6,000,000	120159
3890	440604	Women, Infants, and Children	\$	250,000,000	\$	250,000,000	120160
3910	440606	Medicare Survey and Certification	\$	19,449,282	\$	19,961,405	120161
3920	440618	Federal Public Health Programs	\$	134,546,304	\$	135,140,586	120162
3GD0	654601	Medicaid Program Support	\$	21,126,014	\$	22,392,094	120163
TOTAL FED Federal Special Revenue							120164
Fund Group			\$	455,010,657	\$	457,383,142	120165
State Special Revenue Fund Group							120166
4700	440647	Fee Supported	\$	25,305,250	\$	25,613,586	120167

		Programs					
4710	440619	Certificate of Need	\$	878,433	\$	878,433	120168
4770	440627	Medically Handicapped	\$	3,692,703	\$	3,692,703	120169
		Children Audit					
4D60	440608	Genetics Services	\$	3,311,039	\$	3,311,039	120170
4F90	440610	Sickle Cell Disease	\$	1,032,824	\$	1,032,824	120171
		Control					
4G00	440636	Heirloom Birth	\$	5,000	\$	5,000	120172
		Certificate					
4G00	440637	Birth Certificate	\$	5,000	\$	5,000	120173
		Surcharge					
4L30	440609	HIV Care and	\$	8,333,164	\$	8,333,164	120174
		Miscellaneous					
		Expenses					
4P40	440628	Ohio Physician Loan	\$	476,870	\$	476,870	120175
		Repayment					
4V60	440641	Save Our Sight	\$	2,255,789	\$	2,255,789	120176
5B50	440616	Quality, Monitoring,	\$	878,997	\$	878,997	120177
		and Inspection					
5CN0	440645	Choose Life	\$	75,000	\$	75,000	120178
5D60	440620	Second Chance Trust	\$	1,151,902	\$	1,151,902	120179
5ED0	440651	Smoke Free Indoor Air	\$	250,000	\$	250,000	120180
5G40	440639	Adoption Services	\$	20,000	\$	20,000	120181
5Z70	440624	Ohio Dentist Loan	\$	140,000	\$	140,000	120182
		Repayment					
6100	440626	Radiation Emergency	\$	1,049,954	\$	1,086,098	120183
		Response					
6660	440607	Medically Handicapped	\$	19,739,617	\$	19,739,617	120184
		Children - County					
		Assessments					
TOTAL SSR State Special Revenue							120185
Fund Group		\$	68,601,542	\$	68,946,022	120186	
Holding Account Redistribution Fund Group							120187

R014	440631	Vital Statistics	\$	44,986	\$	44,986	120188
R048	440625	Refunds, Grants	\$	20,000	\$	20,000	120189
		Reconciliation, and					
		Audit Settlements					
TOTAL	090	Holding Account					120190
		Redistribution Fund Group	\$	64,986	\$	64,986	120191
		Tobacco Master Settlement Agreement Fund Group					120192
5BX0	440656	Tobacco Use	\$	1,450,000	\$	1,450,000	120193
		Prevention					
TOTAL	TSF	Tobacco Master Settlement	\$	1,450,000	\$	1,450,000	120194
		Agreement Fund Group					
TOTAL	ALL	BUDGET FUND GROUPS	\$	648,717,859	\$	651,871,702	120195

Section 285.20. HIV/AIDS PREVENTION/TREATMENT 120197

The foregoing appropriation item 440444, AIDS Prevention and 120198
Treatment, shall be used to assist persons with HIV/AIDS in 120199
acquiring HIV-related medications and to administer educational 120200
prevention initiatives. 120201

PUBLIC HEALTH LABORATORY 120202

A portion of the foregoing appropriation item 440451, Public 120203
Health Laboratory, shall be used for coordination and management 120204
of prevention program operations and the purchase of drugs for 120205
sexually transmitted diseases. 120206

HELP ME GROW 120207

The foregoing appropriation item 440459, Help Me Grow, shall 120208
be used by the Department of Health to implement the Help Me Grow 120209
Program. Funds shall be distributed to counties through 120210
agreements, contracts, grants, or subsidies in accordance with 120211
section 3701.61 of the Revised Code. Appropriation item 440459, 120212
Help Me Grow, may be used in conjunction with other early 120213
childhood funds and services to promote the optimal development of 120214

young children and family-centered programs and services that 120215
acknowledge and support the social, emotional, cognitive, 120216
intellectual, and physical development of children and the vital 120217
role of families in ensuring the well-being and success of 120218
children. The Department of Health shall enter into interagency 120219
agreements with the Department of Education, Department of 120220
Developmental Disabilities, Department of Job and Family Services, 120221
and Department of Mental Health and Addiction Services to ensure 120222
that all early childhood programs and initiatives are coordinated 120223
and school linked. 120224

The foregoing appropriation item 440459, Help Me Grow, may 120225
also be used for the Developmental Autism and Screening Program. 120226

INFANT VITALITY 120227

The foregoing appropriation item 440474, Infant Vitality, 120228
shall be used to fund the following projects, which are hereby 120229
created: 120230

(A) The Infant Safe Sleep Campaign to educate parents and 120231
caregivers with a uniform message regarding safe sleep 120232
environments; 120233

(B) The Progesterone Prematurity Prevention Project to enable 120234
prenatal care providers to identify, screen, treat, and track 120235
outcomes for women eligible for progesterone supplementation; and 120236

(C) The Prenatal Smoking Cessation Project to enable prenatal 120237
care providers who work with women of reproductive age, including 120238
pregnant women, to have the tools, training, and technical 120239
assistance needed to treat smokers effectively. 120240

TARGETED HEALTH CARE SERVICES OVER 21 120241

The foregoing appropriation item 440507, Targeted Health Care 120242
Services Over 21, shall be used to administer the Cystic Fibrosis 120243
Program and to implement the Hemophilia Insurance Premium Payment 120244

Program.	120245
The foregoing appropriation item 440507, Targeted Health Care Services Over 21, shall also be used to provide essential medications and to pay the copayments for drugs approved by the Department of Health and covered by Medicare Part D that are dispensed to Bureau for Children with Medical Handicaps (BCMH) participants for the Cystic Fibrosis Program.	120246 120247 120248 120249 120250 120251
The Department shall expend all of these funds.	120252
GENETICS SERVICES	120253
The foregoing appropriation item 440608, Genetics Services (Fund 4D60), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code. None of these funds shall be used to counsel or refer for abortion, except in the case of a medical emergency.	120254 120255 120256 120257 120258
MEDICALLY HANDICAPPED CHILDREN AUDIT	120259
The Medically Handicapped Children Audit Fund (Fund 4770) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped Children's Program recipients to apply for third-party benefits. Moneys also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped children, as defined in division (A) of section 3701.022 of the Revised Code, and Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis or hemophilia. Moneys may also be expended for administrative expenses incurred in operating the Medically Handicapped Children's Program.	120260 120261 120262 120263 120264 120265 120266 120267 120268 120269 120270 120271 120272
MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS	120273
The foregoing appropriation item 440607, Medically	120274

Handicapped Children - County Assessments (Fund 6660), shall be 120275
 used to make payments under division (E) of section 3701.023 of 120276
 the Revised Code. 120277

CASH TRANSFER FROM THE PUBLIC HEALTH PRIORITIES TRUST FUND TO 120278
 THE TOBACCO USE PREVENTION FUND 120279

On July 1, 2013, or as soon as possible thereafter, the 120280
 Director of Budget and Management shall transfer \$2,439,230 cash 120281
 from the Public Health Priorities Trust Fund (Fund L087) to the 120282
 Tobacco Use Prevention Fund (Fund 5BX0) to meet the operating 120283
 needs of the Department of Health's tobacco enforcement and 120284
 cessation efforts. 120285

Section 285.30. DEPARTMENT OF HEALTH'S APPROPRIATION ITEM 120286
 STRUCTURE 120287

Upon request from the Director of Health, the Director of 120288
 Budget and Management may establish new funds, new appropriation 120289
 items, and appropriations in order to support the transition to a 120290
 new appropriation item structure in the Department of Health's 120291
 budget. Also, upon request of the Director of Health, the Director 120292
 of Budget and Management may transfer appropriations between GRF 120293
 appropriation items, transfer cash between any funds used by the 120294
 Department of Health, abolish existing funds used by the 120295
 Department of Health, and cancel and reestablish encumbrances. Any 120296
 establishment of new funds or appropriation items, any transfers 120297
 of appropriations or cash, and any increases in appropriation 120298
 under this section are subject to Controlling Board approval. 120299

Section 287.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 120300
 Agency Fund Group 120301
 4610 372601 Operating Expenses \$ 12,500 \$ 12,500 120302
 TOTAL AGY Agency Fund Group \$ 12,500 \$ 12,500 120303
 TOTAL ALL BUDGET FUND GROUPS \$ 12,500 \$ 12,500 120304

Section 289.10.				SPA COMMISSION ON HISPANIC/LATINO AFFAIRS	120306		
General Revenue Fund					120307		
GRF	148100	Personal Services	\$	279,998	\$ 279,998	120308	
GRF	148402	Community Programs	\$	44,924	\$ 44,924	120309	
TOTAL GRF General Revenue Fund				\$	324,922	\$ 324,922	120310
General Services Fund Group						120311	
6010	148602	Special Initiatives	\$	24,558	\$ 24,558	120312	
TOTAL GSF General Services						120313	
Fund Group				\$	24,558	\$ 24,558	120314
TOTAL ALL BUDGET FUND GROUPS				\$	349,480	\$ 349,480	120315
 Section 291.10.				OHS OHIO HISTORICAL SOCIETY	120317		
General Revenue Fund						120318	
GRF	360501	Education and Collections	\$	3,618,997	\$ 3,618,997	120319	
GRF	360502	Site and Museum Operations	\$	4,426,288	\$ 4,926,288	120320	
GRF	360504	Ohio Preservation Office	\$	290,000	\$ 290,000	120321	
GRF	360505	National Afro-American Museum	\$	414,798	\$ 414,798	120322	
GRF	360506	Hayes Presidential Center	\$	309,147	\$ 309,147	120323	
GRF	360509	Outreach and Partnership	\$	90,395	\$ 90,395	120324	
TOTAL GRF General Revenue Fund				\$	9,149,625	\$ 9,649,625	120325
Agency Fund Group						120326	
5KL0	360602	Ohio History Tax Check-off	\$	250,000	\$ 250,000	120327	
TOTAL AGY Agency Fund Group				\$	250,000	\$ 250,000	120328
TOTAL ALL BUDGET FUND GROUPS				\$	9,399,625	\$ 9,899,625	120329

SUBSIDY APPROPRIATION				120330	
Upon approval by the Director of Budget and Management, the				120331	
foregoing appropriation items shall be released to the Ohio				120332	
Historical Society in quarterly amounts that in total do not				120333	
exceed the annual appropriations. The funds and fiscal records of				120334	
the society for fiscal year 2014 and fiscal year 2015 shall be				120335	
examined by independent certified public accountants approved by				120336	
the Auditor of State, and a copy of the audited financial				120337	
statements shall be filed with the Office of Budget and				120338	
Management. The society shall prepare and submit to the Office of				120339	
Budget and Management the following:				120340	
(A) An estimated operating budget for each fiscal year of the				120341	
biennium. The operating budget shall be submitted at or near the				120342	
beginning of each calendar year.				120343	
(B) Financial reports, indicating actual receipts and				120344	
expenditures for the fiscal year to date. These reports shall be				120345	
filed at least semiannually during the fiscal biennium.				120346	
The foregoing appropriations shall be considered to be the				120347	
contractual consideration provided by the state to support the				120348	
state's offer to contract with the Ohio Historical Society under				120349	
section 149.30 of the Revised Code.				120350	
Section 293.10. REP OHIO HOUSE OF REPRESENTATIVES				120351	
General Revenue Fund				120352	
GRF 025321 Operating Expenses	\$	21,031,091	\$	21,031,091	120353
TOTAL GRF General Revenue Fund	\$	21,031,091	\$	21,031,091	120354
General Services Fund Group				120355	
1030 025601 House Reimbursement	\$	1,433,664	\$	1,433,664	120356
4A40 025602 Miscellaneous Sales	\$	37,849	\$	37,849	120357
TOTAL GSF General Services				120358	
Fund Group	\$	1,471,513	\$	1,471,513	120359

TOTAL ALL BUDGET FUND GROUPS	\$	22,502,604	\$	22,502,604	120360
OPERATING EXPENSES					120361
On July 1, 2013, or as soon as possible thereafter, the Chief					120362
Administrative Officer of the House of Representatives may certify					120363
to the Director of Budget and Management the amount of the					120364
unexpended, unencumbered balance of the foregoing appropriation					120365
item 025321, Operating Expenses, at the end of fiscal year 2013 to					120366
be reappropriated to fiscal year 2014. The amount certified is					120367
hereby reappropriated to the same appropriation item for fiscal					120368
year 2014.					120369
On July 1, 2014, or as soon as possible thereafter, the Chief					120370
Administrative Officer of the House of Representatives may certify					120371
to the Director of Budget and Management the amount of the					120372
unexpended, unencumbered balance of the foregoing appropriation					120373
item 025321, Operating Expenses, at the end of fiscal year 2014 to					120374
be reappropriated to fiscal year 2015. The amount certified is					120375
hereby reappropriated to the same appropriation item for fiscal					120376
year 2015.					120377
HOUSE REIMBURSEMENT					120378
If it is determined by the Chief Administrative Officer of					120379
the House of Representatives that additional appropriations are					120380
necessary for the foregoing appropriation item 025601, House					120381
Reimbursement, the amounts are hereby appropriated.					120382
Section 295.10. HFA OHIO HOUSING FINANCE AGENCY					120383
State Special Revenue Fund Group					120384
5AZ0 997601 Housing Finance Agency	\$	12,156,982	\$	12,156,982	120385
Personal Services					
TOTAL SSR State Special Revenue	\$	12,156,982	\$	12,156,982	120386
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	12,156,982	\$	12,156,982	120387

Section 297.10.				IGO OFFICE OF THE INSPECTOR GENERAL	120389	
General Revenue Fund					120390	
GRF	965321	Operating Expenses	\$ 1,175,598	\$ 1,175,598	120391	
GRF	965404	Deputy Inspector	\$ 475,000	\$ 350,000	120392	
General for ARRA						
TOTAL GRF	General Revenue Fund		\$ 1,650,598	\$ 1,525,598	120393	
General Services Fund Group					120394	
5FA0	965603	Deputy Inspector	\$ 400,000	\$ 400,000	120395	
General for ODOT						
5FT0	965604	Deputy Inspector	\$ 425,000	\$ 425,000	120396	
General for BWC/OIC						
5GI0	965605	Deputy Inspector	\$ 25,000	\$ 0	120397	
General for ARRA						
TOTAL GSF	General Services Fund		\$ 850,000	\$ 825,000	120398	
Group						
TOTAL ALL BUDGET FUND GROUPS			\$ 2,500,598	\$ 2,350,598	120399	
Section 299.10.				INS DEPARTMENT OF INSURANCE	120401	
Federal Special Revenue Fund Group					120402	
3EV0	820610	Health Insurance	\$ 1,300,000	\$ 1,300,000	120403	
Premium Review						
3U50	820602	OSHIIP Operating	\$ 1,970,725	\$ 1,970,725	120404	
Grant						
TOTAL FED	Federal Special				120405	
Revenue Fund Group				\$ 3,270,725	\$ 3,270,725	120406
State Special Revenue Fund Group					120407	
5540	820601	Operating Expenses -	\$ 180,000	\$ 180,000	120408	
OSHIIP						
5540	820606	Operating Expenses	\$ 27,570,433	\$ 24,910,367	120409	
5550	820605	Examination	\$ 8,184,065	\$ 8,184,065	120410	
TOTAL SSR	State Special Revenue				120411	

Fund Group	\$	35,934,498	\$	33,274,432	120412
TOTAL ALL BUDGET FUND GROUPS	\$	39,205,223	\$	36,545,157	120413

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 120414

The Director of Budget and Management, at the request of the 120415
 Superintendent of Insurance, may transfer funds from the 120416
 Department of Insurance Operating Fund (Fund 5540), established by 120417
 section 3901.021 of the Revised Code, to the Superintendent's 120418
 Examination Fund (Fund 5550), established by section 3901.071 of 120419
 the Revised Code, only for expenses incurred in examining domestic 120420
 fraternal benefit societies as required by section 3921.28 of the 120421
 Revised Code. 120422

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND 120423

Not later than the thirty-first day of July each fiscal year, 120424
 the Director of Budget and Management shall transfer \$5,000,000 120425
 from the Department of Insurance Operating Fund (Fund 5540) to the 120426
 General Revenue Fund. 120427

Section 301.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 120428

General Revenue Fund 120429

GRF 600321	Program Support	\$	31,320,964	\$	31,109,751	120430
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GRF 600410	TANF State/Maintenance of Effort	\$	151,386,934	\$	151,386,934	120431
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GRF 600413	Child Care State/Maintenance of Effort	\$	84,732,730	\$	84,732,730	120432
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GRF 600416	Information Technology Projects	\$	54,223,871	\$	54,184,700	120433
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GRF 600420	Child Support Programs	\$	6,498,667	\$	6,591,048	120434
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GRF 600421	Family Assistance Programs	\$	3,161,930	\$	3,161,930	120435
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GRF 600423	Families and Children	\$	6,384,514	\$	6,542,517	120436
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	Programs					
GRF 600502	Child Support - Local	\$	23,814,103	\$	23,814,103	120437
GRF 600511	Disability Financial Assistance	\$	22,000,000	\$	22,000,000	120438
GRF 600521	Family Assistance - Local	\$	41,132,751	\$	41,132,751	120439
GRF 600523	Family and Children Services	\$	54,105,323	\$	54,105,323	120440
GRF 600528	Adoption Services					120441
	State	\$	28,623,389	\$	28,623,389	120442
	Federal	\$	38,202,557	\$	38,202,557	120443
	Adoption Services Total	\$	66,825,946	\$	66,825,946	120444
GRF 600533	Child, Family, and Adult Community & Protective Services	\$	13,500,000	\$	13,500,000	120445
GRF 600534	Adult Protective Services	\$	366,003	\$	366,003	120446
GRF 600535	Early Care and Education	\$	123,596,474	\$	123,596,474	120447
GRF 600540	Food Banks	\$	6,000,000	\$	6,000,000	120448
GRF 600541	Kinship Permanency Incentive Program	\$	3,500,000	\$	3,500,000	120449
GRF 655522	Medicaid Program Support - Local	\$	31,067,970	\$	31,067,970	120450
GRF 655523	Medicaid Program Support - Local Transportation	\$	30,680,495	\$	30,680,495	120451
TOTAL GRF	General Revenue Fund					120452
	State	\$	716,096,118	\$	716,096,118	120453
	Federal	\$	38,202,557	\$	38,202,557	120454
	GRF Total	\$	754,298,675	\$	754,298,675	120455
	General Services Fund Group					120456
4A80 600658	Public Assistance	\$	34,000,000	\$	34,000,000	120457

		Activities			
5DM0	600633	Administration & Operating	\$ 19,660,339	\$ 19,660,339	120458
5HC0	600695	Unemployment Compensation Interest	\$ 60,000,000	\$ 60,000,000	120459
5HL0	600602	State and County Shared Services	\$ 3,020,000	\$ 3,020,000	120460
6130	600645	Training Activities	\$ 100,000	\$ 92,989	120461
TOTAL GSF General Services					120462
Fund Group			\$ 116,780,339	\$ 116,773,328	120463
Federal Special Revenue Fund Group					120464
3270	600606	Child Welfare	\$ 29,769,866	\$ 29,769,866	120465
3310	600615	Veterans Programs	\$ 8,000,000	\$ 8,000,000	120466
3310	600624	Employment Services Programs	\$ 26,000,000	\$ 26,000,000	120467
3310	600686	Workforce Programs	\$ 6,260,000	\$ 6,260,000	120468
3840	600610	Food Assistance Programs	\$ 209,333,246	\$ 180,381,394	120469
3850	600614	Refugee Services	\$ 12,564,952	\$ 12,564,952	120470
3950	600616	Federal Discretionary Grants	\$ 2,259,264	\$ 2,259,264	120471
3960	600620	Social Services Block Grant	\$ 47,000,000	\$ 47,000,000	120472
3970	600626	Child Support - Federal	\$ 235,000,000	\$ 235,000,000	120473
3980	600627	Adoption Program - Federal	\$ 174,178,779	\$ 174,178,779	120474
3A20	600641	Emergency Food Distribution	\$ 5,000,000	\$ 5,000,000	120475
3D30	600648	Children's Trust Fund Federal	\$ 3,477,699	\$ 3,477,699	120476
3F01	655624	Medicaid Program Support	\$ 110,680,495	\$ 110,680,495	120477

3H70	600617	Child Care Federal	\$	241,987,805	\$	222,212,089	120478
3N00	600628	Foster Care Program - Federal	\$	311,968,616	\$	311,968,616	120479
3S50	600622	Child Support Projects	\$	534,050	\$	534,050	120480
3V00	600688	Workforce Investment Act Programs	\$	136,000,000	\$	136,000,000	120481
3V40	600678	Federal Unemployment Programs	\$	182,814,212	\$	182,814,212	120482
3V40	600679	UC Review Commission - Federal	\$	6,185,788	\$	6,185,788	120483
3V60	600689	TANF Block Grant	\$	777,957,809	\$	790,304,845	120484
TOTAL FED Federal Special Revenue							120485
Fund Group			\$	2,526,972,581	\$	2,490,592,049	120486
State Special Revenue Fund Group							120487
1980	600647	Children's Trust Fund	\$	5,873,848	\$	5,873,848	120488
4A90	600607	Unemployment Compensation Administration Fund	\$	9,006,000	\$	9,006,000	120489
4E70	600604	Family and Children Services Collections	\$	400,000	\$	400,000	120490
4F10	600609	Family and Children Activities	\$	683,549	\$	683,549	120491
5DB0	600637	Military Injury Relief Subsidies	\$	2,000,000	\$	2,000,000	120492
5DP0	600634	Adoption Assistance Loan	\$	500,000	\$	500,000	120493
5ES0	600630	Food Bank Assistance	\$	500,000	\$	500,000	120494
5KU0	600611	Unemployment Compensation Support - Other Sources	\$	2,000,000	\$	2,000,000	120495
5NG0	600660	Victims of Human Trafficking	\$	100,000	\$	100,000	120496
5U60	600663	Family and Children	\$	4,000,000	\$	4,000,000	120497

Support			
TOTAL SSR State Special Revenue			120498
Fund Group	\$ 25,063,397	\$ 25,063,397	120499
Agency Fund Group			120500
1920 600646 Child Support	\$ 129,250,000	\$ 129,250,000	120501
Intercept - Federal			
5830 600642 Child Support	\$ 14,000,000	\$ 14,000,000	120502
Intercept - State			
5B60 600601 Food Assistance	\$ 1,000,000	\$ 1,000,000	120503
Intercept			
TOTAL AGY Agency Fund Group	\$ 144,250,000	\$ 144,250,000	120504
Holding Account Redistribution Fund Group			120505
R012 600643 Refunds and Audit	\$ 2,200,000	\$ 2,200,000	120506
Settlements			
R013 600644 Forgery Collections	\$ 10,000	\$ 10,000	120507
TOTAL 090 Holding Account	\$ 2,210,000	\$ 2,210,000	120508
Redistribution Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$ 3,569,574,992	\$ 3,533,187,449	120509
 Section 301.20. TRANSFER TO STATE AND COUNTY SHARED SERVICES			 120511
FUND			120512
Within thirty days of the effective date of this act, or as			120513
soon as possible thereafter, the Director of Budget and Management			120514
shall transfer the cash balance in the County Technologies Fund			120515
(Fund 5N10) to the State and County Shared Services Fund (Fund			120516
5HL0).			120517
 Section 301.30. AGENCY AND HOLDING ACCOUNT REDISTRIBUTION			 120518
FUND GROUPS			120519
The Agency Fund Group and Holding Account Redistribution Fund			120520
Group shall be used to hold revenues until the appropriate fund is			120521
determined or until the revenues are directed to the appropriate			120522

governmental agency other than the Department of Job and Family Services. If receipts credited to the Support Intercept - Federal Fund (Fund 1920), the Support Intercept - State Fund (Fund 5830), the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit Settlements Fund (Fund R012), or the Forgery Collections Fund (Fund R013) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

Section 301.40. COUNTY ADMINISTRATIVE FUNDS

The foregoing appropriation item 600521, Family Assistance - Local, may be provided to county departments of job and family services to administer food assistance and disability assistance programs.

The foregoing appropriation item 655522, Medicaid Program Support - Local, may be provided to county departments of job and family services to administer the Medicaid program and the State Children's Health Insurance program.

At the request of the Director of Job and Family Services, the Director of Budget and Management may transfer appropriations between appropriation item 600521, Family Assistance - Local, and appropriation item 655522, Medicaid Program Support - Local, in order to ensure county administrative funds are expended from the proper appropriation item.

Section 301.50. FOOD STAMPS TRANSFER

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Supplemental Nutrition Assistance Program Fund (Fund

3840), to the Food Assistance Fund (Fund 5ES0). 120553

Section 301.60. NAME OF FOOD STAMP PROGRAM 120554

The Director of Job and Family Services is not required to 120555
amend rules regarding the Food Stamp Program to change the name of 120556
the program to the Supplemental Nutrition Assistance Program. The 120557
Director may refer to the program as the Food Stamp Program or the 120558
Food Assistance Program in rules and documents of the Department 120559
of Job and Family Services. 120560

Section 301.70. OHIO ASSOCIATION OF FOOD BANKS 120561

The foregoing appropriation item 600540, Food Banks, shall be 120562
used to provide funds to the Ohio Association of Food Banks to 120563
purchase and distribute food products. 120564

Notwithstanding section 5101.46 of the Revised Code and any 120565
other provision in this bill, in addition to funds designated for 120566
the Ohio Association of Food Banks in this section, in fiscal year 120567
2014 and fiscal year 2015, the Director of Job and Family Services 120568
shall provide assistance from eligible funds to the Ohio 120569
Association of Food Banks in an amount up to or equal to the 120570
assistance provided in state fiscal year 2013 from all funds used 120571
by the Department, except the General Revenue Fund. 120572

Eligible nonfederal expenditures made by member food banks of 120573
the Association shall be counted by the Department of Job and 120574
Family Services toward the TANF maintenance of effort requirements 120575
of 42 U.S.C. 609(a)(7). The Director of Job and Family Services 120576
shall enter into an agreement with the Ohio Association of Food 120577
Banks, in accordance with sections 5101.80 and 5101.801 of the 120578
Revised Code, to carry out the requirements under this section. 120579

Section 301.80. PUBLIC ASSISTANCE ACTIVITIES/TANF MOE 120580

The foregoing appropriation item 600658, Public Assistance 120581

Activities, shall be used by the Department of Job and Family 120582
Services to meet the TANF maintenance of effort requirements of 42 120583
U.S.C. 609(a)(7). When the state is assured that it will meet the 120584
maintenance of effort requirement, the Department of Job and 120585
Family Services may use funds from appropriation item 600658, 120586
Public Assistance Activities, to support public assistance 120587
activities. 120588

Section 301.90. GOVERNOR'S OFFICE OF FAITH-BASED AND 120589
COMMUNITY INITIATIVES 120590

Of the foregoing appropriation item 600689, TANF Block Grant, 120591
up to \$6,540,000 in each fiscal year shall be used, in accordance 120592
with sections 5101.80 and 5101.801 of the Revised Code, to provide 120593
support to programs or organizations that provide services that 120594
align with the mission and goals of the Governor's Office of 120595
Faith-Based and Community Initiatives, as outlined in section 120596
107.12 of the Revised Code, and that further at least one of the 120597
four purposes of the TANF program, as specified in 42 U.S.C. 601. 120598

Section 301.100. INDEPENDENT LIVING INITIATIVE 120599

Of the foregoing appropriation item 600689, TANF Block Grant, 120600
up to \$2,000,000 in each fiscal year shall be used, in accordance 120601
with sections 5101.80 and 5101.801 of the Revised Code, to support 120602
the Independent Living Initiative, including life skills training 120603
and work supports for older children in foster care and those who 120604
have recently aged out of foster care. 120605

Section 301.110. KINSHIP PERMANENCY INCENTIVE PROGRAM 120606

Of the foregoing appropriation item 600689, TANF Block Grant, 120607
\$1,750,000 in each fiscal year shall be used to support the 120608
activities of the Kinship Permanency Incentive Program established 120609
in section 5101.802 of the Revised Code. 120610

Section 301.120. OHIO COMMISSION ON FATHERHOOD 120611

Of the foregoing appropriation item 600689, TANF Block Grant, 120612
\$1,000,000 in each fiscal year shall be provided to the Ohio 120613
Commission on Fatherhood. 120614

Section 301.130. DIFFERENTIAL RESPONSE 120615

In accordance with an independent evaluation of the Ohio 120616
Alternative Response Pilot Program that recommended statewide 120617
implementation, the Department of Job and Family Services shall 120618
plan the statewide expansion of the Ohio Alternative Response 120619
Pilot Program on a county by county basis, through a schedule 120620
determined by the Department. The program shall be known as the 120621
"differential response" approach as defined in section 2151.011 of 120622
the Revised Code. Notwithstanding provisions of Chapter 2151. of 120623
the Revised Code that refer to "differential response," 120624
"traditional response," and "alternative response," those 120625
provisions shall become effective on the scheduled date of 120626
expansion of the differential response approach to that county. 120627
Prior to statewide implementation, the Department may adopt rules 120628
in accordance with Chapter 119. of the Revised Code as necessary 120629
to carry out the purposes of this section. 120630

Section 301.140. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 120631

In collaboration with the county family and children first 120632
council, a county department of job and family services or public 120633
children services agency that receives an allocation from the 120634
Department of Job and Family Services from the foregoing 120635
appropriation item 600523, Children and Families Services, or 120636
600533, Child, Family, and Adult Community & Protective Services, 120637
may transfer a portion of either or both allocations to a flexible 120638
funding pool as authorized by the section of this act titled 120639
"FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL." 120640

Section 301.150. CHILD, FAMILY, AND ADULT COMMUNITY AND 120641
PROTECTIVE SERVICES 120642

(A) The foregoing appropriation item 600533, Child, Family, 120643
and Adult Community & Protective Services, shall be distributed to 120644
each county department of job and family services using the 120645
formula the Department of Job and Family Services uses when 120646
distributing Title XX funds to county departments of job and 120647
family services under section 5101.46 of the Revised Code. County 120648
departments shall use the funds distributed to them under this 120649
section as follows, in accordance with the written plan of 120650
cooperation entered into under section 307.983 of the Revised 120651
Code: 120652

(1) To assist individuals achieve or maintain 120653
self-sufficiency, including by reducing or preventing dependency 120654
among individuals with family income not exceeding two hundred per 120655
cent of the federal poverty guidelines; 120656

(2) Subject to division (B) of this section, to respond to 120657
reports of abuse, neglect, or exploitation of children and adults, 120658
including through the differential response approach program 120659
developed under Section 309.50.10 of this act; 120660

(3) To provide outreach and referral services regarding home 120661
and community-based services to individuals at risk of placement 120662
in a group home or institution, regardless of the individuals' 120663
family income and without need for a written application; 120664

(4) To provide outreach, referral, application assistance, 120665
and other services to assist individuals receive assistance, 120666
benefits, or services under Medicaid; Title IV-A programs, as 120667
defined in section 5101.80 of the Revised Code; the Supplemental 120668
Nutrition Assistance Program; and other public assistance 120669
programs. 120670

(B) Protective services may be provided to a child or adult 120671
as part of a response, under division (A)(2) of this section, to a 120672
report of abuse, neglect, or exploitation without regard to a 120673
child or adult's family income and without need for a written 120674
application. The protective services may be provided if the case 120675
record documents circumstances of actual or potential abuse, 120676
neglect, or exploitation. 120677

Section 301.160. CHILDREN AND FAMILY SERVICES ACTIVITIES 120678

The foregoing appropriation item 600609, Children and Family 120679
Services Activities, shall be used to expend miscellaneous 120680
foundation funds and grants to support children and family 120681
services activities. 120682

Section 301.170. ADOPTION ASSISTANCE LOAN 120683

Of the foregoing appropriation item 600634, Adoption 120684
Assistance Loan, the Department of Job and Family Services may use 120685
up to ten per cent for administration of adoption assistance loans 120686
pursuant to section 3107.018 of the Revised Code. 120687

Section 301.173. VICTIMS OF HUMAN TRAFFICKING 120688

The foregoing appropriation item 600660, Victims of Human 120689
Trafficking, shall be used to provide treatment, care, 120690
rehabilitation, education, housing, and assistance for victims of 120691
trafficking in persons as specified in section 5101.87 of the 120692
Revised Code. If receipts credited to the Victims of Human 120693
Trafficking Fund (Fund 5NG0) exceed the amounts appropriated to 120694
the fund, the Director of Job and Family Services may request the 120695
Director of Budget and Management to authorize expenditures from 120696
the fund in excess of the amounts appropriated. Upon the approval 120697
of the Director of Budget and Management, the additional amounts 120698
are hereby appropriated. 120699

Section 301.180. FEDERAL UNEMPLOYMENT PROGRAMS 120700

All unexpended funds remaining at the end of fiscal year 2013 120701
that were appropriated and made available to the state under 120702
section 903(d) of the Social Security Act, as amended, in the 120703
foregoing appropriation item 600678, Federal Unemployment Programs 120704
(Fund 3V40), are hereby appropriated to the Department of Job and 120705
Family Services. Upon the request of the Director of Job and 120706
Family Services, the Director of Budget and Management may 120707
increase the appropriation for fiscal year 2014 by the amount 120708
remaining unspent from the fiscal year 2013 appropriation and may 120709
increase the appropriation for fiscal year 2015 by the amount 120710
remaining unspent from the fiscal year 2014 appropriation. The 120711
appropriation shall be used under the direction of the Department 120712
of Job and Family Services to pay for administrative activities 120713
for the Unemployment Insurance Program, employment services, and 120714
other allowable expenditures under section 903(d) of the Social 120715
Security Act, as amended. 120716

The amounts obligated pursuant to this section shall not 120717
exceed at any time the amount by which the aggregate of the 120718
amounts transferred to the account of the state under section 120719
903(d) of the Social Security Act, as amended, exceeds the 120720
aggregate of the amounts obligated for administration and paid out 120721
for benefits and required by law to be charged against the amounts 120722
transferred to the account of the state. 120723

Section 301.190. UNEMPLOYMENT COMPENSATION INTEREST 120724

The foregoing appropriation item 600695, Unemployment 120725
Compensation Interest, shall be used for payment of interest costs 120726
paid to the United States Secretary of the Treasury for the 120727
repayment of accrued interest related to federal unemployment 120728
account borrowing. 120729

Section 303.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW	120730
General Revenue Fund	120731
GRF 029321 Operating Expenses \$ 455,858 \$ 456,376	120732
TOTAL GRF General Revenue Fund \$ 455,858 \$ 456,376	120733
TOTAL ALL BUDGET FUND GROUPS \$ 455,858 \$ 456,376	120734
OPERATING GUIDANCE	120735
The Chief Administrative Officer of the House of	120736
Representatives and the Clerk of the Senate shall determine, by	120737
mutual agreement, which of them shall act as fiscal agent for the	120738
Joint Committee on Agency Rule Review. Members of the Committee	120739
shall be paid in accordance with section 101.35 of the Revised	120740
Code.	120741
OPERATING EXPENSES	120742
On July 1, 2013, or as soon as possible thereafter, the	120743
Executive Director of the Joint Committee on Agency Rule Review	120744
may certify to the Director of Budget and Management the amount of	120745
the unexpended, unencumbered balance of the foregoing	120746
appropriation item 029321, Operating Expenses, at the end of	120747
fiscal year 2013 to be reappropriated to fiscal year 2014. The	120748
amount certified is hereby reappropriated to the same	120749
appropriation item for fiscal year 2014.	120750
On July 1, 2014, or as soon as possible thereafter, the	120751
Executive Director of the Joint Committee on Agency Rule Review	120752
may certify to the Director of Budget and Management the amount of	120753
the unexpended, unencumbered balance of the foregoing	120754
appropriation item 029321, Operating Expenses, at the end of	120755
fiscal year 2014 to be reappropriated to fiscal year 2015. The	120756
amount certified is hereby reappropriated to the same	120757
appropriation item for fiscal year 2015.	120758
Section 305.10. JCO JUDICIAL CONFERENCE OF OHIO	120759

General Revenue Fund				120760
GRF 018321 Operating Expenses	\$	824,900	\$ 847,200	120761
TOTAL GRF General Revenue Fund	\$	824,900	\$ 847,200	120762
General Services Fund Group				120763
4030 018601 Ohio Jury	\$	385,000	\$ 385,000	120764
Instructions				
TOTAL GSF General Services Fund	\$	385,000	\$ 385,000	120765
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,209,900	\$ 1,232,200	120766
STATE COUNCIL OF UNIFORM STATE LAWS				120767
Notwithstanding section 105.26 of the Revised Code, of the				120768
foregoing appropriation item 018321, Operating Expenses, up to				120769
\$84,900 in fiscal year 2014 and up to \$88,300 in fiscal year 2015				120770
shall be used to pay the expenses of the State Council of Uniform				120771
State Laws, including membership dues to the National Conference				120772
of Commissioners on Uniform State Laws.				120773
OHIO JURY INSTRUCTIONS FUND				120774
The Ohio Jury Instructions Fund (Fund 4030) shall consist of				120775
grants, royalties, dues, conference fees, bequests, devises, and				120776
other gifts received for the purpose of supporting costs incurred				120777
by the Judicial Conference of Ohio in its activities as a part of				120778
the judicial system of the state as determined by the Judicial				120779
Conference Executive Committee. Fund 4030 shall be used by the				120780
Judicial Conference of Ohio to pay expenses incurred in its				120781
activities as a part of the judicial system of the state as				120782
determined by the Judicial Conference Executive Committee. All				120783
moneys accruing to Fund 4030 in excess of \$385,000 in fiscal year				120784
2014 and in excess of \$385,000 in fiscal year 2015 are hereby				120785
appropriated for the purposes authorized.				120786
No money in Fund 4030 shall be transferred to any other fund				120787
by the Director of Budget and Management or the Controlling Board.				120788

Section 307.10. JSC THE JUDICIARY/SUPREME COURT				120789
General Revenue Fund				120790
GRF	005321	Operating Expenses -	\$ 138,016,534 \$ 140,232,737	120791
Judiciary/Supreme				
Court				
GRF	005406	Law-Related Education	\$ 236,172 \$ 236,172	120792
GRF	005409	Ohio Courts	\$ 3,350,000 \$ 3,350,000	120793
Technology Initiative				
TOTAL GRF	General Revenue Fund		\$ 141,602,706 \$ 143,818,909	120794
General Services Fund Group				120795
6720	005601	Continuing Judicial	\$ 101,392 \$ 93,563	120796
Education				
TOTAL GSF	General Services Fund		\$ 101,392 \$ 93,563	120797
Group				
Federal Special Revenue Fund Group				120798
3J00	005603	Federal Grants	\$ 1,235,900 \$ 1,252,600	120799
TOTAL FED	Federal Special Revenue		\$ 1,235,900 \$ 1,252,600	120800
Fund Group				
State Special Revenue Fund Group				120801
4C80	005605	Attorney Services	\$ 3,923,101 \$ 3,915,721	120802
5HT0	005617	Court Interpreter	\$ 23,000 \$ 23,000	120803
Certification				
5JY0	005620	County Law Library	\$ 258,000 \$ 258,000	120804
Resources Boards				
5T80	005609	Grants and Awards	\$ 25,000 \$ 25,000	120805
6A80	005606	Supreme Court	\$ 1,283,751 \$ 1,308,025	120806
Admissions				
TOTAL SSR	State Special Revenue		\$ 5,512,852 \$ 5,529,746	120807
Fund Group				
TOTAL ALL BUDGET FUND GROUPS			\$ 148,452,850 \$ 150,694,818	120808
OPERATING EXPENSES - JUDICIARY/SUPREME COURT				120809

Of the foregoing appropriation item 005321, Operating 120810
Expenses - Judiciary/Supreme Court, up to \$206,770 in each fiscal 120811
year may be used to support the functions of the State Criminal 120812
Sentencing Council. 120813

LAW-RELATED EDUCATION 120814

The foregoing appropriation item 005406, Law-Related 120815
Education, shall be distributed directly to the Ohio Center for 120816
Law-Related Education for the purposes of providing continuing 120817
citizenship education activities to primary and secondary 120818
students, expanding delinquency prevention programs, increasing 120819
activities for at-risk youth, and accessing additional public and 120820
private money for new programs. 120821

OHIO COURTS TECHNOLOGY INITIATIVE 120822

The foregoing appropriation item 005409, Ohio Courts 120823
Technology Initiative, shall be used to fund an initiative by the 120824
Supreme Court to facilitate the exchange of information and 120825
warehousing of data by and between Ohio courts and other justice 120826
system partners through the creation of an Ohio Courts Network, 120827
the delivery of technology services to courts throughout the 120828
state, including the provision of hardware, software, and the 120829
development and implementation of educational and training 120830
programs for judges and court personnel, and operation of the 120831
Commission on Technology and the Courts by the Supreme Court for 120832
the promulgation of statewide rules, policies, and uniform 120833
standards, and to aid in the orderly adoption and comprehensive 120834
use of technology in Ohio courts. 120835

CONTINUING JUDICIAL EDUCATION 120836

The Continuing Judicial Education Fund (Fund 6720) shall 120837
consist of fees paid by judges and court personnel for attending 120838
continuing education courses and other gifts and grants received 120839
for the purpose of continuing judicial education. The foregoing 120840

appropriation item 005601, Continuing Judicial Education, shall be 120841
used to pay expenses for continuing education courses for judges 120842
and court personnel. If it is determined by the Administrative 120843
Director of the Supreme Court that additional appropriations are 120844
necessary, the amounts are hereby appropriated. 120845

No money in Fund 6720 shall be transferred to any other fund 120846
by the Director of Budget and Management or the Controlling Board. 120847
Interest earned on money in Fund 6720 shall be credited to the 120848
fund. 120849

FEDERAL GRANTS 120850

The Federal Grants Fund (Fund 3J00) shall consist of grants 120851
and other moneys awarded to the Supreme Court (The Judiciary) by 120852
the United States Government or other entities that receive the 120853
moneys directly from the United States Government and distribute 120854
those moneys to the Supreme Court (The Judiciary). The foregoing 120855
appropriation item 005603, Federal Grants, shall be used in a 120856
manner consistent with the purpose of the grant or award. If it is 120857
determined by the Administrative Director of the Supreme Court 120858
that additional appropriations are necessary, the amounts are 120859
hereby appropriated. 120860

No money in Fund 3J00 shall be transferred to any other fund 120861
by the Director of Budget and Management or the Controlling Board. 120862
However, interest earned on money in Fund 3J00 shall be credited 120863
or transferred to the General Revenue Fund. 120864

ATTORNEY SERVICES 120865

The Attorney Services Fund (Fund 4C80), formerly known as the 120866
Attorney Registration Fund, shall consist of money received by the 120867
Supreme Court (The Judiciary) pursuant to the Rules for the 120868
Government of the Bar of Ohio. In addition to funding other 120869
activities considered appropriate by the Supreme Court, the 120870
foregoing appropriation item 005605, Attorney Services, may be 120871

used to compensate employees and to fund appropriate activities of 120872
the following offices established by the Supreme Court: the Office 120873
of Disciplinary Counsel, the Board of Commissioners on Grievances 120874
and Discipline, the Clients' Security Fund, and the Attorney 120875
Services Division. If it is determined by the Administrative 120876
Director of the Supreme Court that additional appropriations are 120877
necessary, the amounts are hereby appropriated. 120878

No money in Fund 4C80 shall be transferred to any other fund 120879
by the Director of Budget and Management or the Controlling Board. 120880
Interest earned on money in Fund 4C80 shall be credited to the 120881
fund. 120882

COURT INTERPRETER CERTIFICATION 120883

The Court Interpreter Certification Fund (Fund 5HT0) shall 120884
consist of money received by the Supreme Court (The Judiciary) 120885
pursuant to Rules 80 through 87 of the Rules of Superintendence 120886
for the Courts of Ohio. The foregoing appropriation item 005617, 120887
Court Interpreter Certification, shall be used to provide 120888
training, to provide the written examination, and to pay language 120889
experts to rate, or grade, the oral examinations of those applying 120890
to become certified court interpreters. If it is determined by the 120891
Administrative Director that additional appropriations are 120892
necessary, the amounts are hereby appropriated. 120893

No money in Fund 5HT0 shall be transferred to any other fund 120894
by the Director of Budget and Management or the Controlling Board. 120895
Interest earned on money in Fund 5HT0 shall be credited to the 120896
fund. 120897

COUNTY LAW LIBRARY RESOURCES BOARD 120898

The Statewide Consortium of County Law Library Resources 120899
Boards Fund (Fund 5JY0) shall consist of moneys deposited pursuant 120900
to section 307.515 of the Revised Code into a county's law library 120901
resources fund and forwarded by that county's treasurer for 120902

deposit in the state treasury pursuant to division (E)(1) of 120903
section 3375.481 of the Revised Code. The foregoing appropriation 120904
item 005620, County Law Library Resources Board, shall be used for 120905
the operation of the Statewide Consortium of County Law Library 120906
Resources Boards. If it is determined by the Administrative 120907
Director of the Supreme Court that additional appropriations are 120908
necessary, the amounts are hereby appropriated. 120909

No money in Fund 5JY0 shall be transferred to any other fund 120910
by the Director of Budget and Management or the Controlling Board. 120911
Interest earned on money in Fund 5JY0 shall be credited to the 120912
fund. 120913

GRANTS AND AWARDS 120914

The Grants and Awards Fund (Fund 5T80) shall consist of 120915
grants and other money awarded to the Supreme Court (The 120916
Judiciary) by the State Justice Institute, the Division of 120917
Criminal Justice Services, or other entities. The foregoing 120918
appropriation item 005609, Grants and Awards, shall be used in a 120919
manner consistent with the purpose of the grant or award. If it is 120920
determined by the Administrative Director of the Supreme Court 120921
that additional appropriations are necessary, the amounts are 120922
hereby appropriated. 120923

No money in Fund 5T80 shall be transferred to any other fund 120924
by the Director of Budget and Management or the Controlling Board. 120925
However, interest earned on money in Fund 5T80 shall be credited 120926
or transferred to the General Revenue Fund. 120927

SUPREME COURT ADMISSIONS 120928

The foregoing appropriation item 005606, Supreme Court 120929
Admissions, shall be used to compensate Supreme Court employees 120930
who are primarily responsible for administering the attorney 120931
admissions program under the Rules for the Government of the Bar 120932
of Ohio, and to fund any other activities considered appropriate 120933

by the court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A80) under the Supreme Court Rules for the Government of the Bar of Ohio. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 6A80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 6A80 shall be credited to the fund.

Section 309.10. LEC LAKE ERIE COMMISSION

Federal Special Revenue Fund Group					120944
3EP0 780603 Lake Erie Federal	\$	25,000	\$	0	120945
Grants					
TOTAL FED Federal Special Revenue	\$	25,000	\$	0	120946
Fund Group					
State Special Revenue Fund Group					120947
4C00 780601 Lake Erie Protection	\$	200,000	\$	200,000	120948
Fund					
5D80 780602 Lake Erie Resources	\$	298,942	\$	339,637	120949
Fund					
TOTAL SSR State Special Revenue					120950
Fund Group	\$	498,942	\$	539,637	120951
TOTAL ALL BUDGET FUND GROUPS	\$	523,942	\$	539,637	120952

CASH TRANSFERS TO THE LAKE ERIE RESOURCES FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management may transfer cash from the funds specified below, up to the amounts specified below, to the Lake Erie Resources Fund (Fund 5D80). Fund 5D80 may accept contributions and transfers made to the fund.

Fund	Fund Name	User	FY 2014	FY 2015	120959
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5BC0	Environmental Protection	Environmental Protection Agency	\$23,500	\$53,500	120960
6690	Pesticide, Fertilizer and Lime	Department of Agriculture	\$23,500	\$53,500	120961
4700	General Operations	Department of Health	\$23,500	\$53,500	120962
1570	Central Support Indirect	Department of Natural Resources	\$23,500	\$53,500	120963

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer \$23,500 cash from a fund used by the Development Services Agency, as specified by the Director of Development Services, to Fund 5D80.

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On July 1, 2014, or as soon as possible thereafter, the Director of Budget and Management may transfer \$53,500 cash from a fund used by the Development Services Agency, as specified by the Director of Development Services, to Fund 5D80.

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Section 311.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE

120972

General Revenue Fund					120973
GRF 028321	Legislative Ethics Committee		\$ 550,000	\$ 550,000	120974

TOTAL GRF	General Revenue Fund		\$ 550,000	\$ 550,000	120975
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General Services Fund Group					120976
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4G70 028601	Joint Legislative Ethics Committee		\$ 150,000	\$ 150,000	120977
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TOTAL GSF	General Services Fund Group		\$ 150,000	\$ 150,000	120978
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TOTAL ALL BUDGET FUND GROUPS			\$ 700,000	\$ 700,000	120979
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Section 313.10. LSC LEGISLATIVE SERVICE COMMISSION

120980

General Revenue Fund					120981
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GRF 035321	Operating Expenses		\$ 15,117,700	\$ 15,117,700	120982
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GRF	035402	Legislative Fellows	\$	1,022,120	\$	1,022,120	120983
GRF	035405	Correctional	\$	438,900	\$	438,900	120984
		Institution Inspection					
		Committee					
GRF	035407	Legislative Task Force	\$	320,000	\$	400,000	120985
		on Redistricting					
GRF	035409	National Associations	\$	460,560	\$	460,560	120986
GRF	035410	Legislative	\$	3,861,250	\$	3,861,250	120987
		Information Systems					
GRF	035411	Ohio Constitutional	\$	750,000	\$	750,000	120988
		Modernization					
		Commission					
TOTAL GRF		General Revenue Fund	\$	21,970,530	\$	22,050,530	120989
		General Services Fund Group					120990
4100	035601	Sale of Publications	\$	10,000	\$	10,000	120991
4F60	035603	Legislative Budget	\$	200,000	\$	200,000	120992
		Services					
5EF0	035607	Legislative Agency	\$	30,000	\$	30,000	120993
		Telephone Usage					
TOTAL GSF		General Services					120994
		Fund Group	\$	240,000	\$	240,000	120995
TOTAL ALL BUDGET FUND GROUPS			\$	22,210,530	\$	22,290,530	120996

OPERATING EXPENSES 120997

On July 1, 2013, or as soon as possible thereafter, the 120998
 Director of the Legislative Service Commission may certify to the 120999
 Director of Budget and Management the amount of the unexpended, 121000
 unencumbered balance of the foregoing appropriation item 035321, 121001
 Operating Expenses, at the end of fiscal year 2013 to be 121002
 reappropriated to fiscal year 2014. The amount certified is hereby 121003
 reappropriated to the same appropriation item for fiscal year 121004
 2014. 121005

On July 1, 2014, or as soon as possible thereafter, the 121006

Director of the Legislative Service Commission may certify to the 121007
Director of Budget and Management the amount of the unexpended, 121008
unencumbered balance of the foregoing appropriation item 035321, 121009
Operating Expenses, at the end of fiscal year 2014 to be 121010
reappropriated to fiscal year 2015. The amount certified is hereby 121011
reappropriated to the same appropriation item for fiscal year 121012
2015. 121013

LEGISLATIVE TASK FORCE ON REDISTRICTING 121014

An amount equal to the unexpended, unencumbered portion of 121015
the foregoing appropriation item 035407, Legislative Task Force on 121016
Redistricting, at the end of fiscal year 2013 is hereby 121017
reappropriated to the Legislative Service Commission for the same 121018
purpose for fiscal year 2014. 121019

An amount equal to the unexpended, unencumbered portion of 121020
the foregoing appropriation item 035407, Legislative Task Force on 121021
Redistricting, at the end of fiscal year 2014 is hereby 121022
reappropriated to the Legislative Service Commission for the same 121023
purpose for fiscal year 2015. 121024

LEGISLATIVE INFORMATION SYSTEMS 121025

On July 1, 2013, or as soon as possible thereafter, the 121026
Director of the Legislative Service Commission may certify to the 121027
Director of Budget and Management the amount of the unexpended, 121028
unencumbered balance of the foregoing appropriation item 035410, 121029
Legislative Information Systems, at the end of fiscal year 2013 to 121030
be reappropriated to fiscal year 2014. The amount certified is 121031
hereby reappropriated to the same appropriation item for fiscal 121032
year 2014. 121033

On July 1, 2014, or as soon as possible thereafter, the 121034
Director of the Legislative Service Commission may certify to the 121035
Director of Budget and Management the amount of the unexpended, 121036
unencumbered balance of the foregoing appropriation item 035410, 121037

Legislative Information Systems, at the end of fiscal year 2014 to 121038
 be reappropriated to fiscal year 2015. The amount certified is 121039
 hereby reappropriated to the same appropriation item for fiscal 121040
 year 2015. 121041

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION 121042

The foregoing appropriation item 035411, Ohio Constitutional 121043
 Modernization Commission, shall be used to support the operation 121044
 and expenses of the Ohio Constitutional Modernization Commission 121045
 under sections 103.61 to 103.67 of the Revised Code. 121046

An amount equal to the unexpended, unencumbered portion of 121047
 the foregoing appropriation item 035411, Ohio Constitutional 121048
 Modernization Commission, at the end of fiscal year 2013 is hereby 121049
 reappropriated to the Legislative Service Commission for the same 121050
 purpose for fiscal year 2014. 121051

An amount equal to the unexpended, unencumbered portion of 121052
 the foregoing appropriation item 035411, Ohio Constitutional 121053
 Modernization Commission, at the end of fiscal year 2014 is hereby 121054
 reappropriated to the Legislative Service Commission for the same 121055
 purpose for fiscal year 2015. 121056

Section 315.10. LIB STATE LIBRARY BOARD 121057

General Revenue Fund 121058

GRF	350321	Operating Expenses	\$	5,057,364	\$	5,057,364	121059
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GRF	350401	Ohioana Rental	\$	120,114	\$	120,114	121060
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Payments

GRF	350502	Regional Library	\$	582,469	\$	582,469	121061
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Systems

TOTAL GRF	General Revenue Fund	\$	5,759,947	\$	5,759,947	121062
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General Services Fund Group 121063

1390	350602	Intra-Agency Service	\$	8,000	\$	8,000	121064
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Charges

4590	350603	Library Service	\$	3,237,430	\$	3,526,368	121065
		Charges					
4S40	350604	Ohio Public Library	\$	5,689,788	\$	5,689,788	121066
		Information Network					
5GB0	350605	Library for the Blind	\$	1,274,194	\$	1,274,194	121067
TOTAL GSF General Services							121068
Fund Group			\$	10,209,412	\$	10,498,350	121069
Federal Special Revenue Fund Group							121070
3130	350601	LSTA Federal	\$	5,303,693	\$	5,120,439	121071
TOTAL FED Federal Special Revenue							121072
Fund Group			\$	5,303,693	\$	5,120,439	121073
TOTAL ALL BUDGET FUND GROUPS			\$	21,273,052	\$	21,378,736	121074
OHIOANA RENTAL PAYMENTS							121075
The foregoing appropriation item 350401, Ohioana Rental							121076
Payments, shall be used to pay the rental expenses of the Martha							121077
Kinney Cooper Ohioana Library Association under section 3375.61 of							121078
the Revised Code.							121079
REGIONAL LIBRARY SYSTEMS							121080
The foregoing appropriation item 350502, Regional Library							121081
Systems, shall be used to support regional library systems							121082
eligible for funding under sections 3375.83 and 3375.90 of the							121083
Revised Code.							121084
OHIO PUBLIC LIBRARY INFORMATION NETWORK							121085
(A) The foregoing appropriation item 350604, Ohio Public							121086
Library Information Network, shall be used for an information							121087
telecommunications network linking public libraries in the state							121088
and such others as may participate in the Ohio Public Library							121089
Information Network (OPLIN).							121090
The Ohio Public Library Information Network Board of Trustees							121091
created under section 3375.65 of the Revised Code may make							121092
decisions regarding use of the foregoing appropriation item							121093

350604, Ohio Public Library Information Network. 121094

(B) The OPLIN Board shall research and assist or advise local 121095
libraries with regard to emerging technologies and methods that 121096
may be effective means to control access to obscene and illegal 121097
materials. The OPLIN Director shall provide written reports upon 121098
request within ten days to the Governor, the Speaker and Minority 121099
Leader of the House of Representatives, and the President and 121100
Minority Leader of the Senate on any steps being taken by OPLIN 121101
and public libraries in the state to limit and control such 121102
improper usage as well as information on technological, legal, and 121103
law enforcement trends nationally and internationally affecting 121104
this area of public access and service. 121105

(C) The Ohio Public Library Information Network, INFOhio, and 121106
OhioLINK shall, to the extent feasible, coordinate and cooperate 121107
in their purchase or other acquisition of the use of electronic 121108
databases for their respective users and shall contribute funds in 121109
an equitable manner to such effort. 121110

LIBRARY FOR THE BLIND 121111

The foregoing appropriation item 350605, Library for the 121112
Blind, shall be used for the statewide Talking Book Program to 121113
assist the blind and disabled. 121114

TRANSFER TO OPLIN TECHNOLOGY FUND 121115

Notwithstanding sections 5747.03 and 5747.47 of the Revised 121116
Code and any other provision of law to the contrary, in accordance 121117
with a schedule established by the Director of Budget and 121118
Management, the Director of Budget and Management shall transfer 121119
\$5,689,788 cash in each fiscal year from the Public Library Fund 121120
(Fund 7065) to the OPLIN Technology Fund (Fund 4S40). 121121

TRANSFER TO LIBRARY FOR THE BLIND FUND 121122

Notwithstanding sections 5747.03 and 5747.47 of the Revised 121123

Code and any other provision of law to the contrary, in accordance 121124
 with a schedule established by the Director of Budget and 121125
 Management, the Director of Budget and Management shall transfer 121126
 \$1,274,194 cash in each fiscal year from the Public Library Fund 121127
 (Fund 7065) to the Library for the Blind Fund (Fund 5GB0). 121128

Section 317.10. LCO LIQUOR CONTROL COMMISSION 121129

State Special Revenue Fund Group 121130
 5LP0 970601 Commission Operating \$ 784,376 \$ 796,368 121131
 Expenses
 TOTAL SSR State Special Revenue \$ 784,376 \$ 796,368 121132
 Fund Group
 TOTAL ALL BUDGET FUND GROUPS \$ 784,376 \$ 796,368 121133

Section 319.10. LOT STATE LOTTERY COMMISSION 121135

State Lottery Fund Group 121136
 2310 950604 Charitable Gaming \$ 1,946,000 \$ 1,946,000 121137
 Oversight
 7044 950321 Operating Expenses \$ 49,778,677 \$ 51,173,293 121138
 7044 950402 Advertising Contracts \$ 23,024,080 \$ 23,024,080 121139
 7044 950403 Gaming Contracts \$ 63,405,851 \$ 59,356,988 121140
 7044 950601 Direct Prize Payments \$ 116,281,000 \$ 114,779,000 121141
 7044 950605 Problem Gambling \$ 2,000,000 \$ 3,000,000 121142
 8710 950602 Annuity Prizes \$ 79,039,985 \$ 80,299,167 121143
 TOTAL SLF State Lottery Fund 121144
 Group \$ 335,475,593 \$ 333,578,528 121145
 TOTAL ALL BUDGET FUND GROUPS \$ 335,475,593 \$ 333,578,528 121146

OPERATING EXPENSES 121147

Notwithstanding sections 127.14 and 131.35 of the Revised 121148
 Code, the Controlling Board may, at the request of the State 121149
 Lottery Commission, authorize expenditures from the State Lottery 121150
 Fund in excess of the amounts appropriated, up to a maximum of 10 121151

per cent of anticipated total revenue accruing from the sale of 121152
lottery products. Upon the approval of the Controlling Board, the 121153
additional amounts are hereby appropriated. 121154

DIRECT PRIZE PAYMENTS 121155

Any amounts, in addition to the amounts appropriated in 121156
appropriation item 950601, Direct Prize Payments, that the 121157
Director of the State Lottery Commission determines to be 121158
necessary to fund prizes are hereby appropriated. 121159

ANNUITY PRIZES 121160

Upon request of the State Lottery Commission, the Director of 121161
Budget and Management may transfer cash from the State Lottery 121162
Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in 121163
an amount sufficient to fund deferred prizes. The Treasurer of 121164
State, from time to time, shall credit the Deferred Prizes Trust 121165
Fund (Fund 8710) the pro rata share of interest earned by the 121166
Treasurer of State on invested balances. 121167

Any amounts, in addition to the amounts appropriated in 121168
appropriation item 950602, Annuity Prizes, that the Director of 121169
the State Lottery Commission determines to be necessary to fund 121170
deferred prizes and interest earnings are hereby appropriated. 121171

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 121172

Estimated transfers from the State Lottery Fund (Fund 7044) 121173
to the Lottery Profits Education Fund (Fund 7017) are to be 121174
\$841,000,000 in fiscal year 2014 and \$974,500,000 in fiscal year 121175
2015. The Director of Budget and Management shall transfer such 121176
amounts contingent upon the availability of resources. Transfers 121177
from the State Lottery Fund to the Lottery Profits Education Fund 121178
shall represent the estimated net income from operations for the 121179
Commission in fiscal year 2014 and fiscal year 2015. Transfers by 121180
the Director of Budget and Management to the Lottery Profits 121181
Education Fund shall be administered as the statutes direct. 121182

Section 321.10.				MHC MANUFACTURED HOMES COMMISSION	121183		
General Services Fund Group					121184		
4K90	996609	Operating Expenses	\$	459,134	\$ 459,134	121185	
TOTAL GSF General Services						121186	
Fund Group				\$	459,134	\$ 459,134	121187
State Special Revenue Fund Group						121188	
5MC0	996610	Manufactured Homes	\$	747,825	\$ 747,825	121189	
Regulation							
TOTAL SSR State Special Revenue				\$	747,825	\$ 747,825	121190
Fund Group							
TOTAL ALL BUDGET FUND GROUPS				\$	1,206,959	\$ 1,206,959	121191
Section 323.10.				MCD DEPARTMENT OF MEDICAID	121193		
General Revenue Fund						121194	
GRF	651425	Medicaid Program	\$	149,932,299	\$ 156,514,636	121195	
Support - State							
GRF	651525	Medicaid/Health Care				121196	
Services							
State				\$	4,735,471,377	\$ 4,979,088,535	121197
Federal				\$	8,979,532,639	\$ 9,293,422,318	121198
Medicaid/Health Care				\$	13,715,004,016	\$14,272,510,853	121199
Services Total							
GRF	651526	Medicare Part D	\$	308,749,142	\$ 324,920,518	121200	
TOTAL GRF General Revenue Fund						121201	
State				\$	5,194,152,818	\$ 5,460,523,689	121202
Federal				\$	8,979,532,639	\$ 9,293,422,318	121203
GRF Total				\$	14,173,685,457	\$14,753,946,007	121204
General Services Fund Group						121205	
5DL0	651639	Medicaid Services -	\$	462,900,000	\$ 514,700,000	121206	
Recoveries							
5FX0	561638	Medicaid Services -	\$	6,000,000	\$ 6,000,000	121207	

Payment Withholding					
TOTAL GSF General Services Fund	\$	468,900,000	\$	520,700,000	121208
Group					
Federal Special Revenue Fund Group					121209
3ER0 651603 Medicaid Health	\$	123,074,778	\$	123,089,606	121210
Information					
Technology					
3F00 651623 Medicaid Services -	\$	2,977,109,943	\$	3,214,589,109	121211
Federal					
3F00 651624 Medicaid Program	\$	409,446,401	\$	409,773,399	121212
Support - Federal					
3FA0 651680 Health Care Grants -	\$	20,000,000	\$	20,000,000	121213
Federal					
3G50 651655 Medicaid Interagency	\$	1,712,881,658	\$	1,895,403,348	121214
Pass-Through					
TOTAL FED Federal Special Revenue	\$	5,242,512,780	\$	5,662,855,462	121215
Fund Group					
State Special Revenue Fund Group					121216
4E30 651605 Resident Protection	\$	2,878,319	\$	2,878,319	121217
Fund					
5AJ0 651631 Money Follows the	\$	5,555,000	\$	4,517,500	121218
Person					
5GF0 651656 Medicaid Services -	\$	531,273,601	\$	531,273,601	121219
Hospitals/UPL					
5KC0 651682 Health Care Grants -	\$	10,000,000	\$	10,000,000	121220
State					
5R20 651608 Medicaid Services -	\$	402,000,000	\$	402,000,000	121221
Long Term Care					
5U30 651654 Medicaid Program	\$	36,205,843	\$	35,403,126	121222
Support					
6510 651649 Medicaid Services -	\$	215,527,947	\$	215,314,482	121223
HCAP					

TOTAL SSR State Special Revenue	\$ 1,203,440,710	\$ 1,201,387,028	121224
Fund Group			
Holding Account Redistribution Fund Group			121225
R055 651644 Refunds and	\$ 1,000,000	\$ 1,000,000	121226
Reconciliations			
TOTAL 090 Holding Account	\$ 1,000,000	\$ 1,000,000	121227
Redistribution Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$21,089,538,947	\$22,139,888,497	121228

Section 323.10.10. CREATION OF THE DEPARTMENT OF MEDICAID 121230

(A) As used in this section, "medical assistance program" 121231
means all of the following: 121232

(1) The Medicaid program established by Title XIX of the 121233
"Social Security Act," 42 U.S.C. 1396 et seq. 121234

(2) The Children's Health Insurance Program authorized by 121235
Title XXI of the "Social Security Act," 42 U.S.C. 1397aa et seq. 121236

(3) The Refugee Medical Assistance program authorized by the 121237
"Immigration and Nationality Act," section 412(e), 42 U.S.C. 121238
1522(e). 121239

(B) On July 1, 2013, all of the following apply: 121240

(1) The Department of Medicaid is created. 121241

(2) The Department of Medicaid is to be administered by the 121242
Medicaid Director who is to be appointed by the Governor with the 121243
advice and consent of the Senate. 121244

(3) The Medicaid Director is to hold the Director's office 121245
during the term of the appointing Governor and is subject to 121246
removal at the pleasure of the Governor. 121247

(4) The Medicaid Director is the executive head of the 121248
Department of Medicaid and all duties conferred on the Department 121249
by law or order of the Director are under the Director's control 121250

and shall be performed in accordance with rules the Director 121251
adopts. 121252

(5) The Medicaid Director may appoint such employees as are 121253
necessary for the efficient operation of the Department of 121254
Medicaid and may prescribe the title and duties of the employees. 121255

(6) The Office of Medical Assistance shall cease to exist. 121256

(7) Each reference to the Department or Director of Public 121257
Welfare, Department or Director of Human Services, Department or 121258
Director of Job and Family Services, Office of Medical Assistance, 121259
or Medical Assistance Director in any statute, rule, contract, 121260
grant, or other document is deemed to refer to the Department of 121261
Medicaid or Medicaid Director, as the case may be, to the extent 121262
the reference is about a duty or authority of the Department of 121263
Medicaid or Medicaid Director regarding a medical assistance 121264
program. 121265

(8) Employees of the Office of Medical Assistance are hereby 121266
transferred to the Department of Medicaid. The vehicles and 121267
equipment assigned to the Office's employees are transferred to 121268
the Department. 121269

(9) The assets, liabilities, other equipment not provided 121270
for, and records, irrespective of form or medium, of the Office of 121271
Medical Assistance are transferred to the Department of Medicaid. 121272
The Department is the successor to, assumes the obligations of, 121273
and otherwise constitutes the continuation of, the Office. 121274

(10) Business commenced but not completed on July 1, 2013, by 121275
the Medical Assistance Director, the Office of Medical Assistance, 121276
Director of Job and Family Services, or Department of Job and 121277
Family Services regarding a medical assistance program shall be 121278
completed by the Medicaid Director or Department of Medicaid in 121279
the same manner, and with the same effect, as if completed by the 121280
Medical Assistance Director, Office of Medical Assistance, 121281

Director of Job and Family Services, or Department of Job and 121282
Family Services. No validation, cure, right, privilege, remedy, 121283
obligation, or liability is lost or impaired by reason of the 121284
transfer required by this section but shall be administered by the 121285
Medicaid Director or Department of Medicaid. 121286

(11) For the purpose of the "Social Security Act," section 121287
1902(a)(5), 42 U.S.C. 1396a(a)(5), the Department of Medicaid 121288
shall act as the single state agency to supervise the 121289
administration of the Medicaid program. As the single state 121290
agency, the Department shall comply with 42 C.F.R. 431.10(e) and 121291
all other federal requirements applicable to the single state 121292
agency. 121293

(D) The rules, orders, and determinations pertaining to the 121294
Office of Medical Assistance and Department of Job and Family 121295
Services regarding medical assistance programs continue in effect 121296
as rules, orders, and determinations of the Department of Medicaid 121297
until modified or rescinded by the Department of Medicaid. 121298

(E) No judicial or administrative action or proceeding 121299
pending on July 1, 2013, is affected by the transfer of functions 121300
from the Medical Assistance Director, Office of Medical 121301
Assistance, Director of Job and Family Services, or Department of 121302
Job and Family Services to the Medicaid Director or Department of 121303
Medicaid and shall be prosecuted or defended in the name of the 121304
Medicaid Director or Department of Medicaid. On application to the 121305
court or other tribunal, the Medicaid Director or Department of 121306
Medicaid shall be substituted as a party in such actions and 121307
proceedings. 121308

(F) When the Department of Medicaid created in section 121.02 121309
of the Revised Code comes into effect, it is a continuation of the 121310
Department of Medicaid created in this section. 121311

(G) A portion of the foregoing appropriation items 651425, 121312

Medicaid Program Support - State, 651525, Medicaid/Health Care 121313
Services, 651526, Medicare Part D, 651639, Medicaid Services - 121314
Recoveries, 651638, Medicaid Services - Payment Withholding, 121315
651603, Medicaid Health Information Technology, 651623, Medicaid 121316
Services - Federal, 651624, Medicaid Program Support - Federal, 121317
651680 Health Care Grants - Federal, 651655, Medicaid Interagency 121318
Pass-Through, 651605, Resident Protection Fund, 651631, Money 121319
Follows the Person, 651656, Medicaid Services - Hospitals/UPL, 121320
651682, Health Care Grants - State, 651608, Medicaid Services - 121321
Long Term Care, 651654, Medicaid Program Support, 651649, Medicaid 121322
Services - HCAP, 651644, Refunds and Reconciliations, and 651612, 121323
Managed Care Performance Payments, may be used to pay for Medicaid 121324
services and costs associated with the administration of the 121325
Medicaid program. 121326

Section 323.10.20. TRANSFER OF ENCUMBRANCES AND RECEIVABLES 121327

On July 1, 2013, or as soon as possible thereafter, the 121328
Medicaid Director shall certify to the Director of Budget and 121329
Management all medical assistance-related encumbrances held by the 121330
Department of Job and Family Services, and specify which of those 121331
encumbrances are requested to be transferred to the Department of 121332
Medicaid. The Director of Budget and Management may cancel any 121333
existing encumbrances, as certified by the Medicaid Director, and 121334
reestablish them in the Department of Medicaid. The reestablished 121335
encumbrance amounts are hereby appropriated. Any business 121336
commenced, but not completed, with regard to the encumbrances 121337
certified shall be completed by the Department of Medicaid in the 121338
same manner and with the same effect as if it were completed by 121339
the Department of Job and Family Services. 121340

On July 1, 2013, or as soon as possible thereafter, the 121341
Medicaid Director shall certify to the Director of Budget and 121342
Management all medical assistance-related receivables held by the 121343

Department of Job and Family Services, and specify which of those 121344
receivables are requested to be transferred to the Department of 121345
Medicaid. The Director of Budget and Management may cancel any 121346
existing receivables as certified by the Medicaid Director and 121347
reestablish them in the Department of Medicaid. 121348

A portion of the foregoing appropriation items 651425, 121349
Medicaid Program Support - State, 651525, Medicaid/Health Care 121350
Services, 651639, Medicaid Services - Recoveries, 651638, Medicaid 121351
Services-Payment Withholding, 651624, Medicaid Program Support - 121352
Federal, 651680, Health Care Grants - Federal, 651655, Medicaid 121353
Interagency Pass-Through, 651605, Resident Protection Fund, 121354
651631, Money Follows the Person, 651656, Medicaid Services - 121355
Hospitals/UPL, 651682, Health Care Grants - State, 651608, 121356
Medicaid Services - Long Term Care, 651654, Medicaid Program 121357
Support, and 651649, Medicaid Services - HCAP, may be used to pay 121358
for medical assistance services and costs associated with the 121359
administration of the Medicaid program. 121360

Section 323.10.30. TEMPORARY AUTHORITY REGARDING EMPLOYEES 121361

(A) As used in this section, "medical assistance program" has 121362
the same meaning as in the section of this act titled "CREATION OF 121363
THE DEPARTMENT OF MEDICAID." 121364

(B) During the period beginning July 1, 2013, and ending June 121365
30, 2015, all of the following apply: 121366

(1) The Medicaid Director has the authority to establish, 121367
change, and abolish positions for the Department of Medicaid, and 121368
to assign, reassign, classify, reclassify, transfer, reduce, 121369
promote, or demote all employees of the Department of Medicaid who 121370
are not subject to Chapter 4117. of the Revised Code. 121371

(2) As part of the transfer of medical assistance programs to 121372
the Department of Medicaid, the Director of Job and Family 121373

Services has the authority to establish, change, and abolish 121374
positions for the Department of Job and Family Services, and to 121375
assign, reassign, classify, reclassify, transfer, reduce, promote, 121376
or demote all employees of the Department of Job and Family 121377
Services who are not subject to Chapter 4117. of the Revised Code. 121378

(C) The authority granted under division (B) of this section 121379
includes assigning or reassigning an exempt employee, as defined 121380
in section 124.152 of the Revised Code, to a bargaining unit 121381
classification if the Medicaid Director or Director of Job and 121382
Family Services determines that the bargaining unit classification 121383
is the proper classification for that employee. The actions of the 121384
Medicaid Director or Director of Job and Family Services shall be 121385
consistent with the requirements of 5 C.F.R. 900.603 for those 121386
employees subject to such requirements. If an employee in the E-1 121387
pay range is to be assigned, reassigned, classified, reclassified, 121388
transferred, reduced, or demoted to a position in a lower 121389
classification during the period specified in this section, the 121390
Medicaid Director or Director of Job and Family Services, or in 121391
the case of a transfer outside the Department of Medicaid or 121392
Department of Job and Family Services, the Director of 121393
Administrative Services, shall assign the employee to the 121394
appropriate classification and place the employee in Step X. The 121395
employee shall not receive any increase in compensation until the 121396
maximum rate of pay for that classification exceeds the employee's 121397
compensation. 121398

(D) Actions taken by the Medicaid Director, Director of Job 121399
and Family Services, and Director of Administrative Services 121400
pursuant to this section are not subject to appeal to the State 121401
Personnel Board of Review. 121402

(E) A portion of the foregoing appropriation items 651425, 121403
Medicaid Program Support - State, 651603, Medicaid Health 121404
Information Technology, 651624, Medicaid Program Support - 121405

Federal, 651680, Health Care Grants - Federal, 651655, Medicaid 121406
Interagency Pass-Through, 651605, Resident Protection Fund, 121407
651631, Money Follows the Person, 651682, Health Care Grants - 121408
State, and 651654, Medicaid Program Support, may be used to pay 121409
for costs associated with the administration of the Medicaid 121410
program, including the assignment, reassignment, classification, 121411
reclassification, transfer, reduction, promotion, or demotion of 121412
employees authorized by this section. 121413

Section 323.10.40. STAFF TRAINING REGARDING TRANSFERS 121414

As used in this section, "medical assistance program" has the 121415
same meaning as in the section of this act titled "CREATION OF THE 121416
DEPARTMENT OF MEDICAID." 121417

The Medicaid Director and Director of Job and Family Services 121418
may jointly or separately enter into one or more contracts with 121419
public or private entities for staff training and development to 121420
facilitate the transfer of the staff and duties regarding medical 121421
assistance programs to the Department of Medicaid. Division (B) of 121422
section 127.16 of the Revised Code does not apply to contracts 121423
entered into under this section. 121424

A portion of the foregoing appropriation items 651425, 121425
Medicaid Program Support - State, 651624, Medicaid Program Support 121426
- Federal, 651680, Health Care Grants - Federal, 651605, Resident 121427
Protection Fund, 651631, Money Follows the Person, and 651654, 121428
Medicaid Program Support, may be used to pay for costs associated 121429
with the administration of the Medicaid program, including staff 121430
training authorized under this section. 121431

Section 323.10.50. CREATION OF THE DEPARTMENT OF MEDICAID NOT 121432
A COLLECTIVE BARGAINING SUBJECT 121433

As used in this section, "medical assistance program" has the 121434
same meaning as in the section of this act titled "CREATION OF THE 121435

DEPARTMENT OF MEDICAID." 121436

Notwithstanding sections 4117.08 and 4117.10 of the Revised 121437
Code, this act's creation of the Department of Medicaid and 121438
reassignment of the functions and duties of the Office of Medical 121439
Assistance regarding medical assistance programs are not 121440
appropriate subjects for collective bargaining under Chapter 4117. 121441
of the Revised Code. 121442

A portion of the foregoing appropriation items 651425, 121443
Medicaid Program Support - State, 651624, Medicaid Program Support 121444
- Federal, 651680, Health Care Grants - Federal, 651655, Medicaid 121445
Interagency Pass-Through, 651605, Resident Protection Fund, 121446
651631, Money Follows the Person, 651682, Health Care Grants - 121447
State, and 651654, Medicaid Program Support, may be used to pay 121448
for costs associated with the administration of the Medicaid 121449
program, including the reassignment of functions and duties 121450
related to the transition of the Office of Medical Assistance into 121451
the Department of Medicaid. 121452

Section 323.10.60. NEW AND AMENDED GRANT AGREEMENTS 121453

(A) As used in this section: 121454

(1) "Grant agreement" has the same meaning as in section 121455
5101.21 of the Revised Code. 121456

(2) "Medical assistance program" has the same meaning as in 121457
the section of this act titled "CREATION OF THE DEPARTMENT OF 121458
MEDICAID." 121459

(B) The Director of Job and Family Services and boards of 121460
county commissioners may enter into negotiations to amend an 121461
existing grant agreement or to enter into a new grant agreement 121462
regarding the transfer of medical assistance programs to the 121463
Department of Medicaid. Any such amended or new grant agreement 121464
shall be drafted in the name of the Department of Job and Family 121465

Services. The amended or new grant agreement may be executed 121466
before July 1, 2013, if the amendment or agreement does not become 121467
effective sooner than that date. 121468

(C) A portion of the foregoing appropriation items 651525, 121469
Health Care/Medicaid Services, 651603, Medicaid Health Information 121470
Technology, 651623, Medicaid Services - Federal, 651624, Medicaid 121471
Program Support - Federal, 651680, Health Care Grants - Federal, 121472
and 651682, Health Care Grants - State, may be used to pay for 121473
Medicaid services and costs associated with the administration of 121474
the Medicaid program. 121475

Section 323.10.70. LSC TO RENUMBER ADMINISTRATIVE RULES 121476

On and after October 1, 2013, if necessary to ensure the 121477
integrity of the numbering of the Administrative Code, the 121478
Director of the Legislative Service Commission shall renumber the 121479
rules of the Office of Medical Assistance within the Department of 121480
Job and Family Services to reflect its transfer to the Department 121481
of Medicaid. 121482

Section 323.20. MEDICAID/HEALTH CARE SERVICES 121483

The foregoing appropriation item 651525, Medicaid/Health Care 121484
Services, shall not be limited by section 131.33 of the Revised 121485
Code. 121486

Section 323.30. QUALITY INCENTIVE PROGRAM TO REDUCE AVOIDABLE 121487
ADMISSIONS 121488

(A) The Department of Medicaid may implement, for fiscal year 121489
2014 and fiscal year 2015, a quality incentive program to do both 121490
of the following: 121491

(1) Reduce the number of times that the following persons are 121492
admitted to hospitals and nursing facilities or utilize emergency 121493
department services when the admissions or utilizations are 121494

avoidable:	121495
(a) Medicaid recipients enrolled in a home and community-based services Medicaid waiver component administered by the Office;	121496 121497 121498
(b) Medicaid recipients receiving nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);	121499 121500 121501
(c) Medicaid recipients receiving home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);	121502 121503 121504
(d) Medicaid recipients receiving private duty nursing services as defined in 42 C.F.R. 440.80.	121505 121506
(2) Reduce the number of times that Medicaid recipients receiving nursing facility services are admitted to hospitals or utilize emergency department services when the admissions or utilizations are avoidable.	121507 121508 121509 121510
(B) If the quality incentive program is implemented, the Department shall include in the program methods by which the Department will determine the program's actual savings to the Medicaid program and shall distribute not more than fifty per cent of the savings to participating Medicaid providers.	121511 121512 121513 121514 121515
Section 323.40. CHILDREN'S HOSPITALS QUALITY OUTCOMES PROGRAM	121516 121517
(A) As used in this section, "children's hospital" means a hospital, as defined in section 3727.01 of the Revised Code, that is located in this state, primarily serves patients eighteen years of age and younger, is subject to the Medicaid prospective payment system for hospitals established in rules adopted under section 5164.02 of the Revised Code, and is excluded from Medicare prospective payments in accordance with 42 C.F.R. 412.23(d).	121518 121519 121520 121521 121522 121523 121524

(B) The Medicaid Director may implement, during fiscal year 2014 and fiscal year 2015, a children's hospitals quality outcomes program that encourages children's hospitals to develop the following:

(1) Infrastructures that are needed to care for patients in the least restrictive setting and promote the care of patients and their families;

(2) Programs designed to improve birth outcomes and measurably reduce neonatal intensive care admissions;

(3) Patient-centered methods to measurably reduce utilization of emergency department services for primary care needs and nonemergency health conditions;

(4) Other quality-focused reforms the Director identifies.

(C) Up to \$6,000,000 state share plus the corresponding federal share in each fiscal year shall be used to support payments made to children's hospitals for developing programs that achieve the outcomes specified under division (B) of this section and any other measures the Medicaid Director deems appropriate.

Section 323.50. UNIFIED LONG TERM CARE

The foregoing appropriation item 651425, Medicaid Program Support - State, may be used to provide the preadmission screening and resident review (PASRR), which includes screening, assessments, and determinations made under sections 5119.061 (renumbered section 5119.40 of the Revised Code in this act), 5123.021, and 5165.04 of the Revised Code.

The foregoing appropriation item 651425, Medicaid Program Support - State, may be used to assess and provide long-term care consultations under section 173.42 of the Revised Code to clients regardless of Medicaid eligibility.

The foregoing appropriation item 651525, Medicaid/Health Care

Services, may be used to provide nonwaiver funded PASSPORT and 121555
assisted living services to persons who the state department has 121556
determined to be eligible to participate in the nonwaiver funded 121557
PASSPORT and assisted living programs, who applied for but have 121558
not yet been determined to be financially eligible to participate 121559
in the Medicaid waiver component of the PASSPORT Home Care Program 121560
or the Assisted Living Program by a county department of job and 121561
family services, and to persons who are not eligible for Medicaid 121562
but were enrolled in the PASSPORT Program prior to July 1, 1990. 121563

The foregoing appropriation item 651425, Medicaid Program 121564
Support - State, shall be used to provide the required state match 121565
for federal Medicaid funds supporting the Medicaid waiver-funded 121566
PASSPORT Home Care Program, the Choices Program, the Assisted 121567
Living Program, and the PACE Program. 121568

The foregoing appropriation item 651525, Medicaid/Health Care 121569
Services, shall be used to provide the federal matching share of 121570
program costs determined by the Office of Medical Assistance to be 121571
eligible for Medicaid reimbursement for the Medicaid waiver-funded 121572
PASSPORT Home Care Program, the Choices Program, the Assisted 121573
Living Program, and the PACE Program. 121574

Section 323.53. PASSPORT ADMINISTRATIVE AGENCY SITE 121575
OPERATIONS 121576

For fiscal year 2014 and fiscal year 2015, spending for 121577
PASSPORT administrative agencies' site operating functions 121578
relating to screening, assessments, general administrative, and 121579
provider relations for the Medicaid waiver-funded PASSPORT Home 121580
Care Program, Choices Program, Assisted Living Program, and PACE 121581
Program shall be at one hundred five per cent of the level 121582
provided in fiscal year 2013. 121583

Section 323.60. MANAGED CARE PERFORMANCE PAYMENT PROGRAM 121584

At the beginning of each quarter, or as soon as possible 121585
thereafter, the Medicaid Director shall certify to the Director of 121586
Budget and Management the amount withheld in accordance with 121587
section 5167.30 of the Revised Code for purposes of the Managed 121588
Care Performance Payment Program. Upon receiving certification, 121589
the Director of Budget and Management shall transfer cash in the 121590
amount certified from the General Revenue Fund to the Managed Care 121591
Performance Payment Fund. Appropriation item 651525, 121592
Medicaid/Health Care Services, is hereby reduced by the amount of 121593
the transfer. Upon request of the Medicaid Director and approval 121594
of the Director of Budget and Management, appropriation up to the 121595
cash balance in the Managed Care Performance Payment Fund is 121596
hereby appropriated. 121597

In addition to any other purpose authorized by law, the 121598
Department of Medicaid may use money in the Managed Care 121599
Performance Payment Fund for the following purposes for fiscal 121600
year 2014 and fiscal year 2015: 121601

(A) To meet obligations specified in provider agreements with 121602
Medicaid managed care organizations; 121603

(B) To pay for Medicaid services provided by a Medicaid 121604
managed care organization; 121605

(C) To reimburse a Medicaid managed care organization that 121606
has paid a fine for failure to meet performance standards or other 121607
requirements specified in provider agreements or rules adopted 121608
under section 5167.02 of the Revised Code if the organization 121609
comes into compliance with the standards or requirements. 121610

Section 323.70. MEDICAID MANAGED CARE EXEMPTIONS 121611

(A) As used in this section, "individual with disabilities" 121612
means any individual receiving services through the program for 121613
medically handicapped children established under section 3701.023 121614

of the Revised Code who has one or more of the following 121615
conditions: 121616

(1) Cystic fibrosis; 121617

(2) Hemophilia; 121618

(3) Cancer. 121619

(B) Notwithstanding section 5167.03 of the Revised Code, the 121620
Department of Medicaid shall not include in the care management 121621
system established under that section any individual with 121622
disabilities who was not receiving services through the care 121623
management system immediately before June 30, 2011, until the 121624
first day of the thirteenth month that occurs after the date that 121625
the Office first designates any individual who receives Medicaid 121626
on the basis of being aged, blind, or disabled who is under 121627
twenty-one years of age as an individual who is permitted or 121628
required to participate in the care management system. 121629

Section 323.80. PRIOR AUTHORIZATION FOR COMMUNITY MENTAL 121630
HEALTH SERVICES 121631

(A) As used in this section, "community mental health 121632
services" means mental health services included in the state 121633
Medicaid plan pursuant to section 5164.15 of the Revised Code. 121634

(B) For fiscal year 2014 and fiscal year 2015, a Medicaid 121635
recipient who is under twenty-one years of age automatically 121636
satisfies all requirements for any prior authorization process for 121637
community mental health services provided under a component of the 121638
Medicaid program administered by the Department of Mental Health 121639
and Addiction Services pursuant to an interagency agreement 121640
authorized by section 5162.35 of the Revised Code if any of the 121641
following apply to the recipient: 121642

(1) The recipient is in the temporary custody or permanent 121643
custody of a public children services agency or private child 121644

placing agency or is in a planned permanent living arrangement.	121645
(2) The recipient has been placed in protective supervision by a juvenile court.	121646 121647
(3) The recipient has been committed to the Department of Youth Services.	121648 121649
(4) The recipient is an alleged or adjudicated delinquent or unruly child receiving services under the Felony Delinquent Care and Custody Program operated under section 5139.43 of the Revised Code.	121650 121651 121652 121653
Section 323.90. JOINT LEGISLATIVE COMMITTEE FOR UNIFIED LONG-TERM SERVICES AND SUPPORTS	121654 121655
(A) The Joint Legislative Committee for Unified Long-Term Services and Supports created under section 309.30.73 of Am. Sub. H.B. 153 of the 129th General Assembly, as subsequently amended, shall continue to exist during fiscal year 2014 and fiscal year 2015. The Committee shall consist of the following members:	121656 121657 121658 121659 121660
(1) Two members of the House of Representatives from the majority party, appointed by the Speaker of the House of Representatives;	121661 121662 121663
(2) One member of the House of Representatives from the minority party, appointed by the Speaker of the House of Representatives;	121664 121665 121666
(3) Two members of the Senate from the majority party, appointed by the President of the Senate;	121667 121668
(4) One member of the Senate from the minority party, appointed by the President of the Senate.	121669 121670
(B) The Speaker of the House of Representatives shall designate one of the members of the Committee appointed under division (A)(1) of this section to serve as co-chairperson of the	121671 121672 121673

Committee. The President of the Senate shall designate one of the 121674
members of the Committee appointed under division (A)(3) of this 121675
section to serve as the other co-chairperson of the Committee. The 121676
Committee shall meet at the call of the co-chairpersons. The 121677
co-chairpersons may request assistance for the Committee from the 121678
Legislative Service Commission. 121679

(C) The Committee may examine the following issues: 121680

(1) The implementation of the dual eligible integrated care 121681
demonstration project authorized by section 5164.91 of the Revised 121682
Code; 121683

(2) The implementation of a unified long-term services and 121684
support Medicaid waiver component under section 5166.14 of the 121685
Revised Code; 121686

(3) Providing consumers choices regarding a continuum of 121687
services that meet their health-care needs, promote autonomy and 121688
independence, and improve quality of life; 121689

(4) Ensuring that long-term care services and supports are 121690
delivered in a cost-effective and quality manner; 121691

(5) Subjecting county homes, county nursing homes, and 121692
district homes operated pursuant to Chapter 5155. of the Revised 121693
Code to the franchise permit fee under sections 5168.40 to 5168.56 121694
of the Revised Code; 121695

(6) Other issues of interest to the committee. 121696

(D) The co-chairpersons of the Committee shall provide for 121697
the Medicaid Director to testify before the Committee at least 121698
quarterly regarding the issues that the Committee examines. 121699

Section 323.100. HOSPITAL INPATIENT AND OUTPATIENT 121700
SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE 121701
HOSPITAL INCENTIVE PAYMENT PROGRAM 121702

(A) As used in this section:	121703
(1) "Hospital" has the same meaning as in section 5168.20 of the Revised Code.	121704 121705
(2) "Hospital Assessment Fund" means the fund created under section 5168.25 of the Revised Code.	121706 121707
(3) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.	121708 121709
(B) The Department of Medicaid shall do both of the following:	121710 121711
(1) Continue the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program that was established pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th General Assembly, with any modifications necessary to implement the program as described under division (D) of this section;	121712 121713 121714 121715 121716
(2) Continue the Medicaid Managed Care Hospital Incentive Payment Program, as described under division (E) of this section.	121717 121718
(C) The Department shall use amounts deposited into the Hospital Assessment Fund in fiscal year 2014 and fiscal year 2015 for the following purposes in each fiscal year:	121719 121720 121721
(1) To pay for costs associated with both of the following:	121722
(a) The Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program;	121723 121724
(b) The Medicaid Managed Care Hospital Incentive Payment Program.	121725 121726
(2) To reduce spending in appropriation item 651525, Medicaid/Health Care Services.	121727 121728
(D)(1) Under the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program, subject to division (D)(2) of this section, supplemental Medicaid payments shall be	121729 121730 121731

made to hospitals for Medicaid-covered inpatient and outpatient 121732
services. The Department shall make the payments through amounts 121733
available for the Program pursuant to division (C) of this section 121734
and any federal financial participation available for the Program. 121735

(2) The Department shall take all actions necessary to cease 121736
implementation of the Program if the United States Secretary 121737
determines that the assessment imposed under section 5168.21 of 121738
the Revised Code is an impermissible healthcare-related tax under 121739
the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w). 121740

(E)(1) The purpose of the Medicaid Managed Care Hospital 121741
Incentive Payment Program is to increase access to hospital 121742
services for Medicaid recipients who are enrolled in Medicaid 121743
managed care organizations. 121744

Under the Program, subject to division (E)(2) of this 121745
section, funds shall be provided to Medicaid managed care 121746
organizations, which shall use the funds to increase payments to 121747
hospitals for providing services to Medicaid recipients who are 121748
enrolled in the organizations. The Department shall provide the 121749
funds through amounts available for the Program pursuant to 121750
division (C) of this section and any federal financial 121751
participation available for the Program. 121752

(2)(a) The Department shall not provide funds to Medicaid 121753
managed care organizations under the Program unless an actuary 121754
selected by the Department certifies that the Program would not 121755
violate the actuarial soundness of the capitation rates paid to 121756
Medicaid managed care organizations. 121757

(b) The Department shall not implement the Program in a 121758
manner that causes a hospital to receive less money from the 121759
Hospital Assessment Fund than the hospital would have received if 121760
the Program were not implemented. 121761

(c) The Department shall not implement the Program in a 121762

manner that causes a Medicaid managed care organization to receive 121763
a lower capitation payment rate solely because funds are made 121764
available to the organization under the Program. 121765

(d) The Department shall take all necessary actions to cease 121766
implementation of the Program if the United States Secretary 121767
determines that the assessment imposed under section 5168.21 of 121768
the Revised Code is an impermissible health care-related tax under 121769
the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w). 121770

(F) The Director of Budget and Management may authorize 121771
additional expenditures from appropriation item 651623, Medicaid 121772
Services - Federal, appropriation item 651525, Medicaid/Health 121773
Care Services, and appropriation item 651656, Medicaid Services - 121774
Hospital/UPL, in order to implement the programs authorized by 121775
this section. Any amounts authorized are hereby appropriated. 121776

(G) The Medicaid Director shall adopt rules as necessary to 121777
implement this section. The rules shall provide for the applicable 121778
assessment percentage that is used for the purpose of section 121779
5168.21 of the Revised Code to be an amount that raises, from the 121780
assessments imposed on hospitals under that section, an amount the 121781
Director determines is appropriate to fund the purposes specified 121782
in division (C) of this section. 121783

Section 323.110. ADMINISTRATIVE ISSUES RELATED TO TERMINATION 121784
OF MEDICAID WAIVER PROGRAMS 121785

(A) As used in this section, "MCD or ODA Medicaid waiver 121786
component" means the following: 121787

(1) The Medicaid waiver component of the PASSPORT program 121788
created under section 173.52 of the Revised Code; 121789

(2) The Choices program created under section 173.53 of the 121790
Revised Code; 121791

(3) The Medicaid waiver component of the Assisted Living 121792

program created under section 173.54 of the Revised Code. 121793

(4) The Ohio Home Care Waiver program as defined in section 121794
5166.01 of the Revised Code; 121795

(5) The Ohio Transitions II Aging Carve-Out program as 121796
defined in section 5166.01 of the Revised Code; 121797

(B) If an MCD or ODA Medicaid waiver component is terminated 121798
under section 173.52, 173.53, 173.54, 5166.12, or 5166.13 of the 121799
Revised Code, all of the following apply: 121800

(1) All applicable statutes, and all applicable rules, 121801
standards, guidelines, or orders issued by the Medicaid Director 121802
or Department of Medicaid or Director or Department of Aging 121803
before the component is terminated, shall remain in full force and 121804
effect on and after that date, but solely for purposes of 121805
concluding the component's operations, including fulfilling the 121806
Departments' legal obligations for claims arising from the 121807
component relating to eligibility determinations, covered medical 121808
assistance provided to eligible persons, and recovering erroneous 121809
overpayments. 121810

(2) Notwithstanding the termination of the component, the 121811
right of subrogation for the cost of medical assistance given 121812
under section 5160.37 of the Revised Code to the Department of 121813
Medicaid and an assignment of the right to medical assistance 121814
given under section 5160.38 of the Revised Code to the Department 121815
continue to apply with respect to the component and remain in 121816
force to the full extent provided under those sections. 121817

(3) The Department of Medicaid and Department of Aging may 121818
use appropriated funds to satisfy any claims or contingent claims 121819
for medical assistance provided under the component before the 121820
component's termination. 121821

(4) Neither the Department of Medicaid nor the Department of 121822
Aging has liability under the component to reimburse any provider 121823

or other person for claims for medical assistance rendered under 121824
the component after it is terminated. 121825

(C) The Medicaid Director and Director of Aging may adopt 121826
rules in accordance with Chapter 119. of the Revised Code to 121827
implement this section. 121828

Section 323.120. EXPANSION OF PACE PROGRAM 121829

(A) As used in this section, "PACE Program" means the Program 121830
of All-Inclusive Care for the Elderly. 121831

(B) To effectively administer and manage growth within the 121832
PACE Program, the Director of Aging, in consultation with the 121833
Medicaid Director, may expand the PACE Program to regions of the 121834
state that are not being served by the PACE Program if all of the 121835
following apply: 121836

(1) Funding is available for the expansion. 121837

(2) The Director of Aging and Medicaid Director mutually 121838
determine that the PACE Program is a cost-effective alternative to 121839
nursing home care. 121840

(3) The United States Centers for Medicare and Medicaid 121841
Services agrees to share with the state any savings to the 121842
Medicare program resulting from an expansion of the PACE Program. 121843

(C) If the PACE Program is expanded, the Director of Aging 121844
may not decrease the number of individuals in Cuyahoga and 121845
Hamilton counties and parts of Butler, Clermont, and Warren 121846
counties who are participants in the PACE Program below the number 121847
of individuals in those counties and parts of counties who were 121848
participants in the PACE Program on July 1, 2011. 121849

Section 323.130. DISPENSING FEE FOR NONCOMPOUNDED DRUGS 121850

The Medicaid dispensing fee for each noncompounded drug 121851
covered by the Medicaid program shall be \$1.80 for the period 121852

beginning July 1, 2013, and ending on the effective date of a rule 121853
changing the amount of the fee that the Medicaid Director adopts 121854
under section 5164.02 of the Revised Code. 121855

Section 323.140. MONEY FOLLOWS THE PERSON ENHANCED 121856
REIMBURSEMENT FUND 121857

The federal payments made to the state under subsection (e) 121858
of section 6071 of the "Deficit Reduction Act of 2005," Pub. L. 121859
No. 109-171, as amended, shall be deposited into the Money Follows 121860
the Person Enhanced Reimbursement Fund. The Department of Medicaid 121861
shall continue to use money deposited into the fund for system 121862
reform activities related to the Money Follows the Person 121863
demonstration project. 121864

Section 323.150. MEDICARE PART D 121865

The foregoing appropriation item 651526, Medicare Part D, may 121866
be used by the Department of Medicaid for the implementation and 121867
operation of the Medicare Part D requirements contained in the 121868
"Medicare Prescription Drug, Improvement, and Modernization Act of 121869
2003," Pub. L. No. 108-173, as amended. Upon the request of the 121870
Department of Medicaid, the Director of Budget and Management may 121871
transfer the state share of appropriations between appropriation 121872
item 651525, Medicaid/Health Care Services, or appropriation item 121873
651526, Medicare Part D. If the state share of appropriation item 121874
651525, Medicaid/Health Care Services, is adjusted, the Director 121875
of Budget and Management shall adjust the federal share 121876
accordingly. The Department of Medicaid shall provide notification 121877
to the Controlling Board of any transfers at the next scheduled 121878
Controlling Board meeting. 121879

Section 323.160. REBALANCING LONG-TERM CARE 121880

(A) As used in this section: 121881

"Balancing Incentive Payments Program" means the program 121882
established under section 10202 of the Patient Protection and 121883
Affordable Care Act. 121884

"Long-term services and supports" has the same meaning as in 121885
section 10202(f)(1) of the Patient Protection and Affordable Care 121886
Act. 121887

"Non-institutionally-based long-term services and supports" 121888
has the same meaning as in section 10202(f)(1)(B) of the Patient 121889
Protection and Affordable Care Act. 121890

"Patient Protection and Affordable Care Act" means Public Law 121891
111-148. 121892

(B) The Departments of Aging, Developmental Disabilities, and 121893
Medicaid shall continue efforts to achieve a sustainable and 121894
balanced delivery system for long-term services and supports. In 121895
so doing, the Departments shall strive to realize the following 121896
goals by June 30, 2015: 121897

(1) Having at least fifty per cent of Medicaid recipients who 121898
are sixty years of age or older and need long-term services and 121899
supports utilize non-institutionally-based long-term services and 121900
supports; 121901

(2) Having at least sixty per cent of Medicaid recipients who 121902
are less than sixty years of age and have cognitive or physical 121903
disabilities for which long-term services and supports are needed 121904
utilize non-institutionally-based long-term services and supports. 121905

(C) If the Department of Medicaid determines that 121906
participating in the Balancing Incentive Payments Program will 121907
assist in achieving the goals specified in division (B) of this 121908
section, the Department may apply to the United States Secretary 121909
of Health and Human Services to participate in the program. 121910

Section 323.170. OHIO ACCESS SUCCESS PROJECT 121911

Of the foregoing appropriation item, 651525, Medicaid/Health Care Services, up to \$450,000 in each fiscal year may be used to provide one-time transitional benefits under the Ohio Access Success Project that the Medicaid Director may establish under section 5166.35 of the Revised Code.

Section 323.180. PROVIDER FRANCHISE FEE OFFSETS

(A) At least quarterly, the Medicaid Director shall certify to the Director of Budget and Management the amount of offsets withheld under section 5168.52 of the Revised Code from payments made from the General Revenue Fund.

(B) The Director of Budget and Management may transfer cash from the General Revenue Fund to the Nursing Home Franchise Permit Fee Fund (Fund 5R20), in accordance with section 5168.54 of the Revised Code.

(C) Amounts transferred pursuant to this section are hereby appropriated.

Section 323.190. HOSPITAL CARE ASSURANCE MATCH

The foregoing appropriation item 651623, Medicaid Services - Federal, shall be used by the Department of Medicaid for distributing funds to hospitals under section 5168.09 of the Revised Code.

Section 323.200. HEALTH CARE SERVICES ADMINISTRATION FUND

Of the amount received by the Department of Medicaid during fiscal year 2014 and fiscal year 2015 from the first installment of assessments paid under section 5168.06 of the Revised Code and intergovernmental transfers made under section 5168.07 of the Revised Code, the Medicaid Director shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U30).

Section 323.210. TRANSFERS OF OFFSETS TO THE HEALTH CARE	121941
SERVICES ADMINISTRATION FUND	121942
(A) As used in this section:	121943
"Hospital offset" means an offset from a hospital's Medicaid	121944
payment authorized by section 5168.991 of the Revised Code.	121945
"Vendor offset" means a reduction of a Medicaid payment to a	121946
Medicaid provider to correct a previous, incorrect Medicaid	121947
payment.	121948
(B) During fiscal year 2014 and fiscal year 2015, at	121949
intervals selected by the Medicaid Director, the Director shall	121950
certify to the Director of Budget and Management the amount of	121951
hospital offsets and vendor offsets for the period covered by the	121952
certification and the particular funds that would have been used	121953
to make Medicaid payments to providers if not for the offsets.	121954
Each certification shall specify the amount that would have been	121955
taken from each of the funds if not for the hospital offsets and	121956
vendor offsets.	121957
(C) On receipt of a certification under division (B) of this	121958
section, the Director of Budget and Management shall transfer cash	121959
from the funds identified in the certification to the Health Care	121960
Services Administration Fund (Fund 5U30). The amount transferred	121961
from a fund shall equal the amount that would have been taken from	121962
the fund if not for the hospital offsets and vendor offsets as	121963
specified in the certification. The transferred cash is hereby	121964
appropriated.	121965
Section 323.220. MEDICAID INTERAGENCY PASS-THROUGH	121966
The Medicaid Director may request the Director of Budget and	121967
Management to increase appropriation item 651655, Medicaid	121968
Interagency Pass-Through. Upon the approval of the Director of	121969
Budget and Management, the additional amounts are hereby	121970

appropriated.	121971
Section 323.230. MEDICAID PAYMENTS FOR NONINSTITUTIONAL	121972
SERVICES PROVIDED TO DUAL ELIGIBLE INDIVIDUALS	121973
(A) As used in this section:	121974
"Dual eligible individual" has the same meaning as in the	121975
"Social Security Act," section 1915(h)(2)(B), 42 U.S.C.	121976
1396n(h)(2)(B).	121977
"Medicare Part B" means the Supplementary Medical Insurance	121978
Program for the Aged and Disabled component of the Medicare	121979
program established by Part B of Title XVIII of the "Social	121980
Security Act," 42 U.S.C. 1395j et seq.	121981
"Noninstitutional services" means any services other than	121982
hospital services, nursing facility services, and intermediate	121983
care facilities for the mentally retarded.	121984
(B) Notwithstanding any conflicting state statute, a Medicaid	121985
payment for noninstitutional services, excluding physician	121986
services and including freestanding dialysis center services,	121987
provided during the period beginning January 1, 2014, and ending	121988
July 1, 2015, to a Medicaid recipient who is a dual eligible	121989
individual enrolled for benefits under Medicare Part B shall equal	121990
the lesser of the following:	121991
(1) The sum of the Medicare Part B deductible, coinsurance,	121992
and copayment for the services that are applicable to the	121993
individual;	121994
(2) The greater of the following:	121995
(a) The maximum allowable Medicaid payment for the services	121996
when the services are provided to other Medicaid recipients, less	121997
the total Medicaid payment (if any) most recently paid on the	121998
Medicaid recipient's behalf for such services;	121999

(b) Zero.	122000
Section 323.233. MEDICAID PAYMENTS FOR HOME HEALTH SERVICES	122001
AND PRIVATE DUTY NURSING	122002
(A) As used in this section, "responsible adult" means the	122003
spouse of a Medicaid recipient or, in the case of a Medicaid	122004
recipient who is a minor, the minor's parent, foster caregiver,	122005
stepparent, guardian, legal custodian, or any other person who	122006
stands in loco parentis for the minor.	122007
(B) Except as provided in division (C) of this section, for	122008
fiscal year 2014 and fiscal year 2015, Medicaid payments shall not	122009
be made for any of the following services that are provided to a	122010
Medicaid recipient by an individual who is a responsible adult for	122011
that recipient:	122012
(1) Nursing services available under the home health services	122013
benefit pursuant to 42 C.F.R. 440.70(b)(1);	122014
(2) Home health aide services available under the home health	122015
services benefit pursuant to 42 C.F.R. 440.70(b)(2);	122016
(3) Private duty nursing services, as defined in 42 C.F.R.	122017
440.80.	122018
(C) For fiscal year 2014 and fiscal year 2015, the Medicaid	122019
Director shall establish the conditions under which Medicaid	122020
payments may be made for any of the services described in division	122021
(B) of this section that are provided to a Medicaid recipient by	122022
an individual who is a responsible adult for that recipient.	122023
(D) The Director shall adopt rules in accordance with Chapter	122024
119. of the Revised Code necessary to implement this section. The	122025
Director shall consult provider representatives, consumer	122026
representatives, and other stakeholders in developing the rules,	122027
which may include the following:	122028
(1) Qualification and training requirements necessary for	122029

responsible adults to receive Medicaid payments under division (C)	122030
of this section;	122031
(2) Oversight requirements necessary for responsible adults	122032
to receive Medicaid payments under division (C) of this section;	122033
(3) Procedures designed to protect against fraud, waste, and	122034
abuse that may occur as a result of payments made under division	122035
(C) of this section;	122036
(4) Any other procedures, standards, or requirements the	122037
Director considers appropriate.	122038
Section 323.236. PURCHASING STRATEGIES FOR WHEELCHAIRS	122039
For fiscal years 2014 and 2015, the Medicaid Director shall	122040
implement strategies for purchasing wheelchairs for Medicaid	122041
recipients residing in nursing facilities. In implementing the	122042
purchasing strategies, the Director shall seek to achieve a more	122043
efficient allocation of resources and price and quality	122044
competition among wheelchair providers. The Director shall	122045
consider one or more of the following when determining the	122046
purchasing strategies to implement:	122047
(A) Establishing selective contracting or competitive	122048
bidding;	122049
(B) Establishing a manufacturer's rebate program;	122050
(C) Another purchasing strategy that saves the Medicaid	122051
program an amount equivalent to the savings that would be realized	122052
from the purchasing strategies specified in division (A) or (B),	122053
or both, of this section.	122054
Section 323.240. RESCISSION OF RULE REGARDING RATES FOR	122055
PHYSICIAN GROUPS ACTING AS OUTPATIENT HOSPITAL CLINICS	122056
The Medicaid Director shall rescind rule 5101:3-1-60.1 of the	122057
Administrative Code. The rescission shall not take effect before	122058

January 1, 2014.	122059
Section 323.250. REDUCED RATE FOR REPEAT RADIOLOGICAL SERVICES	122060 122061
(A) The Medicaid Director shall reduce the Medicaid payment rate for radiological services to which both of the following apply:	122062 122063 122064
(1) They are provided in a physician's office or an independent diagnostic testing facility;	122065 122066
(2) They are provided more than once by the same provider for the same Medicaid recipient during the same session.	122067 122068
(B) The Director shall adopt rules under section 5164.02 of the Revised Code to implement the rate reduction required by this section. The rules shall not take effect before January 1, 2014.	122069 122070 122071
Section 323.260. VARYING MEDICAID PAYMENT RATES FOR PHYSICIAN SERVICES DEPENDING ON LOCATION OF SERVICE	122072 122073
(A) The Medicaid Director shall do both of the following:	122074
(1) Identify physician services for which Medicaid payment rates should vary depending on where the services are provided;	122075 122076
(2) Adopt rules under section 5164.02 of the Revised Code to establish the varying Medicaid payment rates.	122077 122078
(B) The rules required by division (A)(2) of this section shall not take effect before January 1, 2014.	122079 122080
Section 323.263. PAYMENT RATES FOR PASSPORT SERVICES	122081
The Medicaid payment rates for services provided under the PASSPORT program, other than adult day-care services, during the period beginning July 1, 2013, and ending June 30, 2015, shall be not less than ninety-eight and five-tenths per cent of the	122082 122083 122084 122085

Medicaid payment rates for the services in effect on June 30, 122086
2011. The Medicaid payment rates for adult day-care services 122087
provided under the PASSPORT program during the period beginning 122088
July 1, 2013, and ending June 30, 2015, shall be twenty per cent 122089
higher than the amount of the Medicaid payment rates for the 122090
services in effect on June 30, 2013. 122091

Section 323.270. MEDICAID PAYMENT METHODOLOGIES ALIGNED WITH 122092
MEDICARE PAYMENT METHODOLOGIES 122093

(A) The Medicaid Director shall do both of the following: 122094

(1) Identify Medicaid services for which the Medicaid payment 122095
methodologies should be aligned, to the extent the Director 122096
considers appropriate, with Medicare payment methodologies for the 122097
services; 122098

(2) Adopt rules under section 5164.02 of the Revised Code to 122099
so align the payment methodologies for the services. 122100

(B) The rules required by division (A)(2) of this section 122101
shall not take effect before January 1, 2014. 122102

Section 323.280. ALTERNATIVE PURCHASING MODEL FOR NURSING 122103
FACILITY SERVICES 122104

As used in this section, "Medicaid waiver component" has the 122105
same meaning as in section 5166.01 of the Revised Code. 122106

The Medicaid Director may establish, as a Medicaid waiver 122107
component, an alternative purchasing model for nursing facility 122108
services provided, during the period beginning July 1, 2013, and 122109
ending July 1, 2015, to Medicaid recipients with specialized 122110
health care needs, including recipients dependent on ventilators, 122111
recipients who have severe traumatic brain injury, and recipients 122112
who would be admitted to long-term acute care hospitals or 122113
rehabilitation hospitals if they did not receive nursing facility 122114

services. If established, the alternative purchasing model shall 122115
do all of the following: 122116

(A) Recognize a connection between enhanced Medicaid payment 122117
rates and improved health outcomes capable of being measured; 122118

(B) Include criteria for identifying Medicaid recipients with 122119
specialized health care needs; 122120

(C) Include procedures for ensuring that Medicaid recipients 122121
identified pursuant to division (B) of this section receive 122122
nursing facility services under the alternative purchasing model. 122123

The total per Medicaid day payment rate for nursing facility 122124
services provided under the alternative purchasing model may 122125
differ from the rate that would otherwise be paid pursuant to 122126
Chapter 5165. of the Revised Code. 122127

Section 323.290. REVIEW OF LONG-TERM SERVICES TO IMPROVE 122128
EFFICIENCY AND INDIVIDUAL CARE 122129

(A) The Department of Medicaid may review the following 122130
services covered by the Medicaid program to identify opportunities 122131
to improve the efficiency of, and individual care provided by, 122132
long-term care services and supports: 122133

(1) Nursing services available under the home health services 122134
benefit pursuant to 42 C.F.R. 440.70(b)(1); 122135

(2) Home health aide services available under the home health 122136
services benefit pursuant to 42 C.F.R. 440.70(b)(2); 122137

(3) Private duty nursing services as defined in 42 C.F.R. 122138
440.80. 122139

(B) The Department, in its review authorized by division (A) 122140
of this section, may consider establishing the following: 122141

(1) New methods for authorizing and coordinating long-term 122142
care services and supports, including such services and supports 122143

covered by the Medicaid state plan, using case managers or care coordinators;	122144
	122145
(2) Competency and training requirements for the case managers or care coordinators;	122146
	122147
(3) Other mechanisms for improving efficiency and individual care in the delivery of long-term care services and supports.	122148
	122149
Section 323.300. PERFORMANCE PAYMENTS FOR MEDICAID MANAGED CARE	122150
	122151
(A) As used in this section:	122152
(1) "Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315, 42 U.S.C. 1396n(h)(2)(B).	122153
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	122155
(2) "Dual eligible integrated care demonstration project" means the demonstration project authorized by section 5164.91 of the Revised Code.	122156
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	122158
(3) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.	122159
	122160
(4) "Participant" means an individual participating in the dual eligible integrated care demonstration project.	122161
	122162
(B) For fiscal year 2014 and fiscal year 2015, the Department of Medicaid shall provide performance payments as provided under this section to Medicaid managed care organizations providing care under the Dual Eligible Integrated Care Demonstration Project.	122163
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(C) If the Department implements the Dual Eligible Integrated Care Demonstration Project, and if participants receive care through Medicaid managed care organizations under the project, the Department shall, in consultation with the United States Centers for Medicare and Medicaid Services, do both of the following:	122167
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	122171
(1) Develop quality measures designed specifically to	122172

determine the effectiveness of the health care and other services provided to participants by Medicaid managed care organizations; 122173
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(2) Determine an amount to be withheld from the Medicaid premium payments paid to Medicaid managed care organizations for participants. 122175
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(D)(1) For the purposes of division (C)(2) of this section, the Department shall establish an amount that is to be withheld each time a premium payment is made to a Medicaid managed care organization for a participant. The amount shall be established as a percentage of each premium payment. The percentage shall be the same for all Medicaid managed care organizations providing care to participants. 122178
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(2) Each Medicaid managed care organization shall agree to the withholding as a condition of receiving or maintaining its Medicaid provider agreement with the Department. 122185
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(3) When the amount is established and each time the amount is modified thereafter, the Department shall certify the amount to the Director of Budget and Management and begin withholding the amount from each premium the Department pays to a Medicaid managed care organization for a participant. 122188
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(E) The Director of Budget and Management shall transfer the amounts certified in accordance with division (D) of this section into the Managed Care Performance Payment Fund created under section 5162.60 of the Revised Code. The amounts transferred may be used to make performance payments to Medicaid managed care organizations providing care to participants in accordance with rules that may be adopted by the Medicaid Director under Chapter 119. of the Revised Code. 122193
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(F) A Medicaid managed care organization subject to this section is not subject to section 5167.30 of the Revised Code for premium payments attributed to participants during fiscal year 122201
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2014 and fiscal year 2015. 122204

Section 323.310. INTEGRATED CARE DELIVERY SYSTEM PERFORMANCE 122205
PAYMENT PROGRAM 122206

At the beginning of each quarter, or as soon as possible 122207
thereafter, the Medicaid Director may certify to the Director of 122208
Budget and Management the amount withheld in accordance with the 122209
section in this act titled "PERFORMANCE PAYMENTS FOR MEDICAID 122210
MANAGED CARE." On receipt of certification, the Director of Budget 122211
and Management shall transfer cash in the amount certified from 122212
the General Revenue Fund to the Managed Care Performance Payment 122213
Fund (Fund 5KW0). The transferred cash is hereby appropriated. 122214
Appropriation item 651525, Medicaid/Health Care Services, is 122215
hereby reduced by the amount of the transfer. 122216

Section 323.320. VENDOR COLLECTION OF PATIENT LIABILITY 122217

(A) As used in this section: 122218

"Medicaid waiver component" has the same meaning as in 122219
section 5166.01 of the Revised Code. 122220

"Patient liability" means the amount that 42 C.F.R. 435.735 122221
requires be reduced from a Medicaid payment for home and 122222
community-based services available under a Medicaid waiver 122223
component. 122224

(B) The Medicaid Director may contract with a person or 122225
government entity to collect patient liabilities for fiscal year 122226
2014 and fiscal year 2015. The Director may adopt rules under 122227
section 5166.02 of the Revised Code as necessary to implement this 122228
section. 122229

Section 323.330. STATE PLAN HOME AND COMMUNITY-BASED SERVICES 122230

(A) As used in this section: 122231

"Federal poverty line" means the official poverty line 122232
defined by the United States Office of Management and Budget based 122233
on the most recent data available from the United States Bureau of 122234
the Census and revised by the United States Secretary of Health 122235
and Human Services pursuant to the "Omnibus Budget Reconciliation 122236
Act of 1981," section 673(2), 42 U.S.C. 9902(2). 122237

"State plan home and community-based services" means home and 122238
community-based services that may be included in the Medicaid 122239
state plan pursuant to the "Social Security Act," section 1915(i), 122240
42 U.S.C. 1396n(i). 122241

(B) During fiscal year 2014 and fiscal year 2015, the 122242
Medicaid program may cover state plan home and community-based 122243
services for Medicaid recipients of any age who have behavioral 122244
health issues and countable incomes not exceeding one hundred 122245
fifty per cent of the federal poverty line. A Medicaid recipient 122246
is not required to undergo a level of care determination to be 122247
eligible for the state plan home and community-based services. 122248

The Medicaid Director may adopt rules under section 5164.02 122249
of the Revised Code as necessary to implement this section. 122250

Section 323.340. INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR 122251
INDIVIDUALS UNDER AGE 21 122252

(A) As used in this section: 122253

"Inpatient psychiatric hospital services for individuals 122254
under age 21" has the same meaning as in the "Social Security 122255
Act," section 1905(h), 42 U.S.C. 1396d(h). 122256

"Psychiatric residential treatment facility" has the same 122257
meaning as in 42 C.F.R. 483.352. 122258

(B) During fiscal year 2014 and fiscal year 2015, the 122259
Medicaid program may cover inpatient psychiatric hospital services 122260
for individuals under age 21 that are provided by psychiatric 122261

residential treatment facilities to Medicaid recipients to whom 122262
both of the following apply: 122263

(1) They are in the custody of the Department of Youth 122264
Services. 122265

(2) They have been identified as meeting a clinical criterion 122266
of serious emotional disturbance specified pursuant to division 122267
(C) of this section. 122268

(C) The Department of Youth Services, in collaboration with 122269
the Department of Medicaid and Department of Mental Health and 122270
Addiction Services, shall specify the clinical criterion of 122271
serious emotional disturbance to be used for the purpose of 122272
division (B)(2) of this section. 122273

Section 323.350. MCD COLLABORATION WITH DVS 122274

The Department of Medicaid may collaborate with the 122275
Department of Veterans Services to determine ways to improve the 122276
coordination of the services that the Departments make available 122277
to veterans in a manner that enhances veterans' receipt of the 122278
services. The Departments may implement, during fiscal year 2014 122279
and fiscal year 2015, initiatives that they determine during the 122280
collaboration will maximize the efficiency of the services and 122281
ensure that veterans' needs are met. 122282

Section 323.360. IMPROVED BIRTH OUTCOMES INITIATIVES 122283

(A) The Medicaid Director may develop and implement, during 122284
fiscal year 2014 and fiscal year 2015, initiatives designed to 122285
improve birth outcomes for Medicaid recipients, including 122286
improvements designed to do the following: 122287

(1) Reduce the number of preterm births; 122288

(2) Reduce Medicaid costs; 122289

(3) Improve the quality of Medicaid services. 122290

(B) In developing the initiatives, the Director may consult 122291
with experts in practice improvement, Medicaid managed care 122292
organizations, hospitals, and other types of Medicaid providers. 122293
The Director, Medicaid managed care organizations, and other types 122294
of Medicaid providers involved in the initiatives shall make 122295
information about the initiatives available on their web sites. 122296

Section 323.370. ABOLISHMENT OF THE PRESCRIPTION DRUG REBATES 122297
FUND 122298

On July 1, 2013, or as soon as possible thereafter, the 122299
Director of Budget and Management shall transfer the cash balance 122300
in the Prescription Drug Rebates Fund (Fund 5P50) to the Health 122301
Care/Medicaid Support and Recoveries Fund (Fund 5DL0). Upon 122302
completion of the transfer, Fund 5P50 is abolished. The Director 122303
shall cancel any existing encumbrances against appropriation item 122304
600692, Health Care/Medicaid Support - Drug Rebates, and 122305
reestablish them against appropriation item 651639, Medicaid 122306
Services - Recoveries. The re-established encumbrance amounts are 122307
hereby appropriated. 122308

All money that would have been deposited into the 122309
Prescription Drug Rebates Fund shall be deposited into the Health 122310
Care/Medicaid Support and Recoveries Fund during fiscal year 2014 122311
and fiscal year 2015. 122312

Section 323.380. ABOLISHMENT OF THE HEALTHCARE COMPLIANCE 122313
FUND 122314

On July 1, 2013, or as soon as possible thereafter, the 122315
Medicaid Director shall certify to the Director of Budget and 122316
Management, the cash balance related to managed care obligations 122317
in the Healthcare Compliance Fund (Fund 4Z10). The Director of 122318
Budget and Management shall transfer the amount certified from 122319
Fund 4Z10 to the Managed Care Performance Payment Fund (Fund 122320

5KW0). The Director shall cancel any existing encumbrances related 122321
to managed care obligations against appropriation item 600625, 122322
Healthcare Compliance, and re-establish them against appropriation 122323
item 651612, Managed Care Performance Payment. The re-established 122324
encumbrance amounts are hereby appropriated. 122325

After the cash relating to managed care obligations has been 122326
transferred, the Director of Budget and Management shall transfer 122327
the remaining cash balance in the Healthcare Compliance Fund (Fund 122328
4Z10) to the Health Care Services Administration Fund (Fund 5U30). 122329
Upon completion of the transfer, Fund 4Z10 is abolished. The 122330
Director shall cancel any remaining encumbrances against 122331
appropriation item 600625, Healthcare Compliance, and re-establish 122332
them against appropriation item 651654, Medicaid Program Support. 122333
The re-established encumbrance amounts are hereby appropriated. 122334

All money that would have been deposited into the Health Care 122335
Compliance Fund pursuant to division (B)(2) of former section 122336
5111.946 of the Revised Code shall be deposited into the Health 122337
Care Services Administration Fund during fiscal year 2014 and 122338
fiscal year 2015. 122339

Section 323.390. ABOLISHMENT OF THE ODJFS ADMINISTRATION AND 122340
OVERSIGHT FUND 122341

On July 1, 2013, or as soon as possible thereafter, the 122342
Director of Budget and Management shall transfer the cash balance 122343
in the ODJFS Administration and Oversight Fund (Fund 5S30) to the 122344
Health Care Services Administration Fund (Fund 5U30). Upon 122345
completion of the transfer, Fund 5S30 is abolished. The Director 122346
shall cancel any existing encumbrances against appropriation item 122347
600629, Healthcare Program and DDD Support, and re-establish them 122348
against appropriation item 651654, Medicaid Program Support. The 122349
re-established encumbrance amounts are hereby appropriated. 122350

Section 323.400. REFUNDS AND RECONCILIATION FUND 122351

The Refunds and Reconciliation Fund (Fund R055) shall be used 122352
to hold refund and reconciliation revenues until the appropriate 122353
fund is determined or until the revenues are directed to the 122354
appropriate governmental agency other than the Department of 122355
Medicaid. Any Medicaid refunds or reconciliations received or held 122356
by the Department of Job and Family Services shall be transferred 122357
or credited to this fund. If receipts credited to the Refunds and 122358
Reconciliation Fund exceed the amounts appropriated from the fund, 122359
the Medicaid Director may request the Director of Budget and 122360
Management to authorize expenditures from the fund in excess of 122361
the amounts appropriated. Upon approval of the Director of Budget 122362
and Management, the additional amounts are hereby appropriated. 122363

Section 323.460. NO LOSS OF MEDICAID ELIGIBILITY BEFORE 122364
JANUARY 1, 2014 122365

Notwithstanding the amendments by this act to sections 122366
5101.18, 5111.01 (as renumbered as section 5162.03), and 5111.011 122367
(as renumbered as section 5163.02) and the repeal by this act of 122368
sections 5111.014, 5111.015, 5111.0110, 5111.0111, 5111.0113, 122369
5111.0115, 5111.0120, 5111.0121, 5111.0122, 5111.0123, 5111.0124, 122370
5111.0125, 5111.70, 5111.701, 5111.702, 5111.703, 5111.704, 122371
5111.705, 5111.706, 5111.707, 5111.708, 5111.709, and 5111.7011 of 122372
the Revised Code, no individual eligible for Medicaid pursuant to 122373
those sections shall lose Medicaid eligibility before January 1, 122374
2014, because of the amendments to, or repeal of, those sections. 122375
This section does not preclude an individual from losing Medicaid 122376
eligibility before January 1, 2014, if the individual would cease 122377
to be Medicaid eligible before that date for reasons unrelated to 122378
the amendments to, or repeal of, those sections. Unrelated reasons 122379
include acquiring income or assets exceeding eligibility limits 122380
and failure to comply with eligibility requirements. 122381

Section 323.470. ALTERATIONS TO AND ELIMINATION OF OPTIONAL MEDICAID ELIGIBILITY GROUPS 122382
 122383

The Medicaid Director may initiate, before January 1, 2014, 122384
 the rule-making process to alter the eligibility requirements for, 122385
 or to eliminate, one or more Medicaid optional eligibility groups 122386
 or subgroups pursuant to section 5163.06 of the Revised Code. 122387
 However, none of the rules may go into effect before that date. 122388

Section 323.480. UPDATING AUTHORIZING STATUTE CITATIONS 122389

As used in this section, "authorizing statute" means a 122390
 Revised Code section or provision of a Revised Code section that 122391
 is cited in the Ohio Administrative Code as the statute that 122392
 authorizes the adoption of a rule. 122393

The Medicaid Director is not required to amend any rule for 122394
 the sole purpose of updating the citation in the Ohio 122395
 Administrative Code to the rule's authorizing statute to reflect 122396
 that this act renumbers the authorizing statute or relocates it to 122397
 another Revised Code section. Such citations shall be updated as 122398
 the Director amends the rules for other purposes. 122399

Section 325.10. MED STATE MEDICAL BOARD 122400

General Services Fund Group				122401
5C60 883609 Operating Expenses	\$	9,172,062	\$ 9,172,062	122402
TOTAL GSF General Services				122403
Fund Group	\$	9,172,062	\$ 9,172,062	122404
TOTAL ALL BUDGET FUND GROUPS	\$	9,172,062	\$ 9,172,062	122405

Section 327.10. MHA DEPARTMENT OF MENTAL HEALTH AND ADDICTION 122407

SERVICES 122408

General Revenue Fund 122409

GRF 333321 Central	\$	13,495,337	\$ 13,486,290	122410
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Administration						
GRF	333402	Resident Trainees	\$	450,000	\$ 450,000	122411
GRF	333415	Lease-Rental Payments	\$	15,843,300	\$ 16,076,700	122412
GRF	333416	Research Program	\$	321,998	\$ 321,998	122413
Evaluation						
GRF	334412	Hospital Services	\$	190,514,437	\$ 190,514,437	122414
GRF	334506	Court Costs	\$	784,210	\$ 784,210	122415
GRF	335405	Family & Children	\$	1,386,000	\$ 1,386,000	122416
First						
GRF	335406	Prevention and	\$	868,659	\$ 868,659	122417
Wellness						
GRF	335421	Continuum of Care	\$	76,399,100	\$ 76,399,100	122418
Services						
GRF	335422	Criminal Justice	\$	4,917,898	\$ 4,917,898	122419
Services						
GRF	335504	Community Innovations	\$	1,500,000	\$ 1,500,000	122420
GRF	335506	Residential State	\$	7,502,875	\$ 7,502,875	122421
Supplement						
GRF	335507	Community Behavioral	\$	50,000,000	\$ 50,000,000	122422
Health						
GRF	652507	Medicaid Support	\$	1,727,553	\$ 1,736,600	122423
TOTAL GRF	General Revenue Fund		\$	365,711,367	\$ 365,944,767	122424
General Services Fund Group						122425
1490	333609	Central Office	\$	1,343,190	\$ 1,343,190	122426
Operating						
5T90	333641	Problem Gambling	\$	60,000	\$ 60,000	122427
Services -						
Administration						
1490	334609	Hospital - Operating	\$	28,190,000	\$ 28,190,000	122428
Expenses						
1500	334620	Special Education	\$	150,000	\$ 150,000	122429
4P90	335604	Community Mental	\$	250,000	\$ 250,000	122430
Health Projects						

5T90	335641	Problem Gambling Services	\$	275,000	\$	275,000	122431
1510	336601	Office of Support Services	\$	115,000,000	\$	115,000,000	122432
TOTAL GSF General Services Fund Group			\$	145,268,190	\$	145,268,190	122433
Federal Special Revenue Fund Group							122434
3240	333605	Medicaid/Medicare - Refunds	\$	154,500	\$	154,500	122435
3A60	333608	Federal Miscellaneous - Administration	\$	140,000	\$	140,000	122436
3A70	333612	Social Services Block Grant - Administration	\$	50,000	\$	50,000	122437
3A80	333613	Federal Grants - Administration	\$	4,717,000	\$	4,717,000	122438
3A90	333614	Mental Health Block Grant - Administration	\$	748,470	\$	748,470	122439
3G40	333618	Substance Abuse Block Grant- Administration	\$	3,307,789	\$	3,307,789	122440
3H80	333606	Demonstration Grants - Administration	\$	3,237,574	\$	3,237,574	122441
3N80	333639	Administrative Reimbursement	\$	300,000	\$	300,000	122442
3240	334605	Medicaid/Medicare - Hospitals	\$	28,200,000	\$	28,200,000	122443
3A60	334608	Federal Miscellaneous - Hospitals	\$	200,000	\$	200,000	122444
3A80	334613	Federal Letter of Credit	\$	200,000	\$	200,000	122445
3A60	335608	Federal Miscellaneous	\$	2,170,000	\$	2,170,000	122446
3A70	335612	Social Services Block	\$	8,400,000	\$	8,400,000	122447

		Grant					
3A80	335613	Federal Grant -	\$	2,500,000	\$	2,500,000	122448
		Community Mental					
		Health Board Subsidy					
3A90	335614	Mental Health Block	\$	14,200,000	\$	14,200,000	122449
		Grant					
3FR0	335638	Race to the Top -	\$	1,164,000	\$	1,164,000	122450
		Early Learning					
		Challenge Grant					
3G40	335618	Substance Abuse Block	\$	62,542,003	\$	62,557,967	122451
		Grant					
3H80	335606	Demonstration Grants	\$	5,428,006	\$	5,428,006	122452
3B10	652635	Community Medicaid	\$	5,000,000	\$	0	122453
		Legacy Costs					
3B10	652636	Community Medicaid	\$	7,000,000	\$	7,000,000	122454
		Legacy Support					
3J80	652609	Medicaid Legacy Costs	\$	3,000,000	\$	0	122455
		Support					
TOTAL FED		Federal Special Revenue	\$	152,659,342	\$	144,675,306	122456
		Fund Group					
		State Special Revenue Fund Group					122457
2320	333621	Family and Children	\$	400,000	\$	400,000	122458
		First Administration					
4750	333623	Statewide Treatment	\$	5,490,667	\$	5,490,667	122459
		and Prevention -					
		Administration					
4850	333632	Mental Health	\$	134,233	\$	134,233	122460
		Operating - Refunds					
5JL0	333629	Problem Gambling and	\$	1,361,592	\$	1,361,592	122461
		Casino Addictions -					
		Administration					
5V20	333611	Non-Federal	\$	100,000	\$	100,000	122462
		Miscellaneous					

6890	333640	Education and Conferences	\$	150,000	\$	150,000	122463
4850	334632	Mental Health Operating - Hospitals	\$	2,477,500	\$	2,477,500	122464
4750	335623	Statewide Treatment and Prevention	\$	10,059,333	\$	10,059,333	122465
5AU0	335615	Behavioral Health Care	\$	6,690,000	\$	6,690,000	122466
5JL0	335629	Problem Gambling and Casino Addictions	\$	4,084,772		4,084,772	122467
6320	335616	Community Capital Replacement	\$	350,000	\$	350,000	122468
TOTAL SSR		State Special Revenue	\$	31,298,097	\$	31,298,097	122469
Fund Group							
TOTAL ALL BUDGET		FUND GROUPS	\$	694,936,996	\$	687,186,360	122470

Section 327.20. TRANSITION RELATING TO CONSOLIDATION OF DEPARTMENTS 122472
 DEPARTMENTS 122473

Notwithstanding Chapters 340., 3793., 5119., and 5122. of the Revised Code, and any other provision of law to the contrary, on July 1, 2013, there is hereby created the Department of Mental Health and Addiction Services, which shall be administered by the Director of Mental Health and Addiction Services. The Director of Mental Health and Addiction Services shall be appointed by the Governor, with the advice and consent of the Senate, and shall hold office during the term of the appointing Governor, and is subject to removal at the pleasure of the Governor. The Director of Mental Health and Addiction Services is the executive head of the Department of Mental Health and Addiction Services. The Department of Alcohol and Drug Addiction Services and the Department of Mental Health shall be consolidated into the single Department of Mental Health and Addiction Services. All of the authority, functions, and assets and liabilities of the Department of Mental Health and the Department of Alcohol and Drug Addiction 122474
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Services are transferred to the Department of Mental Health and 122490
Addiction Services. The Department of Mental Health and Addiction 122491
Services is thereupon and thereafter successor to, assumes the 122492
obligations of, and otherwise constitutes the continuation of the 122493
Department of Alcohol and Drug Addiction Services and the 122494
Department of Mental Health. The Director of Mental Health and 122495
Addiction Services assumes all of the duties, authorities, and 122496
responsibilities of the Director of Alcohol and Drug Addiction 122497
Services and the Director of Mental Health. Any action, license, 122498
or certification that was undertaken or issued by the Director of 122499
Alcohol and Drug Addiction Services or the Director of Mental 122500
Health that is current and valid on the effective date of the 122501
consolidation is deemed to be an action, license, or certification 122502
undertaken or issued by the Department of Mental Health and 122503
Addiction Services under the statute creating that Department. 122504

Any business commenced but not completed by July 1, 2013, by 122505
the Department of Mental Health or the Department of Alcohol and 122506
Drug Addiction Services shall be completed by the Department of 122507
Mental Health and Addiction Services. The business shall be 122508
completed in the same manner, and with the same effect, as if 122509
completed by the Department of Mental Health or by the Department 122510
of Alcohol and Drug Addiction Services prior to July 1, 2013. 122511

No validation, cure, right, privilege, remedy, obligation, or 122512
liability is lost or impaired by reason of this act's transfer of 122513
responsibility from the Department of Mental Health and the 122514
Department of Alcohol and Drug Addiction Services to the 122515
Department of Mental Health and Addiction Services. Each such 122516
validation, cure, right, remedy, obligation, or liability shall be 122517
administered by the Department of Mental Health and Addiction 122518
Services pursuant to the statute creating that department. 122519

All rules, orders, and determinations made or undertaken 122520
pursuant to the authority and responsibilities of the Department 122521

of Mental Health and the Department of Alcohol and Drug Addiction 122522
Services prior to July 1, 2013, shall continue in effect as rules, 122523
orders, and determinations of the Department of Mental Health and 122524
Addiction Services until modified or rescinded by the Department 122525
of Mental Health and Addiction Services. If necessary to ensure 122526
the integrity of the numbering system of the Administrative Code, 122527
the Director of the Legislative Service Commission shall renumber 122528
the rules to reflect the transfer of authority and responsibility 122529
to the Department of Mental Health and Addiction Services. 122530

Any action or proceeding that is related to the functions or 122531
duties of the Department of Mental Health or the Department of 122532
Alcohol and Drug Addiction Services pending on July 1, 2013, is 122533
not affected by the transfer of responsibility to the Department 122534
of Mental Health and Addiction Services and shall be prosecuted or 122535
defended in the name of the Department of Mental Health and 122536
Addiction Services. In all such actions and proceedings, the 122537
Department of Mental Health and Addiction Services, on application 122538
to the court, shall be substituted as a party. 122539

It is the intention of the Department of Mental Health and 122540
Addiction Services that community subsidies allocated or 122541
distributed by the department will be used to fund mental health 122542
and addiction services in largely the same proportion that such 122543
services were funded when allocated or distributed as separate 122544
funding streams through the separate Department of Mental Health 122545
or Department of Alcohol and Drug Addiction Services. 122546

All employees of the Department of Mental Health and the 122547
Department of Alcohol and Drug Addiction Services shall be 122548
employees of the Department of Mental Health and Addiction 122549
Services and shall serve in the positions previously held within 122550
their respective agencies unless the Department of Mental Health 122551
and Addiction Services determines otherwise. The merger of 122552
Department of Mental Health and Department of Alcohol and Drug 122553

Addiction Services shall not be deemed a transfer of employees 122554
pursuant to division (D)(3)(b) of section 124.11 of the Revised 122555
Code. Any unclassified employee of the Department of Mental Health 122556
and Addiction Services who held a right to resume a position 122557
within the classified service of his or her previous respective 122558
agency of the Department of Mental Health or the Department of 122559
Alcohol and Drug Addiction Services shall retain such a right 122560
subject to section 5119.18 of the Revised Code as may be amended. 122561

On July 1, 2013, or as soon as possible thereafter, 122562
notwithstanding any provision of law to the contrary, and if 122563
requested by the Department of Mental Health and Addiction 122564
Services, the Director of Budget and Management shall make budget 122565
changes made necessary by the consolidation, if any, including 122566
administrative organization, program transfers, the creation of 122567
new funds, the transfer of state funds, and the consolidation of 122568
funds, as authorized by this section. The Director of Budget and 122569
Management may make any transfer of cash balances between funds. 122570

On July 1, 2013, or as soon as possible thereafter, the 122571
Director of Mental Health and Addiction Services shall certify to 122572
the Director of Budget and Management all encumbrances held by the 122573
Department of Mental Health and the Department of Alcohol and Drug 122574
Addiction Services, and specify which of those encumbrances are 122575
requested to be transferred to the Department of Mental Health and 122576
Addiction Services. The Director of Budget and Management may 122577
cancel any existing encumbrances as certified by the Director of 122578
Mental Health and Addiction Services and re-establish them in the 122579
new agency. The re-established encumbrance amounts are hereby 122580
appropriated. Any business commenced but not completed with regard 122581
to the encumbrances certified shall be completed by the Department 122582
of Mental Health and Addiction Services in the same manner and 122583
with the same effect as if it were completed by the Department of 122584
Mental Health or the Department of Alcohol and Drug Addiction 122585

Services. 122586

Not later than 30 days after the transfer and consolidation 122587
of the operations and related management functions of the 122588
Department of Mental Health and the Department of Alcohol and Drug 122589
Addiction Services to the Department of Mental Health and 122590
Addiction Services, an authorized officer of the former Department 122591
of Mental Health and the former Department of Alcohol and Drug 122592
Addiction Services shall certify to the Director of Mental Health 122593
and Addiction Services the unexpended balance and location of any 122594
funds and accounts designated for building and facility operation 122595
and management functions, and the custody of such funds and 122596
accounts shall be transferred to the Department of Mental Health 122597
and Addiction Services. 122598

Effective July 1, 2013, the Director of Budget and Management 122599
shall cancel any existing encumbrances against appropriation item 122600
038616, Problem Gambling Services, and re-establish them against 122601
appropriation items 333641, Problem Gambling Services - 122602
Administration, and 335641, Problem Gambling Services. The 122603
re-established encumbrance amounts are hereby appropriated. Any 122604
business commenced but not completed under appropriation item 122605
038616 by July 1, 2013, shall be completed under appropriation 122606
items 333641 and 335641 in the same manner and with the same 122607
effect as if it were completed with regard to appropriation item 122608
038616. 122609

Effective July 1, 2013, the Director of Budget and Management 122610
shall cancel any existing encumbrances against appropriation item 122611
038614, Substance Abuse Block Grant, and re-establish them against 122612
appropriation items 333618, Substance Abuse Block Grant - 122613
Administration, and 335618, Substance Abuse Block Grant. The 122614
re-established encumbrance amounts are hereby appropriated. Any 122615
business commenced but not completed under appropriation item 122616
038614 by July 1, 2013, shall be completed under appropriation 122617

items 333618 and 335618 in the same manner and with the same 122618
effect as if it were completed with regard to appropriation item 122619
038614. 122620

Effective July 1, 2013, the Director of Budget and Management 122621
shall cancel any existing encumbrances against appropriation item 122622
038609, Demonstration Grants, and re-establish them against 122623
appropriation items 333606, Demonstration Grants - Administration, 122624
and 335606, Demonstration Grants. The re-established encumbrance 122625
amounts are hereby appropriated. Any business commenced but not 122626
completed under appropriation item 038609 by July 1, 2013, shall 122627
be completed under appropriation items 333606 and 335606 in the 122628
same manner and with the same effect as if it were completed with 122629
regard to appropriation item 038609. 122630

Effective July 1, 2013, the Director of Budget and Management 122631
shall cancel any existing encumbrances against appropriation item 122632
038621, Statewide Treatment and Prevention, and re-establish them 122633
against appropriation items 333623, Statewide Treatment and 122634
Prevention - Administration, and 335623, Statewide Treatment and 122635
Prevention. The re-established encumbrance amounts are hereby 122636
appropriated. Any business commenced but not completed under 122637
appropriation item 038621 by July 1, 2013, shall be completed 122638
under appropriation items 333623 and 335623 in the same manner and 122639
with the same effect as if it were completed with regard to 122640
appropriation item 038621. 122641

Effective July 1, 2013, the Director of Budget and Management 122642
shall cancel any existing encumbrances against appropriation item 122643
038629, Problem Gambling and Casino Addictions, and re-establish 122644
them against appropriation items 333629, Problem Gambling and 122645
Casino Addictions - Administration, and 335629, Problem Gambling 122646
and Casino Addictions. The re-established encumbrance amounts are 122647
hereby appropriated. Any business commenced but not completed 122648
under appropriation item 038629 by July 1, 2013, shall be 122649

completed under appropriation items 333629 and 335629 in the same 122650
manner and with the same effect as if it were completed with 122651
regard to appropriation item 038629. 122652

Effective July 1, 2013, the Director of Budget and Management 122653
shall cancel any existing encumbrances against appropriation item 122654
038611, Administrative Reimbursement, and re-establish them 122655
against appropriation item 333639, Administrative Reimbursement. 122656
The re-established encumbrance amounts are hereby appropriated. 122657
Any business commenced but not completed under appropriation item 122658
038611 by July 1, 2013, shall be completed under appropriation 122659
item 333639 in the same manner and with the same effect as if it 122660
were completed with regard to appropriation item 038611. 122661

Effective July 1, 2013, the Director of Budget and Management 122662
shall cancel any existing encumbrances against appropriation item 122663
335635, Community Medicaid Expansion, and re-establish them 122664
against appropriation item 652635, Community Medicaid Legacy 122665
Costs. The re-established encumbrance amounts are hereby 122666
appropriated. Any business commenced but not completed under 122667
appropriation item 335635 by July 1, 2013, shall be completed 122668
under appropriation item 652635 in the same manner and with the 122669
same effect as if it were completed with regard to appropriation 122670
item 335635. 122671

Effective July 1, 2013, the Director of Budget and Management 122672
shall cancel any existing encumbrances against appropriation item 122673
333635, Community Medicaid Expansion, and re-establish them 122674
against appropriation item 652636, Community Medicaid Legacy 122675
Support. The re-established encumbrance amounts are hereby 122676
appropriated. Any business commenced but not completed under 122677
appropriation item 333635 by July 1, 2013, shall be completed 122678
under appropriation item 652636 in the same manner and with the 122679
same effect as if it were completed with regard to appropriation 122680
item 333635. 122681

Effective July 1, 2013, the Director of Budget and Management 122682
shall cancel any existing encumbrances against appropriation item 122683
038610, Medicaid, and re-establish them against appropriation item 122684
652609, Medicaid Legacy Costs Support. The re-established 122685
encumbrance amounts are hereby appropriated. Any business 122686
commenced but not completed under appropriation item 038610 by 122687
July 1, 2013, shall be completed under appropriation item 652609 122688
in the same manner and with the same effect as if it were 122689
completed with regard to appropriation item 038610. 122690

Effective July 1, 2013, the Director of Budget and Management 122691
shall cancel any existing encumbrances against appropriation item 122692
038604, Education and Conferences, and re-establish them against 122693
appropriation item 333640, Education and Conferences. The 122694
re-established encumbrance amounts are hereby appropriated. Any 122695
business commenced but not completed under appropriation item 122696
038604 by July 1, 2013, shall be completed under appropriation 122697
item 333640 in the same manner and with the same effect as if it 122698
were completed with regard to appropriation item 038604. 122699

Effective July 1, 2013, the Director of Budget and Management 122700
shall cancel any existing encumbrances against appropriation item 122701
038401, Treatment Services, and re-establish them against 122702
appropriation items 335421, Continuum of Care Services, 335422, 122703
Criminal Justice Services, and 335406, Prevention and Wellness. 122704
The re-established encumbrance amounts are hereby appropriated. 122705
Any business commenced but not completed under appropriation item 122706
038401 by July 1, 2013, shall be completed under appropriation 122707
items 335421, 335422, and 335406 in the same manner and with the 122708
same effect as if it were completed with regard to appropriation 122709
item 038401. 122710

Effective July 1, 2013, the Director of Budget and Management 122711
shall cancel any existing encumbrances against appropriation item 122712
335419, Community Medication Subsidy, and re-establish them 122713

against appropriation item 335421, Continuum of Care Services. The 122714
re-established encumbrance amounts are hereby appropriated. Any 122715
business commenced but not completed under appropriation item 122716
335419 by July 1, 2013, shall be completed under appropriation 122717
item 335421 in the same manner and with the same effect as if it 122718
were completed with regard to appropriation item 335419. 122719

Effective July 1, 2013, the Director of Budget and Management 122720
shall cancel any existing encumbrances against appropriation item 122721
335505, Local Mental Health Systems of Care, and re-establish them 122722
against appropriation item 335421, Continuum of Care Services. The 122723
re-established encumbrance amounts are hereby appropriated. Any 122724
business commenced but not completed under appropriation item 122725
335505 by July 1, 2013, shall be completed under appropriation 122726
item 335421 in the same manner and with the same effect as if it 122727
were completed with regard to appropriation item 335505. 122728

Effective July 1, 2013, the Director of Budget and Management 122729
shall cancel any existing encumbrances against appropriation item 122730
332401, Forensic Services, and re-establish them against 122731
appropriation item 335422, Criminal Justice Services. The 122732
re-established encumbrance amounts are hereby appropriated. Any 122733
business commenced but not completed under appropriation item 122734
332401 by July 1, 2013, shall be completed under appropriation 122735
item 335422 in the same manner and with the same effect as if it 122736
were completed with regard to appropriation item 332401. 122737

Effective July 1, 2013, the Director of Budget and Management 122738
shall cancel any existing encumbrances against appropriation item 122739
333403, Pre-Admission Screening Expenses, and re-establish them 122740
against appropriation item 652507, Medicaid Support. The 122741
re-established encumbrance amounts are hereby appropriated. Any 122742
business commenced but not completed under appropriation item 122743
333403 by July 1, 2013, shall be completed under appropriation 122744
item 652507 in the same manner and with the same effect as if it 122745

were completed with regard to appropriation item 333403. 122746

Effective July 1, 2013, the Director of Budget and Management 122747
shall cancel any existing encumbrances against appropriation item 122748
038900, Indigent Drivers Alcohol Treatment, and re-establish them 122749
against appropriation item 335900, Indigent Drivers Alcohol 122750
Treatment. The re-established encumbrance amounts are hereby 122751
appropriated. Any business commenced but not completed under 122752
appropriation item 038900 by July 1, 2013, shall be completed 122753
under appropriation item 335900 in the same manner and with the 122754
same effect as if it were completed with regard to appropriation 122755
item 038900. 122756

Effective July 1, 2013, the Director of Budget and Management 122757
shall cancel any existing encumbrances against appropriation item 122758
038404, Prevention Services, and re-establish them against 122759
appropriation item 335406, Prevention and Wellness. The 122760
re-established encumbrance amounts are hereby appropriated. Any 122761
business commenced but not completed under appropriation item 122762
038404 by July 1, 2013, shall be completed under appropriation 122763
item 335406 in the same manner and with the same effect as if it 122764
were completed with regard to appropriation item 038404. 122765

Section 327.20.10. Effective July 1, 2013, the Director of 122766
Mental Health and Addiction Services, with respect to all mental 122767
health and addiction facilities and services established and 122768
operated or provided under Chapter 340. of the Revised Code shall 122769
do all of the following: 122770

(A) To the extent the Director determines necessary, and 122771
after consultation with the boards of alcohol, drug addiction, and 122772
mental health services, develop and operate, or contract for the 122773
operation of, a community behavioral health information system or 122774
systems, and shall specify the information that must be provided 122775
by boards of alcohol, drug addiction, and mental health services 122776

for inclusion in the system or systems, which may include 122777
information on services provided in whole or in part under 122778
contract with a board, financial information regarding 122779
expenditures of federal, state, or local funds by boards, and 122780
information about persons served under contract with a board. 122781

(B)(1) Receive and review each board's community mental 122782
health and addiction services plan, budget, and statement of 122783
services to be made available, and approve or disapprove the plan, 122784
budget, and statement of services in whole or in part. 122785

(2) The Department may withhold all or part of the funds 122786
allocated to a board if it disapproves all or part of a plan, 122787
budget, or statement of service. 122788

(3) Prior to a final decision to disapprove a plan, budget, 122789
or statement of services, or to withhold funds from a board, a 122790
representative of the Director shall meet with the board to 122791
discuss the reasons for the action and any corrective action that 122792
should be taken to make the plan, budget, or statement of services 122793
acceptable, and give the board a reasonable time in which to 122794
revise the plan, budget, or statement of services. 122795

(C) Establish procedures for the review of plans, budgets, 122796
and statements of services, and a timetable for submission and 122797
review. Boards of alcohol, drug addiction, and mental health 122798
services shall submit to the Department of Mental Health and 122799
Addiction Services the information, plans, budgets, and statements 122800
of services described above in accordance with the guidance or 122801
directives of the Department or Director. After notifying and 122802
consulting with relevant constituents, the Department of Mental 122803
Health and Addiction Services shall establish a methodology for 122804
allocating to boards of alcohol, drug addiction, and mental health 122805
services the funds appropriated by the General Assembly to the 122806
Department for the purpose of local mental health and addiction 122807
services continuums of care. Subject to existing provisions of law 122808

that permit the Director to withhold funds from boards of alcohol, 122809
drug addiction, and mental health services for failure to comply 122810
with applicable sections of law, or for discriminating in making 122811
services available, and subject to a board's submission and 122812
approval of the required plan, budget, and statement of services 122813
described above, the Department shall allocate the funds to the 122814
boards in a manner consistent with the methodology and state and 122815
federal laws, rules, and regulations. 122816

Portions of appropriation items 333609, Central Office 122817
Operating, 333606, Demonstration Grants - Administration, 333612, 122818
Social Services Block Grant - Administration, 333613, Federal 122819
Grants - Administration, 333614, Mental Health Block Grant - 122820
Administration, 333618, Substance Abuse Block Grant - 122821
Administration, 333623, Statewide Treatment and Prevention - 122822
Administration, 333629, Problem Gambling and Casino Addictions - 122823
Administration, 333608, Federal Miscellaneous - Administration, 122824
333641, Problem Gambling Services - Administration, 335406, 122825
Prevention and Wellness, 335421, Continuum of Care Services, 122826
335422, Criminal Justice Services, 335604, Community Mental Health 122827
Projects, 335606, Demonstration Grants, 335612, Social Services 122828
Block Grant, 335613, Federal Grant - Community Mental Health 122829
Subsidy, 335614, Mental Health Block Grant, 335615, Behavioral 122830
Health Care, 335618, Substance Abuse Block Grant, 335623, 122831
Statewide Treatment and Prevention, 335629, Problem Gambling and 122832
Casino Addictions, 335638, Race to the Top - Early Learning 122833
Challenge Grant, and 335900, Indigent Drivers Alcohol Treatment, 122834
may be used to pay for the Department and board functions 122835
enumerated above. 122836

Section 327.20.20. (A) Effective July 1, 2013, all records 122837
and reports, other than court journal entries or court docket 122838
entries, identifying a person and pertaining to the person's 122839
mental health condition, assessment, provision of care or 122840

treatment, or payment for assessment, care, or treatment that are 122841
maintained in connection with any services certified by the 122842
Department of Mental Health and Addiction Services, or any 122843
hospitals or facilities licensed or operated by the Department, 122844
shall be kept confidential and shall not be disclosed by any 122845
person, with the following exceptions: 122846

(1) If the person identified, or the person's legal guardian, 122847
if any, or if the person is a minor, the person's parent or legal 122848
guardian, consents. 122849

(2) When disclosure is provided for in Chapters 340., 5119., 122850
or 5122., or in Title 47 of the Revised Code. 122851

(3) Hospitals, boards of alcohol, drug addiction, and mental 122852
health services, licensed facilities, and community mental health 122853
services providers may release necessary information to insurers 122854
and other third-party payers, including government entities 122855
responsible for processing and authorizing payment, to obtain 122856
payment for goods and services furnished to the person. 122857

(4) Pursuant to a court order signed by a judge; 122858

(5) A person shall be granted access to the person's own 122859
psychiatric and medical records unless access specifically is 122860
restricted in a person's treatment plan for clear treatment 122861
reasons. 122862

(6) The Department of Mental Health and Addiction Services 122863
may exchange psychiatric records and other pertinent information 122864
with community mental health services providers and boards of 122865
alcohol, drug addiction, and mental health services relating to 122866
the person's care or services. Records and information that may be 122867
exchanged pursuant to this division shall be limited to medication 122868
history, physical health status and history, financial status, 122869
summary of course of treatment, summary of treatment needs, and a 122870

discharge summary, if any. 122871

(7) The Department of Mental Health and Addiction Services, 122872
hospitals, and community providers operated by the Department, 122873
hospitals licensed by the Department under section 5119.20 122874
(5119.33) of the Revised Code and community mental health services 122875
providers may exchange psychiatric records and other pertinent 122876
information with payers and other providers of treatment and 122877
health services if the purpose of the exchange is to facilitate 122878
continuity of care for the person or for the emergency treatment 122879
of the person. 122880

(8) The Department of Mental Health and Addiction Services 122881
and community mental health services providers may exchange 122882
psychiatric records and other pertinent information with boards of 122883
alcohol, drug addiction, and mental health services for purposes 122884
of any board function set forth in Chapter 340. of the Revised 122885
Code. Boards of alcohol, drug addiction, and mental health 122886
services shall not access or use any personal information from the 122887
Department or providers except as required or permitted by this 122888
section, or Chapters 340. and 5122. of the Revised Code for 122889
purposes related to payment, care coordination, health care 122890
operations, program and service evaluation, reporting activities, 122891
research, system administration, oversight, or other authorized 122892
purposes. 122893

(9) A person's family member who is involved in the 122894
provision, planning, and monitoring of services to the person may 122895
receive medication information, a summary of the person's 122896
diagnosis and prognosis, and a list of the services and personnel 122897
available to assist the person and the person's family, if the 122898
person's treatment provider determines that the disclosure would 122899
be in the best interests of the person. No such disclosure shall 122900
be made unless the person is notified first and receives the 122901
information and does not object to the disclosure. 122902

(10) Community mental health services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(11) Information may be disclosed to the executor or the administrator of an estate of a deceased person when the information is necessary to administer the estate.

(12) Information may be disclosed to staff members of the appropriate board or to staff members designated by the Director of Mental Health and Addiction Services for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any person.

(13) Records pertaining to the person's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the person was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under Chapter 5122. of the Revised Code.

(14) The Department of Mental Health and Addiction Services may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the Department of Rehabilitation and Correction and with the Department of Youth Services to ensure continuity of care for inmates and offenders who are receiving mental health services in an institution of the Department of Rehabilitation and Correction

or the Department of Youth Services and may exchange psychiatric 122935
hospitalization records, other mental health treatment records, 122936
and other pertinent information with boards of alcohol, drug 122937
addiction, and mental health services and community mental health 122938
services providers to ensure continuity of care for inmates or 122939
offenders who are receiving mental health services in an 122940
institution and are scheduled for release within six months. The 122941
release of records under this division is limited to records 122942
regarding an inmate's or offender's medication history, physical 122943
health status and history, summary of course of treatment, summary 122944
of treatment needs, and a discharge summary, if any. 122945

(15) A community mental health services provider that ceases 122946
to operate may transfer to either a community mental health 122947
services provider that assumes its caseload or to the board of 122948
alcohol, drug addiction, and mental health services of the service 122949
district in which the person resided at the time services were 122950
most recently provided any treatment records that have not been 122951
transferred elsewhere at the person's request. 122952

(B) Before records are disclosed pursuant to divisions 122953
(A)(3), (6), or (10) of this section, the custodian of the records 122954
shall attempt to obtain the consent of the person in question for 122955
the disclosure. 122956

(C) No person shall reveal the content of a medical record of 122957
a person except as authorized by the law. 122958

(D) Portions of appropriation items 333321, Central 122959
Administration, 333416, Research Program Evaluation, 333605, 122960
Medicaid/Medicare - Refunds, 333606, Demonstration Grants - 122961
Administration, 333608, Federal Miscellaneous - Administration, 122962
333609, Central Office Opening, 333611, Non-Federal Miscellaneous, 122963
333612, Social Services Block Grant - Administration, 333613, 122964
Federal Grants - Administration, 333614, Mental Health Block Grant 122965
- Administration, 333618, Substance Abuse Block Grant - 122966

Administration, 333621, Family and Children First Administration, 122967
333623, Statewide Treatment and Prevention - Administration, 122968
333629, Problem Gambling and Casino Addictions - Administration, 122969
333632, Mental Health Operating - Refunds, 333608, Federal 122970
Miscellaneous - Administration, 333640, Education and Conferences, 122971
333641, Problem Gambling Services - Administration, 333639, 122972
Administrative Reimbursement, 334605, Medicaid/Medicare - 122973
Hospitals, 334608, Federal Miscellaneous - Hospitals, 334609, 122974
Hospital - Operating Expenses, 334613, Federal Letter of Credit, 122975
334620, Special Education, 334632, Mental Health Operating - 122976
Hospitals, 335405, Family and Children First, 335406, Prevention 122977
and Wellness, 335421, Continuum of Care Services, 335422, Criminal 122978
Justice Services, 335604, Community Mental Health Projects, 122979
335506, Residential State Supplement, 335608, Federal 122980
Miscellaneous, 335606, Demonstration Grants, 335612, Social 122981
Services Block Grant, 335613, Federal Grant - Community Mental 122982
Health Subsidy, 335614, Mental Health Block Grant, 335615, 122983
Behavioral Health Care, 335618, Substance Abuse Block Grant, 122984
335623, Statewide Treatment and Prevention, 335629, Problem 122985
Gambling and Casino Addictions, 335638, Race to the Top - Early 122986
Learning Challenge Grant, 335900, Indigent Drivers Alcohol 122987
Treatment, 336601, Office of Support Services, 652609, Medicaid 122988
Legacy Costs Support, 652635, Community Medicaid Legacy Costs, and 122989
652636, Community Medicaid Legacy Support, may be used to pay for 122990
the Department and community mental health system functions that 122991
operate under the confidentiality provisions enumerated above. 122992

Section 327.20.30. Effective July 1, 2013, the Director of 122993
Mental Health and Addiction Services may adopt rules pursuant to 122994
Chapter 119. of the Revised Code governing licensure and operation 122995
of residential facilities, that include procedures for conducting 122996
criminal records checks for operators, employees, and volunteers 122997
who have direct access to facility residents. 122998

Portions of appropriation items 334506, Court Costs, 335406, 122999
Prevention and Wellness, 335421, Continuum of Care Services, 123000
335614, Mental Health Block Grant, 335506, Residential State 123001
Supplement, 335615, Behavioral Health Care, 335618, Substance 123002
Abuse Block Grant, 335623, Statewide Treatment and Prevention, and 123003
335900, Indigent Drivers Alcohol Treatment, may be used to pay for 123004
these regulated activities. 123005

Section 327.20.40. Effective July 1, 2013, to the extent 123006
funds are available and on application of boards of alcohol, drug 123007
addiction, and mental health services, the Director of Mental 123008
Health and Addiction Services may approve state reimbursement of, 123009
or state grants for, community construction programs, including 123010
residential housing for severely mentally disabled persons and 123011
persons with substance use disorders. The Director may also 123012
approve an application for reimbursement or a grant for such 123013
programs submitted by other governmental entities or by private, 123014
nonprofit organizations after the board of alcohol, drug 123015
addiction, and mental health services has reviewed and approved 123016
the application and the application is consistent with the plan, 123017
budget, and statement of services submitted to and approved by the 123018
Department. The Director shall adopt rules in accordance with 123019
Chapter 119. of the Revised Code that specify procedures for 123020
applying for state reimbursement and for state grants for 123021
community construction programs, including residential housing for 123022
severely mentally disabled persons and persons with substance use 123023
disorders. 123024

Portions of appropriation item 335616, Community Capital 123025
Replacement, may be used to pay for the Department functions 123026
enumerated above. 123027

Section 327.20.50. Effective July 1, 2013, the Department of 123028
Mental Health and Addiction Services shall collect information 123029

about services delivered and persons served as required for 123030
reporting and evaluation relating to state and federal funds 123031
expended for such purposes. No alcohol, drug addiction, or mental 123032
health program, agency, or services provider shall fail to supply 123033
statistics or other information within its knowledge and with 123034
respect to its programs or services upon the request of the 123035
department. 123036

Portions of appropriation items 333321, Central 123037
Administration, 333609 Central Office Operating, 333606, 123038
Demonstration Grants - Administration, 333612, Social Services 123039
Block Grant - Administration, 333613, Federal Grants - 123040
Administration, 333614, Mental Health Block Grant - 123041
Administration, 333618, Substance Abuse Block Grant - 123042
Administration, 333623, Statewide Treatment and Prevention - 123043
Administration, 333629, Problem Gambling and Casino Addictions - 123044
Administration, 333608, Federal Miscellaneous - Administration, 123045
333641, Problem Gambling Services - Administration, 335406, 123046
Prevention and Wellness, 335421, Continuum of Care Services, 123047
335422, Criminal Justice Services, 335604, Community Mental Health 123048
Projects, 335606, Demonstration Grants, 335612, Social Services 123049
Block Grant, 335613, Federal Grant - Community Mental Health 123050
Subsidy, 335614, Mental Health Block Grant, 335615, Behavioral 123051
Health Care, 335618, Substance Abuse Block Grant, 335623, 123052
Statewide Treatment and Prevention, 335629, Problem Gambling and 123053
Casino Addictions, 335638, Race to the Top - Early Learning 123054
Challenge Grant, and 335900, Indigent Drivers Alcohol Treatment, 123055
652609, Medicaid Legacy Costs Support, and 652636, Community 123056
Medicaid Legacy Support, may be used to pay for the Department 123057
information collection and reporting functions enumerated above. 123058

Section 327.20.60. The Department of Mental Health and 123059
Addiction Services shall administer specified Medicaid services as 123060

delegated by the State's single agency responsible for the 123061
Medicaid program. Effective July 1, 2013, the Department shall use 123062
appropriation item 652507, Medicaid Support, to fund the 123063
Medicaid-related services and supports performed by the 123064
Department. 123065

Section 327.30. RESIDENT TRAINEES 123066

The foregoing appropriation item 333402, Resident Trainees, 123067
shall be used to fund training agreements entered into by the 123068
Director of Mental Health and Addiction Services for the 123069
development of curricula and the provision of training programs to 123070
support public mental health services. 123071

Section 327.40. LEASE-RENTAL PAYMENTS 123072

The foregoing appropriation item 333415, Lease-Rental 123073
Payments, shall be used to meet all payments at the times they are 123074
required to be made during the period from July 1, 2013, through 123075
June 30, 2015, by the Department of Mental Health and Addiction 123076
Services under leases and agreements made under section 154.20 of 123077
the Revised Code. These appropriations are the source of funds 123078
pledged for bond service charges on obligations issued pursuant to 123079
Chapter 154. of the Revised Code. 123080

Section 327.50. HOSPITAL SERVICES 123081

The foregoing appropriation item 334412, Hospital Services, 123082
shall be used for the operation of the State Regional Psychiatric 123083
Hospitals, including, but not limited to, all aspects involving 123084
civil and forensic commitment, treatment, and discharge as 123085
determined by the Director of Mental Health and Addiction 123086
Services. A portion of this appropriation may be used by the 123087
Department of Mental Health and Addiction Services to create, 123088
purchase, or contract for the custody, supervision, control, and 123089

treatment of persons committed to the Department of Mental Health 123090
and Addiction Services in other clinically appropriate 123091
environments, consistent with public safety. 123092

Section 327.60. CONTINUUM OF CARE SERVICES 123093

The foregoing appropriation item 335421, Continuum of Care 123094
Services, shall be used as follows: 123095

(A) A portion of this appropriation may be allocated to 123096
community alcohol, drug addiction, and mental health services 123097
boards in accordance with a distribution methodology determined by 123098
the Director of Mental Health and Addiction Services: 123099

(1) For the boards to purchase mental health and addiction 123100
services permitted under Chapter 340. of the Revised Code; 123101

(2) To provide subsidized support for psychotropic medication 123102
needs of indigent citizens in the community to reduce unnecessary 123103
hospitalization due to lack of medication; and 123104

(3) To provide subsidized support for medication assisted 123105
treatment costs. 123106

(B) A portion of this appropriation may be distributed to 123107
community alcohol, drug addiction, and mental health services 123108
boards, community addiction and/or mental health services 123109
providers, courts, or other governmental entities to provide 123110
specific grants in support of mental health and addiction services 123111
initiatives. 123112

Section 327.70. CRIMINAL JUSTICE SERVICES 123113

The foregoing appropriation item 335422, Criminal Justice 123114
Services, shall be used to provide forensic psychiatric 123115
evaluations to courts of common pleas and to conduct evaluations 123116
of patients of forensic status in facilities operated or 123117
designated by the Department of Mental Health and Addiction 123118

Services prior to conditional release to the community. A portion 123119
of this appropriation may be allocated through community alcohol, 123120
drug addiction, and mental health services boards to community 123121
addiction and/or mental health services providers in accordance 123122
with a distribution methodology as determined by the Director of 123123
Mental Health and Addiction Services. 123124

Appropriation item 335422, Criminal Justice Services, may 123125
also be used to: 123126

(A) Provide forensic monitoring and tracking of individuals 123127
on conditional release; 123128

(B) Provide forensic training; 123129

(C) Support projects that assist courts and law enforcement 123130
to identify and develop appropriate alternative services to 123131
incarceration for nonviolent mentally ill offenders; 123132

(D) Provide specialized re-entry services to offenders 123133
leaving prisons and jails; 123134

(E) Provide specific grants in support of addiction services 123135
alternatives to incarceration; 123136

(F) Support specialty dockets; and 123137

(G) Support therapeutic communities. 123138

Section 327.80. COMMUNITY INNOVATIONS 123139

The foregoing appropriation item 335504, Community 123140
Innovations, may be used by the Department of Mental Health and 123141
Addiction Services to make targeted investments in programs, 123142
projects, or systems operated by or under the authority of other 123143
state agencies, governmental entities, or private not-for-profit 123144
agencies that impact, or are impacted by, the operations and 123145
functions of the Department, with the goal of achieving a net 123146
reduction in expenditure of state general revenue funds and/or 123147

improved outcomes for Ohio citizens without a net increase in 123148
state general revenue fund spending. 123149

The Director shall identify and evaluate programs, projects, 123150
or systems proposed or operated, in whole or in part, outside of 123151
the authority of the Department, where targeted investment of 123152
these funds in the program, project, or system is expected to 123153
decrease demand for the Department or other resources funded with 123154
state general revenue funds, and/or to measurably improve outcomes 123155
for Ohio citizens with mental illness or with alcohol, drug, or 123156
gambling addictions. The Director shall have discretion to 123157
transfer money from the appropriation item to other state 123158
agencies, governmental entities, or private not-for-profit 123159
agencies in amounts, and subject to conditions, that the Director 123160
determines most likely to achieve state savings and/or improved 123161
outcomes. Distribution of moneys from this appropriation item 123162
shall not be subject to sections 9.23 to 9.239 or Chapter 125. of 123163
the Revised Code. 123164

The Department shall enter into an agreement with each 123165
recipient of community innovation funds, identifying: allowable 123166
expenditure of the funds; other commitment of funds or other 123167
resources to the program, project, or system; expected state 123168
savings and/or improved outcomes and proposed mechanisms for 123169
measurement of such savings or outcomes; and required reporting 123170
regarding expenditure of funds and savings or outcomes achieved. 123171

The foregoing appropriation item 335504, Community 123172
Innovations, may also be used by the Department to make payments 123173
to the Rehabilitation Services Commission for vocational 123174
rehabilitation services to individuals receiving mental health or 123175
addiction services paid for with public dollars. 123176

Section 327.83. COMMUNITY BEHAVIORAL HEALTH 123177

Of the foregoing appropriation item 335507, Community 123178

Behavioral Health, \$30,000,000 in each fiscal year shall be 123179
allocated to community alcohol, drug addiction, and mental health 123180
services boards to provide mental health services. The Department 123181
of Mental Health and Addiction Services shall allocate these funds 123182
to the boards using the same methodology used to allocate other 123183
mental health services subsidies. 123184

Of the foregoing appropriation item 335507, Community 123185
Behavioral Health, \$20,000,000 in each fiscal year shall be 123186
allocated to community alcohol, drug addiction, and mental health 123187
services boards to be used for addiction services including 123188
medication, treatment programs, and counseling. The Department 123189
shall allocate these funds to the boards using the same 123190
methodology used to allocate other addiction services subsidies. 123191

Section 327.90. COMMUNITY OPERATING/PLANNING 123192

Appropriation item 335609, Community Operating/Planning, may 123193
be used by the Department of Mental Health and Addiction Services 123194
to make payments to the Rehabilitation Services Commission for 123195
vocational rehabilitation services to individuals receiving mental 123196
health or addiction services paid for with public dollars. 123197

In addition, appropriation item 335609, Community 123198
Operating/Planning, may be used by the Department to make 123199
incentive payments to operators of residential facilities that are 123200
licensed by the Department of Mental Health and Addiction Services 123201
and provide accommodations and personal care services for one or 123202
two unrelated adults or accommodations, supervision, and personal 123203
care services for three to sixteen unrelated adults. The incentive 123204
payments shall be granted based upon operators demonstrating 123205
linkage between their facilities' residents and community 123206
resources, based on the residents' needs including, but not 123207
limited to, aged, mental health, and physical health issues. The 123208
financial incentive shall be used to support community living for 123209

individuals with a disability or who are aged, and to assist with 123210
costs arising from facility operations. 123211

Appropriation item 335609, Community Operating/Planning, may 123212
also be used by the Department to support non-Medicaid program 123213
costs for individuals moving into community settings. 123214

Section 327.100. RESIDENTIAL STATE SUPPLEMENT 123215

(A) As used in this section: 123216

(1) "Residential facility" means a facility licensed by the 123217
Department of Mental Health and Addiction Services under section 123218
5119.34 of the Revised Code. 123219

(2) "Residential care facility" means a facility licensed by 123220
the Director of Health under Chapter 3721. of the Revised Code or 123221
by a political subdivision certified under section 3721.09 of the 123222
Revised Code. 123223

(B) The foregoing appropriation item 335506, Residential 123224
State Supplement, may be used by the Department of Mental Health 123225
and Addiction Services to provide training for residential 123226
facilities providing accommodations, supervision, and personal 123227
care services to three to sixteen unrelated adults with mental 123228
illness, to transfer cash to the Nursing Home Franchise Permit Fee 123229
Fund (Fund 5R20) used by the Department of Job and Family 123230
Services, and to make benefit payments to residential state 123231
supplement recipients. 123232

(C) Under the Residential State Supplement Program, the 123233
amount used to determine whether a resident is eligible for 123234
payment, and for determining the amount per month the eligible 123235
resident will receive, shall be as follows: 123236

(1) \$927 for a residential care facility; 123237

(2) \$927 for a residential facility that provides 123238
accommodations, supervision, and personal care services for six to 123239

sixteen unrelated adults as described in section 5119.34 of the Revised Code; 123240
123241

(3) \$824 for a residential facility that provides accommodations, supervision, and personal care services for one or two unrelated adults as described in division (A)(9)(b)(ii) of section 5119.34 of the Revised Code; 123242
123243
123244
123245

(4) \$824 for a residential facility providing accommodations, supervision, and personal care services to three to five unrelated adults, as described in section 5119.34 of the Revised Code; 123246
123247
123248

(5) \$824 for a residential facility that provides accommodations, supervision, and personal care services for one or two unrelated persons with mental illness or persons with severe mental disabilities who are referred by or are receiving mental health services from a community mental health services provider or a hospital, as described in division (A)(9)(b)(i) of section 5119.34 of the Revised Code; 123249
123250
123251
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123254
123255

(6) \$618 for community mental health housing services, as described in division (D)(1)(c) of section 5119.41 of the Revised Code. 123256
123257
123258

The Department of Mental Health and Addiction Services shall reflect these amounts in any applicable rules the Department adopts under section 5119.41 of the Revised Code. 123259
123260
123261

(D) The Department of Mental Health and Addiction Services shall, with the input of stakeholders and impacted state agencies, conduct a review of the state and federal rules and statutes governing the Residential State Supplement Program and report on potential improvements to be made in governing the program not later than January 1, 2014. 123262
123263
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123266
123267

Section 327.110. FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL 123268
123269

A county family and children first council may establish and operate a flexible funding pool in order to assure access to needed services by families, children, and older adults in need of protective services. The operation of the flexible funding pools shall be subject to the following restrictions:

(A) The county council shall establish and operate the flexible funding pool in accordance with formal guidance issued by the Family and Children First Cabinet Council;

(B) The county council shall produce an annual report on its use of the pooled funds. The annual report shall conform to a format prescribed in the formal guidance issued by the Family and Children First Cabinet Council;

(C) Unless otherwise restricted, funds transferred to the flexible funding pool may include state general revenues allocated to local entities to support the provision of services to families and children;

(D) The amounts transferred to the flexible funding pool shall be limited to amounts that can be redirected without impairing the achievement of the objectives for which the initial allocation is designated; and

(E) Each amount transferred to the flexible funding pool from a specific allocation shall be approved for transfer by the director of the local agency that was the original recipient of the allocation.

Section 329.10. MIH COMMISSION ON MINORITY HEALTH

General Revenue Fund

GRF 149321 Operating Expenses \$ 581,490 \$ 591,615

GRF 149501 Minority Health \$ 889,100 \$ 878,975

Grants

GRF 149502 Lupus Program \$ 110,047 \$ 110,047

TOTAL GRF General Revenue Fund	\$	1,580,637	\$	1,580,637	123299
Federal Special Revenue Fund Group					123300
3J90 149602 Federal Grants	\$	140,000	\$	140,000	123301
TOTAL FED Federal Special Revenue					123302
Fund Group	\$	140,000	\$	140,000	123303
State Special Revenue Fund Group					123304
4C20 149601 Minority Health	\$	25,000	\$	25,000	123305
Conference					
TOTAL SSR State Special Revenue					123306
Fund Group	\$	25,000	\$	25,000	123307
TOTAL ALL BUDGET FUND GROUPS	\$	1,745,637	\$	1,745,637	123308
Section 331.10. CRB MOTOR VEHICLE REPAIR BOARD					123310
General Services Fund Group					123311
4K90 865601 Operating Expenses	\$	487,592	\$	484,292	123312
TOTAL GSF General Services					123313
Fund Group	\$	487,592	\$	484,292	123314
TOTAL ALL BUDGET FUND GROUPS	\$	487,592	\$	484,292	123315
Section 333.10. DNR DEPARTMENT OF NATURAL RESOURCES					123317
General Revenue Fund					123318
GRF 725401 Wildlife-GRF Central	\$	1,800,000	\$	1,800,000	123319
Support					
GRF 725413 Lease Rental Payments	\$	21,622,900	\$	23,943,400	123320
GRF 725456 Canal Lands	\$	135,000	\$	135,000	123321
GRF 725502 Soil and Water	\$	2,900,000	\$	2,900,000	123322
Districts					
GRF 725505 Healthy Lake Erie Fund	\$	350,000	\$	200,000	123323
GRF 725507 Coal and Mine Safety	\$	2,500,000	\$	2,500,000	123324
Program					
GRF 725508 Oil and Gas Program	\$	7,200,000	\$	7,350,000	123325
GRF 725903 Natural Resources	\$	24,325,400	\$	25,443,000	123326

		General Obligation				
		Debt Service				
GRF	727321	Division of Forestry	\$	4,392,002	\$	4,392,001 123327
GRF	728321	Division of Geological	\$	800,000	\$	800,000 123328
		Survey				
GRF	729321	Office of Information	\$	177,405	\$	177,405 123329
		Technology				
GRF	730321	Division of Parks and	\$	30,000,000	\$	30,000,000 123330
		Recreation				
GRF	736321	Division of	\$	2,279,115	\$	2,324,736 123331
		Engineering				
GRF	737321	Division of Soil and	\$	4,782,704	\$	4,782,652 123332
		Water Resources				
GRF	738321	Division of Real	\$	715,963	\$	670,342 123333
		Estate and Land				
		Management				
GRF	741321	Division of Natural	\$	1,200,000	\$	1,200,000 123334
		Areas and Preserves				
TOTAL GRF		General Revenue Fund	\$	105,180,489	\$	108,618,536 123335
		General Services Fund Group				123336
1550	725601	Departmental Projects	\$	2,109,968	\$	1,839,204 123337
1570	725651	Central Support	\$	4,609,154	\$	4,671,566 123338
		Indirect				
2040	725687	Information Services	\$	5,179,097	\$	5,288,168 123339
2050	725696	Human Resource Direct	\$	2,474,345	\$	2,526,662 123340
		Service				
2070	725690	Real Estate Services	\$	50,000	\$	50,000 123341
2230	725665	Law Enforcement	\$	2,126,432	\$	2,126,432 123342
		Administration				
2270	725406	Parks Projects	\$	436,500	\$	436,500 123343
		Personnel				
4300	725671	Canal Lands	\$	883,879	\$	883,879 123344
4S90	725622	NatureWorks Personnel	\$	404,657	\$	412,570 123345

4X80	725662	Water Resources Council	\$	138,005	\$	138,005	123346
5100	725631	Maintenance - State-owned Residences	\$	303,611	\$	303,611	123347
5160	725620	Water Management	\$	2,559,292	\$	2,559,292	123348
6350	725664	Fountain Square Facilities Management	\$	3,329,935	\$	3,346,259	123349
6970	725670	Submerged Lands	\$	852,982	\$	869,145	123350
TOTAL GSF General Services							123351
Fund Group			\$	25,457,857	\$	25,451,293	123352
Federal Special Revenue Fund Group							123353
3320	725669	Federal Mine Safety Grant	\$	265,000	\$	265,000	123354
3B30	725640	Federal Forest Pass-Thru	\$	500,000	\$	500,000	123355
3B40	725641	Federal Flood Pass-Thru	\$	500,000	\$	500,000	123356
3B50	725645	Federal Abandoned Mine Lands	\$	11,851,759	\$	11,851,759	123357
3B60	725653	Federal Land and Water Conservation Grants	\$	950,000	\$	950,000	123358
3B70	725654	Reclamation - Regulatory	\$	3,200,000	\$	3,200,000	123359
3P10	725632	Geological Survey - Federal	\$	933,448	\$	557,146	123360
3P20	725642	Oil and Gas - Federal	\$	234,509	\$	234,509	123361
3P30	725650	Coastal Management - Federal	\$	2,790,633	\$	2,790,633	123362
3P40	725660	Federal - Soil and Water Resources	\$	969,190	\$	1,006,874	123363
3R50	725673	Acid Mine Drainage	\$	4,342,280	\$	4,342,280	123364

		Abatement/Treatment				
3Z50	725657	Federal Recreation	\$	1,850,000	\$	1,850,000 123365
		and Trails				
TOTAL FED		Federal Special Revenue				123366
Fund Group			\$	28,386,819	\$	28,048,201 123367
State Special Revenue Fund Group						123368
4J20	725628	Injection Well Review	\$	128,466	\$	128,466 123369
4M70	725686	Wildfire Suppression	\$	100,000	\$	100,000 123370
4U60	725668	Scenic Rivers	\$	100,000	\$	100,000 123371
		Protection				
5090	725602	State Forest	\$	6,873,330	\$	6,880,158 123372
5110	725646	Ohio Geological	\$	1,220,690	\$	1,993,519 123373
		Mapping				
5120	725605	State Parks Operations	\$	29,654,880	\$	29,671,044 123374
5140	725606	Lake Erie Shoreline	\$	1,559,583	\$	1,559,583 123375
5180	725643	Oil and Gas Permit	\$	12,812,311	\$	13,140,201 123376
		Fees				
5180	725677	Oil and Gas Well	\$	1,500,000	\$	1,500,000 123377
		Plugging				
5210	725627	Off-Road Vehicle	\$	143,490	\$	143,490 123378
		Trails				
5220	725656	Natural Areas and	\$	546,639	\$	546,639 123379
		Preserves				
5260	725610	Strip Mining	\$	1,800,000	\$	1,800,000 123380
		Administration Fee				
5270	725637	Surface Mining	\$	1,941,532	\$	1,941,532 123381
		Administration				
5290	725639	Unreclaimed Land Fund	\$	1,804,180	\$	1,804,180 123382
5310	725648	Reclamation Forfeiture	\$	500,000	\$	500,000 123383
5B30	725674	Mining Regulation	\$	28,135	\$	28,135 123384
5BV0	725683	Soil and Water	\$	8,250,000	\$	8,250,000 123385
		Districts				
5EJ0	725608	Forestry Law	\$	1,000	\$	1,000 123386

		Enforcement					
5EK0	725611	Natural Areas &	\$	1,000	\$	1,000	123387
		Preserves Law					
		Enforcement					
5EL0	725612	Wildlife Law	\$	12,000	\$	12,000	123388
		Enforcement					
5EM0	725613	Park Law Enforcement	\$	34,000	\$	34,000	123389
5EN0	725614	Watercraft Law	\$	2,500	\$	2,500	123390
		Enforcement					
5HK0	725625	Ohio Nature Preserves	\$	1,000	\$	1,000	123391
5MF0	725635	Ohio Geology License	\$	7,500	\$	7,500	123392
		Plate					
5MW0	725604	Natural Resources	\$	6,000,000	\$	6,000,000	123393
		Special Purposes					
6150	725661	Dam Safety	\$	943,517	\$	943,517	123394
TOTAL SSR		State Special Revenue					123395
Fund Group			\$	75,965,753	\$	77,089,464	123396
Clean Ohio Conservation Fund Group							123397
7061	725405	Clean Ohio Operating	\$	300,775	\$	300,775	123398
TOTAL CLF		Clean Ohio Conservation	\$	300,775	\$	300,775	123399
Fund Group							
Wildlife Fund Group							123400
5P20	725634	Wildlife Boater	\$	3,000,000	\$	3,000,000	123401
		Angler Administration					
7015	740401	Division of Wildlife	\$	56,466,564	\$	57,075,976	123402
		Conservation					
8150	725636	Cooperative	\$	120,449	\$	120,449	123403
		Management Projects					
8160	725649	Wetlands Habitat	\$	966,885	\$	966,885	123404
8170	725655	Wildlife Conservation	\$	2,000,000	\$	2,000,000	123405
		Checkoff Fund					
8180	725629	Cooperative Fisheries	\$	1,500,000	\$	1,500,000	123406

Research					
8190	725685	Ohio River Management	\$ 203,584	\$ 203,584	123407
81B0	725688	Wildlife Habitat Fund	\$ 1,200,000	\$ 1,200,000	123408
TOTAL WLF Wildlife Fund Group			\$ 65,457,482	\$ 66,066,894	123409
Waterways Safety Fund Group					123410
7086	725414	Waterways Improvement	\$ 5,693,671	\$ 5,693,671	123411
7086	725418	Buoy Placement	\$ 52,182	\$ 52,182	123412
7086	725501	Waterway Safety	\$ 120,000	\$ 120,000	123413
Grants					
7086	725506	Watercraft Marine	\$ 576,153	\$ 576,153	123414
Patrol					
7086	725513	Watercraft	\$ 366,643	\$ 366,643	123415
Educational Grants					
7086	739401	Division of	\$ 19,467,370	\$ 19,297,370	123416
Watercraft					
TOTAL WSF Waterways Safety Fund					123417
Group			\$ 26,276,019	\$ 26,106,019	123418
Accrued Leave Liability Fund Group					123419
4M80	725675	FOP Contract	\$ 20,219	\$ 20,219	123420
TOTAL ALF Accrued Leave					123421
Liability Fund Group			\$ 20,219	\$ 20,219	123422
Holding Account Redistribution Fund Group					123423
R017	725659	Performance Cash Bond	\$ 496,263	\$ 496,263	123424
Refunds					
R043	725624	Forestry	\$ 2,100,000	\$ 2,100,000	123425
TOTAL 090 Holding Account					123426
Redistribution Fund Group			\$ 2,596,263	\$ 2,596,263	123427
TOTAL ALL BUDGET FUND GROUPS			\$ 329,641,676	\$ 334,297,664	123428
Section 333.20. CENTRAL SUPPORT INDIRECT					123430
With the exception of the Division of Wildlife, whose direct					123431
and indirect central support charges shall be paid out of the					123432

General Revenue Fund from the foregoing appropriation item 725401, 123433
Wildlife-GRF Central Support, the Department of Natural Resources, 123434
with approval of the Director of Budget and Management, shall 123435
utilize a methodology for determining each division's payments 123436
into the Central Support Indirect Fund (Fund 1570). The 123437
methodology used shall contain the characteristics of 123438
administrative ease and uniform application in compliance with 123439
federal grant requirements. It may include direct cost charges for 123440
specific services provided. Payments to Fund 1570 shall be made 123441
using an intrastate transfer voucher. 123442

Section 333.30. LEASE RENTAL PAYMENTS 123443

The foregoing appropriation item 725413, Lease Rental 123444
Payments, shall be used to meet all payments at the times they are 123445
required to be made during the period from July 1, 2013, through 123446
June 30, 2015, by the Department of Natural Resources pursuant to 123447
leases and agreements made under section 154.22 of the Revised 123448
Code. These appropriations are the source of funds pledged for 123449
bond service charges on related obligations issued under Chapter 123450
154. of the Revised Code. 123451

CANAL LANDS 123452

The foregoing appropriation item 725456, Canal Lands, shall 123453
be used to provide operating expenses for the State Canal Lands 123454
Program. 123455

HEALTHY LAKE ERIE FUND 123456

Of the foregoing appropriation item 725505, Healthy Lake Erie 123457
Fund, up to \$350,000 in fiscal year 2014 and up to \$200,000 in 123458
fiscal year 2015 shall be used by the Director of Natural 123459
Resources, in consultation with the Director of Agriculture and 123460
the Director of Environmental Protection, to implement 123461
nonstatutory recommendations of the Agriculture Nutrients and 123462

Water Quality Working Group. The Director shall give priority to 123463
recommendations that encourage farmers to adopt agricultural 123464
production guidelines commonly known as 4R nutrient stewardship 123465
practices. Funds may also be used for enhanced soil testing in the 123466
Western Lake Erie Basin, monitoring the quality of Lake Erie and 123467
its tributaries, and conducting research and establishing pilot 123468
projects that have the goal of reducing algae blooms in Lake Erie. 123469

COAL AND MINE SAFETY PROGRAM 123470

The foregoing appropriation item 725507, Coal and Mine Safety 123471
Program, shall be used for the administration of the Mine Safety 123472
Program and the Coal Regulation Program. 123473

OIL AND GAS PROGRAM 123474

The foregoing appropriation item 725508, Oil and Gas Program, 123475
shall be used for the Oil and Gas Program. 123476

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 123477

The foregoing appropriation item 725903, Natural Resources 123478
General Obligation Debt Service, shall be used to pay all debt 123479
service and related financing costs during the period July 1, 123480
2013, through June 30, 2015, on obligations issued under sections 123481
151.01 and 151.05 of the Revised Code. 123482

Section 333.40. WELL LOG FILING FEES 123483

The Chief of the Division of Soil and Water Resources shall 123484
deposit fees forwarded to the Division pursuant to section 1521.05 123485
of the Revised Code into the Departmental Services - Intrastate 123486
Fund (Fund 1550) for the purposes described in that section. 123487

Section 333.50. HUMAN RESOURCES DIRECT SERVICE 123488

The foregoing appropriation item 725696, Human Resources 123489
Direct Service, shall be used to cover the cost of support, 123490
coordination, and oversight of the Department of Natural 123491

Resources' human resources functions. The Human Resources 123492
Chargeback Fund (Fund 2050) shall consist of cash transferred to 123493
it via intrastate transfer voucher from other funds as determined 123494
by the Director of Natural Resources and the Director of Budget 123495
and Management. 123496

Section 333.60. LAW ENFORCEMENT ADMINISTRATION 123497

The foregoing appropriation item 725665, Law Enforcement 123498
Administration, shall be used to cover the cost of support, 123499
coordination, and oversight of the Department of Natural 123500
Resources' law enforcement functions. The Law Enforcement 123501
Administration Fund (Fund 2230) shall consist of cash transferred 123502
to it via intrastate transfer voucher from other funds as 123503
determined by the Director of Natural Resources and the Director 123504
of Budget and Management. 123505

Section 333.70. FOUNTAIN SQUARE AND ODNR GROUNDS AT THE OHIO 123506
EXPO CENTER 123507

The foregoing appropriation item 725664, Fountain Square 123508
Facilities Management, shall be used for payment of repairs, 123509
renovation, utilities, property management, and building 123510
maintenance expenses for the Fountain Square complex and the 123511
Department of Natural Resources grounds at the Ohio Expo Center. 123512
Cash transferred by intrastate transfer vouchers from various 123513
department funds and rental income received by the Department of 123514
Natural Resources shall be deposited into the Fountain Square 123515
Facilities Management Fund (Fund 6350). 123516

Section 333.80. SOIL AND WATER DISTRICTS 123517

In addition to state payments to soil and water conservation 123518
districts authorized by section 1515.10 of the Revised Code, the 123519
Department of Natural Resources may use appropriation item 725683, 123520

Soil and Water Districts, to pay any soil and water conservation 123521
district an annual amount not to exceed \$40,000, upon receipt of a 123522
request and justification from the district and approval by the 123523
Ohio Soil and Water Conservation Commission. The county auditor 123524
shall credit the payments to the special fund established under 123525
section 1515.10 of the Revised Code for the local soil and water 123526
conservation district. Moneys received by each district shall be 123527
expended for the purposes of the district. 123528

OIL AND GAS WELL PLUGGING 123529

The foregoing appropriation item 725677, Oil and Gas Well 123530
Plugging, shall be used exclusively for the purposes of plugging 123531
wells and to properly restore the land surface of idle and orphan 123532
oil and gas wells pursuant to section 1509.071 of the Revised 123533
Code. No funds from the appropriation item shall be used for 123534
salaries, maintenance, equipment, or other administrative 123535
purposes, except for those costs directly attributed to the 123536
plugging of an idle or orphan well. This appropriation item shall 123537
not be used to transfer cash to any other fund or appropriation 123538
item. 123539

Section 333.90. CLEAN OHIO OPERATING EXPENSES 123540

The foregoing appropriation item 725405, Clean Ohio 123541
Operating, shall be used by the Department of Natural Resources in 123542
administering Clean Ohio Trail Fund (Fund 7061) projects pursuant 123543
to section 1519.05 of the Revised Code. 123544

Section 333.100. WATERCRAFT MARINE PATROL 123545

Of the foregoing appropriation item 739401, Division of 123546
Watercraft, up to \$200,000 in each fiscal year shall be expended 123547
for the purchase of equipment for marine patrols qualifying for 123548
funding from the Department of Natural Resources pursuant to 123549
section 1547.67 of the Revised Code. Proposals for equipment shall 123550

accompany the submission of documentation for receipt of a marine 123551
patrol subsidy pursuant to section 1547.67 of the Revised Code and 123552
shall be loaned to eligible marine patrols pursuant to a 123553
cooperative agreement between the Department of Natural Resources 123554
and the eligible marine patrol. 123555

Section 333.110. PARKS CAPITAL EXPENSES FUND 123556

The Director of Natural Resources shall submit to the 123557
Director of Budget and Management the estimated design, 123558
engineering, and planning costs of capital-related work to be done 123559
by Department of Natural Resources staff for parks projects within 123560
the Ohio Parks and Recreation Improvement Fund (Fund 7035). If the 123561
Director of Budget and Management approves the estimated costs, 123562
the Director may release appropriations from appropriation item 123563
C725E6, Project Planning, Fund 7035, for those purposes. Upon 123564
release of the appropriations, the Department of Natural Resources 123565
shall pay for these expenses from the Parks Capital Expenses Fund 123566
(Fund 2270). Expenses paid from Fund 2270 shall be reimbursed by 123567
Fund 7035 using an intrastate transfer voucher. 123568

NATUREWORKS CAPITAL EXPENSES FUND 123569

The Department of Natural Resources shall periodically 123570
prepare and submit to the Director of Budget and Management the 123571
estimated design, planning, and engineering costs of 123572
capital-related work to be done by Department of Natural Resources 123573
staff for each capital improvement project within the Ohio Parks 123574
and Natural Resources Fund (Fund 7031). If the Director of Budget 123575
and Management approves the estimated costs, the Director may 123576
release appropriations from appropriation item C725E5, Project 123577
Planning, in Fund 7031, for those purposes. Upon release of the 123578
appropriations, the Department of Natural Resources shall pay for 123579
these expenses from the Capital Expenses Fund (Fund 4S90). 123580
Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by 123581

using an intrastate transfer voucher. 123582

Section 333.120. ELIMINATION OF DORMANT FUNDS 123583

The following funds are hereby abolished and the fund names 123584
and fund numbers shall be stricken from the list of funds falling 123585
within the jurisdiction of the Department of Natural Resources: 123586

Fund Number	Fund Name	
1580	Reprint and Replacement - Intrastate	123588
1610	Parks and Recreation Depreciation Reserve	123589
1620	Civilian Conservation Corps Earned Revenues	123590
2060	General Services	123591
5080	Natural Resources Publications and Promotions	123592
5190	Burr Oak Water Plant	123593
5250	Reclamation Forfeiture	123594
5300	Surface Mining Reclamation	123595
8800	Cooperative Boat Harbor Project	123596
4B80	Forestry Development	123597
5F90	Flood Reimbursement	123598
81A0	Wildlife Education	123599
R029	Reclamation Fee	123600
R030	Surface Mining Reclamation Fee	123601
R040	Wildlife Refunds	123602
3280	Federal Special Revenue	123603
3P00	Natural Areas and Preserves - Federal	123604
5K10	Urban Forestry Grant	123605
5150	Conservancy District Organization	123606
6300	Wild Animal	123607
3CH0	Mined Land Set Aside	123608

TRANSFER OF ELIMINATED DORMANT FUNDS 123609

The Watercraft Revolving Loan Fund (Fund 5AW0) is hereby 123610
abolished. Any balance remaining in the fund as of July 1, 2013, 123611
shall be transferred into the Waterways Safety Fund (Fund 7086) 123612

and appropriated to appropriation item 739401, Division of 123613
 Watercraft. 123614

The Division of Forestry Law Enforcement Fund (Fund 5EJ0) and 123615
 the Division of Natural Areas and Preserves Law Enforcement Fund 123616
 (Fund 5EK0) are hereby abolished. Any balance remaining in these 123617
 funds as of July 1, 2013, shall be transferred into the Park Law 123618
 Enforcement Fund (Fund 5EM0) and appropriated to appropriation 123619
 item 725613, Park Law Enforcement. 123620

Section 335.10. NUR STATE BOARD OF NURSING 123621

General Services Fund Group 123622

4K90	884609	Operating Expenses	\$	7,181,743	\$	7,273,978	123623
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5AC0	884602	Nurse Education Grant	\$	1,373,506	\$	1,373,506	123624
		Program					

5P80	884601	Nursing Special	\$	2,000	\$	2,000	123625
		Issues					

TOTAL GSF General Services 123626

Fund Group	\$	8,557,249	\$	8,649,484	123627
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TOTAL ALL BUDGET FUND GROUPS	\$	8,557,249	\$	8,649,484	123628
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Section 337.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, 123630
 AND ATHLETIC TRAINERS BOARD 123631

General Services Fund Group 123632

4K90	890609	Operating Expenses	\$	866,169	\$	925,897	123633
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TOTAL GSF General Services Fund	\$	866,169	\$	925,897	123634
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	866,169	\$	925,897	123635
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Section 339.10. OLA OHIOANA LIBRARY ASSOCIATION 123637

General Revenue Fund 123638

GRF	355501	Library Subsidy	\$	135,000	\$	140,000	123639
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TOTAL GRF General Revenue Fund	\$	135,000	\$	140,000	123640
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TOTAL ALL BUDGET FUND GROUPS		\$	135,000	\$	140,000	123641
Section 340.10. RSC REHABILITATION SERVICES COMMISSION						123643
General Revenue Fund						123644
GRF 415402	Independent Living	\$	252,000	\$	252,000	123645
	Council					
GRF 415406	Assistive Technology	\$	26,618	\$	26,618	123646
GRF 415431	Office for People	\$	126,567	\$	126,567	123647
	with Brain Injury					
GRF 415506	Services for People	\$	15,277,885	\$	15,277,885	123648
	with Disabilities					
GRF 415508	Services for the Deaf	\$	28,000	\$	28,000	123649
GRF 415510	Telephone and Radio	\$	245,000	\$	245,000	123650
	Reading Services					
TOTAL GRF General Revenue Fund		\$	15,956,070	\$	15,956,070	123651
General Services Fund Group						123652
4670 415609	Business Enterprise	\$	962,538	\$	965,481	123653
	Operating Expenses					
TOTAL GSF General Services						123654
Fund Group		\$	962,538	\$	965,481	123655
Federal Special Revenue Fund Group						123656
3170 415620	Disability	\$	83,332,186	\$	84,641,911	123657
	Determination					
3790 415616	Federal - Vocational	\$	117,431,895	\$	113,610,728	123658
	Rehabilitation					
3L10 415601	Social Security	\$	2,748,451	\$	2,752,396	123659
	Personal Care					
	Assistance					
3L10 415605	Social Security	\$	772,000	\$	772,000	123660
	Community Centers for					
	the Deaf					
3L10 415608	Social Security	\$	445,258	\$	498,269	123661

	Special						
	Programs/Assistance						
3L40	415612	Federal Independent	\$	638,431	\$	638,431	123662
		Living Centers or					
		Services					
3L40	415615	Federal - Supported	\$	916,727	\$	916,727	123663
		Employment					
3L40	415617	Independent	\$	1,548,658	\$	1,348,658	123664
		Living/Vocational					
		Rehabilitation					
		Programs					
TOTAL FED		Federal Special					123665
Revenue Fund Group			\$	207,833,606	\$	205,179,120	123666
State Special		Revenue Fund Group					123667
4680	415618	Third Party Funding	\$	11,000,000	\$	11,000,000	123668
4L10	415619	Services for	\$	3,502,168	\$	3,502,168	123669
		Rehabilitation					
4W50	415606	Program Management	\$	12,369,751	\$	12,594,758	123670
		Expenses					
TOTAL SSR		State Special					123671
Revenue Fund Group			\$	26,871,919	\$	27,096,926	123672
TOTAL ALL BUDGET FUND GROUPS			\$	251,624,133	\$	249,197,597	123673
		INDEPENDENT LIVING COUNCIL					123674
		The foregoing appropriation item 415402, Independent Living					123675
		Council, shall be used to fund the operations of the State					123676
		Independent Living Council and to support state independent living					123677
		centers and independent living services under Title VII of the					123678
		Independent Living Services and Centers for Independent Living of					123679
		the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29					123680
		U.S.C. 796d.					123681
		Of the foregoing appropriation item 415402, Independent					123682
		Living Council, \$67,662 in each fiscal year shall be used as state					123683

matching funds for vocational rehabilitation innovation and	123684
expansion activities.	123685
ASSISTIVE TECHNOLOGY	123686
The total amount of the foregoing appropriation item 415406,	123687
Assistive Technology, shall be provided to Assistive Technology of	123688
Ohio to provide grants and assistive technology services for	123689
people with disabilities in the State of Ohio.	123690
OFFICE FOR PEOPLE WITH BRAIN INJURY	123691
The foregoing appropriation item 415431, Office for People	123692
with Brain Injury, shall be used to plan and coordinate	123693
head-injury-related services provided by state agencies and other	123694
government or private entities, to assess the needs for such	123695
services, and to set priorities in this area.	123696
Of the foregoing appropriation item 415431, Office for People	123697
with Brain Injury, \$44,067 in each fiscal year shall be used as	123698
state matching funds to provide vocational rehabilitation services	123699
to eligible consumers.	123700
VOCATIONAL REHABILITATION SERVICES	123701
The foregoing appropriation item 415506, Services for People	123702
with Disabilities, shall be used as state matching funds to	123703
provide vocational rehabilitation services to eligible consumers.	123704
SERVICES FOR THE DEAF	123705
The foregoing appropriation item 415508, Services for the	123706
Deaf, shall be used to provide grants to community centers for the	123707
deaf.	123708
INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS	123709
The foregoing appropriation item 415617, Independent	123710
Living/Vocational Rehabilitation Programs, shall be used to	123711
support vocational rehabilitation programs.	123712

SOCIAL SECURITY REIMBURSEMENT FUNDS	123713
Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10), to the extent funds are available, as follows:	123714 123715 123716 123717 123718 123719
(A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;	123720 123721 123722
(B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and	123723 123724 123725 123726
(C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87.	123727 123728 123729 123730 123731 123732 123733 123734
PROGRAM MANAGEMENT EXPENSES	123735
The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.	123736 123737 123738 123739 123740
ETECH OHIO COMMISSION APPROPRIATION LINE ITEM TRANSFER	123741
Effective July 1, 2013, the Director of Budget and Management	123742

shall cancel any existing encumbrances against appropriation item 123743
935410, Content Development, Acquisition, and Distribution, and 123744
re-establish them, as determined to be appropriate by the Director 123745
of Budget and Management, against appropriation item 415510, 123746
Telephone and Radio Reading Services. The re-established 123747
encumbrance amounts are hereby appropriated. Any business 123748
commenced but not completed under appropriation item 935410, 123749
Content Development, Acquisition, and Distribution, by July 1, 123750
2013, shall be completed, as determined to be appropriate by the 123751
Director of Budget and Management, under appropriation item 123752
415510, Telephone and Radio Reading Services, in the same manner 123753
and with the same effect as if it were completed with regard to 123754
appropriation item 935410, Content Development, Acquisition, and 123755
Distribution. 123756

Section 341.10. ODB OHIO OPTICAL DISPENSERS BOARD 123757

General Services Fund Group 123758
4K90 894609 Operating Expenses \$ 366,000 \$ 365,000 123759
TOTAL GSF General Services 123760
Fund Group \$ 366,000 \$ 365,000 123761
TOTAL ALL BUDGET FUND GROUPS \$ 366,000 \$ 365,000 123762

Section 343.10. OPT STATE BOARD OF OPTOMETRY 123764

General Services Fund Group 123765
4K90 885609 Operating Expenses \$ 347,278 \$ 347,278 123766
TOTAL GSF General Services 123767
Fund Group \$ 347,278 \$ 347,278 123768
TOTAL ALL BUDGET FUND GROUPS \$ 347,278 \$ 347,278 123769

Section 345.10. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, 123771
AND PEDORTHICS 123772
General Services Fund Group 123773

4K90 973609	Operating Expenses	\$	135,677	\$	140,846	123774
TOTAL GSF General Services						123775
Fund Group		\$	135,677	\$	140,846	123776
TOTAL ALL BUDGET FUND GROUPS						123777

Section 347.10. UST PETROLEUM UNDERGROUND STORAGE TANK 123778

RELEASE COMPENSATION BOARD 123779

State Special Revenue Fund Group 123780

6910 810632	PUSTRCB Staff	\$	1,233,249	\$	1,252,202	123781
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TOTAL SSR State Special Revenue 123782

Fund Group		\$	1,233,249	\$	1,252,202	123783
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TOTAL ALL BUDGET FUND GROUPS \$ 1,233,249 \$ 1,252,202 123784

Section 349.10. PRX STATE BOARD OF PHARMACY 123786

General Services Fund Group 123787

4A50 887605	Drug Law Enforcement	\$	150,000	\$	150,000	123788
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4K90 887609	Operating Expenses	\$	6,701,285	\$	6,701,285	123789
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TOTAL GSF General Services Fund \$ 6,851,285 \$ 6,851,285 123790

Group

Federal Special Revenue Fund Group 123791

3BC0 887604	Dangerous Drugs	\$	390,869	\$	0	123792
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Database

3CT0 887606	2008	\$	224,691	\$	112,346	123793
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Developing/Enhancing

PMP

3DV0 887607	Enhancing Ohio's PMP	\$	2,000	\$	2,000	123794
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3EY0 887603	Administration of	\$	66,335	\$	0	123795
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PMIX Hub

TOTAL FED Federal Special Revenue \$ 683,895 \$ 114,346 123796

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 7,535,180 \$ 6,965,631 123797

Section 351.10. PSY STATE BOARD OF PSYCHOLOGY 123799

General Services Fund Group					123800
4K90 882609 Operating Expenses	\$	548,000	\$	571,000	123801
TOTAL GSF General Services					123802
Fund Group	\$	548,000	\$	571,000	123803
TOTAL ALL BUDGET FUND GROUPS	\$	548,000	\$	571,000	123804
 Section 353.10. PUB OHIO PUBLIC DEFENDER COMMISSION					123806
General Revenue Fund					123807
GRF 019401 State Legal Defense	\$	3,020,855	\$	3,020,855	123808
Services					
GRF 019403 Multi-County: State	\$	1,237,318	\$	1,250,824	123809
Share					
GRF 019404 Trumbull County -	\$	354,743	\$	359,631	123810
State Share					
GRF 019405 Training Account	\$	50,000	\$	50,000	123811
GRF 019501 County Reimbursement	\$	9,768,050	\$	9,885,175	123812
TOTAL GRF General Revenue Fund	\$	14,430,966	\$	14,566,485	123813
General Services Fund Group					123814
4070 019604 County Representation	\$	351,149	\$	354,248	123815
4080 019605 Client Payments	\$	725,144	\$	722,931	123816
5CX0 019617 Civil Case Filing Fee	\$	532,136	\$	528,476	123817
TOTAL GSF General Services					123818
Fund Group	\$	1,608,429	\$	1,605,655	123819
Federal Special Revenue Fund Group					123820
3FX0 019621 Wrongful Conviction	\$	103,950	\$	103,950	123821
Program					
3S80 019608 Federal	\$	204,706	\$	202,942	123822
Representation					
TOTAL FED Federal Special Revenue					123823
Fund Group	\$	308,656	\$	306,892	123824
State Special Revenue Fund Group					123825

4C70	019601	Multi-County: County Share	\$	2,297,876	\$	2,322,959	123826
4X70	019610	Trumbull County - County Share	\$	658,809	\$	667,887	123827
5740	019606	Civil Legal Aid	\$	20,000,000	\$	20,000,000	123828
5DY0	019618	Indigent Defense Support - County Share	\$	40,320,991	\$	41,191,285	123829
5DY0	019619	Indigent Defense Support Fund - State Office	\$	5,186,329	\$	5,612,719	123830
TOTAL SSR State Special Revenue							123831
Fund Group			\$	68,464,005	\$	69,794,850	123832
TOTAL ALL BUDGET FUND GROUPS							123833
INDIGENT DEFENSE OFFICE							123834
The foregoing appropriation items 019404, Trumbull County - State Share, and 019610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.							123835 123836 123837
MULTI-COUNTY OFFICE							123838
The foregoing appropriation items 019403, Multi-County: State Share, and 019601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.							123839 123840 123841 123842
TRAINING ACCOUNT							123843
The foregoing appropriation item 019405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.							123844 123845 123846 123847 123848 123849
FEDERAL REPRESENTATION							123850

The foregoing appropriation item 019608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.

Section 355.10. DPS DEPARTMENT OF PUBLIC SAFETY				123856
General Revenue Fund				123857
GRF 767420	Investigative Unit -	\$ 10,500,000	\$ 10,500,000	123858
Operating				
TOTAL GRF	General Revenue Fund	\$ 10,500,000	\$ 10,500,000	123859
TOTAL ALL BUDGET FUND GROUPS		\$ 10,500,000	\$ 10,500,000	123860

Section 357.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO				123862
General Services Fund Group				123863
5BP0 870623	Wireless 9-1-1	\$ 18,035,000	\$ 0	123864
Administration				
5F60 870622	Utility and Railroad	\$ 30,619,708	\$ 30,619,708	123865
Regulation				
5F60 870624	NARUC/NRRI Subsidy	\$ 85,000	\$ 85,000	123866
5Q50 870626	Telecommunications	\$ 5,000,000	\$ 5,000,000	123867
Relay Service				
TOTAL GSF	General Services			123868
Fund Group		\$ 53,739,708	\$ 35,704,708	123869
Federal Special Revenue Fund Group				123870
3330 870601	Gas Pipeline Safety	\$ 597,959	\$ 597,959	123871
3500 870608	Motor Carrier Safety	\$ 7,351,660	\$ 7,351,660	123872
3EA0 870630	Energy Assurance	\$ 192,001	\$ 0	123873
Planning				
3ED0 870631	State Regulators	\$ 115,912	\$ 0	123874
Assistance				
3V30 870604	Commercial Vehicle	\$ 100,000	\$ 100,000	123875

Information				
Systems/Networks				
TOTAL FED Federal Special Revenue				123876
Fund Group	\$	8,357,532	\$ 8,049,619	123877
State Special Revenue Fund Group				123878
4A30 870614 Grade Crossing	\$	1,347,357	\$ 1,347,357	123879
Protection				
Devices-State				
4L80 870617 Pipeline Safety-State	\$	331,992	\$ 331,992	123880
5610 870606 Power Siting Board	\$	581,618	\$ 581,618	123881
5LT0 870640 Intrastate	\$	180,000	\$ 180,000	123882
Registration				
5LT0 870641 Unified Carrier	\$	420,000	\$ 420,000	123883
Registration				
5LT0 870642 Hazardous Materials	\$	743,346	\$ 753,346	123884
Registration				
5LT0 870643 Nonhazardous Materials	\$	277,496	\$ 277,496	123885
Civil Forfeiture				
5LT0 870644 Hazardous Materials	\$	898,800	\$ 898,800	123886
Civil Forfeiture				
5LT0 870645 Motor Carrier	\$	4,768,453	\$ 4,709,592	123887
Enforcement				
TOTAL SSR State Special Revenue				123888
Fund Group	\$	9,549,062	\$ 9,500,201	123889
TOTAL ALL BUDGET FUND GROUPS	\$	71,646,302	\$ 53,254,528	123890
Section 359.10. PWC PUBLIC WORKS COMMISSION				123892
General Revenue Fund				123893
GRF 150904 Conservation General	\$	33,376,600	\$ 34,447,700	123894
Obligation Debt				
Service				
GRF 150907 State Capital	\$	227,810,300	\$ 228,948,900	123895

Improvements General				
Obligation Debt				
Service				
TOTAL GRF General Revenue Fund	\$	261,186,900	\$	263,396,600
				123896
Clean Ohio Conservation Fund Group				123897
7056 150403 Clean Ohio Operating	\$	288,980	\$	288,980
				123898
Expenses				
TOTAL 056 Clean Ohio Conservation	\$	288,980	\$	288,980
Fund Group				123899
TOTAL ALL BUDGET FUND GROUPS	\$	261,475,880	\$	263,685,580
				123900
CONSERVATION GENERAL OBLIGATION DEBT SERVICE				123901
The foregoing appropriation item 150904, Conservation General				123902
Obligation Debt Service, shall be used to pay all debt service and				123903
related financing costs during the period from July 1, 2013,				123904
through June 30, 2015, at the times they are required to be made				123905
for obligations issued under sections 151.01 and 151.09 of the				123906
Revised Code.				123907
STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE				123908
The foregoing appropriation item 150907, State Capital				123909
Improvements General Obligation Debt Service, shall be used to pay				123910
all debt service and related financing costs during the period				123911
from July 1, 2013, through June 30, 2015, at the times they are				123912
required to be made for obligations issued under sections 151.01				123913
and 151.08 of the Revised Code.				123914
CLEAN OHIO OPERATING EXPENSES				123915
The foregoing appropriation item 150403, Clean Ohio Operating				123916
Expenses, shall be used by the Ohio Public Works Commission in				123917
administering Clean Ohio Conservation Fund (Fund 7056) projects				123918
pursuant to sections 164.20 to 164.27 of the Revised Code.				123919
Section 361.10. RAC STATE RACING COMMISSION				123920

State Special Revenue Fund Group					123921	
5620 875601	Thoroughbred Race	\$	1,696,456	\$	1,696,456	123922
	Fund					
5630 875602	Standardbred	\$	1,697,452	\$	1,697,452	123923
	Development Fund					
5640 875603	Quarter Horse	\$	1,000	\$	1,000	123924
	Development Fund					
5650 875604	Racing Commission	\$	2,934,178	\$	2,934,178	123925
	Operating					
5C40 875607	Simulcast Horse	\$	12,000,000	\$	12,000,000	123926
	Racing Purse					
5JK0 875610	Racing Commission	\$	10,000,000	\$	10,000,000	123927
	Fund					
TOTAL SSR State Special Revenue						123928
Fund Group		\$	28,329,086	\$	28,329,086	123929
Holding Account Redistribution Fund Group						123930
R021 875605	Bond Reimbursements	\$	100,000	\$	100,000	123931
TOTAL 090 Holding Account						123932
Redistribution						
Fund Group		\$	100,000	\$	100,000	123933
TOTAL ALL BUDGET FUND GROUPS		\$	28,429,086	\$	28,429,086	123934
Section 363.10. BOR BOARD OF REGENTS						123936
General Revenue Fund						123937
GRF 235321	Operating Expenses	\$	2,850,357	\$	2,850,357	123938
GRF 235401	Lease Rental Payments	\$	5,805,300	\$	0	123939
GRF 235402	Sea Grants	\$	285,000	\$	285,000	123940
GRF 235406	Articulation and	\$	2,000,000	\$	2,000,000	123941
	Transfer					
GRF 235408	Midwest Higher	\$	95,000	\$	95,000	123942
	Education Compact					
GRF 235409	HEI Information System	\$	1,505,683	\$	1,505,683	123943

GRF 235414	State Grants and Scholarship Administration	\$	830,180	\$	830,180	123944
GRF 235417	eStudent Services	\$	2,532,688	\$	2,532,688	123945
GRF 235428	Appalachian New Economy Partnership	\$	737,366	\$	737,366	123946
GRF 235433	Economic Growth Challenge	\$	521,153	\$	521,153	123947
GRF 235438	Choose Ohio First Scholarship	\$	16,665,114	\$	16,665,114	123948
GRF 235443	Adult Basic and Literacy Education - State	\$	7,427,416	\$	7,427,416	123949
GRF 235444	Post-Secondary Adult Career-Technical Education	\$	15,317,547	\$	15,317,547	123950
GRF 235474	Area Health Education Centers Program Support	\$	900,000	\$	900,000	123951
GRF 235478	Statehouse News Bureau	\$	215,561	\$	215,561	123952
GRF 235479	Ohio Government Telecommunications Services	\$	1,002,089	\$	1,002,089	123953
GRF 235480	General Technology Operations	\$	1,254,193	\$	1,254,193	123954
GRF 235481	Technology Operations	\$	2,091,823	\$	2,091,823	123955
GRF 235482	Content Development, Acquisition, and Distribution	\$	2,362,094	\$	2,362,094	123956
GRF 235483	Technology Integration and Professional Development	\$	2,378,598	\$	2,378,598	123957
GRF 235484	Information Technology	\$	577,006	\$	577,006	123958

GRF 235501	State Share of Instruction	\$ 1,784,225,497	\$ 1,818,225,497	123959
GRF 235502	Student Support Services	\$ 632,974	\$ 632,974	123960
GRF 235504	War Orphans Scholarships	\$ 5,500,000	\$ 5,500,000	123961
GRF 235505	State Share of Instruction Bridge Funding	\$ 8,095,005	\$ 0	123962
GRF 235507	OhioLINK	\$ 6,211,012	\$ 6,211,012	123963
GRF 235508	Air Force Institute of Technology	\$ 1,740,803	\$ 1,740,803	123964
GRF 235510	Ohio Supercomputer Center	\$ 3,747,418	\$ 3,747,418	123965
GRF 235511	Cooperative Extension Service	\$ 23,086,658	\$ 23,056,658	123966
GRF 235514	Central State Supplement	\$ 11,063,468	\$ 11,063,468	123967
GRF 235515	Case Western Reserve University School of Medicine	\$ 2,146,253	\$ 2,146,253	123968
GRF 235519	Family Practice	\$ 3,166,185	\$ 3,166,185	123969
GRF 235520	Shawnee State Supplement	\$ 2,326,097	\$ 2,326,097	123970
GRF 235524	Police and Fire Protection	\$ 107,814	\$ 107,814	123971
GRF 235525	Geriatric Medicine	\$ 522,151	\$ 522,151	123972
GRF 235526	Primary Care Residencies	\$ 1,500,000	\$ 1,500,000	123973
GRF 235535	Ohio Agricultural Research and Development Center	\$ 34,126,100	\$ 34,126,100	123974
GRF 235536	The Ohio State	\$ 9,668,941	\$ 9,668,941	123975

	University Clinical Teaching				
GRF 235537	University of Cincinnati Clinical Teaching	\$	7,952,573	\$	7,952,573 123976
GRF 235538	University of Toledo Clinical Teaching	\$	6,198,600	\$	6,198,600 123977
GRF 235539	Wright State University Clinical Teaching	\$	3,011,400	\$	3,011,400 123978
GRF 235540	Ohio University Clinical Teaching	\$	2,911,212	\$	2,911,212 123979
GRF 235541	Northeast Ohio Medical University Clinical Teaching	\$	2,994,178	\$	2,994,178 123980
GRF 235552	Capital Component	\$	13,628,639	\$	10,280,387 123981
GRF 235555	Library Depositories	\$	1,440,342	\$	1,440,342 123982
GRF 235556	Ohio Academic Resources Network	\$	3,172,519	\$	3,172,519 123983
GRF 235558	Long-term Care Research	\$	195,300	\$	195,300 123984
GRF 235563	Ohio College Opportunity Grant	\$	89,126,474	\$	89,126,474 123985
GRF 235572	The Ohio State University Clinic Support	\$	766,533	\$	766,533 123986
GRF 235599	National Guard Scholarship Program	\$	16,711,514	\$	17,384,511 123987
GRF 235909	Higher Education General Obligation Debt Service	\$	221,168,700	\$	248,822,000 123988
TOTAL GRF	General Revenue Fund	\$	2,334,498,528	\$	2,379,546,268 123989
	General Services Fund Group				123990

2200	235614	Program Approval and Reauthorization	\$	903,595	\$	903,595	123991
4560	235603	Sales and Services	\$	199,250	\$	199,250	123992
4F30	235679	Affiliate Services	\$	50,000	\$	50,000	123993
4T20	235680	Government Television/Telecommunications Operating	\$	25,000	\$	25,000	123994
5JC0	235649	Co-op Internship Program	\$	8,000,000	\$	8,000,000	123995
TOTAL GSF General Services							123996
Fund Group			\$	9,177,845	\$	3,177,845	123997
Federal Special Revenue Fund Group							123998
3120	235612	Carl D. Perkins Grant/Plan Administration	\$	1,350,000	\$	1,350,000	123999
3120	235617	Improving Teacher Quality Grant	\$	3,200,000	\$	3,200,000	124000
3120	235641	Adult Basic and Literacy Education - Federal	\$	14,835,671	\$	14,835,671	124001
3120	235672	H-1B Tech Skills Training	\$	1,100,000	\$	1,100,000	124002
3BW0	235630	Indirect Cost Recovery - Federal	\$	50,000	\$	50,000	124003
3H20	235608	Human Services Project	\$	1,000,000	\$	1,000,000	124004
TOTAL FED Federal Special Revenue							124005
Fund Group			\$	21,535,671	\$	21,535,671	124006
State Special Revenue Fund Group							124007
4E80	235602	Higher Educational Facility Commission Administration	\$	29,100	\$	29,100	124008

4X10	235674	Telecommunity and Distance Learning	\$	49,150	\$	49,150	124009
5D40	235675	Conferences/Special Purposes	\$	1,884,095	\$	1,884,095	124010
5FK0	235676	Media Services	\$	491,373	\$	491,373	124011
5FR0	235643	Making Opportunity Affordable	\$	230,000	\$	230,000	124012
5P30	235663	Variable Savings Plan	\$	8,066,920	\$	8,104,370	124013
6450	235664	Guaranteed Savings Plan	\$	1,290,718	\$	1,303,129	124014
6820	235606	Nursing Loan Program	\$	891,320	\$	891,320	124015
TOTAL SSR State Special Revenue							124016
Fund Group			\$	12,932,676	\$	12,982,537	124017
Third Frontier Research & Development Fund Group							124018
7011	235634	Research Incentive Third Frontier Fund	\$	8,000,000	\$	8,000,000	124019
TOTAL 011 Third Frontier Research & Development Fund Group			\$	8,000,000	\$	8,000,000	124020
TOTAL ALL BUDGET FUND GROUPS			\$	2,386,144,720	\$	2,431,242,321	124021

Section 363.20. LEASE RENTAL PAYMENTS 124023

The foregoing appropriation item 235401, Lease Rental 124024
 Payments, shall be used to meet all payments at the times they are 124025
 required to be made during the period from July 1, 2013, through 124026
 June 30, 2015, by the Chancellor of the Board of Regents under 124027
 leases and agreements made under section 154.21 of the Revised 124028
 Code. These appropriations are the source of funds pledged for 124029
 bond service charges on related obligations issued under Chapter 124030
 154. of the Revised Code. 124031

Section 363.23. SEA GRANTS 124032

The foregoing appropriation item 235402, Sea Grants, shall be 124033

used to match federal dollars and leverage additional support by 124034
The Ohio State University's Sea Grant program, including Stone 124035
Laboratory, for research, education, and outreach to enhance the 124036
economic value, public utilization, and responsible management of 124037
Lake Erie and Ohio's coastal resources. 124038

Section 363.30. ARTICULATION AND TRANSFER 124039

The foregoing appropriation item 235406, Articulation and 124040
Transfer, shall be used by the Chancellor of the Board of Regents 124041
to maintain and expand the work of the Articulation and Transfer 124042
Council to develop a system of transfer policies to ensure that 124043
students at state institutions of higher education can transfer 124044
and have coursework apply to their majors and degrees at any other 124045
state institution of higher education without unnecessary 124046
duplication or institutional barriers under sections 3333.16, 124047
3333.161, and 3333.162 of the Revised Code. 124048

Section 363.40. MIDWEST HIGHER EDUCATION COMPACT 124049

The foregoing appropriation item 235408, Midwest Higher 124050
Education Compact, shall be distributed by the Chancellor of the 124051
Board of Regents under section 3333.40 of the Revised Code. 124052

Section 363.50. HEI INFORMATION SYSTEM 124053

The foregoing appropriation item 235409, HEI Information 124054
System, shall be used by the Chancellor of the Board of Regents to 124055
support the development and implementation of information 124056
technology solutions designed to improve the performance and 124057
services of the Chancellor of the Board of Regents and the 124058
University System of Ohio. Information technology solutions may be 124059
provided by the Ohio Academic Research Network (OARnet). 124060

Section 363.60. STATE GRANTS AND SCHOLARSHIP ADMINISTRATION 124061

The foregoing appropriation item 235414, State Grants and Scholarship Administration, shall be used by the Chancellor of the Board of Regents to administer the following student financial aid programs: Ohio College Opportunity Grant, Ohio War Orphans' Scholarship, Nurse Education Assistance Loan Program, Ohio Safety Officers College Memorial Fund, and any other student financial aid programs created by the General Assembly. The appropriation item also shall be used to support all state financial aid audits and student financial aid programs created by Congress, and to provide fiscal services for the Ohio National Guard Scholarship Program.

Section 363.70. ESTUDENT SERVICES

The foregoing appropriation item 235417, eStudent Services, shall be used by the Chancellor of the Board of Regents to support the continued implementation of eStudent Services, a consortium organized under division (T) of section 3333.04 of the Revised Code to expand access to dual enrollment opportunities for high school students, as well as adult and higher education opportunities through technology. The funds shall be used by eStudent Services to develop and promote learning and assessment through the use of technology, to test and provide advice on emerging learning-directed technologies, to support the distance learning clearinghouse and platform created under section 3333.82 of the Revised Code, and to facilitate cost-effectiveness through shared educational technology investments.

Section 363.80. APPALACHIAN NEW ECONOMY PARTNERSHIP

The foregoing appropriation item 235428, Appalachian New Economy Partnership, shall be distributed to Ohio University to continue a multi-campus and multi-agency coordinated effort to link Appalachia to the new economy. Ohio University shall use

these funds to provide leadership in the development and 124092
implementation of initiatives in the areas of entrepreneurship, 124093
management, education, and technology. 124094

Section 363.90. ECONOMIC GROWTH CHALLENGE 124095

The foregoing appropriation item 235433, Economic Growth 124096
Challenge, shall be used for administrative expenses of the 124097
Research Incentive Program and other economic advancement 124098
initiatives undertaken by the Chancellor of the Board of Regents. 124099

The Chancellor of the Board of Regents shall use any 124100
appropriation transfer to the foregoing appropriation item 235433, 124101
Economic Growth Challenge, to enhance the basic research and 124102
commercialization capabilities of public colleges and universities 124103
and accredited Ohio institutions of higher education holding 124104
certificates of authorization issued under section 1713.02 of the 124105
Revised Code, in order to strengthen academic research and 124106
commercialization for pursuing Ohio's economic development goals. 124107

Section 363.100. CHOOSE OHIO FIRST SCHOLARSHIP 124108

The foregoing appropriation item 235438, Choose Ohio First 124109
Scholarship, shall be used to operate the program prescribed in 124110
sections 3333.60 to 3333.70 of the Revised Code. 124111

Section 363.110. ADULT BASIC AND LITERACY EDUCATION 124112

The foregoing appropriation item 235443, Adult Basic and 124113
Literacy Education - State, shall be used to support the adult 124114
basic and literacy education instructional grant program and state 124115
leadership program. The supported programs shall satisfy the state 124116
match and maintenance of effort requirements for the 124117
state-administered grant program. 124118

Section 363.120. POST-SECONDARY ADULT CAREER-TECHNICAL 124119

EDUCATION 124120

The foregoing appropriation item 235444, Post-Secondary Adult Career-Technical Education, shall be used by the Chancellor of the Board of Regents, in consultation with the Superintendent of Public Instruction and the Governor's Office of Workforce Transformation, to support post-secondary adult career-technical education. The Chancellor of the Board of Regents, the Superintendent of Public Instruction, and the Governor's Office of Workforce Transformation, or their designees, shall hold a series of consultations with the Ohio Technical Centers during fiscal year 2014 to develop an appropriate funding formula to distribute these funds based on student outcomes, beginning in fiscal year 2015.

The Chancellor of the Board of Regents shall establish a One-Year Option credit articulation system in which graduates of Ohio Technical Centers receive college technical credit. The system shall ensure that Ohio Technical Center students that complete a 900-hour program of study and obtain an industry-recognized credential shall receive 30 college technical credit hours, and students that complete a program of study between 600 and 899 hours and obtain an industry-recognized credential shall receive a proportional number of college technical credit hours.

Section 363.130. AREA HEALTH EDUCATION CENTERS 124143

The foregoing appropriation item 235474, Area Health Education Centers Program Support, shall be used by the Chancellor of the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center

Program.	124150
Section 363.140. STATEHOUSE NEWS BUREAU	124151
The foregoing appropriation item 235478, Statehouse News	124152
Bureau, shall be used solely to support the operations of the Ohio	124153
Statehouse News Bureau.	124154
Section 363.150. OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES	124155
The foregoing appropriation item 235479, Ohio Government	124156
Telecommunications Services, shall be used solely to support the	124157
operations of Ohio Government Telecommunications Services which	124158
include providing multimedia support to the state government and	124159
its affiliated organizations and broadcasting the activities of	124160
the legislative, judicial, and executive branches of state	124161
government, among its other functions.	124162
Section 363.160. TECHNOLOGY OPERATIONS	124163
Of the foregoing appropriation item 235481, Technology	124164
Operations, up to \$1,000,000 in each fiscal year shall be used to	124165
provide grants on a competitive basis to public and chartered	124166
nonpublic schools for their participation in the electronic	124167
textbook pilot project. These grants shall be administered as	124168
provided under the section of this act entitled ELECTRONIC	124169
TEXTBOOK PILOT PROJECT. On July 1, 2014, or as soon as possible	124170
thereafter, the Chancellor of the Board of Regents may certify to	124171
the Director of Budget and Management the amount of the	124172
unexpended, unencumbered balance of this set aside at the end of	124173
fiscal year 2014 to be appropriated to fiscal year 2015. The	124174
amount certified is hereby reappropriated for the same purpose for	124175
fiscal year 2015.	124176
The remainder of the foregoing appropriation item 235481,	124177
Technology Operations, shall be used by the Chancellor of the	124178

Board of Regents to pay Ohio's network infrastructure expenses, 124179
which includes the television and radio transmission 124180
infrastructure and infrastructure that shall link all public K-12 124181
classrooms to each other and to the Internet, and provide access 124182
to voice, video, other communication services, and data 124183
educational resources for students and teachers. The foregoing 124184
appropriation item 235481, Technology Operations, may also be used 124185
to cover student costs for taking advanced placement courses and 124186
courses that the Chancellor of the Board of Regents has determined 124187
to be eligible for postsecondary credit through the Ohio Learns 124188
Gateway. To the extent that funds remain available for this 124189
purpose, students who are enrolled in public and chartered 124190
nonpublic schools, and students who are instructed at home 124191
pursuant to section 3321.04 of the Revised Code, who are taking 124192
advanced placement or postsecondary courses through the Ohio 124193
Learns Gateway shall be eligible to receive a fee waiver to cover 124194
the cost of participating in one course. The fee waivers shall be 124195
distributed until the funds appropriated to support the waivers 124196
have been exhausted. 124197

Section 363.170. CONTENT DEVELOPMENT, ACQUISITION, AND 124198
DISTRIBUTION 124199

The foregoing appropriation item 235482, Content Development, 124200
Acquisition, and Distribution, shall be used for the development, 124201
acquisition, and distribution of information resources by public 124202
media and radio reading services and for educational use in the 124203
classroom and online. 124204

Of the foregoing appropriation item 235482, Content 124205
Development, Acquisition, and Distribution, up to \$596,193 in each 124206
fiscal year shall be allocated equally among the Ohio educational 124207
television stations and used with the advice and approval of the 124208
Chancellor of the Board of Regents. Funds shall be used for the 124209

production of interactive instructional programming series with 124210
priority given to resources aligned with state academic content 124211
standards in consultation with the Ohio Department of Education. 124212
The programming shall be targeted to the needs of the poorest two 124213
hundred school districts as determined by the district's adjusted 124214
valuation per pupil as defined in former section 3317.0213 of the 124215
Revised Code as that section existed prior to June 30, 2005. 124216

Of the foregoing appropriation item 235482, Content 124217
Development, Acquisition, and Distribution, up to \$1,584,965 in 124218
each fiscal year shall be distributed by the Chancellor of the 124219
Board of Regents to Ohio's qualified public educational television 124220
stations and educational radio stations to support their 124221
operations. The funds shall be distributed pursuant to an 124222
allocation formula used by the Ohio Educational Telecommunications 124223
Network Commission unless a substitute formula is developed by the 124224
Chancellor of the Board of Regents in consultation with Ohio's 124225
qualified public educational television stations and educational 124226
radio stations. 124227

Of the foregoing appropriation item 235482, Content 124228
Development, Acquisition, and Distribution, up to \$180,936 in each 124229
fiscal year shall be distributed by the Chancellor of the Board of 124230
Regents to Ohio's qualified radio reading services to support 124231
their operations. The funds shall be distributed pursuant to an 124232
allocation formula used by the Ohio Educational Telecommunications 124233
Network Commission unless a substitute formula is developed by the 124234
Chancellor of the Board of Regents in consultation with Ohio's 124235
qualified radio reading services. 124236

Section 363.180. TECHNOLOGY INTEGRATION AND PROFESSIONAL 124237
DEVELOPMENT 124238

Of the foregoing appropriation item 235483, Technology 124239
Integration and Professional Development, up to \$2,000,000 in each 124240

fiscal year shall be used to provide grants on a competitive basis 124241
to public and chartered nonpublic schools for their participation 124242
in the electronic textbook pilot project. These grants shall be 124243
administered as provided under the section of this act entitled 124244
ELECTRONIC TEXTBOOK PILOT PROJECT. On July 1, 2014, or as soon as 124245
possible thereafter, the Chancellor of the Board of Regents may 124246
certify to the Director of Budget and Management the amount of the 124247
unexpended, unencumbered balance of this set aside at the end of 124248
fiscal year 2014 to be appropriated to fiscal year 2015. The 124249
amount certified is hereby reappropriated for the same purpose for 124250
fiscal year 2015. 124251

The remainder of the foregoing appropriation item 235483, 124252
Technology Integration and Professional Development, shall be used 124253
by the Ohio Department of Education and the Chancellor of the 124254
Board of Regents for the provision of staff development, hardware, 124255
software, telecommunications services, and information resources 124256
to support educational uses of technology in the classroom and at 124257
a distance and for professional development for teachers, 124258
administrators, and technology staff on the use of educational 124259
technology in qualifying public schools, including the State 124260
School for the Blind, the School for the Deaf, and the Department 124261
of Youth Services. 124262

Section 363.190. STATE SHARE OF INSTRUCTION FORMULAS 124263

The Chancellor of the Board of Regents shall establish 124264
procedures to allocate the foregoing appropriation item 235501, 124265
State Share of Instruction, based on the formulas detailed in this 124266
section that utilize the enrollment, course completion, degree 124267
attainment, and student achievement factors reported annually by 124268
each state institution of higher education participating in the 124269
Higher Education Information (HEI) system. 124270

(A) FULL-TIME EQUIVALENT (FTE) ENROLLMENTS AND COMPLETIONS 124271

(1) As soon as possible during each fiscal year of the 124272
biennium ending June 30, 2015, in accordance with instructions of 124273
the Board of Regents, each state institution of higher education 124274
shall report its actual data, consistent with the definitions in 124275
the Higher Education Information (HEI) system's enrollment files, 124276
to the Chancellor of the Board of Regents. 124277

(2) In defining the number of full-time equivalent students 124278
for state subsidy instructional cost purposes, the Chancellor of 124279
the Board of Regents shall exclude all undergraduate students who 124280
are not residents of Ohio, except those charged in-state fees in 124281
accordance with reciprocity agreements made under section 3333.17 124282
of the Revised Code or employer contracts entered into under 124283
section 3333.32 of the Revised Code. 124284

(3) In calculating the core subsidy entitlements for 124285
university branch and main campuses, the Chancellor of the Board 124286
of Regents shall use the following count of FTE students: 124287

(a) The subsidy eligible enrollments by model shall equal 124288
only those FTE students who successfully complete the course as 124289
defined and reported through the Higher Education Information 124290
(HEI) system course enrollment file; 124291

(b) For those undergraduate FTE students with successful 124292
course completions, identified in division (A)(3)(a) of this 124293
section, that had an expected family contribution less than 2190 124294
or were determined to have been in need of remedial education 124295
shall be defined as at-risk students and shall have their eligible 124296
completions weighted by the following: 124297

(i) Campus-specific course completion indexes, where the 124298
indexes are calculated based upon the number of at-risk students 124299
enrolled during the 2010-2012 academic years; and 124300

(ii) A statewide average at-risk course completion weight 124301
determined for each subsidy model. The statewide average at-risk 124302

course completion weight shall be determined by calculating the 124303
 difference between the percentage of traditional students who 124304
 complete a course and the percentage of at-risk students who 124305
 complete the same course. 124306

(4) In calculating the core subsidy entitlements for Medical 124307
 II models only, students repeating terms may be no more than five 124308
 per cent of current year enrollment. 124309

(5) In calculating the core subsidy entitlements for students 124310
 enrolled in state-supported law schools, subsidy eligible FTE 124311
 completions shall be limited to students identified as residents 124312
 of Ohio. 124313

(B) TOTAL COSTS PER FULL-TIME EQUIVALENT STUDENT 124314

For purposes of calculating state share of instruction 124315
 allocations, the total instructional costs per full-time 124316
 equivalent student shall be: 124317

Model	Fiscal Year 2014	Fiscal Year 2015	
ARTS AND HUMANITIES 1	\$7,803	\$7,940	124318
ARTS AND HUMANITIES 2	\$10,828	\$11,018	124319
ARTS AND HUMANITIES 3	\$13,988	\$14,234	124320
ARTS AND HUMANITIES 4	\$20,242	\$20,598	124321
ARTS AND HUMANITIES 5	\$33,969	\$34,567	124322
ARTS AND HUMANITIES 6	\$38,280	\$38,954	124323
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	\$7,109	\$7,235	124324
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	\$8,106	\$8,249	124325
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	\$10,640	\$10,827	124326
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	\$12,647	\$12,869	124327
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	\$19,657	\$20,003	124328
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	\$22,006	\$22,393	124329
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	\$30,558	\$31,096	124330
MEDICAL 1	\$53,424	\$54,365	124331

MEDICAL 2	\$45,873	\$46,681	124333
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$7,190	\$7,317	124334
MEDICINE 1			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$10,091	\$10,268	124335
MEDICINE 2			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$11,928	\$12,138	124336
MEDICINE 3			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$15,186	\$15,454	124337
MEDICINE 4			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$20,043	\$20,396	124338
MEDICINE 5			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$21,633	\$22,013	124339
MEDICINE 6			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$26,471	\$26,937	124340
MEDICINE 7			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$36,766	\$37,413	124341
MEDICINE 8			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$52,170	\$53,088	124342
MEDICINE 9			

Doctoral I and Doctoral II models shall be allocated in 124343
accordance with division (D)(3) of this section. 124344

(C) SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICAL, 124345
AND GRADUATE WEIGHTS 124346

For the purpose of implementing the recommendations of the 124347
2006 State Share of Instruction Consultation and the Higher 124348
Education Funding Study Council that priority be given to 124349
maintaining state support for science, technology, engineering, 124350
mathematics, medicine, and graduate programs, the costs in 124351
division (B) of this section shall be weighted by the amounts 124352
provided below: 124353

Model	Fiscal	Fiscal	124354
	Year 2014	Year 2015	

ARTS AND HUMANITIES 1	1.0000	1.0000	124355
ARTS AND HUMANITIES 2	1.0000	1.0000	124356
ARTS AND HUMANITIES 3	1.0000	1.0000	124357
ARTS AND HUMANITIES 4	1.0000	1.0000	124358
ARTS AND HUMANITIES 5	1.0425	1.0425	124359
ARTS AND HUMANITIES 6	1.0425	1.0425	124360
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	1.0000	1.0000	124361
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	1.0000	1.0000	124362
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	1.0000	1.0000	124363
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	1.0000	1.0000	124364
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	1.0425	1.0425	124365
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	1.0425	1.0425	124366
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	1.0425	1.0425	124367
MEDICAL 1	1.6456	1.6456	124368
MEDICAL 2	1.7462	1.7462	124369
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	1.0000	1.0000	124370
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	1.0017	1.0017	124371
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	1.6150	1.6150	124372
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	1.6920	1.6920	124373
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	1.4222	1.4222	124374
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	1.8798	1.8798	124375
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	1.4380	1.4380	124376
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	1.5675	1.5675	124377
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	1.1361	1.1361	124378

(D) CALCULATION OF STATE SHARE OF INSTRUCTION FORMULA	124379
ENTITLEMENTS AND ADJUSTMENTS	124380
(1) Of the foregoing appropriation item 235501, State Share of Instruction, 25 per cent of the fiscal year 2014 appropriation for state-supported community colleges, state community colleges, and technical colleges shall be allocated to colleges in proportion to their share of college student success factors as adopted by the Chancellor of the Board of Regents in formal communication to the Controlling Board on August 30, 2010.	124381 124382 124383 124384 124385 124386 124387
(2) Of the foregoing appropriation item 235501, State Share of Instruction, 25 per cent of the fiscal year 2014 appropriation for state-supported community colleges, state community colleges, and technical colleges shall be reserved for course completion FTEs as aggregated by the subsidy models defined in division (B) of this section.	124388 124389 124390 124391 124392 124393
The course completion funding shall be allocated to colleges in proportion to each campuses' share of the total sector's course completions, weighted by the instructional cost of the subsidy models.	124394 124395 124396 124397
To calculate the subsidy entitlements for course completions at community colleges, state community colleges, and technical colleges, the Chancellor of the Board of Regents shall use the following calculations:	124398 124399 124400 124401
(a) In calculating each campus's count of FTE course completions, the Chancellor of the Board of Regents shall use the three-year average course completions for the three-year period ending in the prior year.	124402 124403 124404 124405
(b) The model costs as used in the calculation shall be augmented by the model weights for science, technology, engineering, mathematics, and medicine models as established in division (C) of this section.	124406 124407 124408 124409

(3) Of the foregoing appropriation item 235501, State Share of Instruction, up to 11.78 per cent of the appropriation for universities, as established in division (A)(2) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 and 2015," in each fiscal year shall be reserved for support of doctoral programs to implement the funding recommendations made by representatives of the universities. The amount so reserved shall be referred to as the doctoral set-aside.

The doctoral set-aside shall be allocated to universities as follows:

(a) 50 per cent of the doctoral set-aside in fiscal year 2014 and 40 per cent of the doctoral set-aside in fiscal year 2015 shall be allocated to universities in proportion to their share of the statewide total of each state institution's three-year average Doctoral I equivalent FTEs as calculated on an institutional basis using historical FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review and subsequent changes in Doctoral I equivalent enrollments. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

(b) 25 per cent of the doctoral set-aside in fiscal year 2014 and 30 per cent of the doctoral set-aside in fiscal year 2015 shall be allocated to universities in proportion to each campus's share of the total statewide doctoral degrees, weighted by the cost of the doctoral discipline. In calculating each campus's doctoral degrees the Chancellor of the Board of Regents shall use the three-year average doctoral degrees awarded for the three-year period ending in the prior year.

(c) 12.5 per cent of the doctoral set-aside in fiscal year 2014 and 15 per cent of the doctoral set-aside in fiscal year 2015

shall be allocated to universities in proportion to their share of 124442
research grant activity, using a data collection method that is 124443
reviewed and approved by the presidents of Ohio's doctoral degree 124444
granting universities. In the event that the data collection 124445
method is not available, funding for this component shall be 124446
allocated to universities in proportion to their share of research 124447
grant activity published by the National Science Foundation. Grant 124448
awards from the Department of Health and Human Services shall be 124449
weighted at 50 per cent. 124450

(d) 12.5 per cent of the doctoral set-aside in fiscal year 124451
2014 and 15 per cent of the doctoral set-aside in fiscal year 2015 124452
shall be allocated to universities based on other quality measures 124453
that contribute to the advancement of quality doctoral programs. 124454
These other quality measures shall be identified by the Chancellor 124455
in consultation with universities. If for any reason metrics for 124456
distributing the quality component of the doctoral set-aside are 124457
not identified prior to the fiscal year allocation process, this 124458
portion of the doctoral set-aside funds shall be allocated to 124459
universities based on division (D)(3)(a) of this section. 124460

(4) Of the foregoing appropriation item 235501, State Share 124461
of Instruction, 6.41 per cent of the appropriation for 124462
universities, as established in division (A)(2) of the section of 124463
this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 124464
2014 AND 2015," in each fiscal year shall be reserved for support 124465
of Medical II FTEs. The amount so reserved shall be referred to as 124466
the medical II set-aside. 124467

The medical II set-aside shall be allocated to universities 124468
in proportion to their share of the statewide total of each state 124469
institution's three-year average Medical II FTEs as calculated in 124470
division (A) of this section, weighted by model cost. 124471

(5) Of the foregoing appropriation item 235501, State Share 124472
of Instruction, 1.48 per cent of the appropriation for 124473

universities, as established in division (A)(2) of the section of 124474
this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 124475
2014 AND 2015," in each fiscal year shall be reserved for support 124476
of Medical I FTEs. The amount so reserved shall be referred to as 124477
the medical I set-aside. 124478

The medical I set-aside shall be allocated to universities in 124479
proportion to their share of the statewide total of each state 124480
institution's three-year average Medical I FTEs as calculated in 124481
division (A) of this section. 124482

(6) Of the foregoing appropriation item 235501, State Share 124483
of Instruction, 50 per cent of the appropriation in each fiscal 124484
year for universities, net any earmarked funding for university 124485
regional campuses as detailed in division (B)(1) of the section of 124486
this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 124487
2014 AND 2015," shall be reserved for support of associate, 124488
baccalaureate, master's, and professional level degree attainment. 124489

The degree attainment funding shall be allocated to 124490
universities in proportion to each campus's share of the total 124491
statewide degrees granted, weighted by the cost of the degree 124492
programs. The degree cost calculations shall include the model 124493
cost weights for the science, technology, engineering, 124494
mathematics, and medicine models as established in division (C) of 124495
this section. 124496

In calculating the subsidy entitlements for degree attainment 124497
at university main and regional campuses, the Chancellor of the 124498
Board of Regents shall use the following count of degrees and 124499
degree costs: 124500

(a) The subsidy eligible undergraduate degrees shall be 124501
defined as follows: 124502

(i) The subsidy eligible degrees conferred to students 124503
identified as residents of the state of Ohio in any term of their 124504

studies, as reported through the Higher Education Information 124505
(HEI) system student enrollment file, shall be weighted by a 124506
factor of 1. 124507

(ii) The subsidy eligible degrees conferred to students 124508
identified as out-of-state residents during all terms of their 124509
studies, as reported through the Higher Education Information 124510
(HEI) system student enrollment file, which remain in the state of 124511
Ohio at least one year after graduation shall be weighted by a 124512
factor of 50 per cent. For fiscal year 2014, subsidy eligible 124513
degrees conferred to all out-of-state students shall be weighted 124514
by a factor of 25 per cent. 124515

(b) In fiscal year 2014, for those associate degrees awarded 124516
by a state-supported university, the subsidy eligible degrees 124517
granted are defined as only those earned by students attending a 124518
university that received funding under GRF appropriation item 124519
235418, Access Challenge, in fiscal year 2009. In fiscal year 124520
2015, subsidy eligible associate degrees are defined as those 124521
earned by students attending any state-supported university main 124522
or regional campus. 124523

(c) In calculating each campus's count of degrees, the 124524
Chancellor of the Board of Regents shall use the three-year 124525
average associate, baccalaureate, master's, and professional 124526
degrees awarded for the three-year period ending in the prior 124527
year. In fiscal year 2014, university regional campuses are not 124528
eligible for degree completion funding. In fiscal year 2015, all 124529
university campuses are eligible for degree completion funding. 124530

(d) Eligible associate degrees defined in division (D)(6)(b) 124531
of this section and all bachelor's degrees earned by a student 124532
that either had an expected family contribution less than 2190, 124533
was determined to have been in need of remedial education, is 124534
Native American, African American, or Hispanic, or is at least age 124535
26 at the time of graduation, shall be defined as degrees earned 124536

by an at-risk student and shall be weighted by the following: 124537

(i) A campus-specific at-risk index, where the index is 124538
calculated based on the proportion of at-risk students enrolled 124539
during a four-year cohort beginning in fiscal year 2001, 2002, 124540
2003, or 2004; and 124541

(ii) A statewide average at-risk degree completion weight 124542
determined by calculating the difference between the percentage of 124543
non-at-risk students who earned a degree and the percentage of 124544
at-risk students who earned a degree in eight years or less. 124545

(7) State share of instruction base formula earnings shall be 124546
determined as follows: 124547

(a) The instructional costs shall be determined by 124548
multiplying the amounts listed above in divisions (B) and (C) of 124549
this section by the average subsidy-eligible FTEs for the 124550
three-year period ending in the prior year for all models except 124551
Doctoral I and Doctoral II. 124552

(b) The Chancellor of the Board of Regents shall compute a 124553
uniform state share of instructional costs for each sector. 124554

(i) For the state-supported community colleges, state 124555
community colleges, and technical colleges, in fiscal year 2014 124556
the Chancellor of the Board of Regents shall compute the uniform 124557
state share of instructional costs for enrollment by dividing the 124558
sector level appropriation total as determined by the Chancellor 124559
in division (A)(1) of the section of this act entitled "STATE 124560
SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted 124561
pursuant to divisions (B) and (C) of that section, less the 124562
student college success allocation as described in division (D)(1) 124563
of this section and less the course completion allocation as 124564
detailed in division (D)(2) of this section, by the sum of all 124565
eligible campuses' instructional costs as calculated in division 124566
(D)(7)(b) of this section. 124567

(ii) For the state-supported university regional campuses, in 124568
fiscal year 2014 the Chancellor of the Board of Regents shall 124569
compute the uniform state share of instructional costs by dividing 124570
the sector level appropriation, as determined by the Chancellor in 124571
division (A)(2) of the section of this act entitled "STATE SHARE 124572
OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted 124573
pursuant to division (B) of that section by the sum of all 124574
campuses' instructional costs as calculated in division (D)(7)(b) 124575
of this section. 124576

(iii) For the state-supported university main campuses, in 124577
fiscal year 2014 the Chancellor of the Board of Regents shall 124578
compute the uniform state share of instructional costs by dividing 124579
the sector level appropriation, as determined by the Chancellor in 124580
division (A)(3) of the section of this act entitled "STATE SHARE 124581
OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted 124582
pursuant to division (B) of that section, less the degree 124583
attainment funding as calculated in divisions (D)(3) to (6) of 124584
this section, less the doctoral set-aside, less the medical I 124585
set-aside, and less the medical II set-aside, by the sum of all 124586
campuses' instructional costs as calculated in division (D)(7)(b) 124587
of this section. 124588

(iv) For the state university regional and main campuses, in 124589
fiscal year 2015 the Chancellor of the Board of Regents shall 124590
compute the uniform state share of instructional costs by dividing 124591
the university appropriation, as determined by the Chancellor in 124592
division (A)(3) of the section of this act entitled "STATE SHARE 124593
OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted 124594
pursuant to division (B) of that section, less the degree 124595
attainment funding as calculated in divisions (D)(3) to (6) of 124596
this section, less the doctoral set-aside, less the medical I 124597
set-aside, and less the medical II set-aside, by the sum of all 124598
campuses' instructional costs as calculated in division (D)(7)(b) 124599

of this section. 124600

(c) The formula entitlement shall be determined by 124601
multiplying the uniform state share of instructional costs 124602
calculated in division (D)(7)(c) of this section by the 124603
instructional cost determined in division (D)(7)(b) of this 124604
section. 124605

(8) In addition to the student success allocation, doctoral 124606
set-aside, medical I set-aside, medical II set-aside, and the 124607
degree attainment allocation determined in divisions (D)(1) to (6) 124608
of this section and the formula entitlement determined in division 124609
(D)(7) of this section, an allocation based on facility-based 124610
plant operations and maintenance (POM) subsidy shall be made. For 124611
each eligible university main campus, the amount of the POM 124612
allocation in each fiscal year shall be distributed based on what 124613
each campus received in the fiscal year 2009 POM allocation. 124614

Any POM allocations required by this division shall be funded 124615
by proportionately reducing formula entitlement earnings, 124616
including the POM allocations, for all campuses in that sector. 124617

(9) STABILITY IN STATE SHARE OF INSTRUCTION FUNDING FOR 124618
COMMUNITY, STATE COMMUNITY, AND TECHNICAL COLLEGES 124619

In addition to and after the adjustments noted above, in 124620
fiscal year 2014, no community college, state community college, 124621
or technical college shall receive a state share of instruction 124622
allocation that is less than 97 per cent of the prior year's state 124623
share of instruction earnings. Funds shall be made available to 124624
support this allocation by proportionately reducing formula 124625
entitlement earnings from those campuses, within the community, 124626
state community, and technical college sector, that are not 124627
receiving stability funding. 124628

(10) CAPITAL COMPONENT DEDUCTION 124629

After all other adjustments have been made, state share of 124630

instruction earnings shall be reduced for each campus by the 124631
amount, if any, by which debt service charged in Am. H.B. 748 of 124632
the 121st General Assembly, Am. Sub. H.B. 850 of the 122nd General 124633
Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, H.B. 124634
675 of the 124th General Assembly, Am. Sub. H.B. 16 of the 126th 124635
General Assembly, Am. Sub. H.B. 699 of the 126th General Assembly, 124636
Am. Sub. H.B. 496 of the 127th General Assembly, and Am. Sub. H.B. 124637
562 of the 127th General Assembly for that campus exceeds that 124638
campus's capital component earnings. The sum of the amounts 124639
deducted shall be transferred to appropriation item 235552, 124640
Capital Component, in each fiscal year. 124641

(E) EXCEPTIONAL CIRCUMSTANCES 124642

Adjustments may be made to the state share of instruction 124643
payments and other subsidies distributed by the Chancellor of the 124644
Board of Regents to state colleges and universities for 124645
exceptional circumstances. No adjustments for exceptional 124646
circumstances may be made without the recommendation of the 124647
Chancellor and the approval of the Controlling Board. 124648

(F) APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 124649
INSTRUCTION 124650

The standard provisions of the state share of instruction 124651
calculation as described in the preceding sections of temporary 124652
law shall apply to any reductions made to appropriation item 124653
235501, State Share of Instruction, before the Chancellor of the 124654
Board of Regents has formally approved the final allocation of the 124655
state share of instruction funds for any fiscal year. 124656

Any reductions made to appropriation item 235501, State Share 124657
of Instruction, after the Chancellor of the Board of Regents has 124658
formally approved the final allocation of the state share of 124659
instruction funds for any fiscal year, shall be uniformly applied 124660
to each campus in proportion to its share of the final allocation. 124661

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 124662

The state share of instruction payments to the institutions 124663
shall be in substantially equal monthly amounts during the fiscal 124664
year, unless otherwise determined by the Director of Budget and 124665
Management pursuant to section 126.09 of the Revised Code. 124666
Payments during the first six months of the fiscal year shall be 124667
based upon the state share of instruction appropriation estimates 124668
made for the various institutions of higher education according to 124669
the Chancellor of the Board of Regents enrollment, completion, and 124670
performance estimates. Payments during the last six months of the 124671
fiscal year shall be distributed after approval of the Controlling 124672
Board upon the request of the Chancellor. 124673

(H) STUDIES TO DETERMINE IMPROVEMENTS TO THE FISCAL YEAR 2015 124674
STATE SHARE OF INSTRUCTION FORMULAS 124675

(1) STUDY ON IDENTIFYING "AT-RISK" STUDENTS FOR COMMUNITY 124676
COLLEGES 124677

Community college presidents, or their designees, in 124678
consultation with the Chancellor of the Board of Regents, shall 124679
study the most appropriate formula weights for students who come 124680
from "at-risk" populations and recommend how they may be used to 124681
determine allocations of appropriations to community colleges from 124682
appropriation item 235501, State Share of Instruction, in fiscal 124683
year 2015. The study shall identify the socio-economic, 124684
demographic, academic, personal, and other factors that identify a 124685
student as being "at-risk" of academic failure, and recommend how 124686
these factors may be used to determine allocations of the State 124687
Share of Instruction for community colleges in fiscal year 2015. 124688
The study shall be completed by December 31, 2013. Notwithstanding 124689
any provision of law to the contrary, community college 124690
presidents, or their designees, in consultation with the 124691
Chancellor of the Board of Regents, shall use the results of the 124692
study to recommend changes in the determination of the 124693

distribution of the community college allocations beginning in 124694
fiscal year 2015 and shall report any such formula change 124695
recommendations to the Governor, the General Assembly, and the 124696
Office of Budget and Management not later than February 15, 2014. 124697

(2) STUDY ON THE USE OF SUCCESS POINTS AND COMPLETION 124698
MEASURES FOR COMMUNITY COLLEGES 124699

Community college presidents, or their designees, in 124700
consultation with the Chancellor of the Board of Regents, shall 124701
study the most appropriate formula weights for the "success 124702
points" and completion performance measures used in the allocation 124703
of appropriations to community colleges from appropriation item 124704
235501, State Share of Instruction, in fiscal year 2015. The study 124705
shall research the most appropriate success points and completion 124706
measures that occur during the academic career of community 124707
college students and recommend revisions to the current State 124708
Share of Instruction model to fund achievement of the success 124709
points beginning in fiscal year 2015. In addition, community 124710
college presidents, or their designees, in consultation with the 124711
Chancellor of the Board of Regents, shall determine how the 124712
community college's fiscal year 2015 share of State Share of 124713
Instruction funding shall be distributed among its success points, 124714
completion measures and course completion funding, or other 124715
performance and access measures. The study shall be completed by 124716
December 31, 2013. Notwithstanding any provision of law to the 124717
contrary, community college presidents, or their designees, in 124718
consultation with the Chancellor of the Board of Regents, shall 124719
use the results of the study to recommend changes in the 124720
determination of the distribution of the community college 124721
allocations beginning in fiscal year 2015 and shall report any 124722
such formula change recommendations to the Governor, the General 124723
Assembly, and the Office of Budget and Management not later than 124724
February 15, 2014. 124725

(3) STUDY ON THE USE OF STUDENT LEVEL "AT-RISK" WEIGHTS AND 124726
PROPORTIONAL DEGREE COUNTS FOR THE UNIVERSITIES DEGREE COMPLETION 124727
COMPONENT 124728

University presidents, or their designees, in consultation 124729
with the Chancellor of the Board of Regents, shall study the most 124730
appropriate formula weights for students who come from "at-risk" 124731
populations and recommend how they may be used to determine 124732
allocations of appropriations to universities from appropriation 124733
item 235501, State Share of Instruction, in fiscal year 2015. In 124734
addition to studying the "at-risk" student weights, university 124735
presidents, or their designees, in consultation with the 124736
Chancellor of the Board of Regents, shall recommend a methodology 124737
for merging the current main campus and regional campus funding 124738
formulas and distributing degree subsidies in cases where a 124739
student attended more than one institution of higher education. 124740
The study shall be completed by December 31, 2013. Notwithstanding 124741
any provision of law to the contrary, university presidents, or 124742
their designees, in consultation with the Chancellor of the Board 124743
of Regents, shall use the results of the study to recommend 124744
changes in the determination of the distribution of the university 124745
allocations beginning in fiscal year 2015 and shall report any 124746
such formula change recommendations to the Governor, the General 124747
Assembly and the Office of Budget and Management not later than 124748
February 15, 2014. 124749

Section 363.200. STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 124750
2014 AND 2015 124751

(A) The foregoing appropriation item 235501, State Share of 124752
Instruction, shall be distributed according to the section of this 124753
act entitled "STATE SHARE OF INSTRUCTION FORMULAS." 124754

(1) Of the foregoing appropriation item 235501, State Share 124755
of Instruction, \$411,257,477 in fiscal year 2014 and \$419,101,428 124756

in fiscal year 2015 shall be distributed to state-supported 124757
community colleges, state community colleges, and technical 124758
colleges. 124759

(2) Of the foregoing appropriation item 235501, State Share 124760
of Instruction, \$1,372,968,020 in fiscal year 2014 and 124761
\$1,399,124,069 in fiscal year 2015 shall be distributed to 124762
state-supported university main and regional campuses. 124763

(B) Of the amounts earmarked in division (A)(2) of this 124764
section: 124765

(1) \$116,181,104 in fiscal year 2014 shall be distributed to 124766
state university regional campuses. 124767

(2) \$3,923,764 in each fiscal year shall be distributed to 124768
university main campuses based on each campus's share of the 124769
appropriation item 235418, Access Challenge, in fiscal year 2009. 124770

(C) The POM adjustment in division (D)(7) of the section of 124771
this act entitled "STATE SHARE OF INSTRUCTION FORMULAS" and the 124772
Access Challenge earmark in division (B) of this section shall 124773
expire on June 30, 2015. 124774

(D) The state share of instruction payments to the 124775
institutions shall be in substantially equal monthly amounts 124776
during the fiscal year, unless otherwise determined by the 124777
Director of Budget and Management pursuant to section 126.09 of 124778
the Revised Code. Payments during the last six months of the 124779
fiscal year shall be distributed after approval of the Controlling 124780
Board upon the request of the Chancellor of the Board of Regents. 124781

**Section 363.210. TRANSFER OF INSTRUCTIONAL SUBSIDIES BETWEEN 124782
UNIVERSITIES 124783**

Notwithstanding any provision of law to the contrary, in 124784
consultation with the Chancellor of the Board of Regents, a 124785
state-supported university may request to transfer its fiscal year 124786

2014 state share of instruction subsidy allocations of the 124787
foregoing appropriation item 235501, State Share of Instruction, 124788
between a university main campus and any university branch campus 124789
for which the university main campus is affiliated to best 124790
accomplish institutional goals and objectives. At the request of 124791
the Chancellor of the Board of Regents, the Director of Budget and 124792
Management may transfer the requested amounts of state share of 124793
instruction appropriation allocations between affiliated 124794
university branch campuses and university main campuses. 124795

Section 363.213. STATE SHARE OF INSTRUCTION BRIDGE FUNDING 124796

The foregoing appropriation item 235505, State Share of 124797
Instruction Bridge Funding, shall be used by the Chancellor to 124798
supplement each campus receiving a State Share of Instruction 124799
allocation in fiscal year 2014 that is lower than that campus's 124800
State Share of Instruction allocation in fiscal year 2013. 124801

(A) For fiscal year 2014, the Chancellor shall pay temporary 124802
allocations from the foregoing appropriation item 235505, State 124803
Share of Instruction Bridge Funding, to any campus that 124804
experiences any decrease in its State Share of Instruction 124805
funding. 124806

(1) The amount of the temporary allocation payments for all 124807
state institution campuses except Central State University and 124808
Shawnee State University shall be equal to the difference between 124809
the campus's State Share of Instruction funding allocation for 124810
fiscal year 2013, as determined under the formula detailed in 124811
sections 371.20.50 and 371.20.60 of Am. Sub. H.B. 153 of the 129th 124812
General Assembly, and the campus's State Share of Instruction 124813
funding allocation for fiscal year 2014, as determined under the 124814
formula detailed in sections 363.190 and 363.200 of this act. If 124815
the computation made under this division results in a negative 124816
number, the campus's payment under this division shall be zero. 124817

(2) The amount of the temporary allocation payments for 124818
Central State University shall be equal to the difference between 124819
(a) Central State University's State Share of Instruction funding 124820
allocation for fiscal year 2013, as determined under the State 124821
Share of Instruction formula detailed in sections 371.20.50 and 124822
371.20.60 of Am. Sub. H.B. 153 of the 129th General Assembly, 124823
combined with the fiscal year 2013 appropriation for appropriation 124824
item 235514, Central State Supplement, in section 371.10 of Am. 124825
Sub. H.B. 153 of the 129th General Assembly, and (b) Central State 124826
University's State Share of Instruction funding allocation for 124827
fiscal year 2014, as determined under the formula detailed in 124828
sections 363.190 and 363.200 of this act, combined with the fiscal 124829
year 2014 appropriation for the foregoing appropriation item 124830
235514, Central State Supplement. If the computation made under 124831
this division results in a negative number, Central State 124832
University's payment under this division shall be zero. 124833

(3) The amount of the temporary allocation payments for 124834
Shawnee State University shall be equal to the difference between 124835
(a) Shawnee State University's State Share of Instruction funding 124836
allocation for fiscal year 2013, as determined under the State 124837
Share of Instruction formula detailed in sections 371.20.50 and 124838
371.20.60 of Am. Sub. H.B. 153 of the 129th General Assembly, 124839
combined with the fiscal year 2013 appropriation for appropriation 124840
item 235520, Shawnee State Supplement, in section 371.10 of Am. 124841
Sub. H.B. 153 of the 129th General Assembly, and (b) Shawnee State 124842
University's State Share of Instruction funding allocation for 124843
fiscal year 2014, as determined under the formula detailed in 124844
sections 363.190 and 363.200 of this act, combined with the fiscal 124845
year 2014 appropriation for the foregoing appropriation item 124846
235514, Shawnee State Supplement. If the computation made under 124847
this division results in a negative number, Shawnee State 124848
University's payment under this division shall be zero. 124849

(B) In each fiscal year, the Chancellor shall not distribute 124850
an amount greater than what is appropriated under the foregoing 124851
appropriation item 235505, State Share of Instruction Bridge 124852
Funding. If the Chancellor determines that the amounts 124853
appropriated for support of the State Share of Instruction Bridge 124854
Funding program are inadequate to provide full temporary 124855
allocation payments to all eligible campuses, the Chancellor shall 124856
proportionally reduce payment amounts. 124857

Section 363.220. RESTRICTION ON FEE INCREASES 124858

The boards of trustees of state institutions of higher 124859
education shall restrain increases in in-state undergraduate 124860
instructional and general fees. Each state university and the 124861
Northeast Ohio Medical University shall not increase its in-state 124862
undergraduate instructional and general fees by more than 2.0 per 124863
cent or \$188, whichever is higher, over what the institution 124864
charged for the preceding academic year. 124865

Each university regional campus shall not increase its 124866
in-state undergraduate instructional and general fees by more than 124867
2.0 per cent or \$114, whichever is higher, over what the 124868
institution charged for the preceding academic year. 124869

Each community college, state community college, and 124870
technical college shall not increase its in-state undergraduate 124871
instructional and general fees by more than \$100 over what the 124872
institution charged for the preceding academic year. 124873

These limitations shall not apply to increases required to 124874
comply with institutional covenants related to their obligations 124875
or to meet unfunded legal mandates or legally binding obligations 124876
incurred or commitments made prior to the effective date of this 124877
section with respect to which the institution had identified such 124878
fee increases as the source of funds. Any increase required by 124879
such covenants and any such mandates, obligations, or commitments 124880

shall be reported by the Chancellor of the Board of Regents to the Controlling Board. These limitations may also be modified by the Chancellor of the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Chancellor of the Board of Regents.

These limitations shall not apply to institutions participating in an undergraduate tuition guarantee program pursuant to section 3345.48 of the Revised Code.

Section 363.230. HIGHER EDUCATION - BOARD OF TRUSTEES

(A) Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Chancellor of the Board of Regents.

(B) In providing instructional and other services to students, boards of trustees of state institutions of higher education shall supplement state subsidies with income from charges to students. Except as otherwise provided in this act, each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual students or specific categories of students and shall not be applied uniformly to all enrolled students. A tuition surcharge shall be paid by all students who are not residents of Ohio.

The board of trustees of a state institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees.

Each state institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

(C) The boards of trustees of state institutions of higher education shall ensure that faculty members devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per academic term per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Chancellor of the Board of Regents.

(D) The authority of government vested by law in the boards of trustees of state institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the

exclusive prerogative of boards of trustees. Any delegation of 124944
authority by a board of trustees in other areas of responsibility 124945
shall be accompanied by appropriate standards of guidance 124946
concerning expected objectives in the exercise of such delegated 124947
authority and shall be accompanied by periodic review of the 124948
exercise of this delegated authority to the end that the public 124949
interest, in contrast to any institutional or special interest, 124950
shall be served. 124951

Section 363.240. STUDENT SUPPORT SERVICES 124952

The foregoing appropriation item 235502, Student Support 124953
Services, shall be distributed by the Chancellor of the Board of 124954
Regents to Ohio's state colleges and universities that incur 124955
disproportionate costs in the provision of support services to 124956
disabled students. 124957

Section 363.250. WAR ORPHANS SCHOLARSHIPS 124958

The foregoing appropriation item 235504, War Orphans 124959
Scholarships, shall be used to reimburse state institutions of 124960
higher education for waivers of instructional fees and general 124961
fees provided by them, to provide grants to institutions that have 124962
received a certificate of authorization from the Chancellor of the 124963
Board of Regents under Chapter 1713. of the Revised Code, in 124964
accordance with the provisions of section 5910.04 of the Revised 124965
Code, and to fund additional scholarship benefits provided by 124966
section 5910.032 of the Revised Code. 124967

Section 363.260. OHIOLINK 124968

The foregoing appropriation item 235507, OhioLINK, shall be 124969
used by the Chancellor of the Board of Regents to support 124970
OhioLINK, a consortium organized under division (T) of section 124971
3333.04 of the Revised Code to serve as the state's electronic 124972

library information and retrieval system, which provides access 124973
statewide to an extensive set of electronic databases and 124974
resources, the library holdings of Ohio's public and participating 124975
private nonprofit colleges and universities, and the State Library 124976
of Ohio. 124977

Section 363.270. AIR FORCE INSTITUTE OF TECHNOLOGY 124978

The foregoing appropriation item 235508, Air Force Institute 124979
of Technology, shall be used to: (A) strengthen the research and 124980
educational linkages between the Wright Patterson Air Force Base 124981
and institutions of higher education in Ohio; and (B) support the 124982
Dayton Area Graduate Studies Institute, an engineering graduate 124983
consortium of Wright State University, the University of Dayton, 124984
and the Air Force Institute of Technology, with the participation 124985
of the University of Cincinnati and The Ohio State University. 124986

Section 363.280. OHIO SUPERCOMPUTER CENTER 124987

The foregoing appropriation item 235510, Ohio Supercomputer 124988
Center, shall be used by the Chancellor of the Board of Regents to 124989
support the operation of the Ohio Supercomputer Center, a 124990
consortium organized under division (T) of section 3333.04 of the 124991
Revised Code, located at The Ohio State University. The Ohio 124992
Supercomputer Center is a statewide resource available to Ohio 124993
research universities both public and private. It is also intended 124994
that the center be made accessible to private industry as 124995
appropriate. 124996

Funds shall be used, in part, to support the Ohio 124997
Supercomputer Center's Computational Science Initiative, which 124998
includes its industrial outreach program, Blue Collar Computing, 124999
and its School of Computational Science. These collaborations 125000
between the Ohio Supercomputer Center and Ohio's colleges and 125001
universities shall be aimed at making Ohio a leader in using 125002

computer modeling to promote economic development. 125003

Section 363.290. COOPERATIVE EXTENSION SERVICE 125004

The foregoing appropriation item 235511, Cooperative 125005
Extension Service, shall be disbursed through the Chancellor of 125006
the Board of Regents to The Ohio State University in monthly 125007
payments, unless otherwise determined by the Director of Budget 125008
and Management under section 126.09 of the Revised Code. 125009

Of the foregoing appropriation item 235511, Cooperative 125010
Extension Service, up to \$30,000 in fiscal year 2014 shall be used 125011
to develop an in-school agriculturally based curriculum for 125012
inclusion within the regular classroom curriculum of an elementary 125013
school in the Cleveland Municipal School District and the 125014
Cincinnati City School District. 125015

Of the foregoing appropriation item 235511, Cooperative 125016
Extension Service, up to \$73,450 in each fiscal year shall be used 125017
to support a City of Cleveland Program Manager tasked with 125018
preparing regular classroom teachers in one elementary school to 125019
recruit and train volunteers for an after-school 4-H Club. 125020

Of the foregoing appropriation item 235511, Cooperative 125021
Extension Service, \$73,450 in each fiscal year shall be used to 125022
support a City of Cincinnati Program Manager tasked with preparing 125023
regular classroom teachers in one elementary school to recruit and 125024
train volunteers for an after-school 4-H Club. 125025

Section 363.300. CENTRAL STATE SUPPLEMENT 125026

The foregoing appropriation item 235514, Central State 125027
Supplement, shall be disbursed by the Chancellor of the Board of 125028
Regents to Central State University in accordance with the plan 125029
developed by the Chancellor and submitted to the Governor and the 125030
General Assembly as directed by Am. Sub. H.B. 153 of the 129th 125031
General Assembly. Funds shall be used in a manner consistent with 125032

the goals of increasing enrollment, improving course completion, 125033
and increasing the number of degrees conferred. 125034

The Chancellor shall monitor the implementation of the plan 125035
and the use of funds. Central State University shall provide any 125036
information requested by the Chancellor related to the 125037
implementation of the plan. If the Chancellor determines that 125038
Central State University's use of supplemental funds is not in 125039
accordance with the plan or if the plan is not having the desired 125040
effect, the Chancellor may notify Central State University that 125041
the plan is suspended. Upon receiving such notice, Central State 125042
University shall avoid all unnecessary expenditures under the 125043
plan. The Chancellor shall notify the Controlling Board of the 125044
suspension of the plan and within sixty days prepare a new plan 125045
for the use of any remaining funds. 125046

Section 363.310. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 125047
MEDICINE 125048

The foregoing appropriation item 235515, Case Western Reserve 125049
University School of Medicine, shall be disbursed to Case Western 125050
Reserve University through the Chancellor of the Board of Regents 125051
in accordance with agreements entered into under section 3333.10 125052
of the Revised Code, provided that the state support per full-time 125053
medical student shall not exceed that provided to full-time 125054
medical students at state universities. 125055

Section 363.320. FAMILY PRACTICE 125056

The Chancellor of the Ohio Board of Regents shall develop 125057
plans consistent with existing criteria and guidelines as may be 125058
required for the distribution of appropriation item 235519, Family 125059
Practice. 125060

Section 363.330. SHAWNEE STATE SUPPLEMENT 125061

The foregoing appropriation item 235520, Shawnee State Supplement, shall be disbursed by the Chancellor of the Board of Regents to Shawnee State University in accordance with the plan developed by the Chancellor and submitted to the Governor and the General Assembly as directed by Am. Sub. H.B. 153 of the 129th General Assembly. Funds shall be used in a manner consistent with the goals of improving course completion, increasing the number of degrees conferred, and furthering the university's mission of service to the Appalachian region.

The Chancellor shall monitor the implementation of the plan and the use of funds. Shawnee State University shall provide any information requested by the Chancellor related to the implementation of the plan. If the Chancellor determines that Shawnee State University's use of supplemental funds is not in accordance with the plan or if the plan is not having the desired effect, the Chancellor may notify Shawnee State University that the plan is suspended. Upon receiving such notice, Shawnee State University shall avoid all unnecessary expenditures under the plan. The Chancellor shall notify the Controlling Board of the suspension of the plan and within sixty days prepare a new plan for the use of any remaining funds.

Section 363.340. POLICE AND FIRE PROTECTION 125083

The foregoing appropriation item 235524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein.

Section 363.350. GERIATRIC MEDICINE 125091

The Chancellor of the Board of Regents shall develop plans 125092
consistent with existing criteria and guidelines as may be 125093
required for the distribution of appropriation item 235525, 125094
Geriatric Medicine. 125095

Section 363.360. PRIMARY CARE RESIDENCIES 125096

The Chancellor of the Board of Regents shall develop plans 125097
consistent with existing criteria and guidelines as may be 125098
required for the distribution of appropriation item 235526, 125099
Primary Care Residencies. 125100

The foregoing appropriation item 235526, Primary Care 125101
Residencies, shall be distributed in each fiscal year of the 125102
biennium, based on whether or not the institution has submitted 125103
and gained approval for a plan. If the institution does not have 125104
an approved plan, it shall receive five per cent less funding per 125105
student than it would have received from its annual allocation. 125106
The remaining funding shall be distributed among those 125107
institutions that meet or exceed their targets. 125108

Section 363.370. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 125109
CENTER 125110

The foregoing appropriation item 235535, Ohio Agricultural 125111
Research and Development Center, shall be disbursed through the 125112
Chancellor of the Board of Regents to The Ohio State University in 125113
monthly payments, unless otherwise determined by the Director of 125114
Budget and Management under section 126.09 of the Revised Code. 125115
The Ohio Agricultural Research and Development Center shall not be 125116
required to remit payment to The Ohio State University during the 125117
biennium ending June 30, 2015, for cost reallocation assessments. 125118
The cost reallocation assessments include, but are not limited to, 125119
any assessment on state appropriations to the Center. 125120

The Ohio Agricultural Research and Development Center, an 125121

entity of the College of Food, Agricultural, and Environmental 125122
Sciences of The Ohio State University, shall further its mission 125123
of enhancing Ohio's economic development and job creation by 125124
continuing to internally allocate on a competitive basis 125125
appropriated funding of programs based on demonstrated 125126
performance. Academic units, faculty, and faculty-driven programs 125127
shall be evaluated and rewarded consistent with agreed-upon 125128
performance expectations as called for in the College's 125129
Expectations and Criteria for Performance Assessment. 125130

Section 363.380. STATE UNIVERSITY CLINICAL TEACHING 125131

The foregoing appropriation items 235536, The Ohio State 125132
University Clinical Teaching; 235537, University of Cincinnati 125133
Clinical Teaching; 235538, University of Toledo Clinical Teaching; 125134
235539, Wright State University Clinical Teaching; 235540, Ohio 125135
University Clinical Teaching; and 235541, Northeast Ohio Medical 125136
University Clinical Teaching, shall be distributed through the 125137
Chancellor of the Board of Regents. 125138

Section 363.390. CAPITAL COMPONENT 125139

The foregoing appropriation item 235552, Capital Component, 125140
shall be used by the Chancellor of the Board of Regents to provide 125141
funding for prior commitments made pursuant to the state's former 125142
capital funding policy for state colleges and universities that 125143
was originally established in Am. H.B. 748 of the 121st General 125144
Assembly. Appropriations from this item shall be distributed to 125145
all campuses for which the estimated campus debt service 125146
attributable to qualifying capital projects was less than the 125147
campus's formula-determined capital component allocation. Campus 125148
allocations shall be determined by subtracting the estimated 125149
campus debt service attributable to qualifying capital projects 125150
from the campus's formula-determined capital component allocation. 125151

Moneys distributed from this appropriation item shall be 125152
restricted to capital-related purposes. 125153

Any campus for which the estimated campus debt service 125154
attributable to qualifying capital projects is greater than the 125155
campus's formula-determined capital component allocation shall 125156
have the difference subtracted from its State Share of Instruction 125157
allocation in each fiscal year. Appropriation equal to the sum of 125158
all such amounts except that of the Ohio Agricultural Research and 125159
Development Center shall be transferred from appropriation item 125160
235501, State Share of Instruction, to appropriation item 235552, 125161
Capital Component. Appropriation equal to any estimated Ohio 125162
Agricultural Research and Development Center debt service 125163
attributable to qualifying capital projects that is greater than 125164
the Center's formula-determined capital component allocation shall 125165
be transferred from appropriation item 235535, Ohio Agricultural 125166
Research and Development Center, to appropriation item 235552, 125167
Capital Component. 125168

Section 363.400. LIBRARY DEPOSITORIES 125169

The foregoing appropriation item, 235555, Library 125170
Depositories, shall be distributed to the state's five regional 125171
depository libraries for the cost-effective storage of and access 125172
to lesser-used materials in university library collections. The 125173
depositories shall be administrated by the Chancellor of the Board 125174
of Regents, or by OhioLINK at the discretion of the Chancellor. 125175

Section 363.410. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 125176

The foregoing appropriation item 235556, Ohio Academic 125177
Resources Network, shall be used by the Chancellor of the Board of 125178
Regents to support the operations of the Ohio Academic Resources 125179
Network, a consortium organized under division (T) of section 125180
3333.04 of the Revised Code, which shall include support for 125181

Ohio's colleges and universities in maintaining and enhancing 125182
network connections, using new network technologies to improve 125183
research, education, and economic development programs, and 125184
sharing information technology services. To the extent network 125185
capacity is available, OARnet shall support allocating bandwidth 125186
to eligible programs directly supporting Ohio's economic 125187
development. 125188

Section 363.420. LONG-TERM CARE RESEARCH 125189

The foregoing appropriation item 235558, Long-term Care 125190
Research, shall be disbursed to Miami University for long-term 125191
care research. 125192

Section 363.430. OHIO COLLEGE OPPORTUNITY GRANT 125193

(A) Except as provided in division (C) of this section: 125194

Of the foregoing appropriation item 235563, Ohio College 125195
Opportunity Grant, \$41,000,000 in each fiscal year shall be used 125196
by the Chancellor of the Board of Regents to award need-based 125197
financial aid to students enrolled in eligible four-year public 125198
institutions of higher education, excluding early college high 125199
school and post-secondary enrollment option participants. 125200

Of the foregoing appropriation item 235563, Ohio College 125201
Opportunity Grant, \$41,000,000 in each fiscal year shall be used 125202
by the Chancellor of the Board of Regents to award need-based 125203
financial aid to students enrolled in eligible private nonprofit 125204
institutions of higher education, excluding early college high 125205
school and post-secondary enrollment option participants. 125206

The remainder of the foregoing appropriation item 235563, 125207
Ohio College Opportunity Grant, shall be used by the Chancellor of 125208
the Board of Regents to award needs-based financial aid to 125209
students enrolled in eligible private for-profit career colleges 125210
and schools. 125211

(B)(1) As used in this section: 125212

(a) "Eligible institution" means any institution described in 125213
divisions (B)(2)(a) to (c) of section 3333.122 of the Revised 125214
Code. 125215

(b) The three "sectors" of institutions of higher education 125216
consist of the following: 125217

(i) State colleges and universities, community colleges, 125218
state community colleges, university branches, and technical 125219
colleges; 125220

(ii) Eligible private nonprofit institutions of higher 125221
education; 125222

(iii) Eligible private for-profit career colleges and 125223
schools. 125224

(2) If the Chancellor determines that the amounts 125225
appropriated for support of the Ohio College Opportunity Grant 125226
program are inadequate to provide grants to all eligible students 125227
as calculated under division (D) of section 3333.122 of the 125228
Revised Code, the Chancellor may create a distribution formula for 125229
fiscal year 2014 and fiscal year 2015 based on the formula used in 125230
fiscal year 2013, or may follow methods established in division 125231
(C)(1)(a) or (b) of section 3333.122 of the Revised Code. The 125232
Chancellor shall notify the Controlling Board of the distribution 125233
method. Any formula calculated under this division shall be 125234
complete and established to coincide with the start of the 125235
2013-2014 academic year. 125236

(C) Prior to determining the amount of funds available to 125237
award under this section and section 3333.122 of the Revised Code, 125238
the Chancellor shall use the foregoing appropriation item 235563, 125239
Ohio College Opportunity Grant, to pay for renewals or partial 125240
renewals of scholarships students receive under the Ohio Academic 125241
Scholarship Program under sections 3333.21 and 3333.22 of the 125242

Revised Code. In paying for scholarships under this division, the 125243
Chancellor shall deduct funds from the allocations made under 125244
division (A) of this section. Deductions shall be proportionate to 125245
the amounts allocated to each sector from the total amounts 125246
appropriated for each sector under the foregoing appropriation 125247
item 235563, Ohio College Opportunity Grant. 125248

In each fiscal year, the Chancellor shall not distribute or 125249
obligate or commit to be distributed an amount greater than what 125250
is appropriated under the foregoing appropriation item 235563, 125251
Ohio College Opportunity Grant. 125252

(D) The Chancellor shall establish, and post on the Ohio 125253
Board of Regents' web site, award tables based on any formulas 125254
created under division (B) of this section. The Chancellor shall 125255
notify students and institutions of any reductions in awards under 125256
this section. 125257

On or before August 31, 2013, the Chancellor of the Board of 125258
Regents shall submit award tables to the Controlling Board for the 125259
2013-2014 academic year and allocations of Ohio College 125260
Opportunity Grant awards not already specified in section 3333.122 125261
of the Revised Code. 125262

(E) Notwithstanding section 3333.122 of the Revised Code, no 125263
student shall be eligible to receive an Ohio College Opportunity 125264
Grant for more than ten semesters, fifteen quarters, or the 125265
equivalent of five academic years, less the number of semesters or 125266
quarters in which the student received an Ohio Instructional 125267
Grant. 125268

Section 363.440. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 125269

The foregoing appropriation item 235572, The Ohio State 125270
University Clinic Support, shall be distributed through the 125271
Chancellor of the Board of Regents to The Ohio State University 125272

for support of dental and veterinary medicine clinics. 125273

Section 363.450. NATIONAL GUARD SCHOLARSHIP PROGRAM 125274

The Chancellor of the Board of Regents shall disburse funds 125275
from appropriation item 235599, National Guard Scholarship 125276
Program. During each fiscal year, the Chancellor of the Board of 125277
Regents, within ten days of cancellation, may certify to the 125278
Director of Budget and Management the amount of canceled 125279
prior-year encumbrances in appropriation item 235599, National 125280
Guard Scholarship Program. Upon receipt of the certification, the 125281
Director of Budget and Management may transfer cash in an amount 125282
up to the amount certified from the General Revenue Fund to the 125283
National Guard Scholarship Reserve Fund (Fund 5BM0). The 125284
Chancellor of the Board of Regents shall seek Controlling Board 125285
approval to authorize additional expenditures for appropriation 125286
item 235623, National Guard Scholarship Reserve Fund. Upon 125287
approval of the Controlling Board, the additional amounts are 125288
hereby appropriated. The Chancellor of the Board of Regents shall 125289
disburse funds from appropriation item 235623, National Guard 125290
Scholarship Reserve Fund. 125291

Section 363.460. PLEDGE OF FEES 125292

Any new pledge of fees, or new agreement for adjustment of 125293
fees, made in the biennium ending June 30, 2015, to secure bonds 125294
or notes of a state institution of higher education for a project 125295
for which bonds or notes were not outstanding on the effective 125296
date of this section shall be effective only after approval by the 125297
Chancellor of the Board of Regents, unless approved in a previous 125298
biennium. 125299

Section 363.470. HIGHER EDUCATION GENERAL OBLIGATION DEBT 125300
SERVICE 125301

The foregoing appropriation item 235909, Higher Education
General Obligation Debt Service, shall be used to pay all debt
service and related financing costs at the times they are required
to be made during the period from July 1, 2013, through June 30,
2015, for obligations issued under sections 151.01 and 151.04 of
the Revised Code.

Section 363.480. SALES AND SERVICES

The Chancellor of the Board of Regents is authorized to
charge and accept payment for the provision of goods and services.
Such charges shall be reasonably related to the cost of producing
the goods and services. Except as otherwise provided by law, no
charges may be levied for goods or services that are produced as
part of the routine responsibilities or duties of the Chancellor.
All revenues received by the Chancellor of the Board of Regents
shall be deposited into Fund 4560, and may be used by the
Chancellor of the Board of Regents to pay for the costs of
producing the goods and services.

Section 363.483. CO-OP INTERNSHIP PROGRAM

Of the foregoing appropriation item 235649, Co-op Internship
Program, \$75,000 in each fiscal year shall be used by the
Chancellor of the Board of Regents to support the operations of
Ohio University's Voinovich School.

Of the foregoing appropriation item 235649, Co-op Internship
Program, \$75,000 in each fiscal year, shall be used by the
Chancellor of the Board of Regents to support the operations of
The Ohio State University's John Glenn School of Public Affairs.

Of the foregoing appropriation item 235649, Co-op Internship
Program, \$75,000 in each fiscal year shall be used to support the
Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235649, Co-op Internship

Program, \$75,000 in each fiscal year shall be used to support the 125332
Center for Public Management and Regional Affairs at Miami 125333
University. 125334

Of the foregoing appropriation item 235649, Co-op Internship 125335
Program, \$75,000 in each fiscal year shall be used to support the 125336
Washington Center Internship Program. 125337

Of the foregoing appropriation item 235649, Co-op Internship 125338
Program, \$75,000 in each fiscal year shall be used to support the 125339
Ohio Center for the Advancement of Women in Public Service at the 125340
Maxine Goodman Levin College of Urban Affairs at Cleveland State 125341
University. 125342

Of the foregoing appropriation item 235649, Co-op Internship 125343
Program, \$75,000 in each fiscal year shall be used to support the 125344
University of Cincinnati Internship Program. 125345

Of the foregoing appropriation item 235649, Co-op Internship 125346
Program, \$75,000 in each fiscal year shall be used by the 125347
Chancellor of the Board of Regents to support the operations of 125348
the Center for Regional Development at Bowling Green State 125349
University. 125350

Of the foregoing appropriation item 235649, Co-op Internship 125351
Program, \$75,000 in each fiscal year shall be used by the 125352
Chancellor of the Board of Regents to support the operations of 125353
the Institute for Defense Studies at Wright State University. 125354

Section 363.490. HIGHER EDUCATIONAL FACILITY COMMISSION 125355
ADMINISTRATION 125356

The foregoing appropriation item 235602, Higher Educational 125357
Facility Commission Administration, shall be used by the 125358
Chancellor of the Board of Regents for operating expenses related 125359
to the Chancellor of the Board of Regents' support of the 125360
activities of the Ohio Higher Educational Facility Commission. 125361

Upon the request of the Chancellor, the Director of Budget and Management may transfer up to \$29,100 cash in each fiscal year from the HEFC Operating Expenses Fund (Fund 4610) to the HEFC Administration Fund (Fund 4E80).

Section 363.500. NURSING LOAN PROGRAM

The foregoing appropriation item 235606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$50,000 in each fiscal year may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

Section 363.510. TELECOMMUNITY AND DISTANCE LEARNING

Of the foregoing appropriation item 235674, Telecommunity and Distance Learning, up to \$25,000 in each fiscal year shall be distributed by the Chancellor of the Board of Regents on a grant basis to eligible school districts to establish "distance learning" through interactive video technologies in the school district. Per agreements with eight Ohio local telephone companies, ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone Company, Orwell Telephone Company, Sprint North Central Telephone, VERIZON, and Western Reserve Telephone Company, school districts are eligible for funds if they are within one of the listed telephone company service areas. Funds to administer the program shall be expended by the Chancellor of the Board of Regents up to the amount specified in the agreements with the listed telephone companies.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4X10 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of any

settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond.

Of the foregoing appropriation item 235674, Telecommunity and Distance Learning, up to \$24,150 in each fiscal year shall be distributed by the Chancellor of the Board of Regents on a grant basis to eligible school districts to establish "distance learning" in the school district. Per an agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by the Chancellor of the Board of Regents up to the amount specified in the agreement with Ameritech.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4X10 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of a settlement agreement between the company and the Public Utilities Commission in fiscal year 1995.

Section 363.520. VETERANS PREFERENCES

The Chancellor of the Board of Regents shall work with the Department of Veterans Services to develop specific veterans preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans preference laws.

Section 363.530. STATE NEED-BASED FINANCIAL AID

RECONCILIATION

By the first day of August in each fiscal year, or as soon as possible thereafter, the Chancellor of the Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher

education institutions for the state's need-based financial aid 125422
programs. The amounts certified are hereby appropriated to 125423
appropriation item 235618, State Need-based Financial Aid 125424
Reconciliation, from revenues received in the State Need-based 125425
Financial Aid Reconciliation Fund (Fund 5Y50). 125426

Section 363.540. (A) As used in this section: 125427

(1) "Board of trustees" includes the managing authority of a 125428
university branch district. 125429

(2) "State institution of higher education" has the same 125430
meaning as in section 3345.011 of the Revised Code. 125431

(B) The board of trustees of any state institution of higher 125432
education, notwithstanding any rule of the institution to the 125433
contrary, may adopt a policy providing for mandatory furloughs of 125434
employees, including faculty, to achieve spending reductions 125435
necessitated by institutional budget deficits. 125436

Section 363.550. EFFICIENCY ADVISORY COMMITTEE 125437

The Chancellor of the Board of Regents shall establish an 125438
efficiency advisory committee for the purpose of generating 125439
optimal efficiency plans for campuses, identifying shared services 125440
opportunities, and sharing best practices. The efficiency advisory 125441
committee shall also attempt to reduce the cost of textbooks and 125442
other education resource materials. The committee shall meet at 125443
the call of the Chancellor or the Chancellor's designee, but at 125444
least quarterly. Each state institution of higher education shall 125445
designate an employee to serve as its efficiency officer 125446
responsible for the evaluation and improvement of operational 125447
efficiencies on campus. Each efficiency officer shall serve on the 125448
efficiency advisory committee. 125449

By December 31 of each year, the Efficiency Advisory 125450
Committee shall provide a report to the Office of Budget and 125451

Management, the Governor, and the General Assembly compiling the 125452
operational efficiency plans for all institutions of higher 125453
education and benchmarking efficiency gains realized over the 125454
preceding year and progress in implementing the prior year's 125455
efficiency plan. The report shall also be made available to the 125456
public on the Ohio Board of Regents web site. 125457

Section 363.570. (A) FUND ABOLITION 125458

On July 1, 2013, or as soon as possible thereafter, the 125459
Director of Budget and Management shall transfer the cash balance 125460
in the eTech Ohio Telecommunity Education Fund (Fund 4W90) to the 125461
Distance Learning Fund (Fund 4X10). Upon completion of the 125462
transfer, the eTech Ohio Telecommunity Education Fund (Fund 125463
4W90) is hereby abolished. 125464

(B) ETECH OHIO COMMISSION ABOLISHMENT AND APPROPRIATION LINE 125465
ITEM TRANSFER 125466

Effective July 1, 2013, the Director of Budget and Management 125467
shall cancel any existing encumbrances against appropriation item 125468
935401, Statehouse News Bureau, and re-establish them against 125469
appropriation item 235478, Statehouse News Bureau. The 125470
re-established encumbrance amounts are hereby appropriated. Any 125471
business commenced but not completed under appropriation item 125472
935401, Statehouse News Bureau, by July 1, 2013, shall be 125473
completed under appropriation item 235478, Statehouse News Bureau, 125474
in the same manner and with the same effect as if it were 125475
completed with regard to appropriation item 935401, Statehouse 125476
News Bureau. 125477

Effective July 1, 2013, the Director of Budget and Management 125478
shall cancel any existing encumbrances against appropriation item 125479
935402, Ohio Government Telecommunications Services, and 125480
re-establish them against appropriation item 235479, Ohio 125481
Government Telecommunications Services. The re-established 125482

encumbrance amounts are hereby appropriated. Any business 125483
commenced but not completed under appropriation item 935402, Ohio 125484
Government Telecommunications Services, by July 1, 2013, shall be 125485
completed under appropriation item 235479, Ohio Government 125486
Telecommunications Services, in the same manner and with the same 125487
effect as if it were completed with regard to appropriation item 125488
935402, Ohio Government Telecommunications Services. 125489

Effective July 1, 2013, the Director of Budget and Management 125490
shall cancel any existing encumbrances against appropriation item 125491
935408, General Operations, and re-establish them, as determined 125492
to be appropriate by the Director of Budget and Management, 125493
against appropriation item 235480, General Technology Operations. 125494
The re-established encumbrance amounts are hereby appropriated. 125495
Any business commenced but not completed under appropriation item 125496
935408, General Operations, by July 1, 2013, shall be completed, 125497
as determined to be appropriate by the Director of Budget and 125498
Management, under appropriation item 235480, General Technology 125499
Operations, in the same manner and with the same effect as if it 125500
were completed with regard to appropriation item 935408, General 125501
Operations. 125502

Effective July 1, 2013, the Director of Budget and Management 125503
shall cancel any existing encumbrances against appropriation item 125504
935409, Technology Operations, and re-establish them against 125505
appropriation item 235481, Technology Operations. The 125506
re-established encumbrance amounts are hereby appropriated. Any 125507
business commenced but not completed under appropriation item 125508
935409, Technology Operations, by July 1, 2013, shall be completed 125509
under appropriation item 235481, Technology Operations, in the 125510
same manner and with the same effect as if it were completed with 125511
regard to appropriation item 935409, Technology Operations. 125512

Effective July 1, 2013, the Director of Budget and Management 125513
shall cancel any existing encumbrances against appropriation item 125514

935410, Content Development, Acquisition, and Distribution, and 125515
re-establish them, as determined to be appropriate by the Director 125516
of Budget and Management, against appropriation item 235482, 125517
Content Development, Acquisition, and Distribution. The 125518
re-established encumbrance amounts are hereby appropriated. Any 125519
business commenced but not completed under appropriation item 125520
935410, Content Development, Acquisition, and Distribution, by 125521
July 1, 2013, shall be completed, as determined to be appropriate 125522
by the Director of Budget and Management, under appropriation item 125523
235482, Content Development, Acquisition, and Distribution, in the 125524
same manner and with the same effect as if it were completed with 125525
regard to appropriation item 935410, Content Development, 125526
Acquisition, and Distribution. 125527

Effective July 1, 2013, the Director of Budget and Management 125528
shall cancel any existing encumbrances against appropriation item 125529
935411, Technology Integration and Professional Development, and 125530
re-establish them, as determined to be appropriate by the Director 125531
of Budget and Management, against appropriation item 235483, 125532
Technology Integration and Professional Development. The 125533
re-established encumbrance amounts are hereby appropriated. Any 125534
business commenced but not completed under appropriation item 125535
935411, Technology Integration and Professional Development, by 125536
July 1, 2013, shall be completed, as determined to be appropriate 125537
by the Director of Budget and Management, under appropriation item 125538
235483, Technology Integration and Professional Development, in 125539
the same manner and with the same effect as if it were completed 125540
with regard to appropriation item 935411, Technology Integration 125541
and Professional Development. 125542

Effective July 1, 2013, the Director of Budget and Management 125543
shall cancel any existing encumbrances against appropriation item 125544
935412, Information Technology, and re-establish them against 125545
appropriation item 235484, Information Technology. The 125546

re-established encumbrance amounts are hereby appropriated. Any 125547
business commenced but not completed under appropriation item 125548
935412, Information Technology, by July 1, 2013, shall be 125549
completed under appropriation item 235484, Information Technology, 125550
in the same manner and with the same effect as if it were 125551
completed with regard to appropriation item 935412, Information 125552
Technology. 125553

Effective July 1, 2013, the Director of Budget and Management 125554
shall cancel any existing encumbrances against appropriation item 125555
935603, Affiliate Services, and re-establish them against 125556
appropriation item 235679, Affiliate Services. The re-established 125557
encumbrance amounts are hereby appropriated. Any business 125558
commenced but not completed under appropriation item 935603, 125559
Affiliate Services, by July 1, 2013, shall be completed under 125560
appropriation item 235679, Affiliate Services, in the same manner 125561
and with the same effect as if it were completed with regard to 125562
appropriation item 935603, Affiliate Services. 125563

Effective July 1, 2013, the Director of Budget and Management 125564
shall cancel any existing encumbrances against appropriation item 125565
935605, Government Television/Telecommunications Operating, and 125566
re-establish them against appropriation item 235680, Government 125567
Television/Telecommunications Operating. The re-established 125568
encumbrance amounts are hereby appropriated. Any business 125569
commenced but not completed under appropriation item 935605, 125570
Government Television/Telecommunications Operating, by July 1, 125571
2013, shall be completed under appropriation item 235680, 125572
Government Television/Telecommunications Operating, in the same 125573
manner and with the same effect as if it were completed with 125574
regard to appropriation item 935605, Government 125575
Television/Telecommunications Operating. 125576

Effective July 1, 2013, the Director of Budget and Management 125577
shall cancel any existing encumbrances against appropriation item 125578

935608, Media Services, and re-establish them against 125579
appropriation item 235676, Media Services. The re-established 125580
encumbrance amounts are hereby appropriated. Any business 125581
commenced but not completed under appropriation item 935608, Media 125582
Services, by July 1, 2013, shall be completed under appropriation 125583
item 235676, Media Services, in the same manner and with the same 125584
effect as if it were completed with regard to appropriation item 125585
935608, Media Services. 125586

Effective July 1, 2013, the Director of Budget and Management 125587
shall cancel any existing encumbrances against appropriation item 125588
935640, Conference/Special Purposes, and re-establish them against 125589
appropriation item 235675, Conference/Special Purposes. The 125590
re-established encumbrance amounts are hereby appropriated. Any 125591
business commenced but not completed under appropriation item 125592
935640, Conference/Special Purposes, by July 1, 2013, shall be 125593
completed under appropriation item 235675, Conference/Special 125594
Purposes, in the same manner and with the same effect as if it 125595
were completed with regard to appropriation item 935640, 125596
Conference/Special Purposes. 125597

Effective July 1, 2013, the Director of Budget and Management 125598
shall cancel any existing encumbrances against appropriation item 125599
935630, Telecommunity, and cancel any existing encumbrances 125600
against appropriation item 935634, Distance Learning, and 125601
re-establish them against appropriation item 235674, Telecommunity 125602
and Distance Learning. The re-established encumbrance amounts are 125603
hereby appropriated. Any business commenced but not completed 125604
under appropriation items 935630, Telecommunity, and 935634, 125605
Distance Learning, by July 1, 2013, shall be completed under 125606
appropriation item 235674, Telecommunity and Distance Learning, in 125607
the same manner and with the same effect as if it were completed 125608
with regard to appropriation items 935630, Telecommunity, and 125609
935634, Distance Learning. 125610

On July 1, 2013, or as soon as possible thereafter, the 125611
Director of Budget and Management shall cancel any existing 125612
capital appropriations and capital encumbrances of the former 125613
eTech Ohio Commission in the Higher Education Improvement Fund 125614
(Fund 7034), and re-establish them with the Chancellor of the 125615
Board of Regents in the Higher Education Improvement Fund (Fund 125616
7034). The re-established amounts are hereby appropriated. 125617

Effective July 1, 2013, notwithstanding any provision of the 125618
law to the contrary, the Director of Budget and Management may 125619
make budget changes made necessary by the transfer of the former 125620
eTech Ohio Commission to the Chancellor of the Board of Regents, 125621
if any, including administrative organization, program transfers, 125622
the creation of new funds, the transfer of state funds, the 125623
consolidation of funds, and the transfer of capital 125624
appropriations, as authorized by this section. The Director of 125625
Budget and Management may, if necessary, establish prior year 125626
encumbrances or parts of prior year encumbrances of the former 125627
eTech Ohio Commission with the Chancellor of the Board of Regents 125628
in the appropriate fund and appropriation item for the same 125629
purpose and for payment to the same vendor in fiscal year 2014 or 125630
fiscal year 2015. The established encumbrances plus any additional 125631
amounts determined to be necessary for the Chancellor of the Board 125632
of Regents to perform the operations and related management 125633
functions of the former eTech Ohio Commission are hereby 125634
appropriated. 125635

(C) OHIO BROADCASTING AND PUBLIC RADIO ADVISORY BOARD 125636

There is hereby created the Ohio Broadcasting and Public 125637
Radio Advisory Board within the office of the Chancellor of the 125638
Board of Regents. All centralized broadcasting services, public 125639
television services, and public radio services currently provided 125640
by the eTech Ohio Commission North Star facility are hereby 125641
transferred to the Chancellor of the Board of Regents. The 125642

Chancellor of the Board of Regents shall select an Ohio 125643
Broadcasting and Public Radio Advisory Board comprised of four 125644
members who will advise the Chancellor on the direction and 125645
expenditure of funds. The Chancellor shall also appoint an 125646
Executive Director of the Ohio Broadcasting and Public Radio 125647
Advisory Board, who shall oversee the daily operations and staff 125648
of the North Star facility. 125649

(D) CONFERENCE OPERATION OFFICE 125650

Beginning in fiscal year 2014, the annual eTech Ohio 125651
Conference will be overseen by a Conference Operation Office 125652
comprised of employees of the Chancellor of the Board of Regents 125653
and Department of Education, including former employees of the 125654
eTech Ohio Commission transferred to the Chancellor of the Board 125655
of Regents and the Department of Education. The Office shall be 125656
responsible for conferences that focus on professional development 125657
in the education field, educational technology, distance learning, 125658
and other education topics pertinent to the State of Ohio. 125659

(E) ETECH ABOLISHMENT 125660

On and after July 1, 2013, the eTech Ohio Commission is 125661
hereby abolished and its duties, personnel, assets, and 125662
liabilities are transferred as provided in divisions (F) and (G) 125663
of this section. 125664

(F) TRANSFER OF RESPONSIBILITIES 125665

(1) On July 1, 2013, responsibility for administration of the 125666
state's educational telecommunications activities under sections 125667
3333.89, 3333.91, and 3333.92 and new section 3333.90 of the 125668
Revised Code and teacher professional development for implementing 125669
educational technology under section 3319.235 of the Revised Code 125670
are transferred from the former eTech Ohio Commission to the 125671
Chancellor of the Ohio Board of Regents. The Chancellor is 125672
thereupon and thereafter successor to, assumes the obligations of, 125673

and otherwise constitutes the continuation of the eTech Ohio Commission relating to the functions, assets, records, and obligations of the state regarding those matters.

All other functions of the former eTech Ohio Commission are discontinued.

(2) Any business commenced but not completed by the former eTech Ohio Commission shall be completed by the Chancellor in the same manner, and with the same effect, as if completed by the eTech Ohio Commission. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer, and shall be recognized, administered, performed, or enforced by the Chancellor.

(3) All of the rules of the former eTech Ohio Commission continue in effect as rules of the Chancellor, until amended or rescinded by the Chancellor.

(4) No judicial or administrative action or proceeding in which the former eTech Ohio Commission is a party, that is pending on the effective date of this section, is affected by the transfer. Such action or proceeding shall be prosecuted or defended in the name of the Chancellor. On application to the court or other tribunal, the Chancellor of the Ohio Board of Regents shall be substituted for the eTech Ohio Commission as a party to such action or proceeding.

(5) Subject to the lay-off provisions of sections 124.321 to 124.328, section 3301.41, and division (C) of new section 3333.90 of the Revised Code, all employees of the former eTech Ohio Commission continue with the Chancellor or with the Department of Education and retain their positions and all benefits accruing thereto. The Chancellor, the Superintendent of Public Instruction, and the Director of the Office of Budget and Management shall jointly determine which employees continue with the Chancellor and

which continue with the Department. 125705

(6) All books, records, documents, files, transcripts, 125706
equipment, furniture, supplies, and other materials assigned to or 125707
in the possession of the former eTech Ohio Commission shall be 125708
transferred to the Chancellor. 125709

(G) TRANSFER OF CAPITAL DUTIES 125710

As of July 1, 2013, the Chancellor of the Board of Regents 125711
shall succeed to and have and perform all fiduciary duties and 125712
responsibilities previously held by the Director of eTech Ohio for 125713
all outstanding capital appropriations designated for use by eTech 125714
Ohio. 125715

(H) EDUCATIONAL TELECOMMUNICATIONS RESPONSIBILITIES 125716

(1) Beginning July 1, 2013, the Chancellor of the Ohio Board 125717
of Regents shall do all of the following regarding the management 125718
and oversight of the state's educational telecommunications 125719
activities: 125720

(a) Own or operate transmission facilities and 125721
interconnection facilities, or contract for transmission 125722
facilities and interconnection facilities, for an educational 125723
television, radio, or radio reading service network; 125724

(b) Establish standards for interconnection facilities used 125725
by the Chancellor in the transmission of educational television, 125726
radio, or radio reading service programming; 125727

(c) Enter into agreements with noncommercial educational 125728
television or radio broadcasting stations or radio reading 125729
services for the operation of the interconnection; 125730

(d) Enter into agreements with noncommercial educational 125731
television or radio broadcasting stations or radio reading 125732
services for the production and use of educational television, 125733
radio, or radio reading service programs to be transmitted by the 125734

educational telecommunications network; 125735

(e) Act as consultant with educational television and 125736
educational radio stations and radio reading services toward 125737
coordination within the state of the distribution of federal funds 125738
that may become available for equipment for educational 125739
broadcasting or radio reading services; 125740

(f) Make payments to noncommercial Ohio educational 125741
television or radio broadcasting stations or radio reading 125742
services to sustain the operation of such stations or services; 125743

(g) Execute contracts and other agreements necessary and 125744
desirable to carry out the purposes of this section. 125745

(2) Sections 9.331 to 9.335 and Chapters 123., 124., 125., 125746
and 153. of the Revised Code do not apply to contracts, programs, 125747
projects, or activities of the Chancellor carried out under 125748
division (H)(1) of this section. 125749

(3) All employees of the former eTech Ohio Commission who 125750
transferred to the office of the Chancellor, as a result of the 125751
transfer to the Chancellor of the state's educational 125752
telecommunications activities by this section, and who when 125753
employed by that Commission or a predecessor agency were included 125754
in a bargaining unit established under Chapter 4117. of the 125755
Revised Code, shall continue to be included in that bargaining 125756
unit, are public employees as defined in section 4117.01 of the 125757
Revised Code, and may collectively bargain with the Chancellor in 125758
accordance with that chapter. Otherwise, any employee hired by the 125759
Chancellor on or after the effective date of this section, either 125760
to fill vacancies or to fill new positions related to the 125761
Chancellor's duties under this section, shall be exempt from 125762
Chapter 4117. of the Revised Code and shall not be public 125763
employees as defined in section 4117.01 of the Revised Code. 125764

Section 363.580. ELECTRONIC TEXTBOOK PILOT PROJECT	125765
(A) The Electronic Textbook Pilot Project is hereby established to provide grants on a competitive basis to public and chartered nonpublic schools to purchase electronic textbooks through the learning clearinghouse established in section 3333.81 to 3333.88. The Electronic Textbook Pilot Project shall be administered by the Chancellor of the Board of Regents.	125766 125767 125768 125769 125770 125771
(B) The Chancellor shall have the authority to set the grant criteria and to select grant recipients. In awarding grants under this section, the Chancellor shall establish the criteria for determining which applicants will be considered a priority for receiving grant funds.	125772 125773 125774 125775 125776
(C) Not later than January 31, 2014, the Chancellor shall issue a request for proposals from eligible schools.	125777 125778
(D) Not later than May 31, 2014, the Chancellor shall award grants for use during the 2014-2015 school year.	125779 125780
(E) The Chancellor and Superintendent of Public Instruction jointly shall notify schools of and promote participation in the pilot project.	125781 125782 125783
(F) Not later than December 31, 2015, the Chancellor shall submit to the Governor and the General Assembly, in accordance with section 101.68 of the Revised Code, a formative evaluation of the implementation and results of the pilot project and legislative recommendations for any changes in the pilot project.	125784 125785 125786 125787 125788
(G) The number of grants awarded under this section shall not exceed the number that can be funded with appropriations made by the General Assembly for this purpose.	125789 125790 125791
Section 365.10. DRC DEPARTMENT OF REHABILITATION AND CORRECTION	125792 125793

		General Revenue Fund				125794	
GRF	501321	Institutional	\$	883,768,015	\$	873,724,802	125795
		Operations					
GRF	501403	Prisoner Compensation	\$	6,000,000	\$	6,000,000	125796
GRF	501405	Halfway House	\$	45,049,356	\$	46,024,108	125797
GRF	501406	Lease Rental Payments	\$	104,099,500	\$	99,534,800	125798
GRF	501407	Community	\$	34,187,858	\$	34,314,390	125799
		Nonresidential					
		Programs					
GRF	501408	Community Misdemeanor	\$	12,856,800	\$	12,856,800	125800
		Programs					
GRF	501501	Community Residential	\$	63,345,972	\$	66,150,781	125801
		Programs - CBCF					
GRF	503321	Parole and Community	\$	64,480,938	\$	65,029,680	125802
		Operations					
GRF	504321	Administrative	\$	20,659,664	\$	20,907,476	125803
		Operations					
GRF	505321	Institution Medical	\$	243,289,774	\$	254,139,452	125804
		Services					
GRF	506321	Institution Education	\$	19,102,051	\$	19,112,418	125805
		Services					
TOTAL GRF		General Revenue Fund	\$	1,496,839,928	\$	1,497,794,707	125806
		General Services Fund Group					125807
1480	501602	Institutional	\$	3,139,577	\$	3,139,577	125808
		Services					
2000	501607	Ohio Penal Industries	\$	41,393,226	\$	40,609,872	125809
4830	501605	Property Receipts	\$	582,086	\$	582,086	125810
4B00	501601	Sewer Treatment	\$	2,023,671	\$	2,067,214	125811
		Services					
4D40	501603	Prisoner Programs	\$	17,499,255	\$	17,499,255	125812
4L40	501604	Transitional Control	\$	1,113,120	\$	1,113,120	125813
4S50	501608	Education Services	\$	4,114,782	\$	4,114,782	125814

5710	501606	Training Academy	\$	125,000	\$	125,000	125815
		Receipts					
5930	501618	Laboratory Services	\$	3,750,000	\$	0	125816
5AF0	501609	State and Non-Federal	\$	1,440,000	\$	1,440,000	125817
		Awards					
5H80	501617	Offender Financial	\$	2,000,000	\$	2,000,000	125818
		Responsibility					
5L60	501611	Information	\$	250,000	\$	250,000	125819
		Technology Services					
TOTAL	GSF	General Services Fund	\$	77,430,717	\$	72,940,906	125820
		Group					
		Federal Special Revenue Fund Group					125821
3230	501619	Federal Grants	\$	7,132,943	\$	7,132,943	125822
TOTAL	FED	Federal Special Revenue					125823
		Fund Group	\$	7,132,943	\$	7,132,943	125824
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,581,403,588	\$	1,577,868,556	125825
		TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL					125826
		SENTENCING REFORMS					125827
		For the purposes of implementing criminal sentencing reforms,					125828
		and notwithstanding any other provision of law to the contrary,					125829
		the Director of Budget and Management, at the request of the					125830
		Director of Rehabilitation and Correction, may transfer up to					125831
		\$14,000,000 in appropriations, in each of fiscal years 2014 and					125832
		2015, from appropriation item 501321, Institutional Operations, to					125833
		any combination of appropriation items 501405, Halfway House;					125834
		501407, Community Residential Programs; 501408, Community					125835
		Misdemeanor Programs; and 501501, Community Residential Programs -					125836
		CBCF.					125837
		LEASE RENTAL PAYMENTS					125838
		The foregoing appropriation item 501406, Lease Rental					125839
		Payments, shall be used to meet all payments at the times they are					125840
		required to be made during the period from July 1, 2013, through					125841

June 30, 2015, by the Department of Rehabilitation and Correction 125842
under the primary leases and agreements for those buildings made 125843
under Chapters 152. and 154. of the Revised Code. These 125844
appropriations are the source of funds pledged for bond service 125845
charges on related obligations issued under Chapters 152. and 154. 125846
of the Revised Code. 125847

OSU MEDICAL CHARGES 125848

Notwithstanding section 341.192 of the Revised Code, at the 125849
request of the Department of Rehabilitation and Correction, The 125850
Ohio State University Medical Center, including the Arthur G. 125851
James Cancer Hospital and Richard J. Solove Research Institute and 125852
the Richard M. Ross Heart Hospital, shall provide necessary care 125853
to persons who are confined in state adult correctional 125854
facilities. The provision of necessary care shall be billed to the 125855
Department at a rate not to exceed the authorized reimbursement 125856
rate for the same service established by the Department of 125857
Medicaid under the Medicaid Program. 125858

CORRECTIVE CASH TRANSFER 125859

At the request of the Director of Rehabilitation and 125860
Correction, the Director of Budget and Management may transfer an 125861
amount not to exceed \$2,391 in cash that was mistakenly deposited 125862
in the Federal Grants Fund (Fund 3230) to the General Revenue 125863
Fund. 125864

Section 369.10. RCB RESPIRATORY CARE BOARD 125865

General Services Fund Group 125866
4K90 872609 Operating Expenses \$ 547,576 \$ 542,246 125867
TOTAL GSF General Services 125868
Fund Group \$ 547,576 \$ 542,246 125869
TOTAL ALL BUDGET FUND GROUPS \$ 547,576 \$ 542,246 125870

Section 371.10. RDF REVENUE DISTRIBUTION FUNDS 125872

Special State Revenue Fund Group					125873
5JG0 110633	Gross Casino Revenue	\$ 158,005,325	\$ 168,977,942		125874
	County Fund				
TOTAL SSR State Special Revenue		\$ 158,005,325	\$ 168,977,942		125875
Fund Group					
Volunteer Firefighters' Dependents Fund					125876
7085 800985	Volunteer Firemen's	\$ 300,000	\$ 300,000		125877
	Dependents Fund				
TOTAL 085 Volunteer Firefighters'					125878
Dependents Fund		\$ 300,000	\$ 300,000		125879
Agency Fund Group					125880
4P80 001698	Cash Management	\$ 3,100,000	\$ 3,100,000		125881
	Improvement Fund				
5JH0 110634	Gross Casino Revenue	\$ 105,336,883	\$ 112,651,961		125882
	County Student Fund				
5JJ0 110636	Gross Casino Revenue	\$ 15,490,718	\$ 16,566,465		125883
	Host City Fund				
6080 001699	Investment Earnings	\$ 30,000,000	\$ 30,000,000		125884
7062 110962	Resort Area Excise	\$ 1,000,000	\$ 1,000,000		125885
	Tax				
7063 110963	Permissive Tax	\$ 2,066,331,400	\$ 2,151,135,100		125886
	Distribution				
7067 110967	School District	\$ 346,669,300	\$ 365,277,800		125887
	Income Tax				
7099 762902	Permissive Tax	\$ 184,000,000	\$ 184,000,000		125888
	Distribution - Auto				
	Registration				
TOTAL AGY Agency Fund Group		\$ 2,751,928,301	\$ 2,863,731,326		125889
Holding Account Redistribution					125890
R045 110617	International Fuel	\$ 40,000,000	\$ 40,000,000		125891
	Tax Distribution				
TOTAL 090 Holding Account		\$ 40,000,000	\$ 40,000,000		125892

Redistribution Fund					
Revenue Distribution Fund Group				125893	
7049	335900	Indigent Drivers	\$ 2,250,000	\$ 2,250,000	125894
		Alcohol Treatment			
7050	762900	International	\$ 30,000,000	\$ 30,000,000	125895
		Registration Plan			
		Distribution			
7051	762901	Auto Registration	\$ 360,000,000	\$ 360,000,000	125896
		Distribution			
7054	110954	Local Government	\$ 5,649,000	\$ 5,649,000	125897
		Property Tax			
		Replacement - Utility			
7060	110960	Gasoline Excise Tax	\$ 395,000,000	\$ 395,000,000	125898
		Fund			
7065	110965	Public Library Fund	\$ 359,300,000	\$ 369,000,000	125899
7066	800966	Undivided Liquor	\$ 14,100,000	\$ 14,100,000	125900
		Permits			
7068	110968	State and Local	\$ 196,000,000	\$ 196,000,000	125901
		Government Highway			
		Distribution			
7069	110969	Local Government Fund	\$ 363,600,000	\$ 376,400,000	125902
7081	110981	Local Government	\$ 146,500,000	\$ 107,900,000	125903
		Property Tax			
		Replacement-Business			
7082	110982	Horse Racing Tax	\$ 100,000	\$ 100,000	125904
7083	700900	Ohio Fairs Fund	\$ 1,400,000	\$ 1,400,000	125905
TOTAL RDF Revenue Distribution					125906
Fund Group			\$ 1,873,899,000	\$ 1,857,799,000	125907
TOTAL ALL BUDGET FUND GROUPS			\$ 4,824,132,626	\$ 4,930,808,268	125908
ADDITIONAL APPROPRIATIONS					125909
Appropriation items in this section shall be used for the					125910
purpose of administering and distributing the designated revenue					125911
distribution funds according to the Revised Code. If it is					125912

determined that additional appropriations are necessary for this 125913
 purpose, such amounts are hereby appropriated. 125914

GENERAL REVENUE FUND TRANSFERS 125915

Notwithstanding any provision of law to the contrary, in 125916
 fiscal year 2014 and fiscal year 2015, the Director of Budget and 125917
 Management may transfer from the General Revenue Fund to the Local 125918
 Government Tangible Property Tax Replacement Fund (Fund 7081) in 125919
 the Revenue Distribution Fund Group, those amounts necessary to 125920
 reimburse local taxing units under section 5751.22 of the Revised 125921
 Code. Also, in fiscal year 2014 and fiscal year 2015, the Director 125922
 of Budget and Management may make temporary transfers from the 125923
 General Revenue Fund to ensure sufficient balances in the Local 125924
 Government Tangible Property Tax Replacement Fund (Fund 7081) and 125925
 to replenish the General Revenue Fund for such transfers. 125926

Section 373.10. SAN BOARD OF SANITARIAN REGISTRATION 125927

General Services Fund Group				125928
4K90 893609 Operating Expenses	\$	137,850	\$ 129,850	125929
TOTAL GSF General Services				125930
Fund Group	\$	137,850	\$ 129,850	125931
TOTAL ALL BUDGET FUND GROUPS	\$	137,850	\$ 129,850	125932

Section 375.10. OSB OHIO STATE SCHOOL FOR THE BLIND 125934

General Revenue Fund				125935
GRF 226321 Operations	\$	7,278,579	\$ 7,278,579	125936
TOTAL GRF General Revenue Fund	\$	7,278,579	\$ 7,278,579	125937
General Services Fund Group				125938
4H80 226602 Education Reform	\$	27,000	\$ 27,000	125939
Grants				
TOTAL GSF General Services				125940
Fund Group	\$	27,000	\$ 27,000	125941

Federal Special Revenue Fund Group					125942	
3100 226626	Coordinating Unit	\$	2,527,104	\$	2,527,104	125943
3DT0 226621	Ohio Transition	\$	650,000	\$	650,000	125944
	Collaborative					
3P50 226643	Medicaid Professional	\$	50,000	\$	50,000	125945
	Services					
	Reimbursement					
TOTAL FED Federal Special						125946
Revenue Fund Group		\$	3,227,104	\$	3,227,104	125947
State Special Revenue Fund Group						125948
4M50 226601	Work Study and	\$	461,521	\$	461,521	125949
	Technology Investment					
TOTAL SSR State Special Revenue						125950
Fund Group		\$	461,521	\$	461,521	125951
TOTAL ALL BUDGET FUND GROUPS		\$	10,994,204	\$	10,994,204	125952
Section 377.10.	OSD OHIO SCHOOL FOR THE DEAF					125954
General Revenue Fund						125955
GRF 221321	Operations	\$	8,727,657	\$	8,727,657	125956
TOTAL GRF General Revenue Fund		\$	8,727,657	\$	8,727,657	125957
General Services Fund Group						125958
4M10 221602	Education Reform	\$	35,000	\$	35,000	125959
	Grants					
TOTAL GSF General Services						125960
Fund Group		\$	35,000	\$	35,000	125961
Federal Special Revenue Fund Group						125962
3110 221625	Coordinating Unit	\$	2,153,245	\$	2,153,245	125963
3R00 221684	Medicaid Professional	\$	35,000	\$	35,000	125964
	Services					
	Reimbursement					
TOTAL FED Federal Special						125965

Revenue Fund Group		\$	2,188,245	\$	2,188,245	125966
State Special Revenue Fund Group						125967
4M00 221601 Educational Program		\$	95,000	\$	95,000	125968
Expenses						
5H60 221609 Even Start Fees and		\$	35,000	\$	35,000	125969
Gifts						
TOTAL SSR State Special Revenue						125970
Fund Group		\$	130,000	\$	130,000	125971
TOTAL ALL BUDGET FUND GROUPS		\$	11,080,902	\$	11,080,902	125972
Section 381.10. SOS SECRETARY OF STATE						125974
General Revenue Fund						125975
GRF 050321 Operating Expenses		\$	2,144,030	\$	2,144,030	125976
GRF 050407 Pollworkers Training		\$	234,196	\$	234,196	125977
TOTAL GRF General Revenue Fund		\$	2,378,226	\$	2,378,226	125978
General Services Fund Group						125979
4120 050609 Notary Commission		\$	475,000	\$	475,000	125980
4130 050601 Information Systems		\$	49,000	\$	49,000	125981
4S80 050610 Board of Voting		\$	7,200	\$	7,200	125982
Machine Examiners						
5FG0 050620 BOE Reimbursement and		\$	80,000	\$	80,000	125983
Education						
TOTAL General Services Fund Group		\$	611,200	\$	611,200	125984
Federal Special Revenue Fund Group						125985
3AH0 050614 Election		\$	300,000	\$	300,000	125986
Reform/Health and						
Human Services						
3AS0 050616 Help America Vote Act		\$	1,710,000	\$	1,710,000	125987
(HAVA)						
TOTAL FED Federal Special Revenue						125988
Fund Group		\$	2,010,000	\$	2,010,000	125989
State Special Revenue Fund Group						125990

5990 050603	Business Services	\$	14,385,400	\$	14,385,400	125991
	Operating Expenses					
TOTAL SSR State Special Revenue						125992
Fund Group		\$	14,385,400	\$	14,385,400	125993
Holding Account Redistribution Fund Group						125994
R001 050605	Uniform Commercial	\$	30,000	\$	30,000	125995
	Code Refunds					
R002 050606	Corporate/Business	\$	85,000	\$	85,000	125996
	Filing Refunds					
TOTAL 090 Holding Account						125997
Redistribution Fund Group		\$	115,000	\$	115,000	125998
TOTAL ALL BUDGET FUND GROUPS		\$	19,499,826	\$	19,499,826	125999
	POLLWORKER TRAINING					126000
	The foregoing appropriation item 050407, Pollworkers					126001
	Training, shall be used to reimburse county boards of elections					126002
	for pollworker training pursuant to section 3501.27 of the Revised					126003
	Code. At the end of fiscal year 2014, an amount equal to the					126004
	unexpended, unencumbered portion of appropriation item 050407,					126005
	Pollworkers Training, is hereby reappropriated in fiscal year 2015					126006
	for the same purpose.					126007
	BOARD OF VOTING MACHINE EXAMINERS					126008
	The foregoing appropriation item 050610, Board of Voting					126009
	Machine Examiners, shall be used to pay for the services and					126010
	expenses of the members of the Board of Voting Machine Examiners,					126011
	and for other expenses that are authorized to be paid from the					126012
	Board of Voting Machine Examiners Fund, which is created in					126013
	section 3506.05 of the Revised Code. Moneys not used shall be					126014
	returned to the person or entity submitting equipment for					126015
	examination. If it is determined that additional appropriations					126016
	are necessary, such amounts are hereby appropriated.					126017
	HAVA FUNDS					126018

An amount equal to the unexpended, unencumbered portion of 126019
appropriation item 050614, Election Reform/Health and Human 126020
Services, at the end of fiscal year 2014 is reappropriated for the 126021
same purpose in fiscal year 2015. 126022

An amount equal to the unexpended, unencumbered portion of 126023
appropriation item 050616, Help America Vote Act (HAVA), at the 126024
end of fiscal year 2014 is reappropriated for the same purpose in 126025
fiscal year 2015. 126026

The Director of Budget and Management shall credit the 126027
ongoing interest earnings from the Election Reform/Health and 126028
Human Services Fund (Fund 3AH0) and the Help America Vote Act 126029
(HAVA) (Fund 3AS0) to the respective funds and distribute these 126030
earnings in accordance with the terms of the grant under which the 126031
money is received. 126032

MISCELLANEOUS FEDERAL GRANTS 126033

On July 1, 2013, or as soon as possible thereafter, the 126034
Director of Budget and Management shall transfer from the General 126035
Revenue Fund (GRF) all investment earnings and amounts equal to 126036
the interest earnings that were attributable to the Miscellaneous 126037
Federal Grants Fund (Fund 3FM0) in each quarter of fiscal year 126038
2013. The Director of Budget and Management shall credit the 126039
ongoing interest earnings from Fund 3FM0 to that fund and 126040
distribute these earnings in accordance with the terms of the 126041
grant under which the money was received. 126042

HOLDING ACCOUNT REDISTRIBUTION GROUP 126043

The foregoing appropriation items 050605, Uniform Commercial 126044
Code Refunds, and 050606, Corporate/Business Filing Refunds, shall 126045
be used to hold revenues until they are directed to the 126046
appropriate accounts or until they are refunded. If it is 126047
determined that additional appropriations are necessary, such 126048
amounts are hereby appropriated. 126049

Section 383.10. SEN THE OHIO SENATE				126050
General Revenue Fund				126051
GRF 020321	Operating Expenses	\$ 11,947,822	\$ 11,947,822	126052
TOTAL GRF General Revenue Fund				126053
General Services Fund Group				126054
1020 020602	Senate Reimbursement	\$ 852,001	\$ 852,001	126055
4090 020601	Miscellaneous Sales	\$ 34,497	\$ 34,497	126056
TOTAL GSF General Services				126057
Fund Group				126058
TOTAL ALL BUDGET FUND GROUPS				126059
OPERATING EXPENSES				126060
On July 1, 2013, or as soon as possible thereafter, the Clerk				126061
of the Senate may certify to the Director of Budget and Management				126062
the amount of the unexpended, unencumbered balance of the				126063
foregoing appropriation item 020321, Operating Expenses, at the				126064
end of fiscal year 2013 to be reappropriated to fiscal year 2014.				126065
The amount certified is hereby reappropriated to the same				126066
appropriation item for fiscal year 2014.				126067
On July 1, 2014, or as soon as possible thereafter, the Clerk				126068
of the Senate may certify to the Director of Budget and Management				126069
the amount of the unexpended, unencumbered balance of the				126070
foregoing appropriation item 020321, Operating Expenses, at the				126071
end of fiscal year 2014 to be reappropriated to fiscal year 2015.				126072
The amount certified is hereby reappropriated to the same				126073
appropriation item for fiscal year 2015.				126074
Section 385.10. CSV COMMISSION ON SERVICE AND VOLUNTEERISM				126075
General Revenue Fund				126076
GRF 866321	CSV Operations	\$ 286,661	\$ 294,072	126077
TOTAL GRF General Revenue Fund				126078

General Services Fund				126079
5GN0 866605 Serve Ohio Support	\$	30,000	\$ 30,000	126080
TOTAL GSF General Services Fund	\$	30,000	\$ 30,000	126081
Federal Special Revenue Fund Group				126082
3R70 866617 AmeriCorps Programs	\$	7,447,000	\$ 7,447,000	126083
TOTAL FED Federal Special Revenue				126084
Fund Group	\$	7,447,000	\$ 7,447,000	126085
TOTAL ALL BUDGET FUND GROUPS	\$	7,763,661	\$ 7,771,072	126086
 Section 387.10. CSF COMMISSIONERS OF THE SINKING FUND				126088
Debt Service Fund Group				126089
7070 155905 Third Frontier	\$	66,511,600	\$ 83,783,000	126090
Research and				
Development Bond				
Retirement Fund				
7072 155902 Highway Capital	\$	132,647,900	\$ 127,171,800	126091
Improvement Bond				
Retirement Fund				
7073 155903 Natural Resources Bond	\$	24,325,400	\$ 25,443,000	126092
Retirement Fund				
7074 155904 Conservation Projects	\$	33,376,600	\$ 34,447,700	126093
Bond Retirement Fund				
7076 155906 Coal Research and	\$	2,858,900	\$ 4,327,200	126094
Development Bond				
Retirement Fund				
7077 155907 State Capital	\$	227,810,300	\$ 228,948,900	126095
Improvement Bond				
Retirement Fund				
7078 155908 Common Schools Bond	\$	351,806,100	\$ 377,364,700	126096
Retirement Fund				
7079 155909 Higher Education Bond	\$	221,168,700	\$ 248,822,000	126097
Retirement Fund				

7080	155901	Persian Gulf, Afghanistan, and Iraq Conflicts Bond Retirement Fund	\$	7,542,600	\$	9,914,800	126098
7090	155912	Job Ready Site Development Bond Retirement Fund	\$	15,498,400	\$	19,124,500	126099
TOTAL DSF Debt Service Fund Group			\$	1,083,546,500	\$	1,159,347,600	126100
TOTAL ALL BUDGET FUND GROUPS			\$	1,083,546,500	\$	1,159,347,600	126101
ADDITIONAL APPROPRIATIONS							126102
Appropriation items in this section are for the purpose of							126103
paying debt service and financing costs on bonds or notes of the							126104
state issued under the Ohio Constitution and acts of the General							126105
Assembly. If it is determined that additional amounts are							126106
necessary for this purpose, such amounts are hereby appropriated.							126107
Section 389.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY							126108
DEVELOPMENT FOUNDATION							126109
Tobacco Master Settlement Agreement Fund Group							126110
5M90	945601	Operating Expenses	\$	426,800	\$	426,800	126111
TOTAL TMF Tobacco Master Settlement			\$	426,800	\$	426,800	126112
Agreement Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	426,800	\$	426,800	126113
Section 391.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY &							126115
AUDIOLOGY							126116
General Services Fund Group							126117
4K90	886609	Operating Expenses	\$	472,260	\$	508,660	126118
TOTAL GSF General Services							126119
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	427,260	\$	508,660	126121

Section 393.10. BTA BOARD OF TAX APPEALS				126123
General Revenue Fund				126124
GRF 116321	Operating Expenses	\$ 1,700,000	\$ 1,700,000	126125
TOTAL GRF General Revenue Fund				126126
TOTAL ALL BUDGET FUND GROUPS				126127
 Section 395.10. TAX DEPARTMENT OF TAXATION				 126129
General Revenue Fund				126130
GRF 110321	Operating Expenses	\$ 71,068,330	\$ 67,968,332	126131
GRF 110404	Tobacco Settlement	\$ 178,200	\$ 178,200	126132
Enforcement				
GRF 110901	Property Tax	\$ 666,640,000	\$ 693,305,600	126133
Allocation - Taxation				
TOTAL GRF General Revenue Fund				126134
General Services Fund Group				126135
2280 110628	Revenue Enhancement	\$ 15,500,000	\$ 17,500,000	126136
4330 110602	Tape File Account	\$ 175,000	\$ 175,000	126137
5BP0 110639	Wireless 9-1-1	\$ 290,000	\$ 290,000	126138
Administration				
5CZ0 110631	Vendor's License	\$ 250,000	\$ 250,000	126139
Application				
5MN0 110638	STARS Development and	\$ 5,000,000	\$ 3,000,000	126140
Implementation				
5N50 110605	Municipal Income Tax	\$ 150,000	\$ 150,000	126141
Administration				
5N60 110618	Kilowatt Hour Tax	\$ 100,000	\$ 100,000	126142
Administration				
5V80 110623	Property Tax	\$ 11,978,310	\$ 11,978,310	126143
Administration				
5W70 110627	Exempt Facility	\$ 49,500	\$ 49,500	126144
Administration				

TOTAL GSF General Services				126145
Fund Group	\$	33,492,810	\$ 33,492,810	126146
State Special Revenue Fund Group				126147
4350 110607 Local Tax	\$	20,000,000	\$ 20,700,000	126148
Administration				
4360 110608 Motor Vehicle Audit	\$	1,459,609	\$ 1,459,609	126149
4370 110606 Income Tax	\$	38,800	\$ 38,800	126150
Contribution				
4380 110609 School District Income	\$	5,802,044	\$ 5,802,044	126151
Tax				
4C60 110616 International	\$	682,415	\$ 682,415	126152
Registration Plan				
4R60 110610 Tire Tax	\$	244,193	\$ 244,193	126153
Administration				
5V70 110622 Motor Fuel Tax	\$	5,035,374	\$ 5,035,374	126154
Administration				
6390 110614 Cigarette Tax	\$	1,750,000	\$ 1,750,000	126155
Enforcement				
6420 110613 Ohio Political Party	\$	500,000	\$ 500,000	126156
Distributions				
6880 110615 Local Excise Tax	\$	775,015	\$ 775,015	126157
Administration				
TOTAL SSR State Special Revenue				126158
Fund Group	\$	36,287,450	\$ 36,987,450	126159
Agency Fund Group				126160
4250 110635 Tax Refunds	\$	1,546,800,000	\$ 1,546,800,000	126161
7095 110995 Municipal Income Tax	\$	21,000,000	\$ 21,000,000	126162
TOTAL AGY Agency Fund Group	\$	1,567,800,000	\$ 1,567,800,000	126163
Holding Account Redistribution Fund Group				126164
R010 110611 Tax Distributions	\$	50,000	\$ 50,000	126165
R011 110612 Miscellaneous Income	\$	50,000	\$ 50,000	126166
Tax Receipts				

TOTAL 090 Holding Account			126167
Redistribution Fund Group	\$	100,000	\$ 100,000 126168
TOTAL ALL BUDGET FUND GROUPS	\$	2,375,566,790	\$ 2,399,832,392 126169

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK 126170

The foregoing appropriation item 110901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation item 110901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, which are determined to be necessary for these purposes, are hereby appropriated.

MUNICIPAL INCOME TAX 126196

The foregoing appropriation item 110995, Municipal Income 126197

Tax, shall be used to make payments to municipal corporations 126198
under section 5745.05 of the Revised Code. If it is determined 126199
that additional appropriations are necessary to make such 126200
payments, such amounts are hereby appropriated. 126201

TAX REFUNDS 126202

The foregoing appropriation item 110635, Tax Refunds, shall 126203
be used to pay refunds under section 5703.052 of the Revised Code. 126204
If it is determined that additional appropriations are necessary 126205
for this purpose, such amounts are hereby appropriated. 126206

INTERNATIONAL REGISTRATION PLAN AUDIT 126207

The foregoing appropriation item 110616, International 126208
Registration Plan, shall be used under section 5703.12 of the 126209
Revised Code for audits of persons with vehicles registered under 126210
the International Registration Plan. 126211

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 126212

Of the foregoing appropriation item 110607, Local Tax 126213
Administration, the Tax Commissioner may disburse funds, if 126214
available, for the purposes of paying travel expenses incurred by 126215
members of Ohio's delegation to the Streamlined Sales Tax Project, 126216
as appointed under section 5740.02 of the Revised Code. Any travel 126217
expense reimbursement paid for by the Department of Taxation shall 126218
be done in accordance with applicable state laws and guidelines. 126219

TOBACCO SETTLEMENT ENFORCEMENT 126220

The foregoing appropriation item 110404, Tobacco Settlement 126221
Enforcement, shall be used by the Tax Commissioner to pay costs 126222
incurred in the enforcement of divisions (F) and (G) of section 126223
5743.03 of the Revised Code. 126224

STARS DEVELOPMENT AND IMPLEMENTATION FUND 126225

The foregoing appropriation item 110638, STARS Development 126226
and Implementation Fund, shall be used to pay costs incurred in 126227

the development and implementation of the department's State Tax Accounting and Revenue System. The Director of Budget and Management, under a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Tax Reform System Implementation Fund, Local Tax Administration Fund, School District Income Tax Fund, Discovery Project Fund, and the Motor Fuel Tax Administration Fund to the credit of the STARS Development and Implementation Fund (Fund 5MN0). The transfers of cash shall not exceed \$8,000,000 in the biennium.

Section 397.10. DOT DEPARTMENT OF TRANSPORTATION				126238
General Revenue Fund				126239
GRF 775451	Public Transportation	\$ 7,300,000	\$ 7,300,000	126240
	- State			
GRF 776465	Ohio Rail Development	\$ 2,000,000	\$ 2,000,000	126241
	Commission			
GRF 777471	Airport Improvements	\$ 750,000	\$ 750,000	126242
	- State			
TOTAL GRF	General Revenue Fund	\$ 10,050,000	\$ 10,050,000	126243
TOTAL ALL BUDGET FUND GROUPS		\$ 10,050,000	\$ 10,050,000	126244

Section 399.10. TOS TREASURER OF STATE				126246
General Revenue Fund				126247
GRF 090321	Operating Expenses	\$ 7,743,553	\$ 7,743,553	126248
GRF 090401	Office of the Sinking	\$ 502,304	\$ 502,304	126249
	Fund			
GRF 090402	Continuing Education	\$ 377,702	\$ 377,702	126250
GRF 090524	Police and Fire	\$ 6,000	\$ 6,000	126251
	Disability Pension			
	Fund			
GRF 090534	Police and Fire Ad Hoc	\$ 70,000	\$ 70,000	126252

	Cost of Living				
GRF 090554	Police and Fire	\$	507,000	\$	507,000 126253
	Survivor Benefits				
GRF 090575	Police and Fire Death	\$	20,000,000	\$	20,000,000 126254
	Benefits				
TOTAL GRF General Revenue Fund		\$	29,206,559	\$	29,206,559 126255
	General Services Fund Group				126256
4E90 090603	Securities Lending	\$	3,765,000	\$	3,765,000 126257
	Income				
5770 090605	Investment Pool	\$	850,000	\$	850,000 126258
	Reimbursement				
5C50 090602	County Treasurer	\$	170,057	\$	170,057 126259
	Education				
6050 090609	Treasurer of State	\$	835,000	\$	835,000 126260
	Administrative Fund				
TOTAL GSF General Services					126261
Fund Group		\$	5,620,057	\$	5,620,057 126262
	Agency Fund Group				126263
4250 090635	Tax Refunds	\$	6,000,000	\$	6,000,000 126264
TOTAL Agency Fund Group		\$	6,000,000	\$	6,000,000 126265
TOTAL ALL BUDGET FUND GROUPS		\$	40,826,616	\$	40,826,616 126266

Section 399.20. OFFICE OF THE SINKING FUND 126268

The foregoing appropriation item 090401, Office of the 126269
 Sinking Fund, shall be used for costs incurred by or on behalf of 126270
 the Commissioners of the Sinking Fund and the Ohio Public 126271
 Facilities Commission with respect to State of Ohio general 126272
 obligation bonds or notes, and the Treasurer of State with respect 126273
 to State of Ohio general obligation and special obligation bonds 126274
 or notes, including, but not limited to, printing, advertising, 126275
 delivery, rating fees and the procurement of ratings, professional 126276
 publications, membership in professional organizations, and other 126277

services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs relating to the issuance and administration of Highway Capital Improvement bonds or notes authorized under Ohio Constitution, Article VIII, Section 2m and Chapter 151. of the Revised Code. That reimbursement shall be made from appropriation item 155902, Highway Capital Improvement Bond Retirement Fund, by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such a reimbursement are hereby appropriated from the Highway Capital Improvement Bond Retirement Fund created in section 151.06 of the Revised Code.

POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090575, Police and Fire Death Benefits, shall be disbursed quarterly by the Treasurer of State at the beginning of each quarter of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. The Treasurer of State shall certify such amounts quarterly to the Director of Budget and Management. By the twentieth day of June of each fiscal year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this appropriation item but not disbursed.

TAX REFUNDS

The foregoing appropriation item 090635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If the Director of Budget and Management determines that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

	Section 401.10.	VTO VETERANS' ORGANIZATIONS			126309
		General Revenue Fund			126310
		VAP AMERICAN EX-PRISONERS OF WAR			126311
GRF	743501	State Support	\$ 28,910	\$ 28,910	126312
		VAN ARMY AND NAVY UNION, USA, INC.			126313
GRF	746501	State Support	\$ 63,539	\$ 63,539	126314
		VKW KOREAN WAR VETERANS			126315
GRF	747501	State Support	\$ 57,118	\$ 57,118	126316
		VJW JEWISH WAR VETERANS			126317
GRF	748501	State Support	\$ 34,321	\$ 34,321	126318
		VCW CATHOLIC WAR VETERANS			126319
GRF	749501	State Support	\$ 66,978	\$ 66,978	126320
		VPH MILITARY ORDER OF THE PURPLE HEART			126321
GRF	750501	State Support	\$ 65,116	\$ 65,116	126322
		VVV VIETNAM VETERANS OF AMERICA			126323
GRF	751501	State Support	\$ 214,776	\$ 214,776	126324
		VAL AMERICAN LEGION OF OHIO			126325
GRF	752501	State Support	\$ 349,189	\$ 349,189	126326
		VII AMVETS			126327
GRF	753501	State Support	\$ 332,547	\$ 332,547	126328
		VAV DISABLED AMERICAN VETERANS			126329
GRF	754501	State Support	\$ 249,836	\$ 249,836	126330
		VMC MARINE CORPS LEAGUE			126331
GRF	756501	State Support	\$ 133,947	\$ 133,947	126332
		V37 37TH DIVISION VETERANS' ASSOCIATION			126333
GRF	757501	State Support	\$ 6,868	\$ 6,868	126334
		VFW VETERANS OF FOREIGN WARS			126335
GRF	758501	State Support	\$ 284,841	\$ 284,841	126336
		TOTAL GRF General Revenue Fund	\$ 1,887,986	\$ 1,887,986	126337
		TOTAL ALL BUDGET FUND GROUPS	\$ 1,887,986	\$ 1,887,986	126338
		RELEASE OF FUNDS			126339

The Director of Budget and Management may release the 126340
 foregoing appropriation items 743501, 746501, 747501, 748501, 126341
 749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501, 126342
 and 758501, State Support. 126343

Section 403.10. DVS DEPARTMENT OF VETERANS SERVICES 126344

General Revenue Fund 126345

GRF 900321 Veterans' Homes \$ 27,369,946 \$ 27,369,946 126346

GRF 900402 Hall of Fame \$ 107,075 \$ 107,075 126347

GRF 900408 Department of Veterans Services \$ 2,001,823 \$ 2,001,823 126348

GRF 900901 Persian Gulf, Afghanistan, and Iraq Compensation Debt Service \$ 7,542,600 \$ 9,914,800 126349

TOTAL GRF General Revenue Fund \$ 37,021,444 \$ 39,393,644 126350

General Services Fund Group 126351

4840 900603 Veterans' Homes Services \$ 1,596,894 \$ 1,596,894 126352

TOTAL GSF General Services Fund \$ 1,596,894 \$ 1,596,894 126353

Group

Federal Special Revenue Fund Group 126354

3680 900614 Veterans Training \$ 684,017 \$ 697,682 126355

3740 900606 Troops to Teachers \$ 111,822 \$ 111,879 126356

3BX0 900609 Medicare Services \$ 2,250,000 \$ 2,250,000 126357

3L20 900601 Veterans' Homes Operations - Federal \$ 24,887,790 \$ 25,634,423 126358

TOTAL FED Federal Special Revenue 126359

Fund Group \$ 27,933,629 \$ 28,693,984 126360

State Special Revenue Fund Group 126361

4E20 900602 Veterans' Homes \$ 10,614,652 \$ 10,837,435 126362

		Operating				
6040	900604	Veterans' Homes	\$	403,663	\$	459,359 126363
		Improvement				
		TOTAL SSR State Special Revenue				126364
		Fund Group	\$	11,018,315	\$	11,296,794 126365
		Persian Gulf, Afghanistan, and Iraq Compensation Fund Group				126366
7041	900615	Veteran Bonus Program	\$	738,703	\$	629,709 126367
		- Administration				
7041	900641	Persian Gulf,	\$	14,500,000	\$	9,400,000 126368
		Afghanistan, and Iraq				
		Compensation				
		TOTAL 041 Persian Gulf,				126369
		Afghanistan, and Iraq				126370
		Compensation Fund Group	\$	15,238,703	\$	10,029,709 126371
		TOTAL ALL BUDGET FUND GROUPS	\$	92,808,985	\$	91,011,025 126372
		PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL				126373
		OBLIGATION DEBT SERVICE				126374
		The foregoing appropriation item 900901, Persian Gulf,				126375
		Afghanistan and Iraq Compensation Debt Service, shall be used to				126376
		pay all debt service and related financing costs during the period				126377
		from July 1, 2013, through June 30, 2015, on obligations issued				126378
		for Persian Gulf, Afghanistan and Iraq Conflicts Compensation				126379
		purposes under sections 151.01 and 151.12 of the Revised Code.				126380
		Section 405.10. DVM STATE VETERINARY MEDICAL BOARD				126381
		General Services Fund Group				126382
4K90	888609	Operating Expenses	\$	337,432	\$	331,695 126383
5BU0	888602	Veterinary Student	\$	30,000	\$	30,000 126384
		Loan Program				
		TOTAL GSF General Services				126385
		Fund Group	\$	367,432	\$	361,695 126386
		TOTAL ALL BUDGET FUND GROUPS	\$	367,432	\$	361,695 126387

Section 407.10. DYS DEPARTMENT OF YOUTH SERVICES				126389
General Revenue Fund				126390
GRF	470401	RECLAIM Ohio	\$ 166,862,228 \$ 166,862,228	126391
GRF	470412	Lease Rental Payments	\$ 26,044,800 \$ 27,819,700	126392
GRF	470510	Youth Services	\$ 16,702,728 \$ 16,702,728	126393
GRF	472321	Parole Operations	\$ 10,583,118 \$ 10,583,118	126394
GRF	477321	Administrative	\$ 11,355,389 \$ 11,355,389	126395
Operations				
TOTAL GRF	General Revenue Fund		\$ 231,548,263 \$ 233,323,163	126396
General Services Fund Group				126397
1750	470613	Education	\$ 3,950,000 \$ 3,600,000	126398
Reimbursement				
4790	470609	Employee Food Service	\$ 125,000 \$ 125,000	126399
4A20	470602	Child Support	\$ 250,000 \$ 250,000	126400
4G60	470605	General Operational	\$ 115,000 \$ 115,000	126401
Funds				
5BN0	470629	E-Rate Program	\$ 525,000 \$ 525,000	126402
TOTAL GSF	General Services			126403
Fund Group			\$ 4,965,000 \$ 4,615,000	126404
Federal Special Revenue Fund Group				126405
3210	470601	Education	\$ 1,480,740 \$ 1,203,272	126406
3210	470603	Juvenile Justice	\$ 300,000 \$ 300,000	126407
Prevention				
3210	470606	Nutrition	\$ 1,033,947 \$ 1,033,947	126408
3210	470614	Title IV-E	\$ 5,755,620 \$ 3,714,548	126409
Reimbursements				
3CP0	470638	Federal Juvenile	\$ 20,000 \$ 5,000	126410
Programs FFY 09				
3CR0	470639	Federal Juvenile	\$ 479,900 \$ 126,000	126411
Programs FFY 10				
3FB0	470641	Federal Juvenile	\$ 500,000 \$ 105,000	126412

		Programs FFY 11					
3FC0	470642	Federal Juvenile	\$	600,000	\$	50,000	126413
		Programs FFY 12					
3GB0	470643	Federal Juvenile	\$	135,000	\$	600,000	126414
		Programs FFY 13					
3GC0	470644	Federal Juvenile	\$	0	\$	135,000	126415
		Programs FFY 14					
3V50	470604	Juvenile	\$	1,300,000	\$	1,000,000	126416
		Justice/Delinquency					
		Prevention					
TOTAL FED		Federal Special Revenue					126417
Fund Group			\$	11,605,207	\$	8,272,767	126418
State Special Revenue		Fund Group					126419
1470	470612	Vocational Education	\$	1,795,000	\$	1,795,000	126420
TOTAL SSR		State Special Revenue					126421
Fund Group			\$	1,795,000	\$	1,795,000	126422
TOTAL ALL BUDGET FUND GROUPS			\$	249,913,470	\$	248,005,930	126423
		COMMUNITY PROGRAMS					126424
		For purposes of improving community programs, and					126425
		notwithstanding any provision of law to the contrary, of the					126426
		foregoing appropriation item 470401, RECLAIM Ohio, the Department					126427
		of Youth Services shall use \$8,813,811 in each fiscal year to					126428
		expand Targeted RECLAIM, the Behavioral Health Juvenile Justice					126429
		Initiative, and other evidence-based community programs.					126430
		For purposes of implementing juvenile sentencing reforms, and					126431
		notwithstanding any provision of law to the contrary, the					126432
		Department of Youth Services may use up to forty-five per cent of					126433
		the unexpended, unencumbered balance of the portion of					126434
		appropriation item 470401, RECLAIM Ohio, that is allocated to					126435
		juvenile correctional facilities in each fiscal year to expand					126436
		Targeted RECLAIM, the Behavioral Health Juvenile Justice					126437
		Initiative, and other evidence-based community programs.					126438

LEASE RENTAL PAYMENTS 126439

The foregoing appropriation item 470412, Lease Rental 126440
Payments, shall be used to meet all payments at the times they are 126441
required to be made for the period from July 1, 2013, through June 126442
30, 2015, by the Department of Youth Services under the leases and 126443
agreements for facilities made under Chapters 152. and 154. of the 126444
Revised Code. This appropriation is the source of funds pledged 126445
for bond service charges on related obligations issued under 126446
Chapters 152. and 154. of the Revised Code. 126447

EDUCATION REIMBURSEMENT 126448

The foregoing appropriation item 470613, Education 126449
Reimbursement, shall be used to fund the operating expenses of 126450
providing educational services to youth supervised by the 126451
Department of Youth Services. Operating expenses include, but are 126452
not limited to, teachers' salaries, maintenance costs, and 126453
educational equipment. This appropriation item may be used for 126454
capital expenses related to the education program. 126455

EMPLOYEE FOOD SERVICE AND EQUIPMENT 126456

Notwithstanding section 125.14 of the Revised Code, the 126457
foregoing appropriation item 470609, Employee Food Service, may be 126458
used to purchase any food operational items with funds received 126459
into the fund from reimbursements for state surplus property. 126460

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES 126461

In collaboration with the county family and children first 126462
council, the juvenile court of that county that receives 126463
allocations from one or both of the foregoing appropriation items 126464
470401, RECLAIM Ohio, and 470510, Youth Services, may transfer 126465
portions of those allocations to a flexible funding pool as 126466
authorized by the section of Am. Sub. H.B. 153 of the 129th 126467
General Assembly titled "FAMILY AND CHILDREN FIRST FLEXIBLE 126468
FUNDING POOL." 126469

Section 501.10. SCREENING TOOL FOR HIGH-RISK YOUTH TEAM 126470
 EVALUATION 126471

The Office of Health Transformation shall convene a team 126472
 comprised of the Department of Youth Services, the Department of 126473
 Medicaid, the Department of Job and Family Services, the 126474
 Department of Health, and the Department of Mental Health and 126475
 Addiction Services. The team shall evaluate the feasibility of 126476
 implementing a trauma screening tool for high-risk youth and 126477
 create a report with the following information: (A) the 126478
 recommended trauma screening tool to be used to evaluate high-risk 126479
 youth; (B) training in the administration of the recommended tool; 126480
 (C) screening protocols; (D) the persons to whom the recommended 126481
 tool should apply; and (E) the implications for treatment. The 126482
 report shall be completed by December 1, 2013, and shall be 126483
 distributed to the Governor. The Department of Youth Services may 126484
 receive funds for piloting the recommended tool in detention 126485
 centers. 126486

Section 501.20. All items set forth in this section are 126487
 hereby appropriated for the biennium ending on June 30, 2015, out 126488
 of any moneys in the state treasury to the credit of the 126489
 Administrative Building Fund (Fund 7026) that are not otherwise 126490
 appropriated. 126491

	Appropriations	
TOS TREASURER OF STATE		126492
C09001 Treasury Management System	\$ 10,000,000	126493
TOTAL Treasurer of State	\$ 10,000,000	126494
TOTAL Administrative Building Fund	\$ 10,000,000	126495

The foregoing appropriation item C09001, Treasury Management 126496
 System, shall be used to pay costs incurred in the implementation 126497
 of the Treasury Management System pursuant to Chapter 125. of the 126498
 Revised Code, including, but not limited to, the application 126499

hardware and software and the installation and implementation 126500
thereof, for the use of the Treasurer of State. 126501

The Treasurer of State may acquire and implement a Treasury 126502
Management System pursuant to Chapter 125. of the Revised Code, 126503
including, but not limited to, the application hardware and 126504
software and the installation and implementation thereof, for the 126505
use of the Treasurer of State. The Treasury Management System is 126506
an integrated treasury technology infrastructure system that will 126507
replace the Treasurer of State's existing separate cash, custody, 126508
investment, and accounting software and administration systems for 126509
the various treasury functions performed by the state. Any 126510
purchase agreement utilized under Chapter 125. of the Revised Code 126511
to finance the Treasury Management System, including any 126512
fractionalized interests therein as defined in division (N) of 126513
section 133.01 of the Revised Code, is limited in amount to not 126514
more than \$10,000,000, and shall provide at the point of purchase 126515
that the financed asset becomes the property of the state. 126516

The Treasurer of State is hereby authorized to issue and 126517
sell, in accordance with Section 2i of Article VIII, Ohio 126518
Constitution, and Chapter 154. of the Revised Code, particularly 126519
section 154.22 of the Revised Code, original obligations in an 126520
aggregate principal amount not to exceed \$10,000,000, in addition 126521
to the original issuance of obligations heretofore authorized by 126522
prior acts of the General Assembly. These authorized obligations 126523
shall be issued, subject to applicable constitutional and 126524
statutory limitations, to pay costs associated with previously 126525
authorized capital facilities and the capital facilities referred 126526
to in this section of the act. 126527

Section 503.10. PERSONAL SERVICE EXPENSES 126528

Unless otherwise prohibited by law, any appropriation from 126529
which personal service expenses are paid shall bear the employer's 126530

share of public employees' retirement, workers' compensation, 126531
disabled workers' relief, and insurance programs; and the costs of 126532
centralized financial services, centralized payroll processing, 126533
and related reports and services; centralized human resources 126534
services, including affirmative action and equal employment 126535
opportunity programs; the Office of Collective Bargaining; the 126536
Employee Assistance Program; centralized information technology 126537
management services; administering the enterprise resource 126538
planning system; and administering the state employee merit system 126539
as required by section 124.07 of the Revised Code. These costs 126540
shall be determined in conformity with the appropriate sections of 126541
law and paid in accordance with procedures specified by the Office 126542
of Budget and Management. Expenditures from appropriation item 126543
070601, Public Audit Expense - Intra-State, may be exempted from 126544
the requirements of this section. 126545

Section 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 126546
AGAINST THE STATE 126547

Except as otherwise provided in this section, an 126548
appropriation in this act or any other act may be used for the 126549
purpose of satisfying judgments, settlements, or administrative 126550
awards ordered or approved by the Court of Claims or by any other 126551
court of competent jurisdiction in connection with civil actions 126552
against the state. This authorization does not apply to 126553
appropriations to be applied to or used for payment of guarantees 126554
by or on behalf of the state, or for payments under lease 126555
agreements relating to, or debt service on, bonds, notes, or other 126556
obligations of the state. Notwithstanding any other statute to the 126557
contrary, this authorization includes appropriations from funds 126558
into which proceeds of direct obligations of the state are 126559
deposited only to the extent that the judgment, settlement, or 126560
administrative award is for, or represents, capital costs for 126561
which the appropriation may otherwise be used and is consistent 126562

with the purpose for which any related obligations were issued or 126563
entered into. Nothing contained in this section is intended to 126564
subject the state to suit in any forum in which it is not 126565
otherwise subject to suit, and is not intended to waive or 126566
compromise any defense or right available to the state in any suit 126567
against it. 126568

Section 503.30. CAPITAL PROJECT SETTLEMENTS 126569

This section specifies an additional and supplemental 126570
procedure to provide for payments of judgments and settlements if 126571
the Director of Budget and Management determines, pursuant to 126572
division (C)(4) of section 2743.19 of the Revised Code, that 126573
sufficient unencumbered moneys do not exist in the fund to support 126574
a particular appropriation to pay the amount of a final judgment 126575
rendered against the state or a state agency, including the 126576
settlement of a claim approved by a court, in an action upon and 126577
arising out of a contractual obligation for the construction or 126578
improvement of a capital facility if the costs under the contract 126579
were payable in whole or in part from a state capital projects 126580
appropriation. In such a case, the Director may either proceed 126581
pursuant to division (C)(4) of section 2743.19 of the Revised Code 126582
or apply to the Controlling Board to increase an appropriation or 126583
create an appropriation out of any unencumbered moneys in the 126584
state treasury to the credit of the capital projects fund from 126585
which the initial state appropriation was made. The amount of an 126586
increase in appropriation or new appropriation approved by the 126587
Controlling Board is hereby appropriated from the applicable 126588
capital projects fund and made available for the payment of the 126589
judgment or settlement. 126590

If the Director does not make the application authorized by 126591
this section or the Controlling Board disapproves the application, 126592
and the Director does not make application under division (C)(4) 126593

of section 2743.19 of the Revised Code, the Director shall for the 126594
purpose of making that payment make a request to the General 126595
Assembly as provided for in division (C)(5) of that section. 126596

Section 503.40. RE-ISSUANCE OF VOIDED WARRANTS 126597

In order to provide funds for the reissuance of voided 126598
warrants under section 126.37 of the Revised Code, there is hereby 126599
appropriated, out of moneys in the state treasury from the fund 126600
credited as provided in section 126.37 of the Revised Code, that 126601
amount sufficient to pay such warrants when approved by the Office 126602
of Budget and Management. 126603

**Section 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 126604
BALANCES OF OPERATING APPROPRIATIONS** 126605

(A) An unexpended balance of an operating appropriation or 126606
reappropriation that a state agency lawfully encumbered prior to 126607
the close of a fiscal year is hereby reappropriated on the first 126608
day of July of the following fiscal year from the fund from which 126609
it was originally appropriated or reappropriated for the following 126610
period and shall remain available only for the purpose of 126611
discharging the encumbrance: 126612

(1) For an encumbrance for personal services, maintenance, 126613
equipment, or items for resale, other than an encumbrance for an 126614
item of special order manufacture not available on term contract 126615
or in the open market or for reclamation of land or oil and gas 126616
wells, for a period of not more than five months from the end of 126617
the fiscal year; 126618

(2) For an encumbrance for an item of special order 126619
manufacture not available on term contract or in the open market, 126620
for a period of not more than five months from the end of the 126621
fiscal year or, with the written approval of the Director of 126622
Budget and Management, for a period of not more than twelve months 126623

from the end of the fiscal year; 126624

(3) For an encumbrance for reclamation of land or oil and gas 126625
wells, for a period ending when the encumbered appropriation is 126626
expended or for a period of two years, whichever is less; 126627

(4) For an encumbrance for any other expense, for such period 126628
as the Director approves, provided such period does not exceed two 126629
years. 126630

(B) Any operating appropriations for which unexpended 126631
balances are reappropriated beyond a five-month period from the 126632
end of the fiscal year by division (A)(2) of this section shall be 126633
reported to the Controlling Board by the Director of Budget and 126634
Management by the thirty-first day of December of each year. The 126635
report on each such item shall include the item, the cost of the 126636
item, and the name of the vendor. The report shall be updated on a 126637
quarterly basis for encumbrances remaining open. 126638

(C) Upon the expiration of the reappropriation period set out 126639
in division (A) of this section, a reappropriation made by this 126640
section lapses, and the Director of Budget and Management shall 126641
cancel the encumbrance of the unexpended reappropriation not later 126642
than the end of the weekend following the expiration of the 126643
reappropriation period. 126644

(D) Notwithstanding division (C) of this section, with the 126645
approval of the Director of Budget and Management, an unexpended 126646
balance of an encumbrance that was reappropriated on the first day 126647
of July by this section for a period specified in division (A)(3) 126648
or (4) of this section and that remains encumbered at the close of 126649
the fiscal biennium is hereby reappropriated on the first day of 126650
July of the following fiscal biennium from the fund from which it 126651
was originally appropriated or reappropriated for the applicable 126652
period specified in division (A)(3) or (4) of this section and 126653
shall remain available only for the purpose of discharging the 126654

encumbrance. 126655

(E) The Director of Budget and Management may correct 126656
accounting errors committed by the staff of the Office of Budget 126657
and Management, such as reestablishing encumbrances or 126658
appropriations cancelled in error, during the cancellation of 126659
operating encumbrances in November and of nonoperating 126660
encumbrances in December. 126661

(F) The Director of Budget and Management may at any time 126662
correct accounting errors committed by the staff of a state agency 126663
or state institution of higher education, as defined in section 126664
3345.011 of the Revised Code, such as reestablishing prior year 126665
nonoperating encumbrances canceled or modified in error. The 126666
reestablished encumbrance amounts are hereby appropriated. 126667

(G) If the Controlling Board approved a purchase, that 126668
approval remains in effect so long as the appropriation used to 126669
make that purchase remains encumbered. 126670

Section 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 126671
RE-ESTABLISHMENT OF ENCUMBRANCES 126672

Any cash transferred by the Director of Budget and Management 126673
under section 126.15 of the Revised Code is hereby appropriated. 126674
Any amounts necessary to re-establish appropriations or 126675
encumbrances under section 126.15 of the Revised Code are hereby 126676
appropriated. 126677

Section 503.70. INCOME TAX DISTRIBUTION TO COUNTIES 126678

There are hereby appropriated out of any moneys in the state 126679
treasury to the credit of the General Revenue Fund, which are not 126680
otherwise appropriated, funds sufficient to make any payment 126681
required by division (B)(2) of section 5747.03 of the Revised 126682
Code. 126683

Section 503.80. EXPENDITURES AND APPROPRIATION INCREASES 126684
 APPROVED BY THE CONTROLLING BOARD 126685

Any money that the Controlling Board approves for expenditure 126686
 or any increase in appropriation that the Controlling Board 126687
 approves under sections 127.14, 131.35, and 131.39 of the Revised 126688
 Code or any other provision of law is hereby appropriated for the 126689
 period ending June 30, 2015. 126690

Section 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S 126691
 RESIDENCE 126692

If the Governor's Residence Fund (Fund 4H20) receives payment 126693
 for use of the residence pursuant to section 107.40 of the Revised 126694
 Code, the amounts so received are hereby appropriated to 126695
 appropriation item 100604, Governor's Residence Gift. 126696

Section 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 126697

Unless the agency and nuclear electric utility mutually agree 126698
 to a higher amount by contract, the maximum amounts that may be 126699
 assessed against nuclear electric utilities under division (B)(2) 126700
 of section 4937.05 of the Revised Code and deposited into the 126701
 specified funds are as follows: 126702

<u>Fund</u>	<u>User</u>	<u>FY 2014</u>	<u>FY 2015</u>	
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	\$ 130,000	\$ 130,000	126704
Radiation Emergency Response Fund (Fund 6100)	Department of Health	\$ 1,049,954	\$ 1,086,098	126705
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	\$ 284,266	\$ 290,674	126706
Emergency Response	Department of	\$ 1,415,945	\$ 1,415,945	126707

Plan Fund (Fund 6570) Public Safety

Section 512.10. TRANSFERS TO THE GENERAL REVENUE FUND OF INTEREST EARNED 126708
126709

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, through June 30, 2015, may transfer interest earned by any state fund to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Ohio Constitution, federal tax law, or the "Cash Management Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501 et seq., as amended. 126710
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Section 512.20. CASH TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-GRF FUNDS 126717
126718

Notwithstanding any provision of law to the contrary, the Director of Budget and Management may transfer up to \$60,000,000 in each fiscal year in cash from non-General Revenue Funds that are not constitutionally restricted to the General Revenue Fund in order to ensure that available General Revenue Fund receipts and balances are sufficient to support General Revenue Fund appropriations in each fiscal year. 126719
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126725

Section 512.30. FISCAL YEAR 2013 GENERAL REVENUE FUND ENDING BALANCE 126726
126727

Notwithstanding divisions (B) and (C) of section 131.44 of the Revised Code, the Director of Budget and Management shall determine the surplus General Revenue Fund revenue that existed on June 30, 2013, in excess of the amount required under division (A)(3) of section 131.44 of the Revised Code, and transfer from the General Revenue Fund, to the extent of the amount so determined, the following: 126728
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(A) To the Disaster Services Fund (Fund 5E20), a cash amount 126735

of up to \$15,000,000;	126736
(B) To the Controlling Board Emergency Purposes Fund (Fund 5KM0), a cash amount of up to \$20,000,000;	126737 126738
(C) To the Natural Resources Special Purposes Fund (Fund 5MW0), which is hereby created in the state treasury, a cash amount of up to \$12,000,000;	126739 126740 126741
(D) To the Unemployment Compensation Interest Contingency Fund (Fund 5HC0), a cash amount of up to \$120,000,000 for payment to the United States Secretary of the Treasury of accrued interest costs related to federal unemployment account borrowing.	126742 126743 126744 126745
Section 512.40. ACCESS SUCCESS II PROGRAM	126746
To the extent cash is available, the Director of Budget and Management may transfer cash from the Money Follows the Person Enhanced Reimbursement Fund (Fund 5AJ0), used by the Department of Medicaid, to the Sale of Goods and Services Fund (Fund 1490), used by the Department of Mental Health and Addiction Services. The transferred cash is hereby appropriated.	126747 126748 126749 126750 126751 126752
The Department of Mental Health and Addiction Services shall use the transferred funds to administer the Access Success II Program to help non-Medicaid patients in any hospital established, controlled, or supervised by the Department under Chapter 5119. of the Revised Code to transition from inpatient status to a community setting.	126753 126754 126755 126756 126757 126758
Section 512.50. Not later than the first day of September 2013, the Director of Mental Health and the Director of Alcohol and Drug Addiction Services shall certify to the Director of Budget and Management the amount of all of the unexpended, unencumbered balances of general revenue fund appropriations made to the Department of Mental Health and to the Department of Alcohol and Drug Addiction Services for FY 2012, excluding funds	126759 126760 126761 126762 126763 126764 126765

appropriated for rental payments to the Ohio Public Facilities Commission. On receipt of the certification, the Director of Budget and Management shall transfer cash to the Department of Mental Health and Addiction Services Trust Fund created in section 5119.46 of the Revised Code (renumbered section 5119.60 of the Revised Code in this act) in an amount up to, but not exceeding, the total amounts certified by the Director of Mental Health and the Director of Alcohol and Drug Addiction Services.

Section 512.60. There is hereby created in the state treasury, the Permissive Tax Supplement Fund (Fund 5NB0). Not later than November 30, 2013, the Tax Commissioner shall certify to the Director of Budget and Management, an estimate of the amounts necessary during fiscal year 2014 to make supplemental permissive tax distributions to counties and transit authorities as prescribed in division (B) of section 5739.21 of the Revised Code. Following this certification, the Director of Budget and Management shall then transfer the certified amount from the General Revenue Fund to the Permissive Tax Supplement Fund. In the event that additional moneys beyond those initially certified are required for this purpose in fiscal year 2014, the Tax Commissioner may from time to time update the certification and the Director of Budget and Management shall transfer those amounts from the General Revenue Fund.

Not later than July 15, 2014, the Tax Commissioner shall certify to the Director of Budget and Management, an estimate of the amounts necessary during fiscal year 2015 to make supplemental permissive tax distributions to counties and transit authorities as prescribed in division (B) of section 5739.21 of the Revised Code. Following this certification, the Director of Budget and Management shall then transfer the certified amount from the General Revenue Fund to the Permissive Tax Supplement Fund. In the

event that additional moneys beyond those initially certified are 126797
required for this purpose in fiscal year 2015, the Tax 126798
Commissioner may from time to time update the certification and 126799
the Director of Budget and Management shall transfer those 126800
additional amounts from the General Revenue Fund to the Permissive 126801
Tax Supplement Fund. 126802

Not later than December 15, 2013, and on or before the 126803
fifteenth day of each month through June 15, 2015, the Tax 126804
Commissioner shall certify to the Director of Budget and 126805
Management, the amounts calculated as necessary to make 126806
supplemental permissive tax distributions for that month pursuant 126807
to division (B) of section 5739.21 of the Revised Code. The 126808
Director of Budget and Management shall then transfer the amount 126809
certified from the Permissive Tax Supplement Fund to the 126810
Permissive Tax Distribution Fund (Fund 7063). 126811

If on June 20, 2015, or any date thereafter, any balance 126812
exists in the Permissive Tax Supplement Fund, the Director of 126813
Budget and Management may transfer that amount to the General 126814
Revenue Fund. 126815

Section 512.70. PROHIBITION ON TRANSFERS 126816

Notwithstanding section 131.44 of the Revised Code, cash 126817
shall not be transferred to the Income Tax Reduction Fund prior to 126818
July 1, 2015. 126819

Section 515.40. The Department of Aging shall use 126820
appropriation item 490627, Board of Executives of LTSS, to spend 126821
cash in the Board of Executives of Long-Term Services and Supports 126822
Fund (Fund 5MT0), which is hereby established in the State 126823
Treasury. On the effective date of this section, the Board of 126824
Examiners of Nursing Home Administrators is renamed the Board of 126825
Executives of Long-Term Services and Supports. The Board of 126826

Examiners of Nursing Home Administrators' functions and its assets 126827
and liabilities, are transferred to the Board of Executives of 126828
Long-Term Services and Supports. The Board of Executives of 126829
Long-Term Services and Supports is successor to, assumes the 126830
obligations and authority of, and otherwise continues the Board of 126831
Examiners of Nursing Home Administrators. No right, privilege, or 126832
remedy, and no duty, liability, or obligation, accrued under the 126833
Board of Examiners of Nursing Home Administrators is impaired or 126834
lost by reason of the renaming and shall be recognized, 126835
administered, performed, or enforced by the Board of Executives of 126836
Long-Term Services and Supports. 126837

Business commenced but not completed by the Board of 126838
Examiners of Nursing Home Administrators or by the Secretary of 126839
the Board of Examiners of Nursing Home Administrators shall be 126840
completed by the Board of Executives of Long-Term Services and 126841
Supports or the Secretary of the Board of Executives of Long-Term 126842
Services and Supports in the same manner, and with the same 126843
effect, as if completed by the Board of Examiners of Nursing Home 126844
Administrators or by the Secretary of the Board of Examiners of 126845
Nursing Home Administrators. 126846

All of the Board of Examiners of Nursing Home Administrators' 126847
rules, orders, and determinations continue in effect as rules, 126848
orders, and determinations of the Board of Executives of Long-Term 126849
Services and Supports. 126850

Subject to the layoff provisions of sections 124.321 to 126851
124.328 of the Revised Code, all employees of the Board of 126852
Examiners of Nursing Home Administrators who provide 126853
administrative, technical, or other services to the Board of 126854
Examiners of Nursing Home Administrators on a full-time, permanent 126855
basis shall continue with the Board of Executives of Long-Term 126856
Services and Supports and retain their positions and benefits 126857

accruing thereto, except that those employees in the classified 126858
service shall be reclassified into the unclassified service and 126859
shall serve at the pleasure of the Board. 126860

Notwithstanding section 4751.03 of the Revised Code, as 126861
amended by this act, those board members currently serving as 126862
members of the Board of Examiners of Nursing Home Administrators 126863
on the effective date of this act shall continue to serve as 126864
members of the Board of Executives of Long-Term Services and 126865
Supports for the remainder of their appointment period, at which 126866
time new members shall be appointed in a manner consistent with 126867
section 4751.03 of the Revised Code, as amended by this act. 126868

Within ninety days after the effective date of this act, the 126869
Governor shall appoint to the Board of Executives of Long-Term 126870
Services and Supports those new members who are required to be 126871
appointed under divisions (A)(3) and (6) of section 4751.03 of the 126872
Revised Code, as amended by this act, for terms ending on May 27, 126873
2014. Thereafter, appointment for those members shall be as 126874
provided in section 4751.03 of the Revised Code, as amended by 126875
this act. 126876

Whenever the Board of Examiners of Nursing Home 126877
Administrators is referred to in statute, contract, or other 126878
instrument, the reference is deemed to refer to the Board of 126879
Executives of Long-Term Services and Supports. 126880

No pending action or proceeding being prosecuted or defended 126881
in court or before an agency by the Board of Examiners of Nursing 126882
Home Administrators or the Secretary of the Board of Examiners of 126883
Nursing Home Administrators is affected by the renaming and shall 126884
be prosecuted or defended in the name of the Board of Executives 126885
of Long-Term Services and Supports or the Secretary of the Board 126886
of Executives of Long-Term Services and Supports. Upon application 126887
to the court or agency, the Board of Executives of Long-Term 126888
Services and Supports or the Secretary of the Board of Executives 126889

of Long-Term Services and Supports shall be substituted. 126890

Section 518.10. GENERAL OBLIGATION DEBT SERVICE PAYMENTS 126891

Certain appropriations are in this act for the purpose of 126892
paying debt service and financing costs on general obligation 126893
bonds or notes of the state issued pursuant to the Ohio 126894
Constitution and acts of the General Assembly. If it is determined 126895
that additional appropriations are necessary for this purpose, 126896
such amounts are hereby appropriated. 126897

Section 518.20. LEASE RENTAL PAYMENTS FOR DEBT SERVICE 126898

Certain appropriations are in this act for the purpose of 126899
making lease rental payments pursuant to leases and agreements 126900
relating to bonds or notes issued by the Treasurer of State, or 126901
previously by the Ohio Public Facilities Commission or the Ohio 126902
Building Authority, pursuant to the Ohio Constitution and acts of 126903
the General Assembly. If it is determined that additional 126904
appropriations are necessary for this purpose, such amounts are 126905
hereby appropriated. 126906

Section 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM 126907
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 126908

The Office of Budget and Management shall process payments 126909
from general obligation and lease rental payment appropriation 126910
items during the period from July 1, 2013, through June 30, 2015, 126911
relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 126912
2n, 2o, 2p, 2q, 2r, and 15 of Article VIII, Ohio Constitution, and 126913
Chapters 151., 152., and 154. of the Revised Code. Payments shall 126914
be made upon certification by the Treasurer of State of the dates 126915
and the amounts due on those dates. 126916

Section 521.20. STATEWIDE INDIRECT COST RECOVERY 126917

Whenever the Director of Budget and Management determines 126918
that an appropriation made to a state agency from a fund of the 126919
state is insufficient to provide for the recovery of statewide 126920
indirect costs under section 126.12 of the Revised Code, the 126921
amount required for such purpose is hereby appropriated from the 126922
available receipts of such fund. 126923

Section 521.30. TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT 126924
COST ALLOCATION PLAN 126925

The total transfers made from the General Revenue Fund by the 126926
Director of Budget and Management under this section shall not 126927
exceed the amounts transferred into the General Revenue Fund under 126928
section 126.12 of the Revised Code. 126929

The director of an agency may certify to the Director of 126930
Budget and Management the amount of expenses not allowed to be 126931
included in the Statewide Indirect Cost Allocation Plan under 126932
federal regulations, from any fund included in the Statewide 126933
Indirect Cost Allocation Plan, prepared as required by section 126934
126.12 of the Revised Code. 126935

Upon determining that no alternative source of funding is 126936
available to pay for such expenses, the Director of Budget and 126937
Management may transfer cash from the General Revenue Fund into 126938
the fund for which the certification is made, up to the amount of 126939
the certification. The director of the agency receiving such funds 126940
shall include, as part of the next budget submission prepared 126941
under section 126.02 of the Revised Code, a request for funding 126942
for such activities from an alternative source such that further 126943
federal disallowances would not be required. 126944

The director of an agency may certify to the Director of 126945
Budget and Management the amount of expenses paid in error from a 126946
fund included in the Statewide Indirect Cost Allocation Plan. The 126947
Director of Budget and Management may transfer cash from the fund 126948

from which the expenditure should have been made into the fund 126949
from which the expenses were erroneously paid, up to the amount of 126950
the certification. 126951

The director of an agency may certify to the Director of 126952
Budget and Management the amount of expenses or revenues not 126953
allowed to be included in the Statewide Indirect Cost Allocation 126954
Plan under federal regulations, for any fund included in the 126955
Statewide Indirect Cost Allocation Plan, for which the federal 126956
government requires payment. If the Director of Budget and 126957
Management determines that an appropriation made to a state agency 126958
from a fund of the state is insufficient to pay the amount 126959
required by the federal government, the amount required for such 126960
purpose is hereby appropriated from the available receipts of such 126961
fund, up to the amount of the certification. 126962

Section 521.40. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 126963

Notwithstanding any provision of law to the contrary, on or 126964
before the first day of September of each fiscal year, the 126965
Director of Budget and Management, in order to reduce the payment 126966
of adjustments to the federal government, as determined by the 126967
plan prepared under division (A) of section 126.12 of the Revised 126968
Code, may designate such funds as the Director considers necessary 126969
to retain their own interest earnings. 126970

Section 521.50. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 126971

Pursuant to the plan for compliance with the Federal Cash 126972
Management Improvement Act required by section 131.36 of the 126973
Revised Code, the Director of Budget and Management may cancel and 126974
re-establish all or part of encumbrances in like amounts within 126975
the funds identified by the plan. The amounts necessary to 126976
re-establish all or part of encumbrances are hereby appropriated. 126977

Section 521.60. FISCAL STABILIZATION AND RECOVERY 126978

To ensure the level of accountability and transparency 126979
 required by federal law, the Director of Budget and Management may 126980
 issue guidelines to any agency applying for federal money made 126981
 available to this state for fiscal stabilization and recovery 126982
 purposes, and may prescribe the process by which agencies are to 126983
 comply with any reporting requirements established by the federal 126984
 government. 126985

Section 605.10. That Section 205.10 of Am. Sub. H.B. 51 of 126986
 the 130th General Assembly be amended to read as follows: 126987

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY 126988

State Highway Safety Fund Group					126989	
4W40 762321	Operating Expense -	\$	130,559,268	\$	130,418,957	126990
	BMV					
5V10 762682	License Plate	\$	2,100,000	\$	2,100,000	126991
	Contribution					
7036 761321	Operating Expense -	\$	7,055,066	\$	6,999,331	126992
	Information and					
	Education					
7036 761401	Lease Rental Payments	\$	2,472,300	\$	2,473,100	126993
7036 764033	Minor Capital Projects	\$	1,250,000	\$	1,250,000	126994
7036 764321	Operating Expense -	\$	268,232,602	\$	270,232,602	126995
	Highway Patrol					
7036 764605	Motor Carrier	\$	2,860,000	\$	2,860,000	126996
	Enforcement Expenses					
8300 761603	Salvage and Exchange -	\$	20,053	\$	20,053	126997
	Administration					
8310 761610	Information and	\$	300,000	\$	300,000	126998
	Education - Federal					
8310 764608	FARS Grant Federal	\$	175,000	\$	175,000	126999

8310	764610	Patrol - Federal	\$	2,250,000	\$	2,250,000	127000
8310	764659	Transportation Enforcement - Federal	\$	5,200,000	\$	5,200,000	127001
8310	765610	EMS - Federal	\$	225,000	\$	225,000	127002
8310	769610	Investigative Unit Federal Reimbursement	\$	1,400,000	\$	1,400,000	127003
8310	769631	Homeland Security - Federal	\$	750,000	\$	400,000	127004
8320	761612	Traffic Safety - Federal	\$	22,000,000	\$	22,000,000	127005
8350	762616	Financial Responsibility Compliance	\$	5,274,068	\$	5,274,068	127006
8370	764602	Turnpike Policing	\$	11,553,959	\$	11,553,959	127007
83C0	764630	Contraband, Forfeiture, Other	\$	622,894	\$	622,894	127008
83F0	764657	Law Enforcement Automated Data System	\$	8,500,000	\$	8,500,000	127009
83G0	764633	OMVI Enforcement/Education	\$	641,927	\$	641,927	127010
83J0	764693	Highway Patrol Justice Contraband	\$	2,100,000	\$	2,100,000	127011
83M0	765624	Operating - EMS	\$	3,056,069	\$	3,056,069	127012
83M0	765640	EMS - Grants	\$	3,300,000	\$	3,300,000	127013
83R0	762639	Local Immobilization Reimbursement	\$	450,000	\$	450,000	127014
83T0	764694	Highway Patrol Treasury Contraband	\$	21,000	\$	21,000	127015
8400	764607	State Fair Security	\$	1,294,354	\$	1,294,354	127016
8400	764617	Security and Investigations	\$	8,793,865	\$	9,514,236	127017
8400	764626	State Fairgrounds Police Force	\$	1,047,560	\$	1,084,559	127018

8400	769632	Homeland Security - Operating	\$	650,000	\$	630,000	127019
8410	764603	Salvage and Exchange - Highway Patrol	\$	1,339,399	\$	1,339,399	127020
8460	761625	Motorcycle Safety Education	\$	3,280,563	\$	3,280,563	127021
8490	762627	Automated Title Processing Board	\$	16,675,513	\$	16,467,293	127022
TOTAL HSF State Highway Safety Fund Group			\$	515,450,460	\$	517,434,364	127023
General Services Fund Group							127024
4P60	768601	Justice Program Services	\$	900,000	\$	875,000	127025
5ET0	768625	Drug Law Enforcement	\$	4,250,000	\$	4,250,000	127026
5LM0	768698	Criminal Justice Services Law Enforcement Support	\$	850,946	\$	850,946	127027
TOTAL GSF General Services Fund Group			\$	6,290,946	\$	6,265,946	127028
Federal Special Revenue Fund Group							127029
3290	763645	Federal Mitigation Program	\$	10,413,642	\$	10,413,642	127030
3370	763609	Federal Disaster Relief	\$	27,707,636	\$	27,707,636	127031
3390	763647	Emergency Management Assistance and Training	\$	70,934,765	\$	70,934,765	127032
3CE0	768611	Justice Assistance Grants - FFY09	\$	400,000	\$	100,000	127033
3DE0	768612	Federal Stimulus - Justice Assistance Grants	\$	1,000,000	\$	300,000	127034

3DU0	762628	BMV Grants	\$	1,350,000	\$	1,325,000	127035
3EU0	768614	Justice Assistance Grants - FFY10	\$	830,000	\$	500,000	127036
3FK0	768615	Justice Assistance Grants - FFY11	\$	900,000	\$	900,000	127037
3FP0	767620	Ohio Investigative Unit Justice Contraband	\$	55,000	\$	55,000	127038
3FY0	768616	Justice Assistance Grants - FFY12	\$	2,200,000	\$	1,500,000	127039
3FZ0	768617	Justice Assistance Grants - FFY13	\$	7,000,000	\$	2,000,000	127040
3GA0	768618	Justice Assistance Grants - FFY14	\$	0	\$	7,500,000	127041
3L50	768604	Justice Program	\$	10,500,000	\$	10,500,000	127042
3N50	763644	U.S. Department of Energy Agreement	\$	31,672	\$	31,672	127043
TOTAL FED	Federal Special Revenue		\$	133,322,715	\$	133,767,715	127044
Fund Group							
State Special Revenue Fund Group							127045
4V30	763662	Storms/NOAA Maintenance	\$	4,950,000	\$	4,950,000	127046
5390	762614	Motor Vehicle Dealers Board	\$	150,000	\$	140,000	127047
5B90	766632	Private Investigator and Security Guard Provider	\$	1,400,000	\$	1,400,000	127048
5BK0	768687	Criminal Justice Services - Operating	\$	400,000	\$	400,000	127049
5BK0	768689	Family Violence Shelter Programs	\$	750,000	\$	750,000	127050
5BP0	764609	DPS Wireless 911 Administration	\$	290,000	\$	290,000	127051
<u>5NF0</u>							

5CM0	767691	Equitable Share Account	\$	300,000	\$	300,000	127052
5DS0	769630	Homeland Security	\$	1,414,384	\$	1,414,384	127053
5FF0	762621	Indigent Interlock and Alcohol Monitoring	\$	2,000,000	\$	2,000,000	127054
5FL0	769634	Investigations	\$	899,300	\$	899,300	127055
5ML0	769635	Infrastructure Protection	\$	400,000	\$	400,000	127056
6220	767615	Investigative Contraband and Forfeiture	\$	325,000	\$	325,000	127057
6570	763652	Utility Radiological Safety	\$	1,415,945	\$	1,415,945	127058
6810	763653	SARA Title III HAZMAT Planning	\$	262,438	\$	262,438	127059
8500	767628	Investigative Unit Salvage	\$	92,700	\$	92,700	127060
TOTAL SSR		State Special Revenue Fund Group	\$	15,049,767	\$	15,039,767	127061
		Agency Fund Group					127062
5J90	761678	Federal Salvage/GSA	\$	1,500,000	\$	1,500,000	127063
TOTAL AGY		Agency Fund Group	\$	1,500,000	\$	1,500,000	127064
		Holding Account Redistribution Fund Group					127065
R024	762619	Unidentified Motor Vehicle Receipts	\$	1,885,000	\$	1,885,000	127066
R052	762623	Security Deposits	\$	350,000	\$	350,000	127067
TOTAL 090		Holding Account Redistribution Fund Group	\$	2,235,000	\$	2,235,000	127068
TOTAL ALL BUDGET FUND GROUPS			\$	673,558,888	\$	675,952,792	127069
		MOTOR VEHICLE REGISTRATION					127070
		The Registrar of Motor Vehicles may deposit revenues to meet					127071

the cash needs of the State Bureau of Motor Vehicles Fund (Fund 127072
4W40) established in section 4501.25 of the Revised Code, obtained 127073
under sections 4503.02 and 4504.02 of the Revised Code, less all 127074
other available cash. Revenue deposited pursuant to this paragraph 127075
shall support, in part, appropriations for operating expenses and 127076
defray the cost of manufacturing and distributing license plates 127077
and license plate stickers and enforcing the law relative to the 127078
operation and registration of motor vehicles. Notwithstanding 127079
section 4501.03 of the Revised Code, the revenues shall be paid 127080
into Fund 4W40 before any revenues obtained pursuant to sections 127081
4503.02 and 4504.02 of the Revised Code are paid into any other 127082
fund. The deposit of revenues to meet the aforementioned cash 127083
needs shall be in approximately equal amounts on a monthly basis 127084
or as otherwise determined by the Director of Budget and 127085
Management pursuant to a plan submitted by the Registrar of Motor 127086
Vehicles. 127087

OPERATING EXPENSE - BMV 127088

Of the foregoing appropriation item 762321, Operating Expense 127089
- BMV, up to \$50,000 in fiscal year 2014 shall be used to pay for 127090
costs associated with improvements to the program to accept 127091
applications for registration transactions of apportionable 127092
vehicles electronically over the internet. 127093

OPERATING EXPENSE - INFORMATION AND EDUCATION 127094

Of the foregoing appropriation item 761321, Operating Expense 127095
- Information and Education, up to \$250,000 in each fiscal year 127096
may be used to fund state employees to staff travel information 127097
centers on the border of the state. 127098

The Department of Public Safety shall conduct a study for 127099
partnering with local travel and tourism centers, as well as a 127100
study for the creation of the Ohio Ambassadors Volunteer Program 127101
at rest stops. 127102

LEASE RENTAL PAYMENTS 127103

The foregoing appropriation item 761401, Lease Rental 127104
Payments, shall be used for payments to the Treasurer of State for 127105
the period July 1, 2013, through June 30, 2015, under the primary 127106
leases and agreements for public safety related buildings. The 127107
appropriations are the source of funds pledged for bond service 127108
charges on obligations pursuant to Chapters 152. and 154. of the 127109
Revised Code. 127110

CASH TRANSFERS BETWEEN FUNDS 127111

Notwithstanding any provision of law to the contrary, the 127112
Director of Budget and Management, upon the written request of the 127113
Director of Public Safety, may transfer cash between the following 127114
six funds: the Trauma and Emergency Medical Services Fund (Fund 127115
83M0), the Homeland Security Fund (Fund 5DS0), the Investigations 127116
Fund (Fund 5FL0), the Emergency Management Agency Service and 127117
Reimbursement Fund (Fund 4V30), the Justice Program Services Fund 127118
(Fund 4P60), and the State Bureau of Motor Vehicles Fund (Fund 127119
4W40). 127120

CASH TRANSFER FROM TEEN DRIVER EDUCATION FUND TO LICENSE 127121
PLATE CONTRIBUTION FUND 127122

On July 1, 2013, or as soon as possible thereafter, the 127123
Director of Budget and Management may transfer the cash balance in 127124
the Teen Driver Education Fund (Fund 5JS0) to the License Plate 127125
Contribution Fund (Fund 5V10). Upon completion of the transfer, 127126
Fund 5JS0 is hereby abolished. 127127

CASH TRANSFER FROM HILLTOP UTILITY REIMBURSEMENT FUND TO 127128
STATE HIGHWAY SAFETY FUND 127129

Not later than January 1, 2014, the Director of Budget and 127130
Management may transfer the cash balance in the Hilltop Utility 127131
Reimbursement Fund (Fund 4S30) to the State Highway Safety Fund 127132
(Fund 7036). Upon completion of the transfer, Fund 4S30 is hereby 127133

abolished. The Director shall cancel any existing encumbrances 127134
against appropriation item 766661, Hilltop Utility Reimbursement, 127135
and reestablish them against appropriation item 761321, Operating 127136
Expense - Information and Education. The reestablished encumbrance 127137
amounts are hereby appropriated. 127138

CASH TRANSFER FROM REGISTRAR RENTAL FUND TO STATE HIGHWAY 127139
SAFETY FUND 127140

On July 1, 2013, or as soon as possible thereafter, the 127141
Director of Budget and Management shall transfer the cash balance 127142
in the Registrar Rental Fund (Fund 8380) to the State Bureau of 127143
Motor Vehicles Fund (Fund 4W40). Upon completion of the transfer, 127144
Fund 8380 is abolished. 127145

STATE DISASTER RELIEF 127146

The State Disaster Relief Fund (Fund 5330) may accept 127147
transfers of cash and appropriations from Controlling Board 127148
appropriation items for Ohio Emergency Management Agency disaster 127149
response costs and disaster program management costs, and may also 127150
be used for the following purposes: 127151

(A) To accept transfers of cash and appropriations from 127152
Controlling Board appropriation items for Ohio Emergency 127153
Management Agency public assistance and mitigation program match 127154
costs to reimburse eligible local governments and private 127155
nonprofit organizations for costs related to disasters; 127156

(B) To accept and transfer cash to reimburse the costs 127157
associated with Emergency Management Assistance Compact (EMAC) 127158
deployments; 127159

(C) To accept disaster related reimbursement from federal, 127160
state, and local governments. The Director of Budget and 127161
Management may transfer cash from reimbursements received by this 127162
fund to other funds of the state from which transfers were 127163
originally approved by the Controlling Board. 127164

(D) To accept transfers of cash and appropriations from 127165
Controlling Board appropriation items to fund the State Disaster 127166
Relief Program, for disasters that qualify for the program by 127167
written authorization of the Governor, and the State Individual 127168
Assistance Program for disasters that have been declared by the 127169
federal Small Business Administration and that qualify for the 127170
program by written authorization of the Governor. The Ohio 127171
Emergency Management Agency shall publish and make available 127172
application packets outlining procedures for the State Disaster 127173
Relief Program and the State Individual Assistance Program. 127174

JUSTICE ASSISTANCE GRANT FUND 127175

The federal payments made to the state for the Byrne Justice 127176
Assistance Grants Program under Title II of Division A of the 127177
American Recovery and Reinvestment Act of 2009 shall be deposited 127178
to the credit of the Justice Assistance Grant Fund (Fund 3DE0), 127179
which is hereby created in the state treasury. All investment 127180
earnings of the fund shall be credited to the fund. 127181

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT 127182
AGENCY SERVICE AND REIMBURSEMENT FUND 127183

On July 1 of each fiscal year, or as soon as possible 127184
thereafter, the Director of Budget and Management shall transfer 127185
\$200,000 cash from the State Fire Marshal Fund (Fund 5460) to the 127186
Emergency Management Agency Service and Reimbursement Fund (Fund 127187
4V30) to be distributed to the Ohio Task Force One - Urban Search 127188
and Rescue Unit, other similar urban search and rescue units 127189
around the state, and for the maintenance of the statewide fire 127190
emergency response plan by an entity recognized by the Ohio 127191
Emergency Management Agency. 127192

FAMILY VIOLENCE PREVENTION FUND 127193

Notwithstanding any provision of law to the contrary, in each 127194
of fiscal years 2014 and 2015, the first \$750,000 received to the 127195

credit of the Family Violence Prevention Fund (Fund 5BK0) is 127196
appropriated to appropriation item 768689, Family Violence Shelter 127197
Programs, and the next \$400,000 received to the credit of Fund 127198
5BK0 in each of those fiscal years is appropriated to 127199
appropriation item 768687, Criminal Justice Services - Operating. 127200
Any moneys received to the credit of Fund 5BK0 in excess of the 127201
aforementioned appropriated amounts in each fiscal year shall, 127202
upon the approval of the Controlling Board, be used to provide 127203
grants to family violence shelters in Ohio. 127204

SARA TITLE III HAZMAT PLANNING 127205

The SARA Title III HAZMAT Planning Fund (Fund 6810) is 127206
entitled to receive grant funds from the Emergency Response 127207
Commission to implement the Emergency Management Agency's 127208
responsibilities under Chapter 3750. of the Revised Code. 127209

COLLECTIVE BARGAINING INCREASES 127210

Notwithstanding division (D) of section 127.14 and division 127211
(B) of section 131.35 of the Revised Code, except for the General 127212
Revenue Fund, the Controlling Board may, upon the request of 127213
either the Director of Budget and Management, or the Department of 127214
Public Safety with the approval of the Director of Budget and 127215
Management, authorize expenditures in excess of appropriations and 127216
transfer appropriations, as necessary, for any fund used by the 127217
Department of Public Safety, to assist in paying the costs of 127218
increases in employee compensation that have occurred pursuant to 127219
collective bargaining agreements under Chapter 4117. of the 127220
Revised Code and, for exempt employees, under section 124.152 of 127221
the Revised Code. Any money approved for expenditure under this 127222
paragraph is hereby appropriated. 127223

CASH BALANCE FUND REVIEW 127224

Not later than the first day of April in each fiscal year of 127225
the biennium, the Director of Budget and Management shall review 127226

the cash balances for each fund, except the State Highway Safety Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 4W40), in the State Highway Safety Fund Group, and shall recommend to the Controlling Board an amount to be transferred to the credit of Fund 7036 or Fund 4W40, as appropriate.

AUTO REGISTRATION DISTRIBUTION FUND

Notwithstanding the amendment by this act to section 4501.03 of the Revised Code and the enactment by this act of section 4501.031 of the Revised Code, any license tax assessed under Chapters 4503. or 4504. of the Revised Code, and derived from registrations processed on business days prior to July 1, 2013, shall be deposited to the state treasury to the credit of the Auto Registration Distribution Fund (Fund 7051) created by section 4501.03 of the Revised Code, even if such deposit does not occur until on or after July 1, 2013. All license tax assessed on registrations under Chapters 4503. or 4504. of the Revised Code prior to July 1, 2013, shall be deposited, and distributed, in accordance with sections 4501.03, 4501.04, 4501.041, 4501.042, and 4501.043 of the Revised Code as they existed prior to the amendments to those sections by this act.

Section 605.11. That existing Section 205.10 of Am. Sub. H.B. 51 of the 130th General Assembly is hereby repealed.

Section 610.10. That Sections 201.80 and 509.40 of Sub. H.B. 482 of the 129th General Assembly be amended to read as follows:

Sec. 201.80. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the School Building Program Assistance Fund (Fund 7032), that are not otherwise appropriated.

	SFC SCHOOL FACILITIES COMMISSION		127255
C23002	School Building Program Assistance	\$ 425,000,000	127256
		<u>413,000,000</u>	
C23020	<u>School Security Grant Program</u>	\$ 12,000,000	127257
	Total School Facilities Commission	\$ 425,000,000	127258
	TOTAL School Building Program Assistance Fund	\$ 425,000,000	127259

SCHOOL BUILDING PROGRAM ASSISTANCE 127260

The foregoing appropriation item C23002, School Building Program Assistance, shall be used by the School Facilities Commission to provide funding to school districts that receive conditional approval from the Commission pursuant to Chapter 3318. of the Revised Code. 127261
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SCHOOL SECURITY GRANT PROGRAM 127266

The foregoing appropriation item C23020, School Security Grant Program, shall be used by the School Facilities Commission to provide funding to all public schools for school security expenditures including the purchase and installation of one Multi-Agency Radio Communications System unit per school building and a security door system, consisting of a security camera, an intercom, and remote access, at one entrance per school building. A school may apply to the School Facilities Commission for reimbursement up to \$2,000 for one Multi-Agency Radio Communications System Unit per school building and up to \$5,000 for costs incurred with the purchase of a security door system installed on or after January 1, 2013. 127267
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Sec. 509.40. AGENCY ADMINISTRATION OF CAPITAL FACILITIES PROJECTS 127279
 127280

Notwithstanding ~~sections 123.01 and 123.15~~ section 123.21 of the Revised Code, the Executive Director of Administrative Services ~~Administrative Services~~ the Ohio Facilities Construction Commission may authorize the Departments of Mental Health, Developmental Disabilities, 127281
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Agriculture, Job and Family Services, Rehabilitation and 127285
Correction, Youth Services, Public Safety, Transportation, ~~and~~ 127286
Veterans Services, and the Bureau of Workers' Compensation to 127287
administer any capital facilities projects, the estimated cost of 127288
which, including design fees, construction, equipment, and 127289
contingency amounts, is less than \$1,500,000. Requests for 127290
authorization to administer capital facilities projects shall be 127291
made ~~in writing to the Director of Administrative Services~~ through 127292
the OAKS-CI application by the applicable state agency ~~within~~ 127293
~~sixty days after the effective date of the section of law in which~~ 127294
~~the General Assembly initially makes an appropriation for the~~ 127295
~~project.~~ Upon the release of funds for the projects by the 127296
Controlling Board or the Director of Budget and Management, the 127297
agency may administer the capital project or projects for which 127298
agency administration has been authorized without the supervision, 127299
control, or approval of the Executive Director of ~~Administrative~~ 127300
~~Services~~ the Ohio Facilities Construction Commission. 127301

A state agency authorized by the Executive Director of 127302
~~Administrative Services~~ the Ohio Facilities Construction 127303
Commission to administer capital facilities projects pursuant to 127304
this section shall comply with the applicable procedures and 127305
guidelines established in Chapter 153. of the Revised Code and 127306
shall track all project information in OAKS-CI pursuant to Ohio 127307
Facilities Construction Commission guidelines. 127308

Section 610.11. That existing Sections 201.80 and 509.40 of 127309
Sub. H.B. 482 of the 129th General Assembly are hereby repealed. 127310

Section 610.20. That Section 4 of Sub. S.B. 171 of the 129th 127311
General Assembly, as amended by Am. Sub. H.B. 487 of the 129th 127312
General Assembly, be amended to read as follows: 127313

Sec. 4. The following agencies are retained under division 127314

(D) of section 101.83 of the Revised Code and expire on December 31, 2016:		127315
		127316
AGENCY NAME	REVISED CODE OR UNCODIFIED SECTION	127317
Academic Distress Commission	3302.10	127318
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12	127319
Advisory Board to Assist and Advise in the Operation of the Ohio Center for Autism and Low Incidence	3323.33, 3323.34	127320
Advisory Council on Amusement Ride Safety	1711.51, 1711.52	127321
Advisory Council of Directors for Prison Labor	5145.162	127322
<u>Office of Enterprise Development Advisory Board</u>		
Advisory Council for Wild, Scenic, or Recreational River Area(s)	1547.84	127323
Advisory Committee on Livestock Exhibitions	901.71	127324
Agricultural Commodity Marketing Programs Operating Committees	924.07	127325
Agricultural Commodity Marketing Programs Coordinating Committee	924.14	127326
Alternative Energy Advisory Committee	4928.64(D)	127327
AMBER Alert Advisory Committee	5502.521	127328
Apprenticeship Council	Chapter 4139.	127329
Armory Board of Control	5911.09, 5911.12	127330
Automated Title Processing Board	4505.09(C)(1)	127331
Backflow Advisory Board	3703.21	127332
Banking Commission	1123.01	127333
Board of Directors of the Great Lakes Protection Fund	1506.22 (6161.04)	127334
Board of Directors of the Medical Liability Underwriting Association Stabilization Fund	3929.631	127335

Board of Directors of the Ohio Appalachian Center for Higher Education	3333.58	127336
Board of Directors of the Ohio Health Reinsurance Program	3924.08 - 3924.11	127337
Board of Governors of the Commercial Insurance Joint Underwriting Association	3930.03	127338
Board of Governors of the Medical Liability Underwriting Association	3929.64	127339
Board of Voting Machines Examiners	3506.05	127340
Budget Planning and Management Commission	Section 509.10, H.B. 1, 128th G.A.	127341
Brain Injury Advisory Committee	3304.231	127342
Bureau of Workers' Compensation Board of Directors	4121.12	127343
Capitol Square Review and Advisory Board	105.41	127344
Child Care Advisory Council	5104.08	127345
Child Support Guideline Advisory Council	3119.024	127346
Children's Trust Fund Board	3109.15 - 3109.17	127347
Citizen's Advisory Council	5123.092, 5123.093	127348
Clean Ohio Trail Advisory Board	1519.06	127349
Coastal Resources Advisory Council	1506.12	127350
Commission on African-American Males	4112.12, 4112.13	127351
Commission on Hispanic-Latino Affairs	121.31	127352
Commission on Minority Health	3701.78	127353
Committee on Prescriptive Governance	4723.49 - 4723.492	127354
Commodity Advisory Commission	926.32	127355
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	127356
Continuing Education Committee	109.80(B)	127357

Council on Alcohol and Drug Addiction Services	3793.09	127358
Council on Unreclaimed Strip Mined Lands	1513.29	127359
County Sheriff's Standard Car Marking and Uniform Commission	311.25 - 311.27	127360
Credential Review Board	3319.65	127361
Credit Union Council	1733.329	127362
Criminal Sentencing Advisory Committee	181.22	127363
Data Collection and Analysis Group	3727.32	127364
Dentist Loan Repayment Advisory Board	3702.92	127365
Department Advisory Council(s)	107.18, 121.13	127366
Development Financing Advisory Council	122.40, 122.41	127367
Early Childhood Advisory Council	3301.90	127368
Education Commission of the States (Interstate Compact for Education)	3301.48, 3301.49	127369
Education Management Information System Advisory Board	3301.0713	127370
Educator Standards Board	3319.60	127371
Electrical Safety Inspector Advisory Committee	3783.08	127372
Emergency Response Commission	3750.02	127373
Engineering Experiment Station Advisory Committee	3335.27	127374
Environmental Education Council	3745.21	127375
Environmental Protection Agency Advisory Board(s)	121.13, 3704.03, 3745.01	127376
eTech Ohio Commission	3353.02 3353.04	127377
Ex-Offender Reentry Coalition	5120.07	127378
Farmland Preservation Advisory Board	901.23	127379
Financial Planning and Supervision Commission(s) for Municipal Corporation, County, or Township	118.05	127380
Financial Planning and Supervision Commission for a school district	3316.05	127381
Forestry Advisory Council	1503.40	127382
Governance Authority for a State University or	3345.75	127383

College		
Governor's Council on People with Disabilities	3303.41	127384
Governor's Policy Information Working Group	Section 313, H.B. 420, 127th G.A.	127385
Governor's Residence Advisory Commission	107.40	127386
Grain Marketing Program Operating Committee	924.20 - 924.30	127387
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	127388
Gubernatorial Transition Committee	107.29, 126.26	127389
Help Me Grow Advisory Council	3701.611	127390
Hemophilia Advisory Subcommittee of the Medically Handicapped Children's Medical Advisory Council	3701.0210	127391
Homeland Security Advisory Council	5502.011(E)	127392
Hospital Measures Advisory Council	3727.31	127393
Housing Trust Fund Advisory Committee	174.06	127394
Industrial Commission Nominating Council	4121.04	127395
Industrial Technology and Enterprise Advisory Council	122.29, 122.30	127396
Infant Hearing Screening Subcommittee	3701.507	127397
Infection Control Group	3727.312(D)	127398
Insurance Agent Education Advisory Council	3905.483	127399
Interstate Rail Passenger Advisory Council	4981.35	127400
Joint Select Committee on Volume Cap	133.021	127401
Labor-Management Government Advisory Council	4121.70	127402
Legislative Programming Committee of the Ohio Government Telecommunications Service	3353.07	127403
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	127404
Maternity and Newborn Advisory Council	3711.20, 3711.21	127405
Medically Handicapped Children's Medical Advisory Council	3701.025	127406
Midwest Interstate Passenger Rail Compact	4981.361	127407

Commission		
Milk Sanitation Board	917.03 - 917.032	127408
Mine Subsidence Insurance Governing Board	3929.51	127409
Minority Development Financing Advisory Board	122.72, 122.73	127410
Multi-Agency Radio Communications System (MARCS) Steering Committee	Section 15.02, H.B. 640, 123rd G.A.	127411
National Museum of Afro-American History and Culture Planning Committee	149.303	127412
New African Immigrants Commission	4112.31, 4112.32	127413
Ohio Accountability Task Force	3302.021(E)	127414
Ohio Advisory Council for the Aging	173.03	127415
Ohio Agriculture License Plate Scholarship Fund Board	901.90	127416
Ohio Arts Council	Chapter 3379.	127417
Ohio Business Gateway Steering Committee	5703.57	127418
Ohio Cemetery Dispute Resolution Commission	4767.05, 4767.06	127419
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)(4)	127420
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	127421
Ohio Commission on Dispute Resolution and Conflict Management	179.02 - 179.04	127422
Ohio Commission on Fatherhood	5101.34	127423
Ohio Community Service Council	121.40 - 121.404	127424
Ohio Council for Interstate Adult Offender Supervision	5149.22	127425
Ohio Cultural Facilities Commission	Chapter 3383.	127426
Ohio Cystic Fibrosis Legislative Task Force	101.38	127427
Ohio Developmental Disabilities Council	5123.35	127428
Ohio Expositions Commission	991.02	127429
Ohio Family and Children First Cabinet Council	121.37	127430
Ohio Geographically Referenced Information	125.901, 125.902	127431

Program Council		
Ohio Geology Advisory Council	1501.11	127432
Ohio Grape Industries Committee	924.51 - 924.55	127433
Ohio Historic Site Preservation Advisory Board	149.301	127434
Ohio Historical Society Board of Trustees	149.30	127435
Ohio Judicial Conference	105.91 - 105.97	127436
Ohio Lake Erie Commission	1506.21	127437
Ohio Legislative Commission on the Education and Preservation of State History	Section 701.05, H.B. 1, 128th G.A.	127438
Ohio Medical Quality Foundation	3701.89	127439
Ohio Parks and Recreation Council	1541.40	127440
Ohio Peace Officer Training Commission	109.71, 109.72	127441
Ohio Private Investigation and Security Services Commission	4749.021, 4743.01	127442
Ohio Public Defender Commission	120.01 - 120.03	127443
Ohio Public Library Information Network Board of Trustees	3375.65, 3375.66	127444
Ohio Quarter Horse Development Commission	3769.086	127445
Ohio Small Government Capital Improvements Commission	164.02(C)(D)	127446
Ohio Soil and Water Conservation Commission	1515.02	127447
Ohio Standardbred Development Commission	3769.085	127448
Ohio Subrogation Rights Commission	2323.44	127449
Ohio Thoroughbred Racing Advisory Committee	3769.084	127450
Ohio Transportation Finance Commission	5531.12(B) to (D)	127451
Ohio Tuition Trust Authority	3334.03, 3334.08	127452
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10, 3337.11	127453
Ohio Vendors Representative Committee	3304.34, 20 USC 107	127454
Ohio War Orphans Scholarship Board	5910.02 -	127455

	5910.06	
Ohio Water Advisory Council	1521.031	127456
Ohio Water Resources Council Advisory Group	1521.19	127457
Ohio Water Resources Council	1521.19	127458
Oil and Gas Commission	1509.35	127459
Operating Committee of the Oil and Gas Marketing Program	1510.06, 1510.11	127460
Organized Crime Investigations Commission	177.01	127461
Pharmacy and Therapeutics Committee of the Department of Job and Family Services <u>Medicaid</u>	5111.084 <u>5164.7510</u>	127462
Physician Assistant Policy Committee of the State Medical Board	4730.05, 4730.06	127463
Physician Loan Repayment Advisory Board	3702.81	127464
Power Siting Board	4906.02	127465
Prequalification Review Board	5525.07	127466
Private Water Systems Advisory Council	3701.346	127467
Public Utilities Commission Nominating Council	4901.021	127468
Public Utility Property Tax Study Committee	5727.85(K)	127469
Radiation Advisory Council	3748.20	127470
Reclamation Commission	1513.05	127471
Reclamation Forfeiture Fund Advisory Board	1513.182	127472
Recreation and Resources Commission	1501.04	127473
Recycling and Litter Prevention Advisory Council	1502.04	127474
School and Ministerial Lands Divestiture Committee	501.041	127475
Savings and Loan Associations and Savings Banks Board	1181.16	127476
Second Chance Trust Fund Advisory Committee	2108.35	127477
Service Coordination Workgroup	Section 751.20, H.B. 1, 128th G.A.	127478
Ski Tramway Board	4169.02	127479
Small Business Stationary Source Technical and	3704.19	127480

Environmental Compliance Assistance Council		
Solid Waste Management Advisory Council	3734.51	127481
Special Commission to Consider the Suspension of	3.16	127482
Local Government Officials		
Speed to Scale Task Force	Section	127483
	375.60.80, H.B.	
	119, 128th G.A.	
State Agency Coordinating Group	1521.19	127484
State Audit Committee	126.46	127485
State Council of Uniform State Laws	105.21 - 105.27	127486
State Criminal Sentencing Commission	181.22 - 181.26	127487
State Fire Council	3737.81	127488
State Library Board	3375.01	127489
State Victims Assistance Advisory Council	109.91(B) and	127490
	(C)	
Statewide Consortium of County Law Library	3375.481	127491
Resource Boards		
STEM Committee	3326.02	127492
Student Tuition Recovery Authority	3332.081	127493
Sunset Review Committee	101.84 - 101.87	127494
Tax Credit Authority	122.17(M)	127495
Technical Advisory Committee to Assist Director	1551.35	127496
of the Ohio Coal Development Office		
Technical Advisory Council on Oil and Gas	1509.38	127497
Transportation Review Advisory Council	5512.07 -	127498
	5512.09	
Unemployment Compensation Advisory Council	4141.08	127499
Unemployment Compensation Review Commission	4141.06	127500
Veterans Advisory Committee	5902.02(K)	127501
Volunteer Fire Fighters' Dependents Fund Boards	146.02 - 146.06	127502
(private volunteer)		
Volunteer Fire Fighters' Dependents Fund Boards	146.02 - 146.06	127503
(public)		

Water and Sewer Commission	1525.11(C)	127504
Waterways Safety Council	1547.73	127505
Wildlife Council	1531.03 -	127506
	1531.05	
Workers' Compensation Board of Directors	4121.123	127507
Nominating Committee		

Section 610.21. That existing Section 4 of Sub. S.B. 171 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly, is hereby repealed.

Section 620.10. That Section 105.05 of Am. Sub. H.B. 2 of the 128th General Assembly be amended to read as follows:

Sec. 105.05. Section 121.53 of the Revised Code is hereby repealed, effective ~~September~~ June 30, 2013 2014.

Section 620.11. That existing Section 105.05 of Am. Sub. H.B. 2 of the 128th General Assembly is hereby repealed.

Section 630.10. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Administrative Building Fund (Fund 7026) that are not otherwise appropriated for the biennium ending June 30, 2014:

Appropriations

DEV DEVELOPMENT SERVICES AGENCY		127521
C19506 Children's Home	\$ 100,000	127522
Total Development Services Agency	\$ 100,000	127523
CHILDREN'S HOME		127524

The foregoing appropriation item C19506, Children's Home, shall be used for the Children's Home of Cincinnati.

Section 630.11. That Sections 203.90.10 and 203.90.20 of Sub.

S.B. 312 of the 129th General Assembly be amended to read as 127528
 follows: 127529

Reappropriations

Sec. 203.90.10. DMH DEPARTMENT OF MENTAL HEALTH			127530
C58000	Hazardous Materials Abatement	\$ 118,750	127531
C58001	Community Assistance Projects	\$ 332,500	127532
		<u>232,500</u>	
C58002	Campus Consolidation - Automation	\$ 95,000	127533
C58004	Demolition	\$ 142,500	127534
C58005	Life Safety/Critical Plant Renovations	\$ 23,750	127535
C58006	Patient Care/Environment Improvement	\$ 285,000	127536
C58007	Infrastructure Renovations	\$ 475,000	127537
C58008	Emergency Improvements	\$ 285,000	127538
C58009	Patient Environment Improvement	\$ 1,000	127539
	Consolidation		
C58010	Campus Consolidation	\$ 23,750,000	127540
C58020	Mandel Jewish Community Center	\$ 199,500	127541
Total Department of Mental Health		\$ 25,708,000	127542
		<u>25,608,000</u>	

COMMUNITY ASSISTANCE PROJECTS 127543

Of the foregoing appropriation item C58001, Community 127544
 Assistance Projects, ~~\$100,000 shall be used for the Children's~~ 127545
~~Home of Cincinnati~~, \$100,000 shall be used for the Shaw JCC, and 127546
 \$300,000 shall be used for the Berea Children's Home. 127547

The amount reappropriated for the foregoing appropriation 127548
 item C58001, Community Assistance Projects, is the unencumbered 127549
 unallotted balance, as of June 30, 2012, in appropriation item 127550
 C58001, Community Assistance Projects, plus \$1,096,159.42. Prior 127551
 to the expenditure of this reappropriation, the Director of Mental 127552
 Health shall certify to the Director of Budget and Management 127553
 canceled encumbrances in the amount of at least \$1,096,159.42. 127554

INFRASTRUCTURE RENOVATIONS 127555

The amount reappropriated for the foregoing appropriation 127556
 item C58007, Infrastructure Renovations, is the unencumbered and 127557
 unallotted balance as of June 30, 2012, in appropriation item 127558
 C58007, Infrastructure Renovations, plus \$2,995,450.24. Prior to 127559
 the expenditure of this reappropriation, the Director of Mental 127560
 Health shall certify to the Director of Budget and Management 127561
 canceled encumbrances in the amount of at least \$2,995,450.24. 127562

Reappropriations

Sec. 203.90.20. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 127563

C59004	Community Assistance Projects	\$	13,913,599	127564
C59029	Emergency Generator Replacement	\$	460,362	127565
C59034	Statewide Developmental Centers	\$	1,407,067	127566
C59050	Emergency Improvements	\$	484,984	127567
C59051	Energy Conservation	\$	430,500	127568
C59055	Camp McKinley Improvements	\$	30,000	127569
C59056	The Hope Learning Center	\$	250,000	127570
TOTAL	Department of Developmental Disabilities	\$	16,976,512	127571
TOTAL	Mental Health Facilities Improvement Fund	\$	42,684,512	127572
			<u>42,584,512</u>	

COMMUNITY ASSISTANCE PROJECTS 127573

The foregoing appropriation item C59004, Community Assistance 127574
 Projects, may be used to provide community assistance funds for 127575
 the construction or renovation of facilities for day programs or 127576
 residential programs that provide services to persons eligible for 127577
 services from the Department of Developmental Disabilities or 127578
 county boards of developmental disabilities. 127579

The amount reappropriated for the foregoing appropriation 127580
 item C59004, Community Assistance Projects, is the unencumbered, 127581
 unallotted balance as of June 30, 2012, in appropriation item 127582
 C59004, Community Assistance Projects, plus \$8,326,255. Prior to 127583

the expenditure of this reappropriation, the Director of 127584
Developmental Disabilities shall certify to the Director of Budget 127585
and Management canceled encumbrances in the Mental Health 127586
Facilities Improvement Fund (Fund 7033) in the amount of at least 127587
\$8,326,255. 127588

STATEWIDE DEVELOPMENTAL CENTERS 127589

The amount reappropriated for the foregoing appropriation 127590
item C59034, Statewide Developmental Centers, is the unencumbered, 127591
unallotted balance as of June 30, 2012, in appropriation item 127592
C59034, Statewide Developmental Centers, plus \$167,912. Prior to 127593
the expenditure of this reappropriation, the Director of 127594
Developmental Disabilities shall certify to the Director of Budget 127595
and Management canceled encumbrances in the Mental Health 127596
Facilities Improvement Fund (Fund 7033) in the amount of at least 127597
\$167,912. 127598

Section 630.12. That existing Sections 203.90.10 and 127599
203.90.20 of Sub. S.B. 312 of the 129th General Assembly are 127600
hereby repealed. 127601

Section 701.10. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES 127602

As used in this section, "appointing authority" has the same 127603
meaning as in section 124.01 of the Revised Code, and "exempt 127604
employee" has the same meaning as in section 124.01 of the Revised 127605
Code. 127606

Notwithstanding section 124.181 of the Revised Code, in cases 127607
where no vacancy exists, an appointing authority may, with the 127608
written consent of an exempt employee, assign duties of a higher 127609
classification to that exempt employee for a period of time not to 127610
exceed two years, and that exempt employee shall receive 127611
compensation at a rate commensurate with the duties of the higher 127612
classification. 127613

Section 715.10. Two years after the amendments to section 127614
1501.011 of the Revised Code by this act take effect, the Ohio 127615
Facilities Construction Commission and the Department of Natural 127616
Resources shall review division (C) of that section. 127617

Section 733.10. Notwithstanding section 3317.01 of the 127618
Revised Code, as amended by this act, to determine whether a 127619
school district satisfied the minimum school year in the 2013-2014 127620
school year in order to qualify for state funding under Chapter 127621
3317. of the Revised Code for fiscal year 2015, the Department of 127622
Education shall apply the criteria prescribed in the version of 127623
division (B) of section 3317.01 of the Revised Code in effect 127624
prior to July 1, 2014. 127625

Section 733.20. The General Assembly hereby declares its 127626
intent, in enacting section 3319.031 of the Revised Code, to 127627
supersede any effect of the decision of the Court of Appeals of 127628
the Eighth Appellate District in *OAPSE/AFSCME Local 4 v. Berdine*, 127629
174 Ohio App.3d 46 (Cuyahoga County, 2007) to the extent the 127630
decision conflicts with the principle that boards of education may 127631
appoint a licensed business manager, but also may determine 127632
instead to assign the roles and functions of a business manager to 127633
one or more employees or officers of the board, including the 127634
treasurer, in the board's sole discretion. 127635

Section 733.40. (A) The Superintendent of Public Instruction 127636
shall appoint three incorporators who are knowledgeable about the 127637
administration of public schools and about the operation of 127638
nonprofit corporations in Ohio. 127639

(B) The incorporators shall do whatever is necessary and 127640
proper to set up a nonprofit corporation under Chapter 1702. of 127641
the Revised Code. The articles of incorporation, in addition to 127642

meeting the requirements of section 1702.04 of the Revised Code, 127643
shall set forth the following provisions: 127644

(1) That the nonprofit corporation is to create and implement 127645
a pilot program that provides an alternative path for individuals 127646
to receive training and development in the administration of 127647
primary and secondary education and leadership, that will enable 127648
these individuals to earn a degree in public school 127649
administration, that will enable these individuals to obtain 127650
licenses in public school administration, and that promotes the 127651
placement of these individuals in public schools that have a 127652
poverty percentage greater than fifty per cent. 127653

(2) That the Board of Directors are to establish criteria for 127654
program costs, participant selection, and continued participation, 127655
and metrics to document and measure pilot program activities. 127656

(3) That the name of the nonprofit corporation is "New 127657
Leaders for Ohio Schools." 127658

(4) That the Board of Directors is to consist of the 127659
following eight directors: 127660

(a) The Governor or the Governor's designee; 127661

(b) The Superintendent of Public Instruction, or the 127662
Superintendent's designee; 127663

(c) The Chancellor of the Ohio Board of Regents, or the 127664
Chancellor's designee; 127665

(d) A person to represent major business enterprises in Ohio; 127666

(e) Two individuals appointed by the Speaker of the House of 127667
Representatives, one of whom shall be an active duty or retired 127668
military officer; 127669

(f) Two individuals appointed by the President of the Senate, 127670
one of whom shall be a current or retired teacher or principal. 127671

The Dean of The Ohio State University Fisher College of 127672

Business and the Dean of The Ohio State University College of
Education and Human Ecology are to serve as ex-officio nonvoting
members of the Board.

The person on the Board who represents a major business
enterprise in Ohio is to be appointed by an organization selected
by the Governor. The organization is to be nonpartisan and consist
of chief executive officers of corporations organized in Ohio.

(5) That the Board is to appoint a President of the
corporation.

(6) That the President of the Corporation, subject to the
approval of the Board, is to enter into a contract with The Ohio
State University Fisher College of Business. Under the contract,
the College is to provide oversight to the corporation, is to
serve as fiscal agent for the corporation, and is to provide the
corporation with office space, and with office furniture and
equipment, as is necessary for the corporation successfully to
fulfill its duties.

(7) That the administrative costs of the corporation are not
to exceed fifteen per cent of the annual budget of the
corporation.

(8) That the President is to apply for, and is to receive and
accept, grants, gifts, bequests, and contributions from private
sources.

(9) That the corporation is to submit an annual report to the
General Assembly and Governor beginning December 31, 2013.

(10) That the corporation shall cease operations on the date
that is five years after the effective date of this section and
proceed to wind up its affairs.

Section 751.10. RECOVERY REQUIRES A COMMUNITY PROGRAM

The Department of Mental Health and Addiction Services, in

consultation with the Department of Medicaid, shall administer the 127703
Recovery Requires a Community Program to identify individuals 127704
residing in nursing facilities who can be successfully moved into 127705
a community setting with the aid of community non-Medicaid 127706
services. 127707

The Director of Mental Health and Addiction Services and the 127708
Medicaid Director shall agree upon an amount representing the 127709
savings realized from decreased nursing facility utilization to be 127710
transferred within the biennium from the Department of Medicaid to 127711
the Department of Mental Health and Addiction Services to support 127712
non-Medicaid program costs for individuals moving into community 127713
settings. 127714

Of the foregoing appropriation item 651525, Medicaid/Health 127715
Care Services, the Medicaid Director shall transfer the amount 127716
agreed upon representing the savings from the General Revenue Fund 127717
to the Sale of Goods and Services Fund (Fund 1490). The transfer 127718
shall be made using an intrastate transfer voucher. The 127719
transferred cash is hereby appropriated to appropriation item 127720
335609, Community Operating/Planning. 127721

Section 757.10. MINIMUM DISTRIBUTION OF LOCAL GOVERNMENT FUND 127722
127723

Notwithstanding any provision of section 131.51 of the 127724
Revised Code to the contrary, from revenue arising from the 127725
personal income tax levied under Chapter 5747. of the Revised 127726
Code, an amount equal to one hundred per cent of the amount 127727
credited to the Local Government Fund in July 2012 shall be 127728
credited to such fund in July 2013. In July 2013 each county 127729
undivided local government fund shall receive the same amount it 127730
received in July 2012. In July 2013 each municipal corporation 127731
shall receive the same amount it directly received from the Local 127732
Government Fund in July 2012. 127733

Section 757.20. (A) On or before June 15, 2014, the Director 127734
of the Ohio Public Works Commission shall certify to the Director 127735
of Budget and Management the amount of debt service paid from the 127736
General Revenue Fund in fiscal years 2013 and 2014 on bonds issued 127737
to finance or assist in the financing of the cost of local 127738
subdivision public infrastructure capital improvement projects, as 127739
provided for in Sections 2k, 2m, and 2p of Article VIII, Ohio 127740
Constitution, that are attributable to costs for construction, 127741
reconstruction, maintenance, or repair of public highways and 127742
bridges and other statutory highway purposes. That certification 127743
shall allocate the total amount of debt service paid from the 127744
General Revenue Fund and attributable to those costs in each of 127745
fiscal years 2013 and 2014 according to the applicable section of 127746
the Ohio Constitution under which the bonds were originally 127747
issued. 127748

(B) On or before June 15, 2015, the Director of the Ohio 127749
Public Works Commission shall certify to the Director of Budget 127750
and Management the amount of debt service paid from the General 127751
Revenue Fund in fiscal year 2015 on bonds issued to finance or 127752
assist in the financing of the cost of local subdivision public 127753
infrastructure capital improvement projects, as provided for in 127754
Sections 2k, 2m, and 2p of Article VIII, Ohio Constitution, that 127755
are attributable to costs for construction, reconstruction, 127756
maintenance, or repair of public highways and bridges and other 127757
statutory highway purposes. That certification shall allocate the 127758
total amount of debt service paid from the General Revenue Fund 127759
and attributable to those costs in fiscal year 2015 according to 127760
the applicable section of the Ohio Constitution under which the 127761
bonds were originally issued. 127762

(C) On or before June 30 of each fiscal year, the Director of 127763
Budget and Management shall determine an amount up to but not 127764
exceeding the amount certified under division (A) or (B) of this 127765

section and shall reserve that amount from the cash balance in the 127766
Commercial Activity Tax Motor Fuel Receipts Fund for transfer to 127767
the General Revenue Fund at times and in amounts to be determined 127768
by the Director. The Director shall transfer the cash balance in 127769
the Commercial Activity Tax Motor Fuel Receipts Fund in excess of 127770
the amount so reserved to the Highway Operating Fund on or before 127771
June 30 of each fiscal year. 127772

Section 803.10. An investor who is issued a tax credit 127773
certificate under section 122.152 of the Revised Code prior to 127774
that section's repeal by this act may continue to claim that 127775
credit in the manner provided for in that section. 127776

Section 803.20. The member of the Farmland Preservation 127777
Advisory Board appointed under division (A)(4) of section 901.23 127778
of the Revised Code, as that section existed prior to its 127779
amendment by this act, who is serving on the effective date of 127780
this act shall continue to serve until the expiration of the term 127781
for which the member was appointed. At the end of that term, a 127782
member shall be appointed in accordance with division (A)(4) of 127783
that section as amended by this act. 127784

Section 803.30. A member of the technical advisory committee 127785
created in section 1551.35 of the Revised Code, as amended by this 127786
act, who was appointed by the Director of the Ohio Coal 127787
Development Office and who is serving on the committee immediately 127788
prior to the effective date of the amendments to that section 127789
shall continue in office until the expiration of the member's 127790
term. Thereafter, the appointment of a member for that position on 127791
the committee shall be made in accordance with the amendments to 127792
that section by this act. 127793

Section 803.50. The amendments to sections 3313.48, 3313.533, 127794

3313.62, 3317.01, and 3321.05; the repeal and reenactment of 127795
section 3313.481; and the repeal of section 3313.482 of the 127796
Revised Code made by this act do not apply to any collective 127797
bargaining agreement executed under Chapter 4117. of the Revised 127798
Code prior to July 1, 2014. Any collective bargaining agreement or 127799
renewal executed after that date shall comply with the changes 127800
provided for in this act. 127801

Section 803.60. (A) As used in this section: 127802

(1) "State institution of higher education" has the same 127803
meaning as in section 3345.011 of the Revised Code. 127804

(2) "Career-technical planning district" has the same meaning 127805
as in section 3302.033 of the Revised Code. 127806

(B) Nothing in Chapter 3365. of the Revised Code or the 127807
amendment of sections in that chapter by this act shall be 127808
construed to infringe upon or require the alteration of any 127809
existing or future articulation agreement for technical coursework 127810
offered through state-approved career-technical programs of study 127811
or any corresponding payment structure between any state 127812
institution of higher education and a career-technical planning 127813
district. 127814

The Department of Education and the Board of Regents shall 127815
study the implications of applying the changes in Chapter 3365. of 127816
the Revised Code to articulation agreements for technical 127817
coursework offered through state-approved career-technical 127818
programs of study. The Department and the Board also shall make 127819
recommendations on how such career-technical programs of study 127820
might be included under Chapter 3365. of the Revised Code and the 127821
implications of including them. These recommendations shall be 127822
submitted to the Governor's Office of 21st Century Education and 127823
the General Assembly in accordance with section 101.68 of the 127824
Revised Code, not later than July 1, 2014. 127825

Section 803.80. (A) The amendment by this act of section 127826
5747.01 of the Revised Code, amending or enacting divisions 127827
(A)(26) and (GG) or striking existing division (A)(29) of that 127828
section, applies to taxable years ending on or after the effective 127829
date of this section. 127830

(B) The amendment by this act of section 5747.022 and 127831
division (A) of section 5747.025 of the Revised Code applies to 127832
taxable years beginning on or after January 1, 2013. 127833

(C) The amendment by this act of division (C) of section 127834
5747.025, and of sections 5747.02, 5747.08, and 5747.21, and the 127835
repeal of section 5747.211 of the Revised Code apply to taxable 127836
years beginning on or after January 1, 2013. 127837

Section 803.90. (A) The amendment by this act of section 127838
5751.01 of the Revised Code applies to tax periods ending on or 127839
after the effective date of that amendment. 127840

(B) The amendment by this act of section 5751.07 of Revised 127841
Code applies to original returns filed on or after January 1, 127842
2014. 127843

Section 803.120. (A) The amendment or enactment by this act 127844
of section 1509.50, division (C)(12) of section 5703.21, section 127845
5749.02, divisions (F), (H), and (I) of section 5749.06, and 127846
section 5749.17 of the Revised Code applies to the severance of 127847
natural resources occurring in calendar quarters beginning on or 127848
after October 1, 2013. 127849

(B) The amendment or enactment by this act of section 127850
113.061, divisions (A)(5) and (6) of section 5749.02, and 127851
divisions (B), (D), and (G) of section 5749.06 of the Revised Code 127852
applies to the severance of natural resources occurring in 127853
calendar quarters beginning on or after January 1, 2014. 127854

Section 803.150. A proposal approved by a board of county commissioners under section 317.321 of the Revised Code as it existed before the date of the amendment of that section by this act continues in effect for the number of years approved by the board of county commissioners under that section. The special fund established at the request of the board under that section ceases to exist upon the expiration of the proposal.

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Section 803.160. (A) References to the Ohio Cooperative Extension Service, or use of a similar term, in any contracts, agreements, or other instruments that were entered into or executed prior to the effective date of this section pursuant to state statutes are deemed to be references to OSU Extension as defined in section 1.611 of the Revised Code as enacted by this act.

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(B) References to the Ohio Cooperative Extension Service, or use of a similar term, in rules adopted prior to the effective date of this section pursuant to state statutes are deemed to be references to OSU Extension.

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Section 803.170. The amendment by this act of section 5709.17 of the Revised Code applies to tax year 2013 and every tax year thereafter.

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Section 803.180. The amendment or enactment by this act of sections 5735.01, 5735.012, and 5735.013 applies on the first day of the first month after the effective date of those sections.

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Section 803.190. (A) The amendment or enactment by this act of division (QQQ) of section 5739.01, section 5739.12, division (I), except for divisions (I)(2)(g) and (I)(4), and division (Q) of section 5741.01, and section 5741.12 of the Revised Code

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applies to the storage, use, or other consumption of tangible 127883
personal property or services occurring on and after the first 127884
month beginning after the effective date of that division and 127885
section. 127886

(B) The amendment by this act of divisions (I)(2)(g) and 127887
(I)(4) of section 5741.01 and section 5741.17 of the Revised Code 127888
applies to the storage, use, or other consumption of tangible 127889
personal property or services occurring on and after October 1, 127890
2013, regardless of the date a seller and a resident entered into 127891
an agreement described in division (I)(2)(g) of section 5741.01 of 127892
the Revised Code. On that date, as used in divisions (I)(2)(g) and 127893
(I)(4) of section 5741.01 of the Revised Code, "preceding twelve 127894
months" means the twelve months beginning October 1, 2012, and 127895
ending September 30, 2013. 127896

Section 806.10. The items of law contained in this act, and 127897
their applications, are severable. If any item of law contained in 127898
this act, or if any application of any item of law contained in 127899
this act, is held invalid, the invalidity does not affect other 127900
items of law contained in this act and their applications that can 127901
be given effect without the invalid item of law or application. 127902

Section 809.10. An item of law, other than an amending, 127903
enacting, or repealing clause, that composes the whole or part of 127904
an uncodified section contained in this act has no effect after 127905
June 30, 2015, unless its context clearly indicates otherwise. 127906

Section 812.10. Except as otherwise provided in this act, the 127907
amendment, enactment, or repeal by this act of a section is 127908
subject to the referendum under Ohio Constitution, Article II, 127909
Section 1c and therefore takes effect on the ninety-first day 127910
after this act is filed with the Secretary of State or, if a later 127911

effective date is specified below, on that date. 127912

The enactment of section 5162.12 of the Revised Code takes 127913
effect January 1, 2014. 127914

The amendment, enactment, or repeal of sections 3313.48, 127915
3313.533, 3313.62, 3314.09, 3314.092, 3321.05, 3326.11, and 127916
3326.20 of the Revised Code takes effect July 1, 2014. 127917

The repeal and reenactment of sections 3313.481 and 3327.02 127918
of the Revised Code take effect July 1, 2014. 127919

The enactment of section 3327.07 of the Revised Code takes 127920
effect on July 1, 2014. 127921

Sections 323.70, 323.110, 323.120, and 323.480 of this act 127922
take effect at the earliest time permitted by law but not earlier 127923
than September 30, 2013. 127924

Section 812.20. The amendment, enactment, or repeal by this 127925
act of the sections listed below is exempt from the referendum 127926
under Ohio Constitution, Article II, Section 1d and section 1.471 127927
of the Revised Code and therefore takes effect immediately when 127928
this act becomes law or, if a later effective date is specified 127929
below, on that date. 127930

Sections 731.091, 3314.05, 3734.57, 3734.901, 4301.43, 127931
5727.84, 5747.501, and 5753.03 of the Revised Code. 127932

Sections of this act prefixed with section numbers in the 127933
200's, 300's, 400's, and 500's except for sections 323.10.70, 127934
323.70, 323.110, 323.120, 323.480, 363.230, 363.520, 363.540, and 127935
363.550 of this act. 127936

Sections 812.10, 812.20, and 812.30 of this act. 127937

The enactment of section 5168.41 of the Revised Code takes 127938
effect July 1, 2013. 127939

The amendment of sections 120.06 and 5139.04 of the Revised Code takes effect July 1, 2013. 127940
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Section 812.30. The sections that are listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum under Ohio Constitution, Article II, sections 1c and 1d and section 1.471 of the Revised Code. 127942
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The middle column identifies the amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date. 127947
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The right-hand column identifies the amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date. 127952
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Section of law	Amendments subject to referendum	Amendments exempt from referendum	
3745.11	Amendments to division (M)(5)	All amendments except as described in the middle column	127958 127959
3721.50 (5168.40)	All amendments except as described in the right-hand column	Amendments to division (F)	127960
5112.30 (5168.60)	All amendments except as described in the right-hand column	Amendments to division (A) take effect July 1, 2013	127961
5751.20	Amendments to division (J)	All amendments except as described in the middle	127962

6109.21 The stricken sentence in column
 division (E) All amendments except as 127963
 described in the middle
 column

Section 812.40. The amendments to sections 109.572, 169.02, 127964
3317.01, 5101.573 (5160.40), 5101.58 (5160.37), 5111.07 127965
(5164.752), 5111.071 (5164.753), 5111.083 (5164.757), 5111.17 127966
(5167.10), and 5111.19 (5164.74) of the Revised Code are subject 127967
to the referendum under Ohio Constitution, Article II, Section 1c 127968
and section 1.471 of the Revised Code, and therefore take effect 127969
on the ninety-first day after this act is filed with the Secretary 127970
of State. However: 127971

(A) In section 3317.01 of the Revised Code, the amendments to 127972
division (B) take effect July 1, 2014. 127973

(B) In section 5101.573 (5160.40) of the Revised Code, the 127974
new matter inserted into division (C) takes effect January 1, 127975
2014. 127976

(C) In section 5101.58 (5160.37) of the Revised Code, the 127977
insertion of division (K) takes effect January 1, 2014. 127978

(D)(1) In section 5111.07 (5164.752) of the Revised Code, all 127979
of the amendments take effect July 1, 2014, except for the 127980
following amendments: 127981

(a) The renumbering of the section; 127982

(b) The strike through of "job and family services" and 127983
insertion of "medicaid" in the first sentence as the section 127984
appears on the day immediately preceding the effective date of 127985
this section. 127986

(2) The reference to "director of job and family services" in 127987
the last sentence shall be read as if it reads the "director of 127988
medicaid" while the last sentence remains in effect. 127989

(E) In section 5111.071 (5164.753) of the Revised Code, the 127990
insertion in the last sentence of "and the extent to which each 127991
terminal distributor participates in the medicaid program as a 127992
provider of drugs" takes effect July 1, 2014. 127993

(F) In section 5111.083 (5164.757) of the Revised Code, all 127994
of the amendments take effect January 1, 2014, except for the 127995
following amendments: 127996

(1) The renumbering of the section; 127997

(2) The insertion of "medicaid" before "director" in the 127998
first sentence of division (B); 127999

(3) The strike through of "of job and family services". 128000

(G) In section 5111.17 (5167.10) of the Revised Code, the 128001
amendments to division (B)(2) take effect January 1, 2014. 128002

(H) In section 5111.19 (5164.74) of the Revised Code, the 128003
following amendments take effect January 1, 2014: 128004

(1) The insertion of ", and the allocation of payments for," 128005
in the first paragraph; 128006

(2) The strike through of the second paragraph and divisions 128007
(A), (B), and (C). 128008

Section 812.60. (A) Except as provided in division (B) of 128009
this section, the amendments of this act to section 5111.251 of 128010
the Revised Code, including the renumbering of the section as 128011
section 5124.17 of the Revised Code, take effect ninety-one days 128012
after the effective date of this section. 128013

(B) The following amendments by this act to section 5111.251 128014
(5124.17) of the Revised Code take effect July 1, 2014: 128015

(1) The amendments that halve the efficiency incentive 128016
payment for intermediate care facilities for the mentally retarded 128017
that have more than eight beds; 128018

(2) The amendments that eliminate the nonextensive 128019
renovations component of the Medicaid payments for the capital 128020
costs of intermediate care facilities for the mentally retarded 128021
that have more than eight beds; 128022

(3) The amendments that eliminate the return on equity 128023
component of the Medicaid payments for the capital costs of all 128024
intermediate care facilities for the mentally retarded. 128025

Section 812.70. All the amendments by this act to section 128026
3327.01 of the Revised Code are subject to the referendum under 128027
Ohio Constitution, Article II, Section 1c. The amendment adding 128028
division (H) to the section takes effect on the ninety-first day 128029
after this act is filed with the Secretary of State, and all the 128030
other amendments to the section take effect on July 1, 2014. 128031

Section 815.10. The General Assembly, applying the principle 128032
stated in division (B) of section 1.52 of the Revised Code that 128033
amendments are to be harmonized if reasonably capable of 128034
simultaneous operation, finds that the following sections, 128035
presented in this act as composites of the sections as amended by 128036
the acts indicated, are the resulting versions of the sections in 128037
effect prior to the effective date of the sections as presented in 128038
this act: 128039

Section 9.90 of the Revised Code as amended by both Am. Sub. 128040
H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. 128041

Section 109.572 of the Revised Code as amended by both Am. 128042
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly. 128043

Section 122.17 of the Revised Code as amended by Sub. H.B. 128044
327, Am. Sub. H.B. 510, and Am. Sub. S.B. 314, all of the 129th 128045
General Assembly. 128046

Section 122.33 of the Revised Code as amended by both Am. 128047
Sub. H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. 128048

Section 122.85 of the Revised Code as amended by both Am.	128049
Sub. H.B. 508 and Am. Sub. H.B. 510 of the 129th General Assembly.	128050
Section 124.381 of the Revised Code as amended by both Am.	128051
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	128052
Section 149.43 of the Revised Code as amended by both Am.	128053
Sub. H.B. 487 and Am. Sub. S.B. 314 of the 129th General Assembly.	128054
Section 329.06 of the Revised Code as amended by both Am.	128055
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	128056
Section 955.201 of the Revised Code as amended by both Am.	128057
Sub. H.B. 1 and Am. Sub. H.B. 2 of the 128th General Assembly.	128058
Section 2901.30 of the Revised Code as amended by both Am.	128059
H.B. 181 and Sub. S.B. 87 of the 127th General Assembly.	128060
Section 2921.13 of the Revised Code as amended by both Am.	128061
Sub. H.B. 495 and Sub. S.B. 343 of the 129th General Assembly.	128062
Section 2923.126 of the Revised Code as amended by both Am.	128063
Sub. H.B. 495 and Am. Sub. S.B. 316 of the 129th General Assembly,	128064
that is scheduled to take effect January 1, 2014.	128065
Section 2929.13 of the Revised Code as amended by Am. Sub.	128066
H.B. 62, Am. Sub. H.B. 262, and Am. Sub. S.B. 160 of the 129th	128067
General Assembly.	128068
Section 3304.231 of the Revised Code as amended by both Am.	128069
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	128070
Section 3313.978 of the Revised Code as amended by both Am.	128071
Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly.	128072
Section 3701.78 of the Revised Code as amended by both Am.	128073
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	128074
Section 3734.01 of the Revised Code as amended by both Am.	128075
Sub. H.B. 487 and Sub. S.B. 294 of the 129th General Assembly.	128076
Section 3745.11 of the Revised Code as amended by both Am.	128077

Sub. H.B. 487 and Sub. S.B. 294 of the 129th General Assembly.	128078
Section 5104.012 of the Revised Code as amended by both Am.	128079
Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly,	128080
that is scheduled to take effect January 1, 2014.	128081
Section 5104.013 of the Revised Code as amended by both Am.	128082
Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly,	128083
that is scheduled to take effect January 1, 2014.	128084
Section 5111.032 of the Revised Code as amended by both Am.	128085
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.	128086
Section 5111.033 of the Revised Code as amended by both Am.	128087
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.	128088
Section 5111.034 of the Revised Code as amended by both Am.	128089
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.	128090
Section 5111.172 of the Revised Code as amended by both Am.	128091
Sub. H.B. 93 and Am. Sub. H.B. 153 of the 129th General Assembly.	128092
Section 5119.16 of the Revised Code as amended by both Am.	128093
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	128094
Section 5701.13 of the Revised Code as amended by both Sub.	128095
H.B. 267 and Am. Sub. H.B. 487 of the 129th General Assembly.	128096
Section 5731.39 of the Revised Code as amended by both Am.	128097
Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly.	128098
Section 5739.01 of the Revised Code as amended by Am. Sub.	128099
H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly.	128100
Section 5747.01 of the Revised Code as amended by Am. H.B.	128101
167, Sub. H.B. 365, and Am. Sub. H.B. 510, all of the 129th	128102
General Assembly.	128103
Section 5747.98 of the Revised Code as amended by both Am.	128104
Sub. H.B. 386 and Am. Sub. H.B. 510 of the 129th General Assembly.	128105
Section 5749.02 of the Revised Code as amended by both Am.	128106

Sub. H.B. 1 and S.B. 73 of the 128th General Assembly.	128107
Section 5751.01 of the Revised Code as amended by both Am.	128108
Sub. H.B. 472 and Am. Sub. H.B. 510 of the 129th General Assembly.	128109
Section 5751.20 of the Revised Code as amended by both Am.	128110
Sub. H.B. 508 and Am. Sub. S.B. 316 of the 129th General Assembly.	128111
Section 5753.03 of the Revised Code as amended by both Am.	128112
Sub. H.B. 487 and Am. Sub. H.B. 386 of the 129th General Assembly.	128113
Section 815.20. The amendment of sections 5104.11 and 5120.07	128114
of the Revised Code by this act is not intended to supersede the	128115
earlier repeal, with delayed effective date, of those sections.	128116